determined that no Class B channel is available to accommodate petitioner's proposal. Therefore, its modification request is limited to consideration as a B1 channel only. Although Channel 238B1 could be allotted with a site restriction south of King City,[5] as suggested by KCC for other expressions of interest, it cannot be used at petitioner's present nor intended site since it would contravene the minimum spacing requirements of § 73.207 of the Commission's Rules with respect to Station KYNO(FM) (Channel 239B), Fresno, California.[6] Therefore, we believe that the substitution of Channel 230B1 for Channel 221A, as proposed by petitioner, is the best choice in this instance. Since we have no interest from any party in pursuing Channel 238B1, no further discussion as to its availability is warranted.

10. In view of the above determination, and in an effort to accommodate KCC's expressed interest in applying for a Class B channel at King City, we have determined that Channel 271B is available to that community. However, the transmitter therefor must be located in an area approximately 22.2 kilometers (13.8 miles) southeast of King City to negate a short-spacing to Station KDFC(FM) (Channel 271B), San Francisco, California, as well as Channel 272A, Mendota, California, allotted in MM Docket No. 84–231. We believe that proposed Channel 271B is justified as representing a more efficient utilization of the frequency and conforms with our present modification policy contained in § 1.420(g) of the Commission's Rules.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204 and 0.283 of the Commission's Rules, it is ordered, That effective May 23, 1986, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
King City, CA	230B1, 271

[5] Petitioner also suggested that Channel 238B1 could be utilized for other interests at a site 27.7 km (17.2 miles) northwest of King City. However, the furthest distance a B1 channel can usually be located for provision of city grade coverage is 22.0 kilometers (14 miles).

[6] Channel 238B1 at petitioner's site would meet our spacing requirements to a modification application by KYNO(FM) (BMPH–740631AC). However, that application was dismissed April 25, 1985, for which reconsideration is pending.

12. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Ralin Broadcasting Corporation for Station KLFA(FM), King City, California, is modified effective May 23, 1986, to specify operation on Channel 230B1 in lieu of Channel 221A. The license modification for Station KLFA(FM) is subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

13. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Ralin Broadcasting Corporation, 124 N. 2d Street, King City, California 93930, and also a copy thereof, by regular mail to its counsel, Dan J. Alpert, Jr., Fletcher, Heald and Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036.

14. It is further ordered, That this proceeding is terminated.

15. The filing window for applications on Channel 271B will open on May 27, 1986, and close on June 26, 1986.

16. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–8907 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–85, Amdt. 195–36]

Transportation of Hazardous Liquids; Gathering Lines in Rural Areas

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: The Federal hazardous liquid pipeline safety standards do not apply to gathering lines in rural areas. The lack of specificity in this exception makes it difficult to apply the standards to intrastate pipeline, which include a large number of rural gathering lines. This final rule adopts new definitions for the terms "gathering line," "production facility," and "rural area" to clearly identify the gathering lines that are not subject to the standards.

EFFECTIVE DATE: This final rule takes effect August 20, 1986.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 426–2392, regarding the content of this final rule, or the Dockets Branch (202) 426–3148, regarding copies of this final rule or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Gathering lines in rural locations are excepted from regulation by the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 U.S.C. 2001 *et seq.*), the statute under which Part 195 is issued. In Part 195 the exception for rural gathering lines is provided by § 195.1(b)(4), which states that Part 195 does not apply to "[t]ransportation of a hazardous liquid in those parts of an onshore pipeline system that are located in rural areas between a production facility and an operator trunkline reception point."

In a notice of proposed rulemaking published March 26, 1984 (49 FR 11226, Docket No. PS–80), concerning the extension of Part 195 to intrastate hazardous liquid pipelines, RSPA discussed the need to make § 195.1(b)(4) easier to apply. The problem of distinguishing a gathering line from a trunkline and rural from nonrural was recognized. Comments on this issue by the public and by members of the Technical Hazardous Liquid Pipeline Safety Standards Committee led in the final rule (Amendment 195–33; 50 FR 15895, April 23, 1985) to inclusion of flow lines as part of onshore production facilities, which are also exempt from Part 195 and the HLPSA. (See § 195.1(b)(6)). However, because of the diversity of views expressed by commenters and the Committee, it became clear that further rulemaking would be needed to clarify § 195.1(b)(4).

In developing a proposed definition of "gathering line," RSPA considered the concepts expressed in comments to the March 26, 1984, notice by the Railroad Commission of Texas, the West Central Texas Oil and Gas, the Pennsylvania Oil and Gas Association, the Texas Mid-Continental Oil and Gas Association, the American Petroleum Institute and others as well as various members of

the Technical Hazardous Liquid Pipeline Safety Standards Committee. Generally, the concepts represented the usage of the term by RSPA in administering § 195.1(b)(4). However, the commenters' recommended language did not adequately distinguish the downstream end of a gathering line at its junction with a trunkline, since the recommended defintions of "gathering line" and "trunkline" each referenced the other. RSPA did not believe that defining "gathering line" necessarily required use of the term "trunkline." Therefore, RSPA proposed in Notice 1 (50 FR 48811; November 27, 1985) a definition of "gathering line" that did not refer to trunkline. Under the proposed definition, a "production facility" marked one end of a gathering line and the point where a line joins a line exceeding 8 inches in nominal diameter marked the other end, as follows:

"Gathering line" means a pipeline 8 inches or less in nominal diameter that transports petroleum from a production facility.

The proposed definition was based on the concepts of size (8 inches or less) and function (transports petroleum from a production facility).

Size was selected in the belief that petroleum pipelines 8 inches or less in nominal diameter are generally considered by the industry to be gathering lines rather than trunklines. Petroleum pipelines of this size are generally those to which RSPA has applied the § 195.1(b)(4) exclusion. Further, size has the considerable advantage of being simple and easily identified.

The function concept (transports petroleum from a production facility) was selected to be consistent with the current language of § 95.1(b)(4) as well as to capture the generally understood concept of a gathering line.

At a meeting in Washington, DC, on September 18, 1985, the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) approved the proposed definition of "gathering line," as well as proposed definitions of "production facility" and "non-rural," as being technically feasible, reasonable, and practical. The Committee's report, dated October 25, 1985, is available in the docket for review.

The proposed gathering line definition required that the term "production facility" be defined. The RSPA proposed the following definition:

"Production facility" means piping or equipment used in the extraction, recovery, lifting, stabilization, separation or treating of petroleum or associated storage or measurement.

This definition was based on the concept that "production" is the process of extracting petroleum from the ground and preparing it for transportation by pipeline. Hence, production facilities are those facilities necessary to perform those tasks of extracting (extraction, lifting, recover) and preparing the petroleum for transportation by pipeline (stabilization, separation, treating, storage, measurement).

Under this definition of "production facility," a "gathering line" would begin at its connection to facilities associated with extracting petroleum from the ground and preparing it for transportation by pipeline. The preamble to the agency's proposal stated that only those facilities associated with extracting petroleum from the ground and preparing if for transportation by pipeline are "production facilities." RSPA has revised the language of the final rule to clarify this point. For example, storage and measurement facilities in use in a pipeline system are not production facilities. Further, pipelines transporting petroleum from a point of origin other than a production facility, such as a refinery or manufacturing facility, would not qualify as gathering lines.

RSPA proposed to define a "rural area" as "outside the limits of any incorporated or unincorporated city, town, or village or any other designated residential or commercial area such as a subdivision, business or shopping center, or community development." This definition was based on language in the gas pipeline regulations (i.e., 49 CFR 192.1(b)(2) (i) and (ii)) and in section 2(3) of the Natual Gas Pipeline Safety Act of 1968, which outlines a rural area. Both the gas regulations and the statute exclude from coverage gathering lines located in rural areas.

Public Comments

Only a few comments were received on Notice 1. Four pipeline companies and the American Petroleum Institute, a trade association representing operators of petroleum and natural gas gathering systems, supported the RSPA proposal without change.

The remaining comments and their disposition in the final rule are discussed according to the proposed definition to which they pertain.

Gathering Line

One pipeline company thought the proposed definition was contrary to the intent of Congress because it was arbitrarily based on size instead of the *function* the pipeline serves. A rather extensive presentation of the legislative history of the Natural Gas Pipeline Safety Act of 1968 was used to support this argument. In general terms, the function that Congress was said to have had in mind for gathering pipelines was their use in the field to gather gas from various wells, through pipes of various sizes, to a central point where it might be processed or transferred to the pipeline purchaser.

Putting aside the question of whether this legislative history is appropriate for use in explaining the meaning of terms under the HLPSA, RSPA does not dispute the commenter's portrayal of what Congress considered the general sense of a gathering line to be. The problem remains, however, that this general sense is not definitive enough for proper administration and application of the statute and regulations. Clear beginning and end points of a gathering line are needed. RSPA believes its proposed definition provides these needed features without straying from the general concept Congress had in mind. The definition speaks of pipelines that carry petroleum from production facilities. This concept agrees with the function Congress considered gathering lines to provide. Although the 8-inch limit admittedly is not explicitly addressed in the statute, it is a reasonable administrative compromise, given the uncertainty of where gathering ends and a trunkline begins and the need for a specific termination point. The 8-inch limit is based on RSPA's assessment of the historic size of gathering lines and the differences in size, generally speaking, between gathering lines and trunk lines. This assessment has been supported by the views of the THLPSSC and commenters.

Three commenters were concerned about the impact of the proposed definition on pipelines larger than 8-inches that some operators have in the past considered gathering lines under § 195.1(b)(4) and, thus, exempt from regulation. The number of these cases should be small because RSPA has fashioned the new definition consistent with the current application of § 195.1(b)(4), and also because pipelines that operate at 20 percent or less of specified minimum yield strength (which include most gathering lines) are excepted from Part 195 by § 195.1(b)(3). Nevertheless, RSPA addressed this potential problem in Notice 1 by indicating that such operators can seek waivers of particular rules in Part 195 that they feel are not appropriate to apply because of a pipeline's past operation as a gathering line. However, the affected operators will need time to assess the extent of compliance

difficulties they may face now that a "gathering line" has been specifically defined. To allow time for operators to assess the impact of the new definition on pipelines previously considered as not subject to Part 195, and either bring the lines into compliance or, if necessary, prepare and submit a waiver request under section 203(h) of the HLPSA (49 U.S.C. 2002(h)), RSPA has delayed the effective date of the new definitions for 4 months. If this time proves insufficient on an individual basis to achieve full compliance, additional time may be sought under the same waiver provisions.

One commenter requested that the definition of gathering line be revised to include pipelines that begin at rail, truck, or barge unloading facilities in addition to production facilities. RSPA believes that this view of gathering does not fit the common understanding of the gathering process. Further, such a change would be outside the general concept of gathering now provided by § 195.1(b)(4). Thus, this comment was not adopted.

Two commenters were concerned that under the proposed gathering line definition a pipeline might lose its gathering status after it connects to an in-line surge tank or other facility (e.g., a lateral pipeline) because any pipeline downstream of that connection arguably would not be directly connected to a production facility. One of these commenters suggested that this unintended application of the definition would be avoided if the definition were amended to include a pipeline that transports petroleum from a "gathering line to another gathering line."

RSPA does not believe such a modification is needed. So long as the nominal pipe size remains 8 inches or less and the function of transporting petroleum from a production facility is maintained, an in-line surge tank, block valve, or other facility will not change the character of the downstream line from gathering.

Further, the presence of a surge tank should not cause a misapplication of the definition any more so than, for example, a pump, because both pumping units and breakout tanks, which are defined to include tanks used to relieve surges, are among the facilities included within the Part 195 definition of "pipeline." In Part 195, the term "pipeline" is defined in a generic sense to include all jurisdictional facilities through which a hazardous liquid flows. Thus, a gathering line is not interrupted upon reaching a tank or any other facility, including a lateral line, covered by the definition of "pipeline." Successive downstream connections with facilities that are "pipelines" under the Part 195 definition and that continue the transportation of petroleum which starts at a production facility are merely linkages of facilities that are each gathering lines. The only cause for a gathering line to terminate would be upon connection with a non-pipeline facility (e.g., a refinery) or a pipeline larger than 8 inches in nominal diameter. Therefore, the proposed definition is adopted without change.

Production Facility

One commenter thought RSPA should make it clear that a "production facility" includes commingled facilities, or facilities handling hydrocarbons produced on several small leases in close proximity to each other. Under the proposed definition, the number of interconnected leases from which hydrocarbons are produced is not a factor in identifying a facility as a production facility. Facilities are designated as production facilities according to their usage, not the location of wells from which hydrocarbons are being produced. Therefore, no change has been made to the final definition.

Another commenter asked that the proposed definition of "production facility" be revised to include the processes of "gas sweetening or liquids extraction from gas." RSPA believes the terms "separation" and "treating," which are included in the definition, carry a broad enough connotation to include these processes, and, thus, the final definition need not be changed.

Rural Area

Two commenters suggested that "rural area" should be defined on a population density basis (as indicated by buildings and occupancy levels) rather than the political or other subdivision basis used in the proposed definition. The main argument to support this change was that population density provides a better indication of the risk a gathering line poses along its route and, thus, the areas in which Part 195 should apply. Although RSPA does not necessarily disagree with this argument, it believes the proposed definition is more manageable than one based on population density. A similar definition has long been in effect for gas gathering lines, and many of the operators and State agencies that use the gas definition can simply apply the same concept to petroleum gathering lines. Also, monitoring a pipeline for changes in population density is a more onerous task than watching for changes in subdivision boundaries, which should occur less frequently. In addition, the proposed definition does relate to risk, considering that higher levels of population are found inside political and other subdivisions. Therefore, the proposed definition is adopted without change.

Classification. These final definitions are considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979) because they are consistent with the manner in which RSPA now applies Part 195 to interstate and intrastate gathering lines. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary. Further, because small entities do not own or operate interstate pipelines or intrastate pipelines that would be affected by this final rule, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Interstate pipeline, Intrastate pipeline, Pipeline safety, Gathering line, Rural area, Production facility.

PART 195—[AMENDED]

In view of the above, RSPA amends 49 CFR Part 195 in the following manner:

1. The authority citation for Part 195 continues to read as set forth below.

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

2. Section 195.1(b)(4) is revised to read as follows:

§ 195.1 Applicability.

* * * * *

(b) * * *

(4) Transportation of petroleum in onshore gathering lines in rural areas.

* * * * *

3. Section 195.2 is amended by adding three definitions in alphabetical order as follows:

§ 195.2 Definitions.

* * * * *

"Gathering line" means a pipeline 8 inches or less in nominal diameter that transports petroleum from a production facility.

* * * * *

"Production facility" means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum from the ground

and preparing it for transportation by pipeline).

* * * * *

"Rural area" means outside the limits of any incorporated or unincorpated city, town, village, or any other designated residential or commerical area such as a subdivision, a business or shopping center, or community development.

* * * * *

4. Section 195.401(c)(2) is revised as follows:

§ 195.401 General requirements.

* * * * *

(c) * * *

(2) An interstate offshore gathering line on which construction was begun after July 31, 1977.

* * * * *

Issued in Washington, DC, on April 17, 1986.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86-9003 Filed 4-21-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-178]

Investigation Into Motor Carrier Insurance Rates

AGENCY: Interstate Commerce Commission.

ACTION: Interim rule and request for comments.

SUMMARY: In response to a preliminary review of the initial comments received in this proceeding, and to provide contemporary guidance to applicants who wish to apply to self-insure against bodily injury and property damage claims under 49 CFR 1043.5(a), the Commission proposes to amend § 1043.5(a) to include guidelines as to the type of information applicants for self-insurance should submit with the Form B.M.C. 40 application. These proposed changes should help provide the Commission with relevant information about a carrier-applicant's ability to indemnify claimants under insurance plans that do not rely primarily on commercial insurers. Because of the emergency nature of insurance crisis facing the motor carrier industry today, we will adopt the proposed changes as interim rules. They will be effective immediately because the rules are largely interpretive and because notice and public procedure would be impractical and contrary to the public interest in view of the need to respond as promptly as possible to the cost and availability problems facing motor carriers seeking insurance. See 5 U.S.C. 553(b) (A) and (B). The Commission will adopt final rules as expeditiously as possible after evaluating the comments received. However, carriers authorized to self-insure by us must also seek requisite authority to self-insure from the Department of Transportation.

DATES: Effective April 22, 1986. Comments are due May 21, 1986.

ADDRESSES: The original and, if possible, 15 copies of the comments should be sent to: Ex Parte No. MC-178, Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Mark S. Shaffer, (202) 275-7292

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Energy and Environmental Considerations

This action does not appear to significantly affect either the quality of the human environment or conservation of energy resources. Comments are welcome on these issues.

Regulatory Flexibility Analysis

The Commission certifies that adoption of these interim rules will not have a significant impact on a substantial number of small entities. They do not require small entities to do anything substantially different in applications under 49 CFR 1043.5 than already is required. The interim rules suggest the types of evidence that should be presented, and clarify the approach the Commission will take in evaluating self-insurance applications. To the extent that the revised approach to reviewing self-insurance applications encourages use of this alternative security mechanism by small carriers, this proceeding may have a beneficial impact on their ability to meet the required financial security obligations.

List of Subjects in 49 CFR Part 1043

Insurance, Motor Carriers, and Surety Bonds.

Decided: April 9, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons commented with a separate expression. Commissioner Sterrett dissented in part. Commissioner Lamboley dissented in part with a separate expression.

James H. Bayne,

Secretary.

Appendix

Title 49 of the CFR is amended by interim rules as follows:

PART 1043—[AMENDED]

1. The authority citation for 49 CFR Part 1043 is revised to read as follows:

Authority 49 U.S.C. 10101, 10321, 11701, 10927; 5 U.S.C. 553.

2. Paragraph (a) of § 1043.5 is revised as follows:

§ 1043.5 Qualifications as a self-insurer and other securities or agreements.

(a) *As a self-insurer.* The Commission will give consideration to and will approve the application of a motor carrier to qualify as a self-insurer if such carrier furnishes a true and accurate statement of its final financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such motor carrier to satisfy its obligation for bodily injury liability, property damage liability, or cargo liability. Applicant Guidelines: In addition to filing Form B.M.C. 40, applicants for authority to self-insure against bodily injury and property damage claims should submit evidence that will allow the Commission to determine:

(1) The adequacy of the net worth of the motor carrier in relationship to the size of operations and the extent of its request for self-insurance authority. Applicant should demonstrate that it will maintain a net worth that will ensure that it will be able to meet its statutory obligations to the public to indemnify all claimants in the event of loss.

(2) The existence of a sound self-insurance program. Applicant should demonstrate that is has established, and will maintain, an insurance program that will protect the public against all claims to the same extent as the minimum security limits applicable to applicant under § 1043.2 of this part. Such a program may include, but not be limited to, one or more of the following: reserves; sinking funds; third party financial guarantees, parent company or affiliate sureties; excess insurance coverage; or other similar arrangements.

(3) The existence of an adequate safety program. Applicant must submit evidence of a "satisfactory" safety rating by the Bureau of Motor Carrier Safety continously for the three years immediately prior to the date of its application or the date on which its initial safety rating was assigned, whichever time period is shorter.

* * * * *

[FR Doc. 86-8953 Filed 4-21-86; 8:45 am]
BILLING CODE 7035-01-M