

the Director, OCHAMPUS, to be cost effective and clinically appropriate. To qualify for a waiver of benefit limits of custodial care, the patient must meet all eligibility requirements of this paragraph (i), including an acute condition or an acute exacerbation of a chronic condition.

(A) The patient must have been rehospitalized for exacerbations or complications of his/her custodial condition on a recurring basis in the prior year;

(B) The proposed case management treatment must be cost effective when compared to alternative treatment which would otherwise occur;

(C) The patient's condition at referral for case management is either acute or there are indicators of a rapidly approaching acute episode; and

(D) There is a primary caregiver.

(iii) *Domiciliary care.* The cost of services or supplies rendered to a beneficiary that would otherwise be excluded as domiciliary care (as defined in § 199.2) may be shared when determined by the Director, OCHAMPUS to be cost effective and clinically appropriate.

(iv) *In home services.* The cost of the following in-home services may be shared when determined by the Director, OCHAMPUS to be cost effective and clinically appropriate: nursing care, physical, occupational, speech therapy, medical social services, intermittent or part-time services of a home health aide, beneficiary transportation required for treatment plan implementation, and training for the beneficiary and primary caregiver sufficient to allow them to assume all feasible responsibility for the care of the beneficiary that will facilitate movement of the beneficiary to the least resource-intensive, clinically appropriate setting. (Qualifications for home health aides shall be based on the standards at 42 CFR 484.36.)

(v) *Waiver of custodial care limits.* The Director, OCHAMPUS may, in extraordinary cases, waive the custodial care day limits described in paragraph (e)(5)(ii) of this section and authorize this exception to benefits beyond the 30-day limit. The criteria for waiver of the 30-day limit shall be those set in paragraph (e)(5)(ii) of this section. Additionally, there must be a specific determination that discontinuation of this waiver of benefit limits will result in immediate onset or exacerbation of an acute care episode and require hospitalization or services or supplies which increase significantly the cost and intensity of care.

(6) *Case management acknowledgment.* The beneficiary, or

representative, and the primary caregiver, shall sign a case management acknowledgment as a prerequisite to prior authorization of case management services. The acknowledgment shall include, in part, all of the following provisions:

(i) The right to participate fully in the development and ongoing assessment of the treatment;

(ii) That all health care services for which CHAMPUS cost sharing is sought shall be authorized by the case manager prior to their delivery;

(iii) That there are limitations in scope and duration of the planned case management treatment, including provisions to transition to other arrangements;

(iv) The conditions under which case management services are provided, including the requirement that the services must be cost effective and clinically appropriate; and

(v) That a beneficiary's participation in the case management program shall be discontinued for any of the following reasons:

(A) The loss of CHAMPUS eligibility;

(B) A determination that the services or supplies provided are not cost effective or clinically appropriate;

(C) The beneficiary, or representative, and/or primary caregiver, terminates participation in writing;

(D) The beneficiary and/or primary caregiver's failure to comply with requirements in this paragraph (i); or

(E) A determination that the beneficiary's condition no longer meets the requirements of participation as described in this paragraph (i).

(7) *Other administrative requirements.*

(i) Qualified providers of services or items not covered under the basic program, or who are not otherwise eligible for CHAMPUS-authorized status, may be authorized for a time-limited period when such authorization is essential to implement the planned treatment under case management. Such providers must not be excluded or suspended as a CHAMPUS provider, and must agree to participate on all claims related to the case management treatment.

(ii) Retrospective requests for authorization of waiver of benefit limits will not be considered. Authorization of waiver of benefit limits is allowed only after all other options for services or supplies have been considered and either appropriately utilized or determined to be clinically inappropriate and/or not cost-effective.

(iii) Experimental or investigational treatment or procedures shall not be cost-shared as an exception to standard benefits under this part.

(iv) CHAMPUS case management services may be provided by contractors designated by the Director, OCHAMPUS.

Dated: December 28, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket PS-140(b), Notice 4]

RIN 2137-AC34

Areas Unusually Sensitive to Environmental Damage

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

ACTION: Public workshop.

SUMMARY: RSPA invites industry, government representatives, and the public to a third workshop on unusually sensitive areas (USAs). The workshop's purpose is to openly discuss the guiding principles for determining areas unusually sensitive to environmental damage from a hazardous liquid pipeline release. This workshop is a continuation of the June 15-16, 1995 and October 17, 1995 workshops on USAs.

DATES: The workshop will be held on January 18, 1996 from 8:30 a.m. to 4 p.m. Persons who are unable to attend may submit written comments in duplicate by February 5, 1996. However, persons submitting guiding principles to be considered at the January 18 workshop must do so by January 12, 1996. Interested persons should submit as part of their written comments all material that is relevant to a statement of fact or argument. Late filed comments will be considered so far as practicable.

ADDRESSES: The workshop will be held at the U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW, Room 6200-04, Washington, DC. Non-federal employee visitors are admitted into the DOT headquarters building through the southwest entrance at Seventh and E Streets, SW. Persons who want to participate in the workshop should call (202) 366-2392 or e-mail their name, affiliation, and phone number to samesc@rspa.dot.gov before close of business January 12, 1996. The

workshop is open to all interested persons but RSPA may limit participation because of space considerations and the need to obtain a spectrum of views. Callers will be notified if participation is not open.

Send written comments in duplicate to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001. Identify the docket and notice numbers stated in the heading of this notice.

All comments and docketed materials will be available for inspection and copying in Room 8421 between 8:30 a.m. and 4:30 p.m. each business day. A summary of the workshop will be available from the Dockets Unit about three weeks after the workshop.

FOR FURTHER INFORMATION CONTACT: Christina Sames, (202) 366-4561, about this document, or the Dockets Unit, (202) 366-5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: 49 U.S.C. 60109 requires the Secretary of Transportation to:

- Consult with the Environmental Protection Agency and describe areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, and
- Establish criteria for identifying each hazardous liquid pipeline facility and gathering line, whether otherwise subject to regulation, located in an area unusually sensitive to environmental damage in the event of a pipeline accident.

Consistent with the President's regulatory policy (E.O. 12866), RSPA wants to accomplish this congressional mandate at the least cost to society. Toward this end, RSPA is seeking early public participation in the rulemaking process by holding public workshops at which participants, including RSPA staff, may exchange views on relevant issues. RSPA hopes these workshops will enable government and industry to reach a better understanding of the problem and the potential solutions before proposed rules are issued.

On June 15 and 16, 1995, RSPA held a public workshop to openly discuss the criteria being considered to determine USAs (60 FR 27948; May 26, 1995). Participants included representatives from the hazardous liquid pipeline industry; the Departments of Interior, Agriculture, Transportation, and Commerce; the Environmental Protection Agency; non-government agencies; and the public. Participants at the workshop requested that additional

workshops be held to further discuss this complex topic.

On October 17, 1995, RSPA held a second public workshop on USAs (60 FR 44824; August 29, 1995). The second workshop focused on developing a process that can be used to determine if an area is unusually sensitive to environmental damage. The American Petroleum Institute (API) provided information on their current research on USAs and recommended that the final definition consider the resource to be protected, the likelihood of a given pipeline to impact that resource, and what can be done to reduce the risk to the resource. Other participants recommended integrating factors concerning the likelihood of a rupture occurring and the severity of the consequence into the USA definition.

Participants at the workshop brainstormed guiding principles that could be used when determining if a given area is a USA and possible topics for additional USA workshops. API volunteered to conduct mini-workshops to discuss some of the technical issues and to bring their findings into larger forums.

The following is a summary of the guiding principles that were discussed at the October 17 workshop or submitted after the workshop by members of the pipeline industry or other Federal agencies. The guiding principles are separated into two categories: Substance and Process. Guiding principles on substance relate to the criteria that should be included in the USA definition. Guiding principles on process relate to how to evaluate the criteria to be included in the USA definition, the process to create the USA definition, and how to apply the USA definition. The lists are not prioritized or final. The lists sometimes include more than one recommendation which may conflict with one another. Conflicting views are labeled a. and b. under a common number for comparison. RSPA invites comments on these recommended guiding principles and invites submissions of additional guiding principles. This list and any additional guiding principles that are submitted to the docket before January 12 will be considered at the January 18 workshop:

Substance

1. Human health and safety are primary concerns.
2. Areas where there is serious threat of contamination to a drinking water "zone of influence" should be considered USAs.

3a. A resource must be subject to or threatened by irretrievable loss or injury before it can be considered a USA. or

3b. Areas where there is serious threat of contamination to a significant environmental or cultural resource should be considered a USA.

4a. USAs are biological or ecological in nature and should not include cultural, economic, or recreational resources. Cultural, economic, or recreational resources should be designated as separate categories and viewed as distinct entities. or

4b. Consider cultural resources and Indian tribal concerns when defining USAs.

5. Only areas in the trajectory of a potential spill, e.g. down gradient, should be considered when determining USAs.

6. It is expected that no pipeline operator is required to collect natural resources field data to determine USAs.

7. Highly volatile liquid (HVL) pipelines should not be included.

Process

1. The standards and criteria for resource sensitivity should be uniform on a national basis such that equivalent resources receive equivalent sensitivity assessments regardless of regionally based priorities.

2. The government agencies should describe and identify USAs so that the data will not be subject to various interpretations and will be applied consistently.

3. USAs should be subject to a systematic review process since USAs may change through time as species migrate, change location, or for other reasons. The USA definition should be explicit and practical in application.

4. The USA definition should be pilot tested, complete, and fully defined before OPS uses the definition in rulemaking. Each part of the USA definition should be pilot tested for validity, practicability, and workability.

5. Sources of USA data should be readily available to the public and uniform in criteria and standards.

6. Data quality objectives should include consistency, accuracy, and extent of coverage.

7. The extent of how much additional geographic area a criterion adds should be considered.

8. Risk elements mandated in 49 U.S.C. § 60109 to NOAA's Guidance for Facility and Vessel Response Plans (59 FR 14714; March 29, 1994) should be applied when determining USAs.

9. USA should exempt operators that take proactive measures to minimize the potential for spills from additional requirements to protect USAs.

10. Consultation with land or resource managers may be necessary when operators consider a range of preventative measures in significant environmental resource areas.

11. The process should clarify how sensitive areas are protected under the Pipeline Safety Act of 1992 separate and apart from protection under the Oil Pollution Act of 1990.

Several recommendations were made that RSPA has determined are acceptable but are not guiding principles. These are:

1. Workshops for each phase of developing a USA definition should include appropriate technical experts, representatives, and field personnel with appropriate experience from agencies as well as industry.

2. Public workshops should be used to gather information on the criteria that will determine USAs. The USA definition should be complete before its use in a rulemaking. The implementation of resource assessment and protection under the USA definition could be phased.

3. All terms used in the USA definition should be defined.

4. National consistency in interpreting all definitions should be the goal.

The following are the additional workshops that were recommended during the October 17 workshop:

1. Guiding Principles Workshop.
2. Definitions of Terms Workshop.
3. Source Water Supply Workshop (Surface and Subsurface).
4. Biological Resources Workshop.

5. Cultural Resources and Indian Tribal Concerns Workshop.

6. Pilot Testing Process Workshop.

Persons interested in receiving a transcript of the first workshop or the summary of the second workshop, material presented at the first or second workshop, or comments submitted on the material presented in the first or second public workshop notice should contact the Dockets Unit at (202) 366-5046 and reference docket PS-140(b).

Issued in Washington, DC, on December 28, 1995.

Cesar DeLeon,

Deputy Associate Administrator for Pipeline Safety.

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