

## INSIGHTS

## Final Rule Imposes Expansive New Requirements for Liquid Pipelines

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PHMSA recently finalized a [rule](#) that significantly revises certain aspects of liquid pipeline safety regulation under 49 CFR Part 195. Nearly nine years in the making, the final rule is intended to address PHMSA and NTSB accident investigation findings from the Marshall Michigan spill in 2010 as well as 2011 and 2016 outstanding Congressional mandates and GAO recommendations. A version of this rule was initially scheduled for publication in the Federal Register in the last week of the prior presidential administration in 2017. It was held back as a result of the regulatory freeze and subsequent deregulatory review by the Trump administration which pared down certain changes in the recent final rule.

Effective July 1, 2020, this rule expands requirements to address risks to pipelines outside of environmentally sensitive and populated areas, requiring integrity assessments and leak detection for all pipelines (with some exceptions). In addition, the rule makes changes to the integrity management requirements, including data integration and to emphasize the use of inline inspection (ILI) technology. Notably, PHMSA *declined* to revise existing Part 195 integrity management and non-integrity management repair criteria and explained that it would instead issue a supplemental notice of proposed rulemaking on those issues.

Even though the rule does not go into effect until the middle of next year, operators should begin to prepare to address the more substantive requirements such as scheduling integrity assessments on non-HCA pipelines, implementing leak detection systems on non-HCA pipelines, and collecting and preparing to integrate additional data attributes for integrity management pipelines, among other activities. This is particularly important given the Agency's recently finalized gas rulemaking which will likewise trigger integrity assessments, analysis and other requirements. While timelines in the final rules (liquid and gas) provide time to phase in the requirements, there is likely to be a strain on industry resources and contractors with the technology and the qualifications to implement these tasks during this time. The more extensive proposals are summarized below.

### **Expansion of Integrity Assessments outside HCAs**

The rule establishes a new requirement that operators perform integrity assessments every 10 years for pipelines outside of HCAs (49 C.F.R. 195.416). An initial assessment is required by October 1, 2029 and periodic assessments are required at least once every 10 years from the prior assessment (or as otherwise necessary to ensure public safety and the environment). The rule requires use of ILI for this assessment unless it is impracticable (and outlines other possible

methods for performing the assessment).

### **Expansion of leak detection outside HCAs**

PHMSA revises 49 C.F.R. 195.134 and 195.444 to extend leak detection beyond HCAs to all new and existing pipelines, *except* for gathering pipelines. Once the rule is effective, PHMSA provides for a 5 year compliance period for existing pipelines that are in service (until October 1, 2024) and for new pipelines not yet placed into service, PHMSA provides for 1 year for compliance (until Oct 1, 2010).

### **Extreme Weather Inspection**

The rule includes a new requirement at 49 C.F.R. 195.414 that operators perform inspection of pipelines in areas affected by extreme weather and natural disaster events. Inspections must commence within 72 hours after the cessation of the event (defined as the point in time when the affected area can be safely accessed by personnel and equipment required to perform the inspection). An operator must take prompt remedial action to ensure safe operation of the pipeline, which “might” include six different actions provided in the rule (ranging from shut down to notifying affected communities).

### **Various Integrity Management Changes**

ILI – Revises 49 C.F.R. 195.452 to require assessment by ILI (with certain requirements depending on the pipeline and the threats at issue) unless it is impracticable (and unless it is a newly constructed pipeline where the baseline can be established by pressure test). In addition, all liquid pipelines in HCAs and areas that could affect HCAs must be made capable of accommodating ILI within 20 years (with some exceptions).

Data Integration – Revises the data integration requirements by adding specific elements that must be analyzed and reviewed under IMP at 49 C.F.R. 195.452(g). Operators must begin integrating all data elements outlined in the rule on Oct. 1, 2020 with all attributes integrated by Oct 1, 2022.

Responding to Anomalies – Revises general language regarding responding to IMP anomalous conditions, including an obligation to “ensure that the repairs are made in a safe and timely manner and are made so as to prevent damage to persons, property, or the environment. The calculation method(s) used for anomaly evaluation must be applicable for the range of relevant threats.

Inspections of Certain Underwater Pipelines in HCAs – Notwithstanding integrity management assessment schedules otherwise required under 49 C.F.R. 195.452, an operator of any underwater liquid pipeline facilities located in a HCA that is not an offshore facility and any portion of which is located at depths greater than 150 feet must (1) complete ILI for integrity threats not less than once every 12 months and (2) integrity assessments using route surveys, depth of cover surveys, pressure tests, ECDA, or other technology are completed on a schedule based on the risk that the facility poses to the HCA (49 C.F.R. 195.454).

### **Extension of Reporting Requirements for Certain Gravity and Rural Gathering Lines**

PHMSA has extended the reporting requirements under Part 195, Subpart B to apply to pipelines transporting liquid by gravity and non-regulated rural gathering lines (49 C.F.R. 195.13 and 195.15), among other more minor clarifications. This data collection will be used to further analyze whether the Agency's regulations should be expanded to include pipelines that are not currently regulated. The Agency notes that any decision to expand oversight of gathering (and by extension other currently non-regulated pipelines) beyond what is currently regulated "will be driven by risk assessment and analysis based on evaluations of incident and accident data, data related to infrastructure and further technological advancements such as the unconventional production practices used in shale formations." PHMSA has not required any reporting specific to transportation-related flow lines in this rulemaking.