

Draft Response to 60-Day Comments on Hazardous Liquid Operator Accident Report
7-5-2013 PHMSA 2013-0061

Commenters:

1. American Petroleum Institute (API)/Association of Oil Pipelines (AOPL) joint comments.

Revise instructions for Volume Spilled (Part A9) and Volume Recovered (Part A11)

Commenter opposes PHMSA's proposal to include all product exiting the pipeline system in both Volume Spilled and Volume Recovered. Commenter requests that volume exiting a system during a controlled event is not to be reported. PHMSA agrees in principal with the comments, but does not consider any product exiting the system at the failure location to be done in a controlled manner. The instructions proposed by PHMSA in this 30-day notice exempts product removed from the system at locations remote from the failure site from both Volume Spilled and Volume Recovered. However, all product exiting the system at the failure site, regardless of the degree of control attainable by the operator, are included in both Volume Spilled and Volume Recovered. Limiting the Volume Spilled to product exiting the system at the failure site provides the most accurate characterization of the consequences of the accident. The difference between Volume Spilled and Volume Recovered provides the most accurate characterization of the environmental consequences of the accident. This change does not penalize operators for withdrawing product in a controlled manner at locations remote from the failure site and provides incentive to move product away from the failure site whenever possible.

Commenter also recommended "facility" be replaced with "system" in the instructions for Volume Spilled and Volume Recovered. PHMSA has implemented this recommendation.

Revise instructions for Time Sequence (Part A18)

Commenter opposes use of the phrase "when the operator became aware of the accident" in the instructions. Commenter states that "awareness of the accident" is open to wide interpretation. Commenters suggest that "awareness" be replaced with "discovery", which is used in other PHMSA regulations. Commenter notes that PHMSA enforcement rules for safety-related conditions characterize "discovery" as "when an operator's representative has adequate information from which to conclude the probable existence."

Commenter's proposal to use "adequate" and "probable" in the definition of "discovery" does not provide any additional clarity. Part A18 of the form simply requires the earliest date/time the operator identified the failure and the date/time the operator arrived on site. If PHMSA were to implement the commenter's recommendation, these date/times would be identical and PHMSA would gain no knowledge of operator response time.

Revise instructions for National Response Center (NRC) Report Number

Commenter requests that PHMSA delay the proposal to collect multiple NRC Report numbers until the NRC implements requirements from the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 ("Act"). Contrary to the commenter's statements, the PHMSA proposal remains viable regardless of actions the NRC may take in response to the "Act."

Commenter suggested a new option is needed when a NRC Report was not submitted. Commenters suggested that "NRC notification not required at time of release" be added as an option. PHMSA has

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already proposed “NRC Notification Not Required” as an option. No action has been taken on this suggestion.

Revise instructions for Accident Preparer and Authorizer

Commenter recommends changes to both the instructions and form to make clear that the information will be available to the public. All data submitted by operators to PHMSA could potentially be made publicly available. No action has been taken on this recommendation.