Northern Alaska Environmental Center

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Regulations and Standards Branch
MMS, Department of the Interior
381 Elden Street, MS-4024
Herndon, VA 20170-4817
Re: RIN 1010-AD11

Dear MMS:

We endorse, and incorporate by reference, the comments submitted to you by Carl Weimer of the Pipeline Safety Trust and others.

We are very concerned that better oversight and monitoring requirements are needed for offshore pipelines in the Arctic Ocean. Here are some of our major concerns. Since oil cannot be effectively cleaned up in broken ice conditions in the Beaufort and Chukchi Sea, stronger, not weaker provisions are needed for offshore pipelines.

The Northern Alaska Environmental Center is a non-profit, public interest organization and we appreciate the opportunity to comment on the proposed rulemaking which greatly revises the MMS Outer Continental Shelf pipeline and pipeline Rights-of-Way regulations (72 Federal Register 56442, October 3, 2007).[1]

In general, we favor regulatory changes that enhance safety and protect the environment. Additionally, we believe there should be regulatory (and enforcement) consistency between Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations (49 CFR Parts 190-199) and Minerals Management Service (MMS) regulations (30 CFR Parts 250, 253, 254, and 256) covering offshore pipelines so there will not be any reason for pipeline operators to favor one department's regulatory oversight over another. In cases where one of the two departments is more stringent, e.g., PHMSA's periodic in-line inspection (i.e., smart-pigging) and pipeline repair requirements, we believe that the other department's regulations should be strengthened to be consistent. Thus, as a general comment, MMS' proposed regulations should be consistent and at least as stringent as PHMSA's 49 CFR Parts 190-199 regulations, and vice versa.

Another general comment about these proposed requirements is that they leave far too much discretion to MMS' Regional Supervisors. Regional Supervisors and their staff often do not have time to assess pipeline-specific conditions adequately to determine whether discretionary

[1] See http://www.mms.gov/federalregister/PDFs/pipelinemodernization.pdf.

requirements should be made mandatory. To implement these rules successfully and with a minimal use of governmental resources, our organizations strongly urge MMS to rewrite:

1. Section 250.1103(a-f)[2] so the different types of testing would be mandatory under particular circumstances,
2. Section 250.1048 (a, c, and d) to require collection of high-resolution geophysical data or photo documentation in biologically important areas, and
3. Section 250.1063(b)(4) to require use of flow safety valves and shutdown valves under certain conditions.

If needed, these rewritten regulations should be supplemented with guidance manuals. A regulatory/guidance manual approach, rather than an approach that gives great discretion to Regional Supervisors, will ensure more consistent decision-making and will be far superior technically to case-by-case decision-making by MMS staff.

Important Deficiencies in the Proposed MMS Regulations

Because the offshore environment is highly sensitive to discharges such as oil, our organizations believe these proposed regulations should include all proven measures to prevent releases. In their current form, however, the proposed regulations do not include several important requirements, described below. We urge MMS to modify its requirements to include these measures.

Specific in-line inspection and integrity management requirements are needed. Proposed Section 250.1103(e) states that "*The Regional Supervisor may require you to conduct the inspections or surveys in the following table: (e) In-line inspection*." The importance of in-line inspections to determine pipeline areas needing repairs is widely accepted and, as such, in-line inspection requirements have been incorporated into PHMSA regulations (with a few exceptions for pipelines that cannot readily be pigged). In contrast, MMS' proposed regulations do not require baseline and continual reassessment using in-line inspection tools. It's a mistake for MMS to leave use of such tools to the discretion of Regional Supervisors, and language requiring baseline and reassessment use of such tools is essential. Additionally, all new and repaired pipelines should be required to be piggable.

Moreover, proposed Section 250.1079 is non-specific with respect to integrity management. As discussed in the preamble, "*Recent pipeline leaks in onshore pipelines in the United States and other integrity issues associated with those pipelines, have prompted MMS to address offshore pipeline integrity in this proposed rule…At a later time, MMS may propose more prescriptive regulations if research indicates the need for them.*" (72 Federal Register 56445) Thus, by MMS's own admission, pipeline integrity standards are important, yet inexplicably MMS states that it must perform more research on the topic. Notably, PHMSA have had integrity management standards *in place* since 2001. Our organizations believe that MMS should immediately promulgate integrity management requirements for offshore pipelines similar to PHMSA regulations 49 CFR 195.452 (oil) and 49 CFR 192, Subpart O (natural gas).

[2] Note the separate discussion on Section 250.1103(e), below.

Triggers for repairs are needed. Unlike PHMSA regulations 49 CFR 195.452(h)(4) which specifies the numerous conditions requiring immediate repairs, repairs within 60 and 180 days, and other conditions requiring repairs, proposed Section 250.1094 contains only a single, non-leak-related repair trigger – if a reduction in wall thickness requires a reduction in Maximum Allowable Operating Pressure. This lack of repair triggers compared to the PHMSA rules is a serious deficiency in MMS' proposed regulations.

At least part of the reason for the lack of repair triggers is, most likely, the lack of an in-line inspection requirement for MMS-regulated pipelines. Most of the PHMSA repair triggers such as dents or wall thinning would be found as a result of in-line inspections. MMS's proposed repair requirements thus are insufficiently pro-active in preventing releases.

Leak detection requirements need strengthening. Proposed Section 250.1071 requires use of a computational monitoring system (CPM) and a Supervisory Control and Data Acquisition (SCADA) system to monitor pipeline systems for leaks. While these requirements are necessary, they are not sufficient to ensure that smaller leaks will be detected because the proposed regulations do not include any volume and time thresholds for leak detection, unlike the state of Alaska's crude oil transmission pipeline leak detection standards (18 AAC 75.055).

Proposed Section 250.1101's *monthly* visual surveys/inspections of pipeline routes are highly inadequate. These surveys are more than 50% less frequent than the 26 visual surveys/inspections of Rights-of-Way required by PHMSA's 49 CFR Section 195.412(a) regulations. Visual surveys/inspections are a critical means for detecting leaks since CPM and SCADA systems can have leak warning thresholds that are too high or alarms which might be ignored by pipeline personnel. Both these circumstances likely occurred with the relatively slow, approximately 200,000 gallon pipeline leak discovered by BP on the North Slope in March 2006, discovered by a visual inspection.[3] Allowing a leak to proceed for one month between inspections is a very long time, and much environmental damage offshore could occur during that period.

Internal corrosion control requirements need specificity. Proposed Section 250.1074 does not include specific requirements for internal corrosion control. As a result of the BP incident mentioned above and additional internal corrosion problems found during the summer of 2006 involving other BP North Slope pipelines,[4] Congress required PHMSA to review and update its own, non-specific internal corrosion requirements. Section 22 of the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006 (P.L. 109-468, December 29, 2006) states:

> *Sec. 22. Corrosion Control Regulations*
>
> *(a) Review. – The Secretary of Transportation, in consultation with the Technical Hazardous Liquid Pipeline Safety Standards Committee and other appropriate entities, shall review the internal corrosion control regulations set forth in subpart H of part 195 of title 49 of the Code of Federal Regulations to determine if such regulations are*

[3] See the Alaska Department of Environmental Conservation's information on this leak at http://www.dec.state.ak.us/spar/perp/response/sum_fy06/060302301/060302301_index.htm.

[4] See http://www.dec.state.ak.us/spar/perp/response/sum_fy07/060806301/060806301_index.htm.

currently adequate to ensure that the pipeline facilities subject to such regulations will not present a hazard to public safety or the environment.

(b) Report. – Not later than December 31, 2007, the Secretary shall submit to Congress a report containing the results of the review and may modify the regulations referred to in subsection (a) if necessary and appropriate.

MMS should review any recent DOT findings on internal corrosion, and should incorporate planned PHMSA regulatory modifications into MMS' rules on offshore pipelines.

Maximum length for unsupported spans should be specified. Proposed Section 250.1040(d) states that pipelines should be constructed in a manner that "*Minimizes the length of unsupported spans*." In the early years of Cook Inlet, Alaska pipelines, many releases were caused by unsupported spans, and operators now use sandbags to prevent such spills. Among Cook Inlet pipeline operators, there is a good deal of information on what the maximum length for unsupported spans should be. Similarly, one would expect that the same is true for offshore pipeline operators in other parts of the country. MMS should collect and analyze such data and include, in regulation, what the maximum length for unsupported spans should be. Specificity would enable such a requirement to be enforceable, whereas proposed Section 250.1040(d) is not.

Bonding requirements are inadequate and should be based on actual data. We believe that the proposed bonding requirements in Section 250.118 (a-b) – $300,000 for each pipeline Right-of-Way and $1 million for all the pipeline Rights-of-Way in an MMS Outer Continental Shelf region – are far too low. This is true even if the Regional Director may require additional security, as stated in proposed Section 250.1118(c), through pipeline-specific and operator-specific analyses. A regulatory/guidance manual approach with higher baseline bonding levels will ensure more consistent decision-making and will be far superior technically to case-by-case decision-making by MMS Regional Directors. Instead of arbitrarily using $300,000 and $1 million as baseline bonding levels, our organizations recommend that MMS analyze actual cost data from decommissioned pipelines and consider determining bonding levels based on pipeline mileage.

[Placeholder for potential comments on pipeline mapping information by Carl Weimer of the Pipeline Safety Trust and pressure sensor triggers by Rick Kuprewicz of Accufacts]

Key Strengths of the Proposed MMS Regulations

We strongly support the increase in pipeline Right-of-Way rental fees to $70 per mile as in proposed Section 250.1130(a)(1), and MMS' plans to increase this fee to $125 per mile in a future rulemaking (72 Federal Register 56446). Given the adverse impacts pipelines cause the environment due to their presence, such fees, while still relatively small, help internalize operator externalities.

We also strongly support proposed Section 250.1087 which requires pipeline operators to do visual surveys of pipeline routes and a leak test following pipeline shut-ins caused by hurricanes, indications that pipeline integrity had been compromised, or unexplained automatic shut-ins.

Thank you very much for your consideration of these comments. If you have any questions, please contact me.

Sincerely,

Pamela A. Miller
Arctic Coordinator