

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.1500 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. *Worldwide Web (WWW)*. In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

Statutory and Executive Order Reviews

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the Rules and Regulations section of today's **Federal Register**.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business that is primarily engaged in secondary aluminum production according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 500 employees for affected businesses classified in NAICS codes 331314, Secondary Smelting and Alloying of Aluminum, 331521, Aluminum Die-castings, and 331524, Aluminum Foundries; less than 750 employees for businesses in NAICS codes 331315, Aluminum Sheet, Plate, and Foil, and 331316, Aluminum Extruded Products; and less than 1,000 employees for businesses in NAICS code 331312, Primary Aluminum Production); (2) a small governmental jurisdiction that is a government of a city, county, town,

school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments will not impose any requirements on small entities. The proposed amendment in today's action would improve the emission standards by correcting a definitional error. We continue to be interested in the potential impacts of the proposed amendments on small entities and welcome comments on issues related to such impacts.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 27, 2005.

Stephen L. Johnson,
Administrator.

[FR Doc. 05-19714 Filed 9-30-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. RSPA-1998-4868; Notice 5]

RIN 2137-AB15

Gas Gathering Line Definition; Alternative Definition for Onshore Lines and Proposed Safety Standards

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On September 25, 1991, DOT published a notice of proposed rulemaking to revise the definition of "gathering line" in its gas pipeline safety standards. Because the proposal proved controversial, final action was postponed pending collection of additional information. In this Supplemental Notice of Proposed Rulemaking (SNPRM), PHMSA is proposing use of a consensus standard to distinguish onshore gathering lines. PHMSA's gas pipeline safety standards

do not provide an adequate basis for distinguishing these pipelines from production facilities and transmission lines. In addition, PHMSA is proposing to establish safety standards for certain higher-risk onshore gathering lines, and to relax current standards on certain low-risk onshore gathering lines. (Onshore gathering lines in inlets of the Gulf of Mexico are not affected by this rulemaking.) Operators would use a new risk-based approach to determine which of its gathering lines are "regulated onshore gathering lines" and what safety standards the lines must meet. At present, PHMSA's safety standards do not apply to onshore gathering lines in rural locations, while onshore gathering lines in non-rural locations must meet the same requirements as transmission lines. This regulatory approach is insufficient to assure that conditions on gathering lines that pose a greater risk to the public and property are addressed. And it does not take into account the lower risk some other gathering lines pose. The intended effects of the proposed rules are improved identification of gathering lines, improved public confidence in the safety of gathering lines, and safety requirements better tailored to gathering line risks.

DATES: Persons interested in submitting written comments on the rules proposed in this notice must do so by January 3, 2006. Late filed comments will be considered so far as practicable.

ADDRESSES: Comments should reference Docket No. RSPA-1998-4868 and may be submitted in the following ways:

- DOT Web site: <http://dms.dot.gov>.

To submit comments on the DOT electronic docket site, click "Comment/Submissions," click "Continue," fill in the requested information, click "Continue," enter your comment, then click "Submit."

- Fax: 1-202-493-2251.
- Mail: Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: DOT Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- E-Gov Web Site: <http://www.Regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Instructions: You should identify the docket number, RSPA-1998-4868, at the beginning of your comments. If you

submit your comments by mail, you should submit two copies. If you wish to receive confirmation that PHMSA received your comments, you should include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>, and may access all comments received by DOT at <http://dms.dot.gov> by performing a simple search for the docket number. Note: All comments will be posted without changes or edits to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Section V, Regulatory Analyses and Notices, of the Supplemental Information.

FOR FURTHER INFORMATION CONTACT: DeWitt Burdeaux by phone at 405-954-7220 or by e-mail at dewitt.burdeaux@dot.gov regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

A. Why Is Distinguishing Onshore Gathering Lines a Problem?

Gathering lines are pipelines used to collect and transport natural gas from the well and related production facilities to transmission or distribution pipelines, which then transport the gas to a gas consumer, such as a residence or business. PHMSA safety regulations in 49 CFR Part 192 apply to the design, construction, operation, and maintenance of gathering, transmission, and distribution pipelines. However, the regulations do not cover production facilities or onshore gathering lines in locations outside cities, towns, villages, or designated residential or commercial areas (hereinafter "rural locations") (§ 192.1(b)(4)). (Onshore gathering lines within Gulf of Mexico inlets have been subject to the inspection and burial requirements of § 192.612 (§ 192.1(b)(5)). These lines are not affected by this rulemaking.)

Since Part 192 does not cover production facilities, in non-rural locations, pipeline operators and government inspectors must distinguish regulated gathering lines from unregulated production facilities. Similarly, in rural locations they must distinguish unregulated gathering lines from regulated transmission and distribution lines. Yet, since the Part 192 regulations were first published (35 FR 13248; Aug. 19, 1970), operators and government inspectors have had difficulty making these distinctions.

The reason is twofold: First, as defined in Part 192, a "gathering line" begins at a production facility, but the term "production facility" is not

defined. Operators and government inspectors must interpret the term "production facility" to determine whether a downstream pipeline is a gathering line. In the absence of a definition, their interpretations vary. Second, although a "transmission line or main" marks the end of gathering under the gathering line definition, Part 192 defines "transmission line" as a particular type of pipeline "other than a gathering line" and defines "main" as a particular type of "distribution line," which is defined as a pipeline "other than a gathering or transmission line." The circularity of these definitions makes it necessary to interpret the term "gathering line" to determine whether a pipeline is a transmission or distribution line.¹ However, the complexity of many gathering systems results in varied interpretations of "gathering line."

B. Has DOT Proposed To Revise Its Gathering Line Definition?

In 1974, the Agency tried to correct the problem of distinguishing gathering lines by proposing to revise the gathering line definition (39 FR 34569; Sept. 26, 1974). But because comments indicated many terms and phrases in the proposal were unclear, it was later withdrawn from consideration (43 FR 42773; Sept. 21, 1978).

Although the definition problem remained, the Agency took no further action until 1986, when it asked the National Association of Pipeline Safety Representatives (NAPSR), a non-profit association of State pipeline safety officials, to comment on the extent of the problem. Responses from NAPSR members showed that in the 30 states with gathering lines, there were at least 2,800 gathering operators and 111,000 miles of gathering lines (as interpreted by the States). NAPSR members from five States, with about 54 percent of the operators of gathering lines and 75 percent of the mileage, stated they had disagreements with operators over whether rural pipelines were gathering lines or transmission lines. Members from three of these States said the disagreements were too numerous to list. One NAPSR member indicated numerous disagreements with two major gas gathering and transmission pipeline operators regarding the point

¹ As stated in § 192.3: "Gathering line" means a pipeline that transports gas from a current production facility to a transmission line or main. "Transmission line" means a pipeline, other than a gathering line, that transports gas from a gathering line or storage facility to a distribution center or storage facility; operates at a hoop stress of 20 percent or more of SMYS, or transports gas within a storage field. "Distribution line" means a pipeline other than a gathering or transmission line.

where the gathering line ended. Another NAPSR member indicated continuing disagreements over the classification of various segments of pipeline operated by one of the largest gas gathering line operators in the United States.

In 1991, boosted by the NAPSR survey, the Agency again proposed to revise the gathering line definition (Docket No. PS-122; 56 FR 48505; Sept. 25, 1991). The intent was to define the term consistent with prevailing practices. However, as with the earlier proposal, the response was generally unfavorable. Industry commenters disputed the significance of the problem, and alleged widespread reclassification of lines from production to gathering and from gathering to transmission. The Agency delayed further action pending the collection and consideration of more information.

C. What Are the Statutory Considerations?

PHMSA's authority to issue safety standards for gas pipeline transportation is found in 49 U.S.C. 60102(a). Gas pipeline transportation includes the gathering of gas in or affecting interstate commerce. Prior to 1992, the pipeline safety law (49 U.S.C. Chapter 601) limited safety regulation of the onshore gathering of gas to gathering lines in non-rural locations. In 1992, Congress provided DOT specific authority to define gas gathering for purposes of safety regulation, and to change the scope of regulation by defining "regulated gathering."²

The 1992 statutory change expressly allows PHMSA to depart from the concepts of "gathering" as used under the Natural Gas Act (15 U.S.C. 717 *et seq.*). This allows focus on the safety purposes of the pipeline safety law for defining regulated facilities rather than on the purposes of the Natural Gas Act. The approach to defining and regulating gas gathering taken in this SNPRM does not rely on concepts of gathering as used under the Natural Gas Act. PHMSA does not intend for anyone to rely on its definition of gas gathering to decide whether particular lines are gathering within the meaning of the Natural Gas Act.

In addition, the 1992 statutory change directed DOT to consider the functional and operational characteristics of the lines in labeling them as gathering, and to consider such factors as location, length of line from the well site, operating pressure, throughput, and the composition of the gas in deciding which ones to regulate. For example, in

² See Pub. L. 102-508, section 109; now 49 U.S.C. 60101(a)(21) and 60101(b).

deciding which gathering lines should be regulated, PHMSA considers location of the line in the vicinity of population as more precise than the rural/non-rural approach in the pre-1992 law. The use of this more precise approach coupled with the authority to define and to regulate "regulated gathering" lines makes it unnecessary to continue use of statutory terminology that limits regulation of gathering in rural areas ("outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area"). As described more fully below, the approach to regulated gas gathering in this SNPRM follows the statutory direction.

Pursuant to 49 U.S.C. 60102(b), a gas pipeline safety standard must be practicable and designed to meet the need for gas pipeline safety and for protection of the environment. To accomplish this, PHMSA must consider a number of factors in issuing a safety standard. These factors include the relevant available pipeline safety and environmental information, the appropriateness of the standard for the particular type of facility, the reasonableness of the standard, reasonably identifiable or estimated costs and benefits, any comments received from the public, and any comments and recommendations of the Technical Pipeline Safety Standards Committee (TPSSC). Except as explained in the following paragraph about public comments on the 1991 proposal, PHMSA has considered these factors in the development of this SNPRM and provides its analysis in the appropriate paragraphs of the preamble.

With respect to public comments, PHMSA has dramatically altered its approach to regulating gathering lines from that of the 1991 Notice of Proposed Rulemaking (NPRM) (which was limited to a definition of gathering lines consistent with that in the Natural Gas Act). Thus, comments to the proposal in the 1991 NPRM are not addressed in detail in this SNPRM. The Agency reopened the docket to public comments in an electronic public discussion forum in 1999 and provided several other opportunities for public input into the development of this SNPRM. These comments have been used in the development of this SNPRM. If a commenter to the 1991 proposal believes that this SNPRM does not adequately address the concerns raised in earlier comments, the commenter should raise the concerns again.

Comments and recommendations of the TPSSC will be addressed when a final action is prepared on this SNPRM.

D. What Has PHMSA Done To Get More Public Comments on Defining and Regulating Gathering Lines?

In 1999, in furtherance of the ongoing 1991 gathering line proceeding and Congress' action on gathering lines, the Agency invited further public comments on the definition problem and the need to regulate rural gathering lines (Docket No. RSPA-1998-4868; 64 FR 12147; Mar. 11, 1999). The comments largely focused on a comprehensive treatment of the definition problem that the American Petroleum Institute (API) submitted on behalf of a coalition of 23 trade associations (RSPA-1998-4846-85). API later published the treatment as API Recommended Practice 80, "Guidelines for the Definition of Onshore Gas Gathering Lines" (API RP 80). API RP 80 defines gas gathering lines through a series of definitions, descriptions, and diagrams intended to represent the varied and complex nature of production and gathering in the United States. You may purchase a copy of API RP 80 from API through its Web site (<http://www.api.org>) or review a copy in room 2103 of the Nassif Building, 400 7th Street, SW., Washington, DC by contacting Jenny Donohue at (202) 366-4046 or jenny.donohue@dot.gov.

Although industry commenters spoke favorably about the API RP 80 gathering line definition, NAPSR objected to the use of certain "furthestmost downstream" endpoints to mark the beginning and end of gathering in the definition. NAPSR's concern was that if the definition were included in Part 192, operators would have an incentive to establish or move the endpoints further downstream to reduce the amount of regulated pipeline.

NAPSR's concern is plausible because gathering begins at the end of production, which is not covered by Part 192. The amount of gathering subject, or potentially subject, to regulation becomes less the further production extends downstream. A similar situation exists at the end of gathering, which marks the beginning of transmission or distribution under Part 192. The amount of transmission or distribution lines subject to regulation becomes less the further gathering lines extends downstream.

The Agency also had doubts about adopting the API RP 80 definition, as expressed in a letter to API dated January 12, 2001 (RSPA-1998-4868-108). Nevertheless, the Agency did not discount the possibility of using API RP 80 as an alternative to the 1991 proposed definition. While considering its next step, in 2002, the Agency

published an Advisory Bulletin to remind operators it was still regulating gathering lines according to court precedents and prior interpretations (ADB-02-06; 67 FR 64447; October 18, 2002).

Then in 2003, the Agency held public meetings in Austin, Texas (68 FR 62555; November 5, 2003) and Anchorage, Alaska (68 FR 67129; December 1, 2003) to attract more comments from interested persons on the best way to define gas gathering lines and what, if any, safety regulations may be needed for rural gathering lines. At the meetings, the Agency gave the history of the gas gathering issue and proffered a "sliding corridor" concept as a possible basis for deciding which lines should be regulated. This concept originated in a consent order the Agency issued to Hanley & Bird, Inc., a Pennsylvania gas production and gathering operator.³ It would require operators to slide an imaginary corridor 1000 feet long and 200 or 440 yards wide, depending on pipeline hoop stress, along their gathering lines. Wherever the corridor contains five or more dwellings, the gathering line would be subject to pipeline safety regulations, and the extent of regulation would vary by operating stress level. Transcripts of both meetings are in the docket (RSPA-1998-4868-120 and 122).

Following the two meetings, to promote informed public participation in resolving the gathering line issues, the Agency published a notice that clarified its intentions about defining and regulating gathering lines (69 FR 5305; February 4, 2004). In the notice, the Agency clarified its intention to adopt definitions of production and gathering that would identify the beginning of gathering without overlapping the jurisdiction of State regulations on production. The Agency said it was seeking definitions that could be applied consistently by both regulators and operators. Regarding rural gathering lines, the Agency explained the need for comments on an appropriate approach to identifying lines that should be regulated. The notice also extended the deadline for receipt of written comments to March 4, 2004.

In addition to the 1999 Web discussion and 2003 public meetings, the Agency met several times over the last two years with State agency officials, industry representatives, and others to obtain views on gathering line risks and the need for regulations. Notes

³ The order may be viewed at <http://ops.dot.gov/regions/easterndoc/cpf13002o.wpd>.

of these informal meetings are in the docket (RSPA-1998-4868).

E. What Were the Main Points Commenters Made?

Twenty-three comments were submitted following the public meetings and clarification notice. A summary of significant comments follows.

1. Definition of Gathering Line

Three industry commenters expressed satisfaction with the current Part 192 definition and prior Agency interpretations. But most commenters who addressed the issue, including a coalition of trade associations (API, the Gas Processors Association (GPA), the Louisiana Mid-Continent Oil and Gas Association, the Texas Oil and Gas Association, and the Texas Pipeline Association), urged the Agency to adopt API RP 80 as the basis for determining onshore gas gathering lines. These commenters welcomed the flexibility of API RP 80, and believed it would result in few, if any, reclassifications of pipelines from production to gathering or gathering to transmission.

Taking a different view, NAPSRS opposed the unqualified use of API RP 80 to identify gas gathering lines. First, regarding the beginning of gathering under section 2.2(a)(1) of API RP 80, NAPSRS suggested that production operations should be limited to piping and equipment used solely in the process of extracting natural gas from the earth for the first time. This process involves removing natural substances from the earth, separating out natural gas, and preparing the gas for transportation. NAPSRS stated that under its suggested limitation, any piping that serves a function besides processing in aid of extraction would be part of gathering operations rather than production operations. Secondly, NAPSRS suggested limitations on the end of gathering under the API RP 80

definition. These limitations, such as restricting the end of gathering to the first, rather than furthestmost, downstream gas processing plant, were intended to remove the opportunity to manipulate the changeover from gathering to transmission.

In a letter dated September 9, 2004, NAPSRS suggested "gathering pipeline" and "production facility" be defined as follows:

"Gathering pipeline" (a) Means any pipeline or part of a connected series of pipelines used to transport gas from the endpoint of a production facility to the first natural gas processing plant.

(b) In the absence of a natural gas processing plant, means any pipeline or connected series of pipelines used to:

1. Transport gas from the endpoint of a production facility to the furthestmost downstream of the following endpoints:

(A) The outlet of the first downstream gathering line gas treatment facility; or

(B) The first downstream point where gas produced in the same production field or contiguous production fields is commingled; or

(C) The outlet of the first downstream compressor used to facilitate deliveries from production operations into a pipeline.

2. Transport gas from a gathering line exclusively to points in adjacent production operations or gathering facility sites for use as fuel, gas lift, or gas injection within those operations; and

(c) Does not include a natural gas processing plant.

"Production facility" means any pipeline or equipment or part of a connected series of pipelines used solely in the process of extracting natural gas from the earth for the first time.

2. Need To Regulate Rural Gathering Lines

As to the need to regulate gas gathering lines in rural locations, some industry commenters contended rural gathering lines generally pose a low risk to public safety, citing an incident survey GPA conducted in December 2003.⁴ GPA itself commented that based on its survey, onshore gas gathering lines do not pose a significant risk that warrants extensive new Federal regulations. A few industry commenters and the U.S. Department of Energy (DOE) suggested the Agency should first identify and analyze the risks involved and then target regulations to specific problems. Cook Inlet Keeper, a nonprofit organization dedicated to protecting Alaska's Cook Inlet Watershed and North Slope Borough, the northernmost county of Alaska, advocated that the Agency regulate all unregulated lines threatening people and the environment. Cook Inlet Keeper also submitted data on releases from unregulated pipelines in Alaska.

3. Regulatory Approach

Concerning the appropriate approach to regulation, the coalition of trade associations suggested a tiered approach to regulating onshore gathering lines. Under the coalition's approach, the extent of regulation would increase with pipeline risk as determined by operating parameters and population density. Lines posing a lower risk to the public would be subject to fewer safety standards than they are now. This relaxation of current regulatory burden on lower-risk lines would help offset the added cost of regulating higher-risk gathering lines that are not currently regulated. ONEOK, Inc., an operator of gas gathering lines, suggested a similar but more detailed tiered approach.

The coalition's approach is summarized as follows:

Tier	Gathering line	Regulation
I	All in Class 1 or 2 location All < 20% SMYS All plastic	Periodic summary report of incidents; line markers; and one-call damage prevention programs.
II	All ≥ 20% SMYS in rural Class 3 or 4 location.	Tier I plus corrosion control and a public awareness program.
III	All ≥ 20% SMYS in non-rural Class 3 or 4 location.	Current Part 192 requirements.

Delta County, Colorado preferred the sliding corridor approach the Agency had discussed at the public meetings.

Two industry commenters favored a hands-off approach that would leave the regulation of rural gathering to State

agencies that oversee oil and gas production.

⁴ GPA presented the survey at a meeting of the Agency's gas pipeline safety advisory committee on February 5, 2004 (RSPA-1998-4470-120).

4. Impact

Several commenters were concerned about the impact of any new Federal regulations on gathering lines in rural locations. DOE and the Independent Petroleum Association of America were particularly concerned that increased costs could cause producers to shut-in marginally profitable wells. They pointed out that since marginal wells account for about 10 percent of the United States' gas production, additional costs would have the potential to reduce the Nation's supply of gas. (A discussion of the energy impacts of this proposal is found under the Executive Order 13211 heading in Section V, Regulatory Analyses and Notices, of this document.)

II. Resolving the Definition Problem

A. What Alternatives to the 1991 Proposal Did the Agency Consider?

In view of the congressional directives and the importance of distinguishing onshore gas gathering lines, PHMSA believes resolving the definition problem is essential. However, the Agency's previous attempts in 1974 and again in 1991 to resolve the matter by formulating a gathering line definition were controversial. The controversy was no doubt due to the varied and complex configurations of gas gathering systems throughout the industry. For this reason, PHMSA now believes a single definition that is wholly consistent with industry practices probably cannot be developed.

This conclusion and the comments resulting from the Austin and Anchorage meetings have caused the Agency to take a closer look at using API RP 80. It is a comprehensive treatment of gas gathering that was developed by experienced personnel representing over 20 national, regional, and State oil and gas industry associations. It covers every aspect of the gathering function, from its beginning in production operations, which are separately defined, to various defined endpoints. The attention to detail and solid backing by commenters led the Agency to believe API RP 80 can be used appropriately to distinguish gathering lines under Part 192 without the controversy attendant to prior proposals.

PHMSA does not intend that persons use API RP 80 for non-safety purposes, such as to identify gathering under the Natural Gas Act. In this regard, readers should note API RP 80, by its terms, applies only in the context of pipeline safety: "[T]he definitions presented herein are not designed to address issues—nor are they intended for application—in any regulatory context

other than gas pipeline safety pursuant to the Federal Pipeline Safety Act." (Section 2.6.2.4 of API RP 80).

The Agency considered the following ways API RP 80 could serve to determine onshore gas gathering under Part 192:

1. Use API RP 80 as Guidance

Continue to apply the present Part 192 gathering line definition, but rely on API RP 80 as guidance to determine the beginning and end of onshore gathering. The advantages of this alternative are that comments indicate some operators would likely support it and rulemaking would not be necessary. On the other hand, this alternative would probably not be sufficient to satisfy the congressional directive to define gas gathering. And it would provide a shaky basis for regulating rural gathering lines. In addition, NAPS's comments suggest many State pipeline safety agencies would be unlikely to accept some API RP 80 provisions even as guidance.

2. Adopt API RP 80 as a Definition

Adopt API RP 80 as the basis for determining onshore gas gathering lines. This alternative has wide industry acceptance, would likely minimize the present difficulty of distinguishing gathering lines, and, considering its wide acceptance, would probably result in few pipeline reclassifications. However, besides a gathering line definition, API RP 80 contains many supplemental definitions, descriptions, and diagrams. Although these supplemental provisions are helpful to understand the definition, they could prove difficult to apply uniformly and probably would lead to further varied interpretations. Also, the flexibility of API RP 80 that industry applauds, NAPS contends could result in equipment being relocated to avoid regulations. If that happened, State pipeline safety agencies could lose control over many miles of pipeline they now regulate, and public safety could be compromised.

3. Adopt API RP 80 as a Definition, But With Limitations

Adopt API RP 80 as the basis for determining onshore gas gathering lines, but limit operators' ability to establish endpoints merely to avoid regulation. The main advantage of this alternative is it balances industry's desire to use API RP 80 to determine gathering lines under Part 192 with NAPS's desire for more definite endpoints. The disadvantage is that limitations could make API RP 80 more difficult to apply. In addition, proposing any limitation on

how API RP 80 is applied could renew industry claims of line reclassifications.

B. What Are the Details of the Definition PHMSA Is Now Proposing?

PHMSA wants to define "onshore gathering line" in a way that not only reasonably matches current classifications but also addresses the concerns of State pipeline safety agencies. PHMSA, therefore, chose the third alternative, for it alone takes into account NAPS's concerns. PHMSA believes NAPS's concerns deserve considerable weight because, under the pipeline safety law, onshore gas gathering lines are largely intrastate pipeline facilities. As such, they are under, or eligible for, exclusive regulation by certified State pipeline safety agencies. When regulated by these agencies through adoption and enforcement of PHMSA safety standards, PHMSA's role is to oversee State agency performance. In other words, regulation of an intrastate onshore gas gathering line by a certified State agency, removes the line from the direct regulatory authority of PHMSA.

PHMSA is proposing to define "onshore gathering line" as it is defined in section 2.2 of API RP 80, but with a few limitations on applying the API RP 80 definition (see the proposed amendment to § 192.3 below). The proposed limitations, based on NAPS's comments, and PHMSA's concerns that it raised during the meetings held on gathering line regulation, are designed to assure gathering line determinations do not stray significantly from PHMSA's historic interpretations of gathering or do not abuse the "furthestmost downstream" concept.

1. Beginning of Gathering

The beginning of an onshore gathering line under section 2.2(a)(1) of API RP 80 is the furthestmost downstream point in a production operation.⁵ PHMSA is proposing to restrict this point to piping or equipment used solely in the process of extracting natural gas from the earth for the first time and preparing it for transportation or delivery. Under this restriction, certain dual use equipment that can serve either a production or transportation function would be part of gathering when not used solely in the

⁵As defined in section 2.3 of API RP 80, "production operation" means piping and equipment used for production and preparation for transportation or delivery of hydrocarbon gas and/or liquids and includes the following processes:

(a) Extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, and measurement of hydrocarbon gas and/or liquids; and

(b) Associated production compression, gas lift, gas injection, or fuel gas supply.

extraction and preparation of gas for transportation. For example, drip pots, which provide a separation function, are used in pipeline transportation to maintain the quality of gas delivered to customers. When used this way, a drip pot would not be part of production operations even though as a separator it could conceivably be used in the extraction and preparation of gas for transportation. Also, separation or dehydration equipment is often used to safeguard the operation of gathering compressors. Under the proposed limitation, any equipment being used to protect a gathering compressor would not be part of production operations.

2. End of Gathering

Under the API RP 80 definition of onshore gathering line, gathering ends at the furthestmost downstream of five possible endpoints. The first possible endpoint is the inlet of the furthestmost downstream natural gas processing plant, other than a natural gas processing plant located on a transmission line (section 2.2(a)(1)(A) of API RP 80). PHMSA is proposing this endpoint may not be a natural gas processing plant located further downstream than the first downstream natural gas processing plant unless the operator can demonstrate, based on sound engineering reasons, that gathering should be extended beyond that first plant. DOT interpretations and State agency enforcement actions have recognized the first downstream natural gas processing plant as the customary end of gathering. The proposed limitation is based on this practice, but it would allow operators the flexibility of ending gathering to a further downstream processing plant essential to gathering.

The second possible endpoint under section 2.2(a)(1)(B) of API RP 80 would apply only if no other endpoint under 2.2(a)(1) (A), (C), (D) or (E) exists. This endpoint is the outlet of the furthestmost downstream gathering line gas treatment facility.

The third possible endpoint is the furthestmost downstream point where gas produced in the same production field or separate production fields is commingled (section 2.2(a)(1)(C) of API RP 80). This endpoint recognizes a gathering line may receive gas from several production fields. However, PHMSA is concerned that since the endpoint does not restrict the distance between separate production fields, a gathering line could continue endlessly, causing reclassification of pipelines from transmission to gathering. NAPS suggested commingling should be limited to adjacent fields. PHMSA

believes "adjacent" is very restrictive. To set some limit, PHMSA is proposing the separate production fields from which gas is commingled must be within 50 miles of each other. PHMSA is interested in receiving comments on whether a maximum distance between production fields from which gas is commingled should be specified.

One limitation is proposed on the fourth possible endpoint. This endpoint is the outlet of the furthestmost downstream compressor station used to lower gathering line operating pressure or to facilitate deliveries into the pipeline from production operations or to increase gathering line pressure for delivery to another pipeline (section 2.2(a)(1)(D) of API RP 80). Gathering systems may contain many compressor units. (In gathering systems, compressors are smaller, self contained units, rather than the larger multiple unit facilities referred to as compressor stations.) In many cases, these compressor units lower the pressure on the upstream (suction) side to allow gas to flow from the wells. PHMSA believes these to be necessary to the gathering process. Also, whether they are located downstream of a processing plant or, stand alone, in the absence of a processing plant, many compressors serve to boost the pressure from the gathering line into either transmission or distribution pipelines. PHMSA is proposing to limit the endpoint to the outlet of a compressor used to deliver gas to another pipeline. In this case, PHMSA considers the gas to have been "gathered" and prepared for transportation. This is consistent with the Agency's past interpretation and enforcement policy.

The fifth possible endpoint is the connection to another pipeline downstream of the furthestmost downstream endpoint under sections 2.2(a)(1)(A) through (D) of API RP 80, or in the absence of such endpoint, the furthestmost downstream production operation (section 2.2(a)(1)(E) of API RP 80). This endpoint applies to connecting lines called "incidental gathering" under section 2.2.1.2.6 of API RP 80. An example of a connecting line is a pipeline that runs from the outlet of a natural gas processing plant to a transmission line.

III. Regulation of Onshore Gas Gathering Lines

A. How Are Onshore Gas Gathering Lines Currently Regulated?

1. Non-Rural Lines

In non-rural locations, the gathering of gas by pipeline has been subject to Part 192 since these safety standards

were published in 1970. Gathering lines in non-rural locations must meet the same safety standards for design, construction, operation, and maintenance as gas transmission lines, except § 192.150, standards for passage of smart pigs, and Subpart O of Part 192, integrity management (see § 192.9).

In addition, the drug and alcohol testing regulations in 49 CFR part 199 apply to onshore gas gathering lines in non-rural locations because these lines are regulated by Part 192. These regulations require operators to test personnel for use of prohibited drugs and misuse of alcohol. Persons subject to testing are those who perform a Part 192 regulated operation, maintenance, or emergency-response function on a regulated pipeline.

As required by 49 CFR part 191, operators of onshore gathering lines in non-rural locations also must submit reports to PHMSA. Operators must submit telephonic and follow-up written reports of incidents involving a death, hospitalization, or property damage of \$50,000 or more. Other requirements include safety-related condition reports and annual reports about pipe inventory and leaks repaired.

2. Rural Lines

As discussed above, Part 192 does not apply to the onshore gathering of gas in rural locations. Rural gathering lines are also excluded from Part 191 reporting requirements and Part 199 drug and alcohol regulations.

Until 1992, rural gathering lines were excluded by statute from pipeline safety regulation (although in 1990 Congress granted limited authority over gathering lines in Gulf of Mexico inlets (see Pub. L. 101-599)). In 1992, an amendment to the pipeline safety law gave DOT authority to regulate the safety of rural lines where warranted by risk.

B. Are Safety Regulations Needed for Onshore Rural Gathering Lines?

In 1992, Congress recognized some rural gathering lines that were exempt from DOT's regulatory authority may present risks that warrant safety regulation. Congress authorized DOT to define a class of "regulated gathering lines" that warrant safety regulation based on information about risk. In its report on H.R. 1489, a bill that led to the 1992 change in the law, the House Committee on Energy and Commerce said "DOT should find out whether any gathering lines present a risk to people or the environment, and if so how large a risk and what measures should be taken to mitigate the risk." (H.R. Report No. 102-247—Part 1, 102d Cong., 1st Session., 23 (1991)).

Because the reporting requirements under Part 191 covered only non-rural gathering lines, The Agency lacked information about whether the risks of rural lines warranted regulation. The Agency sought input from the public on the need to regulate these lines. As discussed above, in 1999, the Agency opened a Web discussion on gathering lines and in 2003 held public meetings in Austin and Anchorage, with opportunity to submit written comments until March 4, 2004.

Although most participants in the Web discussion and the meetings addressed the definition problem, the public meetings also drew a few comments on the need for regulation. Gas Processors Association (GPA), a trade association representing gatherers and processors, submitted the most enlightening information about gathering line risks obtained from a survey of its members.⁶

The survey asked 40 operators of rural gas gathering lines about gathering line incidents that impacted the public during a 5-year period (1999–2003). The survey showed that over this period 58 incidents occurred on 171,768 miles of pipeline, or on about 96 percent of GPA members' gathering lines. The incidents resulted in three injuries and one death as well as evacuations, minor property damage (\$5,000–\$25,000), and major property damage (over \$25,000). Corrosion caused most of the incidents, followed by third-party excavation, which produced the most severe consequences (including the death and two of the injuries). No other cause occurred more than twice.

GPA compared these results to transmission incidents reported to the Agency under Part 191 over the same 5-year period. The comparison showed transmission lines impacted the public from three to six times more often, even though the Part 191 reporting threshold for property damage was \$50,000 rather than \$5,000. GPA attributed the lower impact of rural gathering lines to operators' safety practices and to operating conditions that generally involved sparsely-populated areas, low pressures, and small pipe sizes.

Although the survey results showed the lines GPA surveyed presented a lower risk to the public, the impacts to the public and property were not insignificant. Many people living or working near those lines suffered adverse consequences during the survey

period. Moreover, the potential for future harm is apparent, because the survey confirmed the leading threats to Agency-regulated pipelines, corrosion and excavation damage, are also the leading threats to rural gathering lines.

Furthermore, not all rural gathering lines present a low risk. Some rural lines are near pockets of increased population or operate at high pressures. In fact, high-pressure gathering lines in populated areas can present the same risk as regulated transmission lines.

In consideration of the known and foreseeable risks presented by rural gathering lines, PHMSA believes it is no longer appropriate to maintain the present total exemption of rural lines. But in changing the present exemption, PHMSA is adhering to the congressional directives by focusing on lines that expose the public to significant risk, such as where a release of gas could have a serious consequence.

PHMSA intends, through a separate rulemaking, to propose changes to the Part 191 reporting requirements to track the proposed changes in this rulemaking. Thus, in the Part 191 rulemaking, all regulated onshore gathering lines would be subject to Part 191 reporting requirements. This will give PHMSA more information about the risks of onshore gathering lines in rural locations.

C. What Is the Proper Approach to Regulating Onshore Gathering Lines?

PHMSA believes that for some onshore gathering lines, the potential for harm to the public is too low to warrant pipeline safety regulation. These lines may be characterized as generally small lines operating at low pressures in remote areas. For other lines, PHMSA agrees with commenters that as risk increases by operating pressure and proximity to people, so should the level of regulation. Under this approach, the highest risk lines would have the most regulation. This approach is consistent with the statutory directive on determining which gathering lines should be regulated gathering lines.

In deciding what regulations to apply according to risk, PHMSA favors the tiered models suggested by the coalition (three tiers) and Oneok (four tiers). Tiers are a reasonable way to pair safety regulations with lines that pose different levels of risk. However, in view of the need for practicality in both compliance and enforcement, PHMSA has fashioned a simpler model that has only two tiers. This approach is discussed in more detail below.

D. Should the Current Approach to Regulating Non-Rural Onshore Gathering Lines Be Changed?

At present, Part 192 regulates non-rural gathering lines and transmission lines alike (except that requirements for passage of internal inspection devices in § 192.150 and integrity management programs in Subpart O apply only to transmission lines). The problem with this approach is that, while individual lines may differ, the data indicates gathering and transmission lines do not pose the same overall level of risk to the public. Transmission line incidents have had a greater impact on the public than gathering line incidents. The safety data also indicates that because of the lesser risk some gathering lines pose to the public, these lesser-risk lines should not be subject to all regulations intended for transmission lines. Applying regulations intended for all transmission lines is probably not appropriate for all gathering lines. Although the data does not explain the difference in impact, PHMSA believes a significant factor is that many non-rural gathering lines operate at low pressures away from highly populated areas.

Another problem with the current approach is that a city or town may extend its boundaries to incorporate low population areas within its boundaries. Thus, a gathering line that is not near any dwellings but is within the city or town boundary is subject to regulation. PHMSA believes the risk-based approach is the most suitable for applying the level of Part 192 regulation to address the risk posed by the gathering line. Regulation of an onshore gathering line would not depend on subdivision or local government boundaries as it does now, but on the risk the line poses to the public based on pressure and proximity. This change would maintain the current level of regulation where justified by risk. At the same time, it would relax the regulatory burden on less risky lines.

E. What Safety Regulations Are Being Proposed?

PHMSA is proposing to change how Part 192 applies to onshore gathering lines. This change is consistent with the statutory directive on factors to consider in regulating onshore gathering lines. A class of onshore gathering lines called "regulated onshore gathering lines" would be defined in § 192.3 characterized by either of two risk categories, Type A and Type B. The type would depend on the maximum allowable operating pressure (MAOP) of the line (*i.e.*, whether MAOP results in a hoop stress of 20 percent or more of

⁶ In 2002 the Texas Railroad Commission conducted a study to determine the risk of unregulated production and rural gathering lines in Texas. Most of the study's data came from small operators with less than 10 miles of pipeline. However, the information received did not provide a sufficient basis for a conclusion.

Specified Minimum Yield Strength (SMYS) or less than 20 percent). Under proposed § 192.9, lines covered by the two categories would be subject to safety requirements appropriate to each category. Onshore gathering lines not covered by these categories would not be subject to Part 192.

The proposal would exclude onshore gathering lines that operate under vacuum, or at less than atmospheric pressure. Any failure of a vacuum line would tend to draw air into the pipeline rather than release natural gas to the atmosphere. PHMSA believes this factor sufficiently reduces the level of risk so regulation is unnecessary. Section 192.1(b)(4) would be amended to exclude these vacuum lines from Part 192.

The proposal also clarifies that gathering lines in inlets of the Gulf of Mexico are not affected by this rulemaking for onshore gathering lines. Onshore gathering of gas in these inlets will continue to be subject only to the inspection and burial requirements in § 192.612, which address the principal risk of these lines. At no point during our meetings and discussions about regulating onshore gathering has anyone commented on a need to change these requirements.

1. Risk Categories

The first risk category, Type A, would include the following lines or line segments that lie in populated areas: metallic lines whose MAOP results in a hoop stress of 20 percent or more of SMYS, and non-metallic lines whose MAOP is more than 125 psig. The populated areas would be Class 3 and 4 locations, as defined in § 192.5, and other areas the operator would determine using either of two methods.

The first method would require determining all potential impact circles along the line that include five or more dwellings. The circles would be calculated by using an empirical formula as proposed in § 192.3. These are the same circles that may now be used under Subpart O for integrity management purposes to predict the range of potential harm from a transmission line failure.

The second method would require determining areas that extend 220 yards on each side of the centerline of any continuous 1000 feet of pipeline and that include either 5 or more dwellings per 1000 feet or 25 or more dwellings per mile. However, the density chosen will depend on which results in more regulated onshore gathering lines. PHMSA has included the 25 or more dwellings per mile to address industry comment that this was more consistent

with current class location identification requirements and would not create confusion by having to shift to another approach. However, because the proposed approach to regulating onshore gathering is based on the line's risk to the public, PHMSA has proposed that the density criterion an operator chooses must capture the most regulated gathering lines. If the density of five or more dwellings per 1000 feet were used, the area would extend along the pipeline until the space between dwellings is at least 250 feet. The 220-yard dimension is consistent with the areas used in class location determinations under § 192.5.

Type A lines in areas within a Class 1 or Class 2 location would also include additional lengths of line upstream and downstream from the area. These lengths would serve as a shield against potential harm to nearby dwellings.

Type B is the second risk category of regulated onshore gathering lines. Type B lines would include metallic lines whose MAOP produces a hoop stress of less than 20 percent of SMYS. Also included would be non-metallic lines whose MAOP is 125 psig or less that are located in populated areas. The populated areas would be Class 3 and 4 locations, and other areas that extend 150 feet on each side of the centerline of any continuous 1000 feet of pipeline and that include 5 or more dwellings per 1000 feet. Like Type A lines, Type B lines in areas within Class 1 or Class 2 locations would include additional lengths of line as a shield against potential harm to nearby dwellings. Type B does not include lines with MAOP of less than 0 psig because, as discussed above, PHMSA is proposing to exclude vacuum lines from regulation.

The 150-foot dimension for Type B lines is more than twice the average length of service lines, or the average distance of distribution customers from street mains. Since mains generally operate at a lower stress or pressure than Type A gathering lines, 150 feet should cover dwellings that could be adversely affected by gathering lines operating at lower stresses or pressures than Type A lines.

2. Safety Requirements

Section 192.9 would be revised to include requirements for all gathering lines subject to Part 192. The requirements are based on the risk the line poses to the public.

Paragraph (b) would state the present Part 192 requirements applicable to offshore lines. No change is proposed for these requirements.

Under paragraph (c), Type A regulated onshore gathering lines would have to meet Part 192 requirements applicable to transmission lines, except requirements concerning the passage of smart pigs (§ 192.150) and integrity management requirements (Subpart O). Because of the pressure at which these lines operate, and their proximity to the public, they are considered higher-risk lines that warrant more safety requirements. Type A line operators would also be subject to the Part 199 drug and alcohol regulations and the Part 191 reporting requirements. This is not a change from present practice. Gathering lines as currently regulated are subject to these requirements.

Proposed requirements for Type B regulated onshore gathering lines are in paragraph (d). These lines, although located close to the public and housing, operate at a lower pressure than Type A lines. Because they pose a lower-risk, they would be subject to fewer safety regulations. The proposed requirements for Type B lines address the types of threats posed to these lines. First, new lines and existing lines replaced, relocated, or otherwise changed would have to be designed, installed, constructed, initially inspected, and initially tested according to Part 192 requirements. Second, operators of Type B lines would have to:

- Control corrosion according to Subpart I requirements.
- Carry out a damage prevention program under § 192.614.
- Establish a MAOP under § 192.619.
- Install and maintain line markers under § 192.707 according to transmission line requirements.
- Establish a public education program as required by § 192.616.

Extended compliance deadlines for operation and maintenance requirements are proposed in paragraph (e). (A proposed change to § 192.13 provides additional time before new lines and replacements must meet the design and construction requirements.) This paragraph also proposes compliance time for unregulated onshore gathering lines that subsequently become regulated because of changes in population, as discussed under the next subheading.

3. Easing Transition From Unregulated to Regulated

To ease the transition of unregulated lines to regulated status, PHMSA is proposing that operators have one year after the final rule takes effect to design, install, construct, initially inspect, and initially test any new, replaced, relocated, or changed line according to Part 192 requirements. The proposal is

in § 192.13 and is similar to compliance times established previously for other newly-regulated pipelines.

In addition, PHMSA is proposing to revise the MAOP requirements of § 192.619(a)(3) and (c). This proposal would allow operation of newly regulated lines and lines subsequently regulated because of an increase in population at the highest actual operating pressure to which the line was subjected during the 5 years before the final rule is published or the line becomes regulated.

Regarding corrosion control, several requirements of Subpart I of Part 192 apply only to pipelines installed before August 1, 1971. These requirements were originally intended for pipelines existing when Subpart I was adopted. However, PHMSA believes they are also appropriate for regulated onshore gathering lines existing when the final rule takes effect that were not previously subject to Part 192 (lines in rural locations). Under proposed § 192.452(b), regulated onshore gathering lines existing on [effective date of final rule] not previously subject to Part 192 must meet the corrosion control requirements of Subpart I specifically applicable to pipelines installed before August 1, 1971, notwithstanding the date the gathering line was actually installed. Other Subpart I requirements apply only to pipelines installed after July 31, 1971. These requirements would not apply to existing lines unless the line substantially meets the requirements. Existing requirements for converted lines are not affected by this proposal.

Under proposed § 192.9(e)(3), if a change in class location or increase in dwelling density turns an onshore gathering line into a regulated onshore gathering line, the operator would have one year after the line becomes a regulated onshore gathering line to comply with applicable Part 192 requirements. This proposal reflects the usual practice by which operators of unregulated rural gathering lines stay continuously aware of new housing developments or governmental boundary changes that turn the lines into regulated lines. Developments are detected by various means of surveillance, including satellite imagery, aerial photography, and ground reconnaissance.

IV. An Alternative Approach

Given the decision to shift the focus of regulating gathering based on risk to population, PHMSA is faced with a fundamental issue—whether it is necessary or appropriate to define gathering. This leads to two approaches.

The first, as we have described in detail, proposes to define both gathering (through use of a consensus standard) and regulated gathering and an alternative that defines only regulated gathering. Both approaches have merits and disadvantages that are appropriately explored through the comment process.

The Natural Gas Act accepts gas gathering from the economic regulatory program administered by the Federal Energy Regulatory Commission (FERC). FERC has not defined “gathering”. In 1968, Congress authorized safety regulation of virtually all pipelines, including those not regulated by FERC such as intrastate pipelines and gathering lines. From the beginning, The Agency frequently looked to decisions under the Natural Gas Act for help in deciding where gathering ended and transmission began. The Agency continued to consider the Natural Gas Act decisions in delineating gathering when it issued the Notice of Proposed Rulemaking in this docket in 1991. At the time, the Agency noted its concern for inconsistency with FERC practice. In 1992, Congress explicitly gave DOT permission to define gathering without regard for FERC practice. Consequently, this SNPRM proposes to define the scope of safety regulation without regard to FERC practice.

The approach that appears in the text of this proposal begins with the traditional base of “gathering” and adds the regulation through defining “regulated gathering”. The concept of gathering being proposed is quite complex. Drafting language that incorporates the concept of what is “regulated” within a single definition adds to this complexity. Separating the concepts into gathering and regulated gathering will result in a clearer understanding of which lines are regulated. This approach is consistent with past practice in which we separated the concepts of gathering and non-rural gathering (*i.e.* regulated gathering).

The downside of the approach is the risk that the PHMSA definition of gathering may be influential in future FERC disputes. The risk appears minimal. PHMSA does not intend that its definition be relied on in deciding whether particular lines are gathering within the meaning of the Natural Gas Act. In deciding cases involving disputes over the definition of gathering, courts have thus far clearly looked only to the definition of the cognizant agency. The only case involving the existing definition for which the Agency had considered FERC practice limited discussion to the definition and statutory authority

without mention of FERC precedents. *Hamman v. Southwestern Gas Pipeline*, 721 F.2d 140 (5th Cir. 1983). Gathering as used by FERC is limited to the activities Congress authorized FERC to regulate, which does not include pipeline safety. See, for example, *Sea Robin Pipeline Co. v. FERC*, 127 F.3d 365, 368 (5th Cir. 1997). Further, application of the definition issued for safety purposes in a tax case in which the meaning of gathering was important was expressly rejected. *Saginaw Bay Pipeline v. United States*, 338 F.3d 600 (6th Cir. 2003).

The alternative approach would be to abandon the term “gathering” as unnecessary and proceed immediately to “regulated gathering.” This approach has the benefit of consistency with the focus on risk since it defines only the segments actually regulated. The downside comes with the impact on other definitions critical to safety regulation. One factor defining transmission in current regulation is the end of a gathering line. 49 CFR 192.3. Without a definition of gathering line, the definition of transmission would have to be reworked to identify a different beginning point for those transmission lines for which other factors defining transmission do not apply. This would not be easy to accomplish.

PHMSA seeks comments on these two alternative approaches. What is the risk that the first approach, which would define gathering for safety purposes, would impact the FERC practice in the economic area? If there would be an impact, would it be negative or positive? With respect to the second alternative approach, is there a way to avoid definitional difficulties with defining transmission lines? If so, PHMSA would welcome specific language. With respect to either approach, are there other benefits or downsides to either approach that should be considered?

V. Regulatory Analyses and Notices

Privacy Act. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

Executive Order 12866 and DOT Policies and Procedures. DOT considers this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866

(58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has received a copy of this proposed rulemaking to review. This proposed rulemaking is considered significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

PHMSA prepared a draft Regulatory Evaluation of the rules proposed in this SNPRM and a copy is in the docket. The evaluation concludes that there will be a net cost savings from implementing the proposed rules. The savings result from reducing the regulatory burden currently imposed on regulated gas gathering lines by establishing a tiered approach to safety requirements. PHMSA estimates the total amount of gas gathering pipeline mileage that will be subject to Part 192 will be about the same after implementing this proposed rule as it is now. However, requirements applicable to approximately three fourths of the regulated gathering line mileage, which poses less public safety risk, will be reduced compared to the requirements now applicable to regulated lines. This proposal will result in a total cost of \$26.54 million over a 20-year period. PHMSA estimates the benefit of reducing the frequency of gas gathering pipeline incidents that have public safety consequences will cause a net benefit that is consistent with the increased regulatory burden. If you have comments about these conclusions, please provide information to the public docket described above.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities.

This SNPRM affects operators of onshore gas gathering lines. It proposes a definition of "onshore" gathering line and a tiered regulatory structure, under which regulated onshore gathering lines posing less risk would be subject to only some of the requirements now applied to all regulated gathering lines. PHMSA estimates the overall economic effect of rules proposed by this SNPRM will be a net reduction in costs to operators.

At present, many operators of such pipelines are subject to Federal safety regulation. The particular portions of their pipeline subject to regulation may change, in some cases, due to the changes in the definition, but the economic impact on these operators is expected to be a net reduction in costs, consistent with the regulatory analysis.

Some operators of gas gathering lines will become subject to safety regulations for the first time because portions of their pipelines will meet the criteria in

the proposed definition of regulated onshore gathering line. These companies will experience added costs. The costs will depend on the risk posed by their pipelines. Approximately 25 companies are expected to come under safety regulation for the first time.

Based on these estimates, only a small number of companies will experience increased costs, but we believe this impact is not a significant economic impact on a "substantial" number of small entities.

PHMSA invites public comment on its estimate of the number of companies subject to safety regulation for the first time as a result of this proposed rule. PHMSA also invites public comment on the number of miles of pipeline subject to safety regulation for the first time as a result of this proposed rule.

Executive Order 13175. PHMSA has analyzed this proposed rulemaking according to the principles and criteria contained in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Because the proposed rulemaking would not significantly or uniquely affect the communities of the Indian tribal governments nor impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act. This SNPRM contains information collection requirements applicable to operators of regulated onshore gas gathering lines. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), PHMSA will submit a paperwork analysis to OMB for its review. A copy of the analysis will also be entered in the docket. The SNPRM would affect information collection that OMB has approved under Control Numbers 2137-0049 (recordkeeping under 49 CFR part 192) and 2137-0579 (drug and alcohol testing under 49 CFR part 199).

For proposed Type B regulated onshore gathering lines, operators would have to comply with Part 192 information collection requirements regarding corrosion control, damage prevention programs, and public education programs. For proposed Type A regulated onshore gathering lines, operators would have to comply not only with these requirements but also with others under various Part 192 rules applicable to gas transmission lines. All operators of onshore gathering lines proposed to be regulated would have to comply with the information collection requirements in 49 CFR Part 199 concerning drug and alcohol testing.

As explained above in Section III of this preamble, gas gathering lines in

non-rural locations are currently subject to PHMSA's safety regulations. The number of gathering line operators subject to regulation varies by year as pipelines are brought into and taken out of service and as changes occur in the boundaries of non-rural locations. During the period 1999 to 2003, approximately 400 operators filed annual reports each year under 49 CFR part 191 covering regulated onshore gathering systems.

At present, all 400 of these operators are required to comply with part 192 rules applicable to transmission lines, including information collection requirements. If the SNPRM proposals are adopted as final, the specific portions of these operators' gathering lines subject to part 192 regulations may change. Some portions may no longer be regulated, while others could become Type A or Type B lines. For Type B lines, the part 192 information collection burden would be significantly reduced, because Type B lines would be subject to far fewer part 192 regulations. The net effect on the paperwork burden faced by these 400 operators is thus expected to be a reduction. However, the magnitude of this reduction is difficult to estimate, since PHMSA lacks the data necessary to determine which portions of their currently regulated gathering lines would remain regulated by part 192 and which portions that remain regulated would become Type A or Type B lines.

If the proposed definition of "regulated onshore gathering line" is adopted as final, some operators of gas gathering lines in rural locations could become subject to part 192 regulations for the first time. PHMSA preliminarily estimates no more than 25 operators will be newly-subject to part 192 regulations as a result of this proposal. These operators would be required to comply with part 192 regulations proposed for Type A and Type B lines and with part 199 drug and alcohol testing regulations, including associated information collection requirements.

PHMSA's preliminary estimate of the paperwork burden on these proposed newly-regulated operators is an average of approximately 40 hours per year. Much of this time will involve clerical personnel, but some involvement by managers and technical personnel will be required. Using an estimated average hourly rate of \$75 results in an estimated cost, for 25 operators, of \$75,000 as a result of this new paperwork burden.

PHMSA expects this increase in cost for newly-regulated operators would be more than offset by the reduction in paperwork burden associated with

currently regulated gas gathering lines that become either unregulated or Type B lines, as described above. Thus, the overall paperwork impact would be a small reduction.

Comments are invited on the above estimates. PHMSA will publish a separate notice in the **Federal Register** specifically inviting comments on the information collection burden of the SNPRM following completion of the paperwork analysis.

Unfunded Mandates Reform Act of 1995. This SNPRM does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rulemaking.

National Environmental Policy Act. PHMSA has analyzed the proposed rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the proposed rulemaking would require limited physical modification or other work that would disturb pipeline rights-of-way, PHMSA has preliminarily determined the proposed rulemaking is unlikely to significantly affect the quality of the human environment. Much of the pipeline mileage that would be subject to the proposed rules is already regulated, and no new actions likely to affect the environment are proposed for currently regulated lines. Also much of the existing rural mileage that would become regulated under the proposed rules is already equipped with cathodic protection and location markers, the two requirements that would involve any installation/modification work along the pipeline. An environmental assessment document is available for review in the docket. A final determination on environmental impact will be made after the end of the comment period. By requiring operators to participate in damage prevention programs and follow the applicable requirements for corrosion control, it may be expected that the number of failures on gathering lines will be reduced. Since gathering lines often contain gas streams laden with condensates and natural gas liquids, the reduced number of failures also means a reduced number of spills of these liquids.

If you have any comments about the preliminary conclusion, please submit your comments to the docket as described above.

Executive Order 13132. PHMSA has analyzed the proposed rulemaking according to the principles and criteria

contained in Executive Order 13132 ("Federalism"). In its meetings with state agency officials on gathering lines, PHMSA discussed Federalism issues. None of the proposed rules (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) impose substantial direct compliance costs on State and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211. The transportation of gas through gathering systems has a substantial aggregate effect on the nation's available energy supply. However, after analysis, PHMSA has determined this proposed rulemaking is not a "significant energy action" under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this proposed rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. The Energy Impact Analysis is available for review in the docket.

List of Subjects in 49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, PHMSA proposes to amend 49 CFR part 192 as follows:

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

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

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

2. In § 192.1,

- a. Revise the section heading,
- b. Revise paragraph (b)(4),
- c. Remove paragraph (b)(5), and
- d. Redesignate paragraph (b)(6) as (b)(5).

The changes read as follows:

§ 192.1 What is the scope of this part?

* * * * *

(b) * * *

(4) Onshore gathering of gas—

(i) Through a pipeline that operates at less than 0 psi (0 kPa) gage;

(ii) Through a pipeline that is not a regulated onshore gathering line; and

(iii) Within inlets of the Gulf of Mexico, except for the requirements in § 192.612.

* * * * *

3. In § 192.3, revise the section heading, and add definitions of "onshore gathering line," "potential impact circle," "potential impact radius," and "regulated onshore gathering line" to read as follows:

§ 192.3 What definitions apply to this part?

* * * * *

Onshore gathering line means any pipeline or part of a connected series of pipelines that qualifies as an onshore gathering line under section 2.2 of API RP 80, with the following limitations:

(1) Under section 2.2(a)(1) of API RP 80, the beginning of a gathering line may not be further downstream than piping or equipment used solely in the process of extracting natural gas from the earth for the first time and preparing it for transportation or delivery.

(2) Under section 2.2(a)(1)(A) of API RP 80, the endpoint may not extend beyond the first downstream natural gas processing plant, unless the operator can demonstrate, using sound engineering principles, that gathering extends to a further downstream plant;

(3) The endpoint under section 2.2(a)(1)(B) of API RP 80 applies only if no other endpoint identified under section 2.2(a)(1)(A), (a)(1)(C) or (a)(1)(D) exists;

(4) Under section 2.2(a)(1)(C) of API RP 80, if the endpoint is determined by the commingling of gas from separate production fields, the fields may not be more than 50 miles from each other; and

(5) Under section 2.2(a)(1)(D) of API RP 80, the endpoint may not extend beyond the furthestmost downstream compressor used to increase gathering line pressure for delivery to another pipeline.

* * * * *

Potential impact circle (PIC) is a circle of radius equal to the potential impact radius (PIR).

Potential impact radius (PIR) means the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is determined by the following formula:

$$r = 0.69 * (\text{square root of } (p * d^2))$$

Where:

r = the radius of a circular area in feet

surrounding the point of failure

p = the maximum allowable operating pressure of the pipeline segment in psig

d = the nominal diameter of the pipeline in inches

Regulated onshore gathering line means

(1) Each onshore gathering line (or segment of onshore gathering line) with a feature described in the second

column that lies in an area described in the third column; and

(2) As applicable, additional lengths of line described in the fourth column to provide a safety buffer:

Type	Feature	Area	Safety buffer
A	<input type="checkbox"/> Metallic and the MAOP produces a hoop stress of 20 percent or more of SMYS. <input type="checkbox"/> Non-metallic and the MAOP is more than 125 psi (862 kPa) gage.	1. A Class 3 or 4 location (see § 192.5) 2. An area within a Class 1 or Class 2 location that the operator determines by using either of the following methods: Method 1. A potential impact circle that includes five or more dwellings; Method 2. An area that extends 220 yards (200 m) on each side of the centerline of any continuous 1000 feet (305 m) of pipeline and includes either 5 or more dwellings per 1000 feet (305 m), or 25 or more dwellings per mile (1.6 kilometer), whichever results in more regulated onshore gathering line. If the density of 5 or more dwellings per 1000 feet (305 m) is used, the area extends along the pipeline until the space between dwellings is at least 250 feet..	If the gathering line is in Area 2, the additional lengths of line extend upstream and downstream from the area to a point where the pipeline is at least 220 yards (200 m) from the nearest dwelling in the area.
B	<input type="checkbox"/> Metallic and the MAOP produces a hoop stress of less than 20 percent of SMYS. <input type="checkbox"/> Non-metallic and the MAOP is 125 psi (862 kPa) gage or less.	1. A Class 3 or 4 location 2. An area within a Class 1 or Class 2 location that extends 150 feet (45.7 m) on each side of the centerline of any continuous 1000 feet (305 m) of pipeline and includes 5 or more dwellings per 1000 feet.	If the gathering line is in Area 2, the additional lengths of line extend upstream and downstream from the area to a point where the line is at least 150 feet (45.7 m) from the nearest dwelling in the area.

* * * * *

4. In § 192.7, revise the section heading, and, in the table in paragraph (c), revise item B. (5) as follows:

§ 192.7 What documents are incorporated by reference into this part?

* * * * *

(c) * * *

Source and name of referenced material	49 CFR reference
B. American Petroleum Institute (API):	
(5) API Recommended Practice 80 "Guidelines for the Definition of Onshore Gas Gathering Lines" (2000)	§ 192.3

5. Revise § 192.9 to read as follows:

§ 192.9 What requirements apply to gathering lines?

(a) *Requirements.* An operator of a gathering line must follow the safety requirements of this part as prescribed by this section.

(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 § 192.150 and in Subpart O of this part.

(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 § 192.150 and in Subpart O of this part.

(d) *Type B lines.* An operator of a Type B regulated onshore gathering line must comply with the following requirements:

(1) If a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial test must be in accordance with this part.

(2) If the pipeline is metallic, control corrosion according to Subpart I of this part;

(3) Carry out a damage prevention program under § 192.614;

(4) Establish the MAOP of the line under § 192.619;

(5) Install and maintain line markers according to the requirements for transmission lines in § 192.707; and

(6) Establish a public education program under § 192.616.

(e) *Compliance deadlines.* An operator of a regulated onshore gathering line must comply with the following deadlines, as applicable.

(1) An operator of a new, replaced, relocated, or otherwise changed line must be in compliance with the applicable requirements of this section by the date the line goes into service, except as proved in § 192.13.

(2) If a regulated onshore gathering line that exists on [date final rule takes effect] was not previously subject to this part, an operator has until the date stated in the second column to comply with the applicable requirement for the line listed in the first column:

Requirement	Compliance deadline
Control corrosion according to Subpart I requirements	[2 years after date final rule takes effect].
Carry out a damage prevention program under § 192.614	[6 months after date final rule takes effect].
Establish MAOP under § 192.619	[6 months after date final rule takes effect].
Install and maintain line markers under § 192.707	[1 year after date final rule takes effect].
Establish a public education program under § 192.616	[1 year after date final rule takes effect].
Other provisions of this part as required by paragraph (c) of this section for Type A lines.	[2 years after the final rule is published].

(3) If, after [date final rule takes effect], a change in class location or increase in dwelling density causes an onshore gathering line to be a regulated onshore gathering line, the operator has 1 year after the line becomes a regulated onshore gathering line to comply with this section.

6. In § 192.13,

a. Revise the section heading, and
b. Revise paragraphs (a) and (b), to read as follows:

§ 192.13 What general requirements apply to pipelines regulated under this part?

(a) No person may operate a segment of pipeline listed in the first column

that is readied for service after the date in the second column, unless:

(1) The pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part; or

(2) The pipeline qualifies for use under this part in accordance with § 192.14.

Pipeline	Date
Offshore gathering line	July 31, 1977.
Regulated onshore gathering line to which this part did not apply until [date final rule takes effect].	[1 year after the final rule is published.]
All other pipelines	March 12, 1971.

(b) No person may operate a segment of pipeline listed in the first column that is replaced, relocated, or otherwise

changed after the date in the second column, unless the replacement,

relocation or change has been made in accordance with this part.

Pipeline	Date
Offshore gathering line	July 31, 1977.
Regulated onshore gathering line to which this part did not apply until [date final rule takes effect].	[1 year after the final rule is published.]
All other pipelines	November 12, 1970.

* * * * *

7. In § 192.452,

a. Revise the section heading,

b. Designate the existing text as paragraph (a),

c. Add “*Converted pipelines.*” as the heading of newly designated paragraph (a), and

d. Add a new paragraph (b), to read as follows:

§ 192.452 How does this subpart apply to converted pipelines and regulated onshore gathering lines?

(a) *Converted pipelines.* * * *

(b) *Regulated onshore gathering lines.*
For any regulated onshore gathering line

existing on [effective date of final rule] and not previously subject to this part:

(1) The requirements of this subpart specifically applicable to pipelines installed before August 1, 1971, apply notwithstanding the date the gathering line was actually installed; and

(2) The requirements of this subpart specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements.

8. In § 192.619, revise the section heading and paragraphs (a)(3) and (c) to read as follows:

§ 192.619 What is the maximum allowable operating pressure for steel or plastic pipelines?

* * * * *

(a) * * *

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column, unless the segment was tested in accordance with paragraph (a)(2) of this section after the applicable date in the third column or the segment was uprated in accordance with subpart K of this part:

Pipeline	Pressure date	Test date
Onshore gathering lines that first became subject to this part (other than § 192.612) after (day before final rule takes effect).	First day of month before month final rule is published, or date line becomes a regulated onshore gathering line under this part, whichever is later.	5 years preceding date in second column.
Offshore gathering lines	July 1, 1976	July 1, 1971.
All other pipelines	July 1, 1970	July 1, 1965.

* * * * *

(c) Notwithstanding the other requirements of this section and subject

to the requirements of § 192.611, an operator may operate a segment of

pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column of the table in paragraph (a)(3) of this section.

Issued in Washington, DC, on September 23, 2005.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 05-19455 Filed 9-28-05; 8:51 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2002-12347]

RIN 2127-AI52

Federal Motor Vehicle Safety Standards; Rearview Mirrors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of withdrawal of rulemaking.

SUMMARY: In response to a petition for rulemaking submitted by Ms. Barbara Sanford, NHTSA published a Request for Comments (RFC) in the **Federal Register** on January 22, 2003 that included several questions regarding convex mirrors on commercial trucks. The Sanford petition asked the agency to amend our Federal Motor Vehicle Safety Standard (FMVSS) for rearview mirrors to require that all commercial trucks traveling on interstate highways have convex mirrors affixed to their front right and left fenders in order to provide drivers of these vehicles an increased field-of-view during lane change maneuvers, which the petitioner stated is necessary to eliminate a blind spot caused by the elevated position of commercial truck drivers relative to passenger cars. Prior to receiving the Sanford petition, the agency had decided to conduct research on heavy truck mirror systems, including fender-mounted mirrors. For reasons discussed in this document, the agency is withdrawing the RFC and is terminating this rulemaking, because additional research is necessary to assess the potential safety benefits of convex mirrors in this application.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. David M. Hines, Office of Crash Avoidance Standards,

Telephone number: (202) 493-0245, FAX number: (202) 366-7002. For legal issues: Mr. Eric Stas, Office of the Chief Counsel, Telephone number: (202) 366-2992, FAX number: (202) 366-3820. You may send mail to either of these officials at NHTSA, 400 Seventh Street, S.W., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard No. 111, Rearview mirrors, does not require, nor restrict, the use of convex mirrors on heavy trucks such as the ones identified in the Sanford petition.¹ Instead, multipurpose passenger vehicles and trucks with a Gross Vehicle Weight Rating (GVWR) of more than 4,536 kg (10,000 lbs.) are required to have outside mirrors of unit magnification with stable supports on both sides of the vehicle; these mirrors must be located to provide the driver a view to the rear along both sides of the vehicle and be adjustable in both the horizontal and vertical directions. Regarding the use of convex mirrors on heavy trucks in the fleet, the agency previously noted that they are being used extensively by the heavy trucking industry, and that informal surveys by NHTSA staff suggested that approximately two-thirds of large trucks (excluding cab over designs) were equipped with convex mirrors on only the right front fender and approximately half were equipped with convex mirrors on both front fenders.

As noted above, NHTSA published a RFC on January 22, 2003 regarding convex mirrors on commercial trucks (68 FR 2993).² The agency received 24 comments in response to our published RFC from automobile and automobile equipment manufacturers, trade associations, public interest groups, and individuals. These comments may be viewed at: <http://dms.dot.gov/search/searchFormSimple.cfm> (Docket No. 12347).³ Several of the comments provided insight on convex mirrors generally. However, none of the responses included data demonstrating safety benefits associated with requiring convex mirrors on the front right and left fenders of commercial trucks.

The agency has contracted with Virginia Tech Transportation Institute

(VTTI) to conduct research on heavy truck mirror systems. The agency identified the objective of the study as assessing side and rearward visibility of heavy trucks, documenting current mirror design and aiming, developing a method to evaluate mirror fields of view, and recommending enhanced mirror design and aiming. Results of that research will be posted on our Web site (<http://www.nhtsa.dot.gov>) when it is completed.

II. Reason for Termination

After careful consideration, NHTSA has decided to withdraw this rulemaking. The agency believes further research on front fender-mounted convex mirrors is needed in order to draw appropriate conclusions as to the efficacy of these devices, and we are currently in the process of conducting such research. If this research indicates a need for future rulemaking, the agency will act accordingly.

The agency arrived at this decision to terminate after reviewing the comments received and identifying the need for additional research data upon which to propose any rulemaking. While no reference to available data regarding demonstrated safety benefits of front fender-mounted convex mirrors was submitted, some responses did address the prevalence and cost of these mirrors on heavy trucks.

For example, Mr. Roger Brock, an individual, referred to an informal interstate survey of tractor-trailer combinations involving 336 units that found approximately 64% of the subject trucks had a front fender-mounted convex mirror on at least one side and approximately 46% had them on both sides. The Truck Manufacturers Association (TMA) responded that sales data from six manufacturers from the prior 2-3 years demonstrated a range from 7% to 72%, varying by manufacturer, of trucks sold were equipped with hood/fender-mounted convex mirrors. TMA also estimated the list prices for such mirrors to vary from \$65 to \$225 per mirror. The American Trucking Associations agreed that a significant portion of commercial motor vehicles currently use fender-mounted mirrors but stated that some configurations of trucks or truck tractors will not permit the use of such mirrors due to those vehicles' specialized applications.

In light of the absence of available safety data, the currently high rate of voluntary installation of convex mirrors on commercial trucks, and our as-yet incomplete research program, the agency has decided to withdraw this rulemaking. Nevertheless, the agency

¹ Docket No. NHTSA-2002-12347.

² Docket No. NHTSA-2002-12347-1.

³ We note that the comments in the docket also address another petition involving a request from AM General Corporation to permit vehicles with a GVWR of more than 4,536 kg and with an overall length that is less than 508 centimeters to have the option of being equipped with a passenger-side convex mirror instead of the required passenger-side mirror of unit magnification.