



U.S. Department of Transportation
**Pipeline and Hazardous Materials Safety
Administration**
1200 New Jersey Avenue, SE
Washington, DC 20590

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MEMO TO FILE

From: Carolyn Nelson, P.E.
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Subject: **Categorical Exclusion Determination**
Pipeline Safety: Interpretation Request Procedures

FINAL ACTION

In this final rule, PHMSA is amending its procedural regulations in 49 CFR 190.11 to require the posting of requests for regulatory interpretations on its public website and to provide an opportunity for the public to comment. PHMSA's procedural regulations in § 190.11 authorize interested stakeholders to submit requests for a written regulatory interpretation, a response to a question, or an opinion concerning pipeline safety. However, those regulations do not require PHMSA to follow its current practice of posting such requests on its public website and providing the public with an opportunity to submit comments. Section 190.11(a) also refers to an outdated message board that PHMSA no longer maintains.

In this final rule, PHMSA is amending § 190.11 by adding a new paragraph (c) to require requests for regulatory interpretations to be posted on its public website and to provide an opportunity for public comment. Consistent with current practice, paragraph (c) provides that PHMSA's obligation to consider public comments is discretionary, not mandatory. PHMSA is also amending § 190.11(a) to strike reference to the ability for the public to post messages on the PHMSA website.

APPLICABLE CATEGORICAL EXCLUSION

Categorical exclusions (CE) are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or an environmental impact statement (EIS). [DOT Order 5610.1D](#), DOT's current National Environmental Policy Act (NEPA) procedures, notes in paragraph 9(f) that "[a]n OA may apply a CE established in another OA's procedures." PHMSA coordinated with the Federal Highway Administration (FHWA) to determine that the following

FHWA CE is applicable to the action described above and can be used by PHMSA per Section 9(f) of DOT Order 5610.1D:

*Promulgation of rules, regulations, and directives.*¹

UNUSUAL CIRCUMSTANCES

Based on the scope of the action, PHMSA has determined that this rulemaking action does not meet the criteria for unusual circumstances listed in 23 CFR 771.117(b), which would require PHMSA to conduct appropriate environmental studies to determine if the CE classification is proper.

DETERMINATION

PHMSA analyzed the final rule and determined that the rulemaking will not adversely affect safety and will not significantly affect the quality of the human and natural environment. Based on the information provided in the final rule, including a review of unusual circumstances, PHMSA finds the final action qualifies as a Categorical Exclusion in accordance with Section 102 of the National Environmental Policy Act, 42 U.S.C. § 4332, DOT Order 5610.1D, Departmentwide National Environmental Policy Act Implementing Procedures, and 23 CFR 771.

Approved by the Environmental Analysis and Compliance Division:

¹ 23 CFR 771.117(c)(20)