

proposed integrity management program requirements. Cook Inlet Keeper requested that OPS review its database to ascertain whether there are additional threats to pipeline integrity, such as human error, maintenance problems, and valve and patch failures.

Peoples Energy opined that the proposal to consider cyclic loading is specious because it requires operators to assume "deep dents" are present and further to determine if the loading conditions will lead to failure of the assumed "deep dents."

Advanced Technology Corporation suggested redefining "toughness" as "fracture toughness" for older pipe materials to calculate the "critical defect size" and to ensure the proper use of relevant information.

Response: A systematic search of recorded incidents to identify threats to pipelines was conducted while developing the standard on integrity management, ASME/ANSI B31.8S. The rule is structured around evaluating susceptibility to these threats and protecting against them. RSPA/OPS believes that the best way to address threats associated with human errors is through training and qualification, since failures from this cause usually occur immediately.

With respect to cyclic loading, it is important that a realistic analysis of the condition be conducted to ascertain the susceptibility of pipelines to failure from this cause. Such analyses require the postulation of some flaw, because the effect of cyclic loading is to propagate existing flaws. Flawless pipe can generally withstand significant cyclic loading, but little pipe is completely without flaws. The final rule requires an operator to use the results from the evaluation together with the criteria used to evaluate the significance of this threat to the covered segment to prioritize the next integrity assessment.

In the final rule, we have substituted the term "fracture toughness" for "toughness."

5. Review, Notification and Enforcement Processes

There were several comments related to review, approval, and enforcement processes but the majority related to the use of and practicality of waivers. RSPA/OPS had proposed to allow a waiver of a reassessment interval greater than seven years in two limited instances: Lack of internal inspection tools and to maintain local product supply. The statute limits a waiver to these two instances.

The proposal included prior notification requirements to OPS in several instances: When using other

technology as an assessment method (180 days), When making a significant change to the integrity management program (30 days), and when seeking a longer reassessment period (180 days before the end of the required period).

Sempre commented that the potential impact on customers is greater than perceived primarily because of the impact to numerous large customers served by a single source pipeline, and therefore the need for waivers may have been greatly underestimated. Panhandle Eastern asserted that waiting 180 days for a decision on a waiver is excessive. The Washington Utilities and Transportation Commission suggested that we include provisions that would require RSPA/OPS to approve or disapprove of an operator's request for waiver.

Enron was concerned about the proposed program change requirements and asserted that the terms "significantly" and "substantially" are vague and subject to varying interpretations. Enron further argued that requiring separate, subjectively determined notifications is not productive or useful when changes could be effectively reviewed during regular pipeline program reviews.

Several commenters, including Advanced Technology Corporation, suggested that RSPA/OPS better define the process by which new technologies are approved. Both PECO and El Paso objected to the 180-day notification prior to the use of new technology and El Paso suggested that the notification period be reduced to 90 days, which would be consistent with § 195.452. El Paso also suggested that provision be made for the ongoing use of other technology via a single notification.

Sempre encouraged RSPA/OPS to address the coordination of environmental review and the permit process for pipeline repairs and for retrofitting and inspection of pipelines per Section 16 of the Pipeline Safety Improvement Act of 2002.

Response: RSPA/OPS acknowledges that the number of waivers likely to be sought by operators is not known at this time. Nevertheless, 49 U.S.C. 60109 requires that an assessment be performed on a pipeline segment in a high consequence area at seven-year intervals and further provides that operators may seek waivers only under two circumstances. The waiver requirements in this rule follow the statute. Because of the statutory limitations, RSPA/OPS cannot make other changes in anticipation of a large number of waivers possibly being submitted many years hence. RSPA/OPS believes that careful planning can

help avoid the need for waivers. Careful planning also will identify the need for waivers in sufficient time to allow operators and RSPA/OPS to conduct careful reviews. RSPA/OPS is working on expediting the waiver process to prevent potential supply shortfalls. RSPA/OPS expects that a requirement to apply for a waiver 180 days before the end of the required reassessment interval is reasonable, except when local product supply issues may make that period impractical. In such an instance, an operator would need to apply for the waiver as soon as the need for the waiver becomes known. The waiver process is governed by 49 U.S.C. 60118, the Federal pipeline safety law. Currently, a waiver must be published for public comment. Therefore, 180 days is a reasonable period to allow for publication in the **Federal Register** and to address public comments on the a proposed waiver.

To address the TPSSC's recommendation we have revised the language in the final rule to include the exact language of the statute pertaining to waivers. Therefore, a waiver may be sought to maintain local product supply or because of unavailability of internal inspection devices. In either case, RSPA/OPS must determine that a waiver would not be inconsistent with pipeline safety.

The Pipeline Safety Improvement Act of 2002 also requires that operators notify RSPA/OPS when they make changes to their integrity management programs. RSPA/OPS cannot eliminate this requirement from the rule. The requirement has been conditioned to require notification only of changes that may substantially affect the program's implementation or may significantly modify the program or schedule for carrying out the program elements. These qualifiers are intended to preclude notifications for minor, even editorial, changes.

We have revised this requirement, however, to require an operator to notify, in addition to OPS, a State or local pipeline safety authority when a covered segment is located in a State where OPS has an interstate agent agreement, and a State or local pipeline safety authority that regulates a covered pipeline segment within that State. These changes were made to address comments from advisory committee members and State pipeline safety authorities.

RSPA/OPS continues to believe that 180-day notice before an operator uses "other technology" is a reasonable notification period. There are reasons why the corresponding period in the rule for hazardous liquid pipelines is 90