1185 Sanctuary Parkway
Alpharetta, GA 30096

Colonial Pipeline Company

Ms. Heather Anderson
Staff Attorney
South Carolina Senate Judiciary Committee
Post Office Box 142
Columbia, South Carolina 29202

June 2, 2017

Re: Colonial Pipeline's Comments on Considerations for the South Carolina Petroleum Pipeline Study Committee

Dear Ms. Anderson:

Thank you for the opportunity to submit written comments on the issues for consideration issued by the South Carolina Petroleum Pipeline Study Committee.

Please do not hesitate to contact me if you have any questions or need clarification on any of Colonial's comments.

Thank you for all your work in staffing the committee; we look forward to working with you as this process continues.

Sincerely,

Chip Little
Government Affairs Manager

RESPONSE TO SOUTH CAROLINA PIPELINE STUDY COMMITTEE

INTRODUCTION

Colonial Pipeline owns and operates a 5,500-mile refined products pipeline, originating in Houston, Texas, and terminating in New York Harbor. Every day, Colonial Pipeline delivers more than 100 million gallons of gasoline, home heating oil, aviation fuel, and other refined petroleum products produced and refined in the Gulf Coast to customers serving communities and businesses throughout the South and Eastern United States. Colonial operates 377 miles of pipeline and 4 delivery facilities in South Carolina. In 2016, Colonial delivered 56.5M barrels of refined petroleum products, which included gasoline, diesel fuel, home heating oil, and jet fuel in the state.

The Federal Energy Regulatory Commission ("FERC") regulates the rates and terms and conditions of service offered by oil pipelines like Colonial.[1] The United States Department of Transportation, through the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), is responsible for promulgating and enforcing pipeline safety regulations, and utilizes inspections and audits to ensure compliance. PHMSA also sets forth requirements for emergency response and has requirements around ensuring public awareness through continuing education programs designed to enhance safety and ensure environmental protection by increasing the public's knowledge about pipelines and pipeline safety. Other federal agencies also have regulatory authority over interstate oil pipelines, including the National Transportation Safety Board ("NTSB"), Environmental Protection Agency ("EPA"), U.S. Army Corps of Engineers ("Corps"), and others.

States may participate in regulating pipelines. In the event of a release, for example, the states have a central role in the response and, depending upon the release, direct clean up and remediation activities. In South Carolina, the Department of Health and Environmental Control ("DHEC") has asserted jurisdiction over petroleum pipelines under the Underground Storage Tank ("UST") Management Division. The Underground Storage Tank Control Regulations, R. 61-92, part 280, were updated in 2008. The Division has issued regulations governing activities relating to petroleum pipeline releases, including reporting, response, and corrective actions.

Colonial conducts its operations to transport refined products safely, efficiently, reliably and responsibly from the market to its shippers. Colonial has a comprehensive system integrity program that allows it to identify and repair potential problems proactively. Average annual spending on Integrity Management Programs (internal inspections, corrosion protection, coatings, and aerial patrols) is rising – from about $160 million in 2015 to about $250 million in 2016 to over $300 million this year. Additional investments are made each year in safety, maintenance, security, and reliability activities (leak response drills, community relations, emergency responders training, and equipment).

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[1] "Oil pipelines" regulated by FERC include refined product pipelines like Colonial as well as pipelines that carry other products such as crude oil or propane. They are referred to herein as "petroleum pipelines" or "oil pipelines".

The issues that have been raised surrounding eminent domain and oil pipeline regulation are of critical interest to Colonial. Colonial appreciates the great care and consideration being given this important topic as well as the opportunity to submit comments. Colonial stands ready to provide any further information that would be helpful to the Petroleum Pipeline Study Committee ("the Committee"). Any questions about this response should be directed to: Chip Little, Government Affairs Manager, 1185 Sanctuary Parkway, Suite 100, Alpharetta, Georgia 30009.

RESPONSE

Colonial Pipeline's comments address interstate *liquid refined petroleum pipelines only* and are not intended to address issues around intrastate pipelines or those that carry other products.

1. Question: Should a petroleum pipeline company be deemed a public utility in South Carolina, regulated by state agencies in areas that are not preempted by federal law? If being deemed a public utility in South Carolina means a liquid petroleum pipeline is regulated by the South Carolina Public Service Commission, does that imply a perceived gap in regulations?

   Response:

   The central question presented by the Committee in these questions is whether and to what extent South Carolina should regulate petroleum pipelines and whether petroleum pipelines should be able to utilize eminent domain. Currently, as discussed in the introduction, as is the case with interstate natural gas pipelines, the federal government exercises jurisdiction over interstate petroleum pipelines' rates, terms and conditions of service, safety, emergency response, and other areas. However, the federal government does not make a determination that a proposed interstate petroleum pipeline would serve the public convenience and necessity as it does with respect to interstate natural gas pipelines. In the case of a natural gas pipeline, the federal government, through FERC, after notice and a hearing, has the authority to issue a certificate of public convenience and necessity, finding that the proposed pipeline is in the public interest and provides a public benefit. Once a certificate is issued, the natural gas pipeline is afforded the right to exercise eminent domain in the states through which it passes.

   Colonial believes that, to the extent that there is any gap in the regulatory structure, it is the lack of a determination by a regulator that a proposed interstate petroleum pipeline serves the "public convenience and necessity," which would afford the pipeline the right to exercise eminent domain if necessary.

   It has been proposed that the South Carolina Public Service Commission ("PSC") be afforded jurisdiction to make the determination whether a proposed pipeline serves the "public convenience and necessity," which in turn would enable a pipeline applicant to exercise eminent domain.

   Colonial is not opposed to the proposal to require a finding of "public convenience and necessity" for petroleum pipelines that require the use of eminent domain. Given its

expertise in regulating "utilities," it seems appropriate that the Public Service Commission should have the jurisdiction to make such determinations. However, since the federal government regulates interstate petroleum pipelines in other areas, and a pipeline may not require eminent domain, the law should be clear that the exercise of such jurisdiction is for the limited purpose of determining the need for a pipeline in instances where the pipeline applicant seeks to have the right to exercise eminent domain only.

Further, similar to the way that FERC views the inquiry into whether a natural gas pipeline is in the "public convenience and necessity," the state regulator with jurisdiction should look broadly to whether the proposed pipeline provides a public benefit.

If a "public convenience and necessity standard" is mandated, the criteria for determination of "need" should not be a narrow one that only looks at the activity of the pipeline in the state. An interstate pipeline transports product from supply regions to consuming regions. If one state limits the infrastructure in its state, it will hinder the flow of product to and from all states, including South Carolina. Without the infrastructure to transport refined products, such as heating oil, gasoline, propane, and jet fuel, citizens of South Carolina and the rest of the nation would be left with limited ability to fuel their cars, heat their homes, or fly between cities. For that reason, an examination of need must take into account regional and national needs.

2. Question: Should there be a process to require a showing of need prior to a petroleum pipeline company utilizing eminent domain? If so, the following (#3-7) may be considered:

   Response:

   See response to Question 1.

3. Question: Should "public use" be defined in statute? Should that include identifying certain tangible benefits specific to South Carolina and its citizens?

   Response:

   Interstate petroleum pipelines are a critical part of the nation's infrastructure, connecting supply to market areas – including South Carolina. "Public use" should be defined in the Public Utilities Title for interstate liquid petroleum pipelines. The following is a suggested definition of public use:

   > *Public Use is defined as a fixed, definite, and enforceable right of use, including possession, occupation, ownership, and/or enjoyment of a parcel of land, or certain rights therein, by the general public or by public agencies (including, for these purposes, public utilities and public service companies). For the purpose of*

this section, an oil pipeline issued a certificate of public convenience and necessity by the PSC is deemed to be a public utility. It is not intended that such public use is focused exclusively, or even primarily, on whether it directly benefits the State of South Carolina, it being understood that the citizens of South Carolina may receive benefit in other ways, including (i) indirect benefits resulting from another State(s) receiving the more direct benefits from a specific use and (ii) understanding that each State cannot stand alone and that there is greater likelihood that other states will approve projects that directly benefit South Carolina if South Carolina is willing to do the same for them.

As discussed above in response to Question 1, the tangible benefits specific to South Carolina and its citizens do not necessarily happen within the state's borders. Our nation's economy is built on the idea of interstate commerce; goods and services are regularly delivered across state lines, and the economic benefits of this free flow of goods and services are innumerable.

In outlining how "public use" will be defined, South Carolina should consider the need for the products being transported by petroleum pipelines in the region as well as nationally. For product to reach South Carolina and beyond, it must be accessed in other regions. For example, to travel up and down the coast by airplane, South Carolinians and others depend upon there being an adequate supply of jet fuel at all airports. Without a pipeline transporting jet fuel from Houston and other supply areas, air travel would be severely limited. Similarly, gasoline is readily available to consumers only because there are pipelines bringing supply across numerous states to South Carolina and beyond.

If one state sought to limit the availability of fuel by limiting construction to times when that particular state's gasoline needs appear to be unmet, it would result in supply issues for all states, including South Carolina.

4. Question: Should petroleum pipeline companies obtain a certificate of need and/or public necessity as part of the permitting process? What factors would be included to establish public necessity?

   Response:

   As noted in the Response to Question 1, a certificate of need and/or public necessity should be necessary only where a petroleum pipeline seeks the right to condemn property. Of course, even if a certificate of public convenience and necessity is not required, necessary environmental permits would be.

   Factors that could be considered to establish public necessity could include:

   (A) Whether existing oil pipelines are adequate to meet reasonable regional and national public needs;

(B) The volume of demand for the product transported, and whether such demand and that reasonably to be anticipated in the future can support already existing oil pipelines and distribution systems, if any, and also the oil pipeline proposed by the applicant;

(C) The financial ability of the applicant to furnish adequate continuous service and to meet the financial obligations of the service which the applicant proposes to perform;

(D) The adequacy of the supply of product to serve the public, taking into account the state, regional, and national needs; and

(E) The effect on existing revenues and service of other petroleum pipelines or distribution systems, and particularly whether the granting of such certificate of public convenience and necessity will or may seriously impair existing public service.

5. Question: What opportunities should be given for public notice and public comment during the permitting process?

   Response:

   Should a permitting process be mandated, Colonial Pipeline believes that adequate public notice and an opportunity for comment would be beneficial. The process used by Georgia in its petroleum pipeline permitting process provides a good example of what a process could look like in South Carolina. It provides for public notice in the legal organ of each county through which the route of the new pipeline or extension is to be located and written notice to all landowners within 1,000 feet of the proposed project route.

   Additional requirements, such as public hearings and public comment periods, should be included and explicitly defined in the statute. Colonial suggests:

   - Public comment period, to begin within 60 days of filing for the permit and to last at least 30 days. Notice of public comment period to be run in the local organ, advertised on the permitting agency website, and sent by mail to all landowners within 1,000 feet of the proposed route.
   - Public hearings, to be held in every county in the proposed footprint within 60 days of filing for the permits and to include an opportunity for members of the public to submit comments.
   - The public comment and hearings period to conclude no more than 90 days after the filing of the permit.

6. Question: Does current law provide adequate protections for conservation areas? Do additional environmental concerns need to be addressed to protect certain environmentally sensitive areas of the state?

Response:

Yes. South Carolina and the federal government have stringent review processes for permitting that require feedback from a number of agencies at the state and federal levels. This review process provides adequate protection for environmentally sensitive areas.

For example, with respect to protection of water resources, a series of laws (Authorities: 33 USC 401, 33 USC 403, 33 USC 407, 33 USC 408, 33 USC 1341, 33 USC 1344, 33 USC 1413, and Section 48-39-10 et. seq of the South Carolina Code of Laws) require permits for activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. The Corps of Engineers and the State of South Carolina have established a joint application process for activities requiring both federal and state review or approval. Under this joint process, a company may use a single form, together with the required drawings and supporting information, to apply for both the federal and/or state permit(s).

The U.S. Army Corps of Engineers is ultimately responsible for issuing a Nation-Wide Permit (NWP) for pipeline construction when any navigable waters are to be crossed. This permit is coordinated by the Corps and includes input and engagement from the U.S. Fish and Wildlife Service (USFWS), South Carolina Department of Natural Resources (SCDNR), State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), and the South Carolina Department of Health and Environmental Control (DHEC) 401 Water Quality Certification.

The state also issues permits that ensure air quality, regulate hazardous waste, and set out standards for erosion and sediment control, among other things.

7. Question: Although South Carolina's current eminent domain cases are determined by the courts, other states utilize a two-step system for pipeline companies in which regulators initially determine if there is a need for a pipeline and review environmental factors. If this type of review were implemented in South Carolina, would all permitting/approvals need to be issued before a pipeline company could begin construction?

Response:

If a two-step review were required, the pipeline sponsor should be permitted to proceed with construction once the permitting agency or agencies issue their permits and all conditions set forth in the permits are met.

There must be a distinction, however, between construction and surveying activities. Surveying the property to be affected by the construction and maintenance of a proposed project is necessary to provide information required to develop an appropriate route as well as to provide information that the regulator(s) will require to be included in any

permit applications. Only by conducting surveys can a pipeline company accurately convey environmental and geographic information about a proposed pipeline route. Survey access should not be dependent upon receipt of a certificate of need. Issuance of a certificate of public convenience and necessity should establish the right to move forward with construction of a proposed project. The issue in an eminent domain proceeding is the amount to be paid the property owner for a necessary right of way across the property. Accordingly, construction should be able to go forward while eminent domain cases proceed through the courts.

Finally, Colonial suggests that if pipelines are required to seek certificates of necessity as a condition of accessing eminent domain, in addition to the usual requirements around environmental and other permits, the overall permitting process could be made most efficient and effective if one state agency were to be designated to serve as the lead agency. The lead agency would have the responsibility to coordinate the activities of all state agencies with permitting authority over the project and the authority and responsibility to set and enforce deadlines for action on the required permits.

8. Question: Should there be standards for a petroleum pipeline company's initial interaction with property owners for surveys?

   Response:

   Colonial believes that there should be certain standards for interactions with property owners for surveys as well as subsequent interactions. Colonial worked with the Association of Oil Pipelines and the American Petroleum Institute to develop a Landowner Bill of Rights. Colonial and other pipelines have committed to working within the standards set by that document, which is attached hereto. Colonial believes that these standards could be incorporated into any rulemaking issued to implement legislation on this subject.

9. Question: Should state agencies be more involved overall with petroleum pipeline matters?

   Response:

   Generally, and as discussed throughout, state agencies are adequately involved in petroleum pipeline matters. See Introduction and Response to Question 1.

10. Question: Should there be requirements for when a spill must be reported to a state agency, in addition to federal reporting requirements?

Response:

Requirements for reporting a spill would be duplicative. Pipelines operators are required by PHMSA to report an incident or accident to the National Reporting Center ("NRC") within one hour of discovery; revision or confirmation is required within 48 hours. The NRC immediately notifies the states of reported incidents.

South Carolina has no regulations that impose oil spill reporting requirements. However, Colonial's internal State Contingency Plan states that DHEC should be notified for all oil spills into waters of the state that are reported to the NRC. DHEC is also notified of spills reaching "navigable waters" or other spills of significance. Again, this is a duplicative step undertaken by Colonial, as the NRC also notifies the state of these incidents.

Furthermore, in the event of a release in South Carolina, consistent with the State Contingency Plan, Colonial notifies and includes DHEC as a full participant in any incident response.

11. Question: Should petroleum pipeline companies be required to respond to certain state regulatory entities concerning clean-up or any additional monitoring following a spill?

Response:

Liquid petroleum pipelines are required to respond to South Carolina regulatory entities concerning clean up, monitoring, and remediation. DHEC in particular has significant authority in this area:

The Pollution Control Act, S.C. Code Ann. 48-1-50 (1987) gives DHEC the authority to hold hearings, issue orders, and conduct studies and investigations to abate, control, and prevent pollution.

The South Carolina Water Classifications and Standards, 24 S.C. Code Ann. Regs. 661-68 H. 4 (Supp. 2001), states that all ground waters to the state shall be protected, to the extent possible, to a quality consistent with the use associated with the classes described therein.

The Pollution Control Act, S.C. Code Ann. 48-1-50 (1987) states that DHEC may engage voluntary cooperation by persons or affected groups in restoration and preservation of a reasonable degree of purity of air and water.

The Pollution Control Act, S.C. Code Ann. 48-1-90(a) (1987), states that it shall be unlawful to discharge organic or inorganic matter into the environment without a permit from DHEC.

The South Carolina Water Classifications and Standards, 25 S.C. Code Regs. 61-68 H.9 (sup. 2001), states that all ground waters of the State of South Carolina shall be maintained in accordance with Class GB standards.

Using these laws and others as applicable, DHEC drafts consent agreements and develops remediation plans with companies following releases. DHEC then carefully monitors the consent agreements to ensure compliance and proper completion of the clean-up.

12. Question: Should a state agency be tasked with inspecting petroleum pipelines, which currently is a federal responsibility? If yes, could this include inspections from the beginning of the pipeline construction throughout the pipeline's use?

    Response:

    PHMSA has plenary jurisdiction over pipeline safety. However, if a state meets certain requirements, PHMSA permits states to act as its delegate and conduct petroleum pipeline inspections. While the state receives some funds from the federal government for conducting these inspections, the state must train and retain an adequate number of inspectors and other employees to meet the federally designated requirements for pipeline inspection. Further, PHMSA retains the authority to make enforcement decisions relating to the results of the inspections conducted by the state inspectors.

    If the state chooses to act as a delegate, staffing would need to be adequate to handle emergency response and other high-intensity tasks, placing additional burden on the state's resources. For this reason, many states choose not to act as PHMSA's delegate.

13. Question: What funding mechanism should be available for clean-up in case the petroleum pipeline company is incapable of paying for a spill?

    Response:

    Generally, oil pipeline companies maintain reserves and carry adequate insurance to ensure that funds are available for cleanup after a spill. Colonial, for example, carries both general liability insurance as well as pollution coverage to ensure that it has the resources necessary for spill cleanup.

    In the event that a company does not have adequate resources to pay for cleanup, there is a fund established to pay costs. The U.S. Coast Guard ("USCG") oversees the National Pollution Funds Center's ("NPFC") Oil Spill Liability Trust Fund ("OSLTF"). The OSLTF was established to provide funds for federal cleanup, funds to assess and restore damaged natural resources, to provide compensation to claimants for certain removal costs and damages resulting from a petroleum spill incident, and to obtain cost recovery from responsible parties for costs and damages paid from the OSLTF.

The OSLTF was initially paid for by industry and is maintained through cost recovery, fines, and penalties levied and income produced on the principal. OSLTF provides funds to pay for claims arising out of incidents that involve a discharge or substantial threat of a discharge of petroleum from a vessel or facility into or on the navigable waters of the U.S., adjoining shoreline, or the exclusive economic zone. These are the types of incidents that are most likely to generate large cleanup costs.

The USCG, through the NPFC, manages and disburses OSLTF funds for cleanup, monitoring the sources and uses of funds, adjudicating claims for payment, and pursuing reimbursement from responsible parties for costs and damages paid by the OSLTF. Allowed claims include removal costs, real or personal property damage, loss of profits and earning capacity, loss of government revenue, cost of increased public services, subsistence loss, and natural resource damage.

14. Question: Should there be a bonding requirement for a petroleum pipeline company to post a minimum amount to be available in the event of a future spill?

    Response:

    There is no reason to believe that a bonding requirement is necessary. There has not been a release by an oil pipeline company in South Carolina during or after which the pipeline company was unable to fund the necessary response, cleanup, or other associated obligations. Indeed, pipelines carry reserves for such purposes as well as insurance adequate to ensure that the company will be in a position to meet its obligations if a major event occurs.

15. Question: Are the current standards in South Carolina law sufficient for a petroleum pipeline clean-up?

    Response:

    Yes. See Introduction noting DHEC's assertion of jurisdiction over petroleum pipelines pursuant to the Underground Storage Tank Control Regulations, R. 61-92, part 280, which were updated in 2008. As stated, the regulations thereunder govern activities relating to petroleum pipeline releases, including reporting, response, and corrective actions.

16. Question: Are there adequate protections in current law to notify the public when there is a spill incident, which includes the availability of information to assist citizens who are directly affected by a petroleum pipeline spill?

Response:

Yes. Local first responders are the first to make notification and evacuation decisions based on their expertise and their knowledge of the local community. Pipeline companies do not have the local knowledge that trained first responders do. Pipeline companies do support local first responders and respond appropriately to the local community.

The critical nature of emergency response demands that Colonial develop good working relationships with local responders. Toward that end, Colonial has created its Emergency Responder ("ER") Liaison Program. Local operations personnel meet with key emergency responders within each county to review Colonial-specific facilities and to discuss how to work together effectively in an emergency.

As part of its Public Awareness Program mandated by PHMSA, Colonial's ER Communications Portal provides responders with maps, safety information, and emergency and local contact information that they can access from a computer, tablet, or smart phone. The portal also allows Colonial to message emergency responders more frequently to increase familiarity, share information, and update contacts.

Colonial also engages emergency responders in a variety of ways, by conducting facility tours, tabletop and local drills, and making ER grants available to responders. Grants help fill gaps in emergency responder capabilities by providing funds for emergency equipment purchases.

When an incident occurs, Colonial Pipeline sets up an incident command center on-site. The command center focuses on the safe and efficient containment of the incident. Dedicated, trained staff members arrive on-site to work with homeowners and businesses affected by the incident, local community members, first responders, elected officials, and the media. Providing assistance to those affected by the incident and current, factual information to the community at large is a key focus.

17. Question: Should a buy-back option be required if a petroleum pipeline company condemns property but does not utilize the property within a certain time period?

Response:

In most cases, petroleum pipelines use eminent domain to obtain an easement, not to take ownership of a piece of land. The landowner retains almost all rights to the land. Any buy-back would simply be with respect to that easement.

From time to time, permitting delays may extend a project's timeline by several years. If a buy-back option is developed, adequate time – 10 years or more – should be provided

to account for permitting delays, re-routing, and re-examining the project before a condemned property is eligible for a buy-back.

18. Question: Should abandoned petroleum pipelines be addressed in legislation?

    Response:

    No. PHMSA, which has plenary jurisdiction, provides extensive guidelines for the proper management of an abandoned pipeline in §192.727. A copy of O&M Part 192, which outlines the abandonment process, is attached to this response.

AOPL
Association of Oil Pipe Lines

energy API

LIQUIDS PIPELINE OWNER AND OPERATOR COMMITMENT TO LANDOWNERS

Pipeline companies considering a new liquids pipeline project in your area are committed to working with you fairly, openly and with respect. As landowners potentially impacted by a pipeline project, we make these commitments to you:

1. ***Fairness***
   We commit to working with you fairly. At the end of the process of considering a pipeline project, regardless of whether the pipeline directly impacts your lands, you should feel that we treated you fairly.

2. ***Respect***
   We commit to treating you and all stakeholders with respect. We will listen to your questions and concerns. We will share with you our perspective. We will work to understand your needs and appreciate your point of view.

3. ***Openness***
   We commit to being open with you. We know you will have a lot of questions about the project. We will provide you as much information as early as we can to help you form your opinions and make your decisions in a timely fashion. We will provide you information about the project, its benefits to you and your community, potential short-term inconveniences and long-term impacts, the process for considering the project, and our company.

4. ***Negotiate in Good Faith***
   We commit to negotiating with you in good faith. We will be sincere in our commitments and offers to you. We will stress our desire to obtain survey or easement rights through negotiation first. We will view eminent domain only as a last resort and will work in good faith first to reach a mutually acceptable agreement. We will keep our commitments to you and make sure we are clear in what we are offering, the limits of what we can agree to and the timing of our offers.

5. ***Responsiveness***
   We commit to responding to your questions and concerns promptly. We understand you may have additional questions or thoughts after we meet with you or you hear from us. We will do our best to get you the information you are requesting. We may not be able to meet all of your requests, but we will respond to you in a timely fashion.

6. ***Consistency***
   We commit to upholding these commitments to you as consistently as possible. Whether we are working with you directly or through someone we hire to help us, we will ensure they have the appropriate training and professionalism to perform their jobs. If you are ever dissatisfied by an interaction you've had with us, we want to hear about it and will work diligently to get our relationship with you back on track as soon as possible.

# # #

consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 5, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.568, add alphabetically the commodities "Soybean forage" and "Soybean hay" to the table in paragraph (a) to read as follows:

§ 180.568 Flumioxazin; tolerance for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Soybean forage	0.03
Soybean hay	0.02
* * * * *	

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[FR Doc. 2016–19553 Filed 8–15–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2016–0075]

Pipeline Safety: Clarification of Terms Relating to Pipeline Operational Status

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing this advisory bulletin to all owners and operators (operators) of hazardous liquid, carbon dioxide, and gas pipelines, as defined in 49 Code of Federal Regulations Parts 192 and 195, to clarify the regulatory requirements that may vary depending on the operational status of a pipeline. Further, this advisory bulletin identifies regulatory requirements operators must follow for the abandonment of pipelines. Pipeline owners and operators should verify their operations and procedures align with the regulatory intent of defined terms as described under this bulletin. Congress recognized the need for this clarification in its Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016.

DATES: August 16, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Daugherty at 816–329–3800 or by email to *Linda.Daugherty@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 17, 2014, a hazardous liquid pipeline company was notified by emergency responders of crude oil leaking up from below the pavement in a residential area in Wilmington, California. The leak was close to a refinery. The company initially informed the regulator that it had no active lines in the area but responded anyway.

On March 18, 2014, the company excavated the area surrounding the leaking oil and learned that the leak originated from a pipeline that it owned. The pipeline had been purchased 16 years ago and the company understood that the previous operator had properly abandoned and purged the pipeline prior to purchase. Regulators determined the pipeline leaked due to an internal "pinhole" corrosion leak on a weld.

Subsequent investigations determined that while the pipeline was not in operation, its valves were positioned to prevent flow but the pipeline had never been purged and cleaned. Some regulators and industry representatives informally referred to such pipelines as "idled."

On May 31, 2015, a 24-inch natural gas "auxiliary" pipeline crossing the Arkansas River in North Little Rock, Arkansas, failed due to vortex-induced vibration after high water levels eroded the ground cover and exposed the pipeline to the river's flow. The failure released 3,858 cubic feet of natural gas into the atmosphere and resulted in the temporary closure of the Arkansas River to vessel traffic for five days. The pipeline at the time of the failure was isolated by two mainline valves, at an approximate pressure of 700 pounds per square inch (psig). The pipeline, considered an emergency back-up pipeline crossing the river, has not been fully operated since 1972. However, the company did maintain the pipeline as an active pipeline, subject to in-line inspection, cathodic protection, and other maintenance requirements.

On October 28, 2015, Cypress, California, city public works employees identified an oil-water mixture on a local road. Approximately 28 barrels of oil-water mixture was determined to have leaked from an oil pipeline that was believed to have been purged of oil prior to deactivation in 1997. The owner of the pipeline had purchased it from another company just prior to the failure.

Congress recognized the need for PHMSA to provide clarification of operational terms and ensure all operators are aware of and abide by the regulatory requirements for properly abandoning pipelines. In its "Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016," Congress required PHMSA to issue an advisory bulletin to owners and operators of gas or hazardous liquid pipeline facilities and Federal and State pipeline safety personnel regarding procedures required to change the status of a pipeline facility from active to abandoned, including specific guidance on the terms recognized by the Secretary for each pipeline status referred to in such advisory bulletin.

PHMSA regulations do not recognize an "idle" status for hazardous liquid or gas pipelines. The regulations consider pipelines to be either active and fully subject to all relevant parts of the safety regulations or abandoned. The process and requirements for pipeline abandonment are captured in §§ 192.727 and 195.402(c)(10) for gas and hazardous liquid pipelines, respectively. These requirements

include purging all combustibles and sealing any facilities left in place. The last owner or operator of abandoned offshore facilities and abandoned onshore facilities that cross over, under, or through commercially navigable waterways must file a report with PHMSA. PHMSA regulations define the term "abandoned" to mean permanently removed from service (§ 192.3).

A 1998 report by the Research and Special Programs Administration (RSPA), a predecessor agency to PHMSA, titled: "Analysis of Pipeline Burial Surveys in the Gulf of Mexico," stated: "Abandonment involves the permanent and, for all practical purposes, irreversible process of discontinuing the use of a pipeline. The physical asset is abandoned in the truest sense of the word; no future use or value is attributed to it, and no attempts are made to maintain serviceability. Pipeline systems or segments that are not abandoned, but only idled, decommissioned, or mothballed, are considered to have the potential for reuse at some point in the future. The maintenance and inspection to be performed in these cases is a function of the probability of reuse, the cost and difficulty of remediation which may be required, and the potential impact of the in-place and idled facility on human safety and the environment."

PHMSA is aware that some pipelines may have been abandoned prior to the effective date of the abandonment regulations. Companies may not have access to records relating to where these pipelines are located or whether they were properly purged of combustibles and sealed. Owners and operators have a responsibility to assure facilities for which they are responsible or last owned do not present a hazard to people, property or the environment.

In the case study from Wilmington, California, provided above, the pipeline company was aware of the pipeline and believed it to have been properly abandoned by the previous owner/operator. The pipeline company was cited and fined by a State regulator because it did not properly maintain the active line or, alternatively, properly abandon the pipeline facility.

Pipelines not currently in operation but that may be used in the future are sometimes informally referred to as "idled," "inactive," or "decommissioned." These pipelines may be shut down and still contain hazardous liquids or gas. Usually, the mainline valves on these pipelines are closed, isolating them from other pipeline segments. Frequently, blind flanges or welded end caps are used for further isolation. Some pipelines do not operate for short periods of time such as weeks or months. Other pipelines do not operate for years. If a pipeline is not properly abandoned and may be used for the future for transportation of hazardous liquid or gas, PHMSA regulations consider it an active pipeline. Owners and operators of pipelines that are not operating but contain hazardous liquids and gas must comply with all relevant safety requirements, including periodic maintenance, integrity management assessments, damage prevention programs, and public awareness programs.

PHMSA is aware that some owners and operators may properly purge a pipeline of combustibles without abandonment because of an expectation to later continue using the pipeline in hazardous materials transportation. A purged pipeline presents different risks, and different regulatory treatment may be appropriate. Degradation of such a pipeline can occur, but it is not likely to result in significant safety impacts to people, property, or the environment. PHMSA will accept deferral of certain activities for purged but active pipelines. These deferred activities might include actions impractical on most purged pipelines such as in-line inspection. PHMSA is considering proposing procedures in a future rulemaking that would address methods owners or operators could use to notify regulators of purged but active pipelines. In the interim, owners or operators planning to defer certain activities for purged pipelines should coordinate the deferral in advance with regulators. All deferred activities must be completed prior to, or as part, of any later return-to-service. Pipeline owners and operators are fully responsible for the safety of their pipeline facilities at all times and during all operational statuses.

II. Advisory Bulletin (ADB–2016–05)

To: Owners and Operators of Hazardous Liquid, Carbon Dioxide and Gas Pipelines.

Subject: Clarification of Terms Relating to Pipeline Operational Status.

Advisory: PHMSA regulations do not recognize an "idle" status for a hazardous liquid or gas pipelines. The regulations consider pipelines to be either active and fully subject to all parts of the safety regulations or abandoned. The process and requirements for pipeline abandonment are captured in §§ 192.727 and 195.402(c)(10) for gas and hazardous liquid pipelines, respectively. Pipelines abandoned after the effective date of the regulations must comply with requirements to purge all combustibles and seal any facilities left in place. The last owner or operator of abandoned offshore facilities and abandoned onshore facilities that cross over, under, or through commercially navigable waterways must file a report with PHMSA. PHMSA regulations define the term "abandoned" to mean permanently removed from service.

Companies that own pipelines abandoned prior to the effective date of the abandonment regulations may not have access to records relating to where these pipelines are located or whether they were properly purged of combustibles and sealed. To the extent feasible, owners and operators have a responsibility to assure facilities for which they are responsible or last owned do not present a hazard to people, property or the environment.

Pipelines not currently in operation are sometimes informally referred to as "idled," "inactive," or "decommissioned." These pipelines may be shut down and still contain hazardous liquids or gas. Usually, the mainline valves on these pipelines are closed, isolating them from other pipeline segments. If a pipeline is not properly abandoned and may be used in the future for transportation of hazardous liquid or gas, PHMSA regulations consider it as an active pipeline. Owners and operators of pipelines that are not operating but contain hazardous liquids and gas must comply with all applicable safety requirements, including periodic maintenance, integrity management assessments, damage prevention programs, response planning, and public awareness programs.

PHMSA is aware that some owners and operators may properly purge a pipeline of combustibles with the expectation to later use that pipeline in hazardous materials transportation. A purged pipeline presents different risks, and therefore different regulatory treatment may be appropriate. Degradation of such a pipeline can occur, but is not likely to result in significant safety impacts to people, property, or the environment. PHMSA will accept deferral of certain activities for purged but active pipelines. These deferred activities might include actions impractical on most purged pipelines, such as in-line inspection. PHMSA is considering proposing procedures in a future rulemaking that would address methods owners or operators could use to notify regulators of purged but active pipelines. In the interim, owners or operators planning to defer certain activities for purged pipelines should coordinate the deferral in advance with

regulators. All deferred activities must be completed prior to, or as part of, any later return-to-service. Pipeline owners and operators are fully responsible for the safety of their pipeline facilities at all times and during all operational statuses.

Issued in Washington, DC, on August 11, 2016, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Acting Associate Administrator for Pipeline Safety.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2015–0034; FF09M21200–167–FXMB1231099BPP0]

RIN 1018–BA70

Migratory Bird Hunting; Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on July 25, 2016, that prescribes the hunting seasons, hours, areas, and daily bag and possession limits for migratory game birds during the 2016–17 season. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. In that final rule, we identified several errors concerning season dates, and bag and possession limits, for certain States, as well as a number of formatting and other errors in tables and table notes. With this document, we correct those errors.

DATES: This correction is effective August 16, 2016.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on July 25, 2016, at 81 FR 48648, the following corrections are made:

■ 1. On page 48652, § 20.103(a) is amended by revising the entry for *Pennsylvania* under the heading EASTERN MANAGEMENT UNIT in the table to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

* * * * *

(a) * * *

	Season dates	Limits	
		Bag	Possession
EASTERN MANAGEMENT UNIT			
Pennsylvania			
12 noon to sunset	Sept. 1–Sept. 24	15	45
1/2 hour before sunrise to sunset	Sept. 26–Oct. 8 &	15	45
	Oct. 15–Nov. 26 &	15	45
	Dec. 26–Jan. 3	15	45

* * * * *

■ 2. On page 48656, § 20.104 is amended by revising table note (14) to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.

* * * * *

(14) In *Iowa,* the limits for sora and Virginia rails are 12 daily and 36 in possession.

* * * * *

■ 3. Section 20.105 is amended as follows:

■ a. On page 48657, in paragraph (c), by revising the entry for *Iowa* under the heading *MISSISSIPPI FLYWAY* in the table;

■ b. On page 48659, in paragraph (d), by revising table note (11):

■ c. In paragraph (e):

■ i. On pages 48660 through 48665, under the heading ATLANTIC FLYWAY, by revising the entries for *Georgia, Maine, New Jersey,* and *Rhode Island* in the table; by adding an entry for *South Carolina* in the table; and by revising table note (14);

■ ii. On pages 48668 through 48670, under the heading MISSISSIPPI FLYWAY, by revising the entries for *Minnesota* and *Tennessee* in the table, and by removing and reserving table note (6); and

■ iii. On page 48670, under the heading CENTRAL FLYWAY, in the introductory text under the heading "*Duck Limits*", by removing the words "1 mottled duck,"; and

■ d. In paragraph (f), in the table:

■ i. On page 48678, under the heading *MISSISSIPPI FLYWAY,* by revising the entry for *Iowa;* and

■ ii. On page 48679, under the heading *CENTRAL FLYWAY,* by revising the entry for *Kansas.*

The revisions read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

* * * * *

(c) * * *

	Season dates	Limits	
		Bag	Possession
* * *	*	*	*
MISSISSIPPI FLYWAY			
* * *	*	*	*
Iowa (3).			
North Zone	Sept. 3–Sept. 11	6	18