

Title: Frequently Asked Questions for the Final Rule titled, “Pipeline Safety: Safety of Hazardous Liquid Pipelines,” published on October 1, 2019

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Summary:

This guidance is issued for owners and operators of hazardous liquid pipelines subject to the pipeline safety standards in 49 CFR Part 195. Those rules were amended on October 1, 2019, by the Final Rule entitled “Pipeline Safety: Safety of Hazardous Liquid Pipelines” (84 FR 52260). The guidance is not intended to replace or revise any previously issued guidance.

These FAQs are guidance provided to help the regulated community understand how to comply with regulations, but they are not substantive rules themselves and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. However, an operator who is able to demonstrate compliance with the FAQs is likely to be able to demonstrate compliance with the relevant regulations. If a different course of action is taken by a pipeline operator, the operator must be able to demonstrate that its conduct is in accordance with the regulations.

FAQ-1.0 What is the effective date for the new § 195.65 safety data sheets section?

The requirement to provide safety data sheets following an accident where there is spilled hazardous liquid is a self-executing provision of the PIPES Act of 2016, Pub. L. No. 114-183, § 14. Accordingly, this requirement was effective on June 22, 2016, the date that the PIPES Act of 2016 was signed into law. PHMSA amended the Pipeline Safety Regulations (PSR) by codifying the statutory language of this provisions.

FAQ-1.1 How can I provide a copy of the safety data sheets per § 195.65?

The operator must provide a copy of the safety data sheets to the Federal On-Scene Coordinator and appropriate emergency responders. The safety data sheets that are required are those that represent the material that was spilled. Having all of an operator’s safety data sheets available on a website and referring the on-scene coordinator and emergency responders to that site is not an acceptable means of providing the safety data sheets. Federal On-Scene Coordinators may, at their discretion, allow the operator to provide an electronic copy of the appropriate safety data sheets. If the on-scene coordinator and emergency responders are not onsite with 6 hours of the notice, then the operator will not be in violation of the regulations for not providing the safety data sheets within the specified timeframe, but the operator must provide the safety data sheets when the on-scene coordinator and responders arrive onsite.

FAQ-2. Must I perform inspections and assessments required by these new regulations on “idled” pipelines?

Yes. As PHMSA explained in the Final Rule (85 FR 52260, 52282), Part 195 has no current operational designation for an “idle” pipeline, a term operators frequently use to refer to a pipeline that is not being actively used. Unless they are permanently abandoned in accordance with applicable procedures, pipelines that are temporarily not in use must meet all the requirements of the Federal pipeline safety regulations. Because operators can restart “idle” pipelines and transport product later, it is important that operators maintain these lines to the same level of safety and standards as an active, in-service pipeline. Accordingly, PHMSA expects operators of “idle” pipelines to perform assessments and adhere to all the applicable regulations based on the line’s location.

Assessments in Non-HCAs

FAQ-3. Can I proceed with using other technology without receiving a response from PHMSA when performing an assessment under § 195.416(d)?

No, pursuant to § 195.416(d)(3), an operator must receive a notice of “no objection” from PHMSA prior to implementing the “other technology” option under § 195.416(d).

FAQ-4. Is “discovery” of a condition for non-HCAs (§ 195.416(f)) the same as for “could affect” HCAs (§ 195.452(h)(2))?

Yes, operators of both HCA lines and non-HCA lines will have equal requirements for the “discovery” of conditions, which occurs when an operator has adequate information about a condition to determine that it presents a potential threat to the integrity of the pipeline. Under both regulations, an operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

FAQ-5. Must I use the same procedures for conducting assessments and making repairs on anomalies discovered by assessments performed under the new regulation § 195.416 as I use for § 195.452?

No. When performing activities under § 195.416, an operator is not required to use the same procedures and repair criteria as they use for anomalies discovered on sections of pipe that could affect an HCA under § 195.452. An operator may opt to utilize the same criteria but is not required to do so. Any anomaly discovered following an assessment performed under § 195.416 must be repaired pursuant to the repair criteria developed for compliance with § 195.401(b)(1). Operators must comply with the other provisions in Part 195 in implementing the requirements in § 195.416. That includes having appropriate provisions for performing periodic assessments and any resulting repairs in an operator’s procedural manual (see § 195.402); adhering to the recordkeeping provisions for inspections, tests, and repairs (see § 195.404); and taking appropriate remedial action under § 195.401(b)(1).

FAQ-6. For purposes of § 195.416(b), how often must assessments be performed for piggable, non-gathering, onshore line pipe not subject to IM requirements of § 195.452?

Section 195.416(b) requires assessments to occur once every 10 calendar years from the year of the previous assessment or a shorter interval where necessary to ensure public safety or the protection of the environment. For example, an operator completing an assessment in calendar year 2021 must complete the next assessment no later than calendar year 2031.

Leak Detection

FAQ-7. Do I need to have a computational pipeline monitoring (CPM) leak detection system over all of my pipelines?

No. While all operators must have an effective system for detecting leaks as set forth in § 195.444, operators have the option to install a CPM leak detection system to comply with that requirement. PHMSA amended § 195.444 to require a means for detecting leaks on all portions of a hazardous liquid pipeline system, including non-HCA lines, and to require that operators perform an evaluation to determine what kinds of systems must be installed to adequately protect the public, property, and the environment. The factors that must be considered during that evaluation include (but are not limited to) the characteristics and leak history of the pipeline, the capabilities of available leak detection systems, and the location of emergency response personnel. However, where an operator selects the use of a CPM leak detection system, the system must comply with API RP 1130.

FAQ 7.1 Is patrolling alone a sufficient leak detection system per § 195.444?

No, patrolling alone is generally not sufficient to meet the regulatory requirement to have an effective system for detecting leaks on a pipeline system. Patrolling can only detect leaks while the patrol is ongoing, for the specific area that is being patrolled, and, notably, patrolling is only capable of detecting leaks that have observable signs on the surface of the ground. Patrolling can be used as part of an overall system to detect leaks, but it would not satisfy the requirements in § 195.444 by itself.

Integrity Management

FAQ-8. Do I necessarily have to redo my segment analysis under § 195.452(j)(2)?

No. The change to § 195.452(j)(2) requires operators to verify their pipeline segment identification annually. As PHMSA explained in the Final Rule (85 FR 52260, 52272), however, the change that PHMSA adopted does not automatically require operators to re-perform their segment analyses. Rather, it requires an operator to first identify the factors considered in their original analyses, determine whether those factors have changed, and consider whether any change would likely affect the results of the original segment identification. If so, the operator is required to perform a new segment analysis to validate or change the endpoints of the segments affected by the change.

FAQ-9. If the endpoints of covered segments are revised during the annual verification of covered segments required by § 195.452(j)(2), does that mean a baseline assessment is now required for pipe previously not identified as covered by IM?

No. Baseline assessments are required for new or conversion-to-service pipelines, or within five years of identifying areas around a pipeline that have changed and meet the definition of an HCA under § 195.450 (see § 195.452(d)(1) and (d)(2)). When an operator reviews the factors used in the original segment identification and makes changes in the covered segment endpoints based on the new verification requirements of § 195.452(j)(2), this does not mean that a new HCA has been identified around the pipeline requiring baseline assessment within five years pursuant to the updated § 195.452(c) requirements for baseline assessment plans.

Underwater Assessments

FAQ-10. What is the effective date for the new § 195.454 Underwater Assessment section?

The requirement to assess certain underwater hazardous liquid pipelines is a self-executing provision of the PIPES Act of 2016, § 25. Accordingly, this requirement was effective on June 22, 2016, the date that the PIPES Act of 2016 was signed into law. PHMSA amended the PSR by codifying the statutory language of this provisions.

FAQ 10.1. If my onshore pipeline meets the requirement of § 195.454 do I need to assess the entire pipeline?

No, § 195.454 would require you to assess the portions of the pipeline that meet the criteria in the regulation. The pipeline portion that is in the HCA, is onshore, and is located at a depth greater than 150 feet under the surface of the water must be assessed. Most operators do not have an in-line inspection tool launcher near water crossings, so it is likely you will be assessing more than is required by § 195.454. The operator does have the option to establish temporary launchers and receivers. The other assessment methods that you may have determined can further the understanding of the pipeline (e.g., route surveys, pressure tests, external direct assessment) similarly do not need to be conducted over the entire pipeline.

Extreme Weather and Natural Disasters

FAQ-11. Is the operator required to inspect its facilities under § 195.414 following a heavy rain?

No. As PHMSA explained in the Final Rule (85 FR 52260, 52269), extreme weather events do not include rain events that do not exceed the high-water banks of the rivers, streams or beaches in proximity to the pipeline; rain events that do not result in a landslide in the area of the pipeline; storms that do not produce winds at tropical storm or hurricane level velocities; or earthquakes that do not cause soil movement in the area of the pipeline.

FAQ-12. Is the operator required to perform inspections under § 195.414 following every extreme weather event or natural disaster?

No. Under this requirement, an operator must inspect all potentially affected pipeline facilities following an extreme weather event or natural disaster, such as a hurricane, flood, landslide, earthquake, that “has the likelihood to damage infrastructure by the scouring or movement of the soil surrounding the pipeline.”

An operator must inspect potentially affected pipelines to detect conditions that could adversely affect the safe operation of the pipeline. The regulation also states the operator must consider the nature of the event and the physical characteristics, operating conditions, location, and prior history of the affected pipeline in determining whether the event necessitates an inspection as well as the appropriate method for performing the inspection. If the event creates a likelihood that there is damage to pipeline infrastructure, the operator must commence an inspection within 72 hours after the cessation of the event or when the operator has determined that it is safe to access the area.