

Interim Guidance: “New or Novel Technologies or Design” - December 27, 2012

The U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is issuing this interim guidance to clarify the meaning of the term “new or novel technologies or design” as required by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Act), signed into law (Public Law 112-90) on January 3, 2012. Section 13(b) of the Act requires PHMSA to issue guidance clarifying the meaning of the term “new or novel technologies or design.” Specifically, Section 13(b) states:

(b) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue guidance to clarify the meaning of the term “new or novel technologies or design” as used in section 60117(n)(1)(B)(ii) of title 49, United States Code, as amended by subsection (a) of this section.

As used in section 60117(n)(1)(B)(ii) of title 49, United States Code, and as amended by Section 13(a) of the Act, “new or novel technologies or design” for a pipeline may be considered as meaning any products, designs, materials, testing, construction, inspection, or operational procedures that are not addressed in Title 49 CFR Part 192, 193, or 195 due to technology or design advances and innovation.

Under the current regulations, such considerations would typically require a special permit as described in 49 CFR 190.341. It should be noted that considerations for new or novel technologies in this context are not to be confused with or take the place of other similar processes already in place that have established guidance, such as class location change considerations as detailed under 49 CFR 192.611(a) or “Other technology” notifications as detailed under 49 CFR 192.937(c)(4).

This guidance is intended to be interim in nature and is subject to review and possible modification when PHMSA promulgates regulations to implement Section 13 (Cost Recovery For Design Reviews) of the Act at a future date.