Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 24, 1997.

Joel C. Richard,

Secretary.

[FR Doc. 97–7826 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

[Docket No. PS–142; Notice 5]

Requests for Applications for the Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice of request for letters of intent.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) invites eligible pipeline operators to submit Letters of Intent expressing interest in participating in its Pipeline Risk Management Demonstration Program. This notice begins the solicitation process by specifying a deadline and address for Letters of Intent, by directing interested operators to supplementary guidance documents, and by providing updated guidance for operators interested in participating.

DATES: Letters of Intent will be accepted no later than July 25, 1997.

ADDRESSES: Letters of Intent should be sent to Richard B. Felder, Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Room 2335, 400 7th St., SW, Washington, DC, 20590.

SUPPLEMENTAL DOCUMENTS:

(1) Program Framework for Risk Management Demonstrations (61 FR 58605): Describes the processes by which OPS will receive, review, approve, monitor, modify, and terminate company risk management demonstration projects, and provides a description of the information a company should include in its Letter of Intent. The guidance in the Program Framework is current except where noted in Section II of this notice. The significant information in the Program Framework is contained in Appendix A of this document or available on the Internet at OPS address http://ops.dot.gov.

(2) Interim Risk Management Program Standard: Describes the essential elements and characteristics of a company's risk management program. A Letter of Intent should include evidence that the company will address all considerations raised in the Program Standard. It is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(3) Guidance on Performance Measures: Provides the basis for participating companies and OPS to assess, through the demonstration projects, whether risk management is an effective alternative to the current regulatory environment; and to determine whether superior public safety and environmental protection is being achieved. OPS considers the performance measures proposed in the consultation process to be critical to approving a demonstration project. Companies may include proposed performance measures, if available, in their Letters of Intent. The March 1997 guidance is available by contacting Eben Wyman at (202)366–0918 or on Internet at http://opspm.volpe60.dot.gov.

(4) Risk Management Communications Plan: Outlines the processes to enable all stakeholders (including OPS, companies, States, and local officials) to exchange information about the goals, objectives, and status of the Demonstration Program and individual projects. The Communications Plan describes the information OPS intends to share with stakeholders via local prospectuses once candidate companies are selected for consultations. Companies may consult the Plan to ensure their Letters of Intent contain sufficient information for the prospectuses, and for guidance on local level communications the company should conduct. OPS will continue to develop communications with the public during the Demonstration Program. The Plan is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(5) Risk Management Training Curricula: Describes the content of the risk management training that will be provided to industry and regulator participants in the Demonstration Program. Companies who submit Letters of Intent and who OPS identifies as candidates for selection will be invited to participate in the training. The company may request an orientation with the OPS personnel who will be assigned to evaluate and monitor its demonstration project. An outline of the curricula is available by contacting Eben Wyman at (202)366–0918 or on Internet at OPS address http://ops.dot.gov.

(6) Proceedings from January 28, 1997 Public Meeting held at the Hilton Riverside Hotel, New Orleans, LA: Record of OPS response to public comment on elements of the Demonstration Program. Available by contacting Eben Wyman at (202)366–0918, or on Internet at OPS address http://ops.dot.gov. A summary of OPS comments at the public meeting is contained in Appendix B of this notice.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by E-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this document. Persons wishing to review previously submitted comments may contact the RSPA Dockets Clerk, (202) 366–5046, U.S. Department of Transportation, room 8421, 400 Seventh Street, SW, Washington, DC 20590. Inquiries should identify the docket number (PS–142). The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

SUPPLEMENTARY INFORMATION:

I. Overview

The Program Framework for Risk Management Demonstrations (Program Framework)(61 FR 58605), published on November 15, 1996, describes the Pipeline Risk Management Demonstration Program and its objectives and statutory basis, and provides guidance for pipeline operators who may wish to participate. The Demonstration Program will enable participating pipeline operators to substitute compliance with the provisions of an OPS-approved demonstration project for compliance with existing pipeline safety standards. The objective of the Demonstration Program is to test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve public safety, environmental protection, and reliability of service. It will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative.

Guidance for participation by companies, regulators, and the public in the Demonstration Program is contained in the documents referenced at the front of this notice. OPS expects documents (1) through (5) will be refined and improved as more is learned during the course of the Program. OPS will report at least annually on the Program's progress, via **Federal Register** notices, nationally broadcast two-way video teleconferences, mailed updates on the individual project prospectuses, and other means. By March 31, 2000, OPS will submit a Report to Congress on the Demonstration Program status. A final report will be issued in four years evaluating how effectively safety, environmental protection, and reliability of service have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

II. Modifications and Clarifications to Program Framework

The following modifications and clarifications to the Program Framework for Risk Management Demonstrations are in response to public comment to the docket, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through ''joint risk management quality teams'' (JRAQT).

1. Window for submission of Letters of Intent

Companies considering participating in a demonstration project must submit a Letter of Intent to OPS no later than July 25, 1997. This provides operators a 120-day window, rather than the previously published 60-day window.

2. Phased Selection of Demonstration Projects

OPS will likely select a few candidates for consultations before the 120-day window for submission of Letters of Intent has closed. This phased approach would allow OPS to better manage workload. OPS would base these selections on evidence in the Letter of Intent that the proposed demonstration project has a high likelihood of being approved per the criteria described in the Program Framework.

3. Screening Criteria

As part of the screening criteria, previously described in the Program Framework, OPS will favor companies with a demonstrated commitment to risk management and a demonstrated ability to communicate with OPS by, for example, being forthcoming with relevant data. OPS will favor proposed projects that:

- Are comprehensive, indicating a more systematic and thorough assessment of risk and risk control options so that superior protection can be achieved;
- Provide a good opportunity to evaluate risk management as a regulatory alternative; and
- Contain distinguishing features, such as support from or a pre-established relationship with local or stakeholders.

4. Informational Meetings with OPS

OPS is continuing its informational meetings at company sites to discuss demonstration project concepts, to explore the potential for more comprehensive project proposals, and to provide companies a better understanding of Program objectives, opportunities, and the administrative process and approach to application evaluation. In addition to assisting companies with questions about risk management, these meetings could position OPS to better plan the evaluation phase of the Demonstration Program.

5. Local Distribution Companies (LDC) are Not Eligible to Participate in the Current Demonstration Program

As stated in the Program Framework, eligibility for the current Demonstration Program is limited to interstate natural gas transmission and hazardous liquid pipeline companies. However, on February 26, 1997, the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas passed a Resolution supporting an LDC Risk Assessment Quality Action Team to conduct a feasibility study of risk management as a regulatory alternative.

6. Role of States in the Demonstration Program

In keeping with the statutory provision (49 US USC 60126(d)) that allows the Department to provide for State consultation in the Demonstration Program, OPS will contact State pipeline safety agencies that may be affected by a proposed demonstration project to discuss the extent of the State's involvement in the project. This could entail the State providing input on geographic, socioeconomic, and other local factors that the Project Review Team (PRT) should consider during its consultation with an operator. It could also entail the State pipeline safety agency acting as a conduit for other State agencies wishing to provide input to the PRT. The State could serve, along with OPS and the company, as a point-of-contact for members of the public providing comments and raising questions. Should the State pipeline safety agency choose not to participate in the Demonstration Program, OPS will find alternative means of ensuring that the PRT considers input from other State agencies and the public.

7. Meaning of ''Clear & Established Safety Record'' in Presidential Directive

A Presidential directive to the Secretary of Transportation directs the Secretary to limit risk management demonstration projects to those pipeline operators that have clear and established records of compliance with respect to safety and environmental protection. OPS will review its records to determine if candidate companies have historically met requirements of applicable State pipeline safety regulations. Operators should have addressed all safety and environmental protection actions prescribed by existing regulations and orders, including consent orders and commitments for corrective action made to OPS. OPS will consult with other agencies about their knowledge of the company's safety and environmental compliance record. A company may include in its Letter of Intent a statement identifying the relationship of any ongoing prescribed actions to the proposed demonstration project.

8. Role of Other Agencies

At the annual National Response Team (NRT) Regional Response Team (RRT) Co-chairs' meeting in February, 1997, OPS invited the 15 State NRT agencies to participate in the Demonstration Program. Once OPS announces the candidate demonstration sites, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via periodic program briefings, project prospectuses, and updates. At the State level, State pipeline safety agencies participating in the Demonstration Program may act as

points-of-contact for other State agencies (including State environmental agencies).

10. Clarification of Term ''Stakeholder''

OPS uses the term stakeholder in reference to parties at the National, State, and local levels that have interest in the Pipeline Risk Management Demonstration Program.

11. Error in Citing Part 192 as Source of Reporting Requirements for Gas Operators

OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 191 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations. The Program Framework erroneously cited Part 192 as the source for reporting requirements for gas operators.

12. Clarify Role of Local Public Officials

The Program Framework was unclear about why OPS asks that participating companies establish a dialogue with local officials in proximity to their demonstration projects. The expected benefits of local public involvement include:

- Providing information about specific local conditions that may not be known at the Federal or State level;
- Ensuring that government agencies have considered all relevant factors in making decisions to approve projects; and
- Providing local feedback as to whether the Program is accomplishing the goals for which it was designed.

To broaden opportunities for public involvement, other planned outreach opportunities include an Internet homepage with each project's status and national two-way video teleconferences available via Internet.

OPS is seeking a diverse set of demonstration projects, and encourages all interested interstate natural gas transmission and hazardous liquid pipeline operators to submit Letters of Intent for consideration.

Issued in Washington, DC on March 24, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix A—Excerpt from the Program Framework for Risk Management Demonstrations (61 FR 58606)

SUPPLEMENTAL INFORMATION:

I. Overview

Section 5 of the Accountable Pipeline Safety and Partnership Act of 1996 (Pub.L.No.104–304, Oct. 12, 1996) requires OPS to establish the Pipeline Risk Management Demonstration Program and sets forth requirements for carrying out risk management projects. In a memorandum issued when the statute was enacted, the President directed the Secretary of Transportation to use his discretion to administer the Demonstration Program with certain safeguards in place. The safeguards identified in the President's memorandum to the Secretary include making provisions for:

- Accepting projects that can achieve superior public safety and environmental protection.
- Enabling full and meaningful participation by affected communities and constituencies in risk management project approval.
- Using orders ensuring that the requirements of risk management projects are subject to full enforcement authority.
- Limiting the number of demonstration projects to ten (10).
- Limiting participation to operators with clear and established records of compliance with respect to safety and environmental protection.

The statutory requirements, the President's memorandum to the Secretary, comments on previous framework concepts (published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995), and other stakeholder input were used to develop the present framework, which provides guidance to operators who may decide to participate in the demonstration projects that are expected to begin in 1997.

Risk management can provide pipeline owners and operators greater flexibility in their choice of safety-related activities than is possible within OPS's present universally applicable regulatory program. Risk management enables a company to customize its safety program to address its pipeline's particular risks. Furthermore, risk management is a dynamic process, with built-in features for evaluating and improving safety activities as experience is gained.

The demonstration projects will test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve safety, environmental protection, and reliability. They will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative. The new standards, technologies, and communication processes developed by operators and OPS for the risk management demonstration projects will be adapted to support the range of risk-based regulatory, compliance, and research and development activities OPS presently has under development.

OPS expects that risk management methods and the formalized process of interactions and negotiation between regulators and company personnel will result in superior public safety and environmental protection than could otherwise be attained through existing regulatory requirements. Risk management is, by OPS definition, a more systematic and thorough assessment of risk and risk control options, with the intended result of superior decision making. As a result of improved assessment, OPS believes there is a potential to identify more risk than may have been found using existing practices.

OPS plans to select companies for demonstration projects with a demonstrated commitment (1) to work in partnership to evaluate merits of risk management processes and technologies and (2) to develop risk management as an integral part of company day-to-day business practices, at least related to the demonstration project. The selection criteria favors projects showing potential for more comprehensive risk management applications. All participants will be focused on improving safety and environmental results, prioritizing resources more effectively, and enhancing the ability of government and industry to effect positive outcomes. OPS will have clear profiles of its assessment of pipeline integrity before and after the demonstration program. At the program conclusion, OPS fully expects to have a better understanding of individual pipeline risks and to be in a better position to evaluate risk control options.

Finally, OPS expects risk management to be able to provide better accountability for safety and environmental protection, and a better basis to communicate with the public. To assure that safety and environmental protection improve, OPS will measure local, project-specific data such as current physical data, new test data, comparison with similar segments, outcomes from risk control actions, precursor or ''anticipative'' event measures, level of risk awareness, history of service interruptions and incident data. OPS also expects to measure improvements in communications, understanding, and resulting increased ability of government and industry to effect desired safety and environmental project outcomes. OPS and operators

participating in the Demonstration Program will report to the public periodically during the four year period.

OPS will be accepting into the Demonstration Program those projects, as proposed or ultimately negotiated, that are expected to achieve superior public safety and environmental protection than is currently being achieved through regulatory compliance. Because of the nature of the risk management process, OPS believes that operators choosing to participate will be able to propose projects demonstrating such protection.

Each demonstration project is expected to have a four-year duration. Participation in risk management demonstrations will be voluntary and subject to OPS approval based on criteria set forth later in this notice. Eligibility for the demonstration projects beginning in 1997 is limited to interstate natural gas transmission and hazardous liquid pipeline companies. RSPA may later broaden eligibility to include distribution and other intrastate operators.

II. Activities Presently Underway and Next Steps

The December 20, 1995, **Federal Register** notice gave the background for OPS's consideration of company-specific risk management projects as an alternative to the existing regulations. The notice described many of the safety, environmental, legislative, technical, public perception, and economic factors driving government, corporate, and public interest in risk management.

Since December 1995, OPS has been working with ''joint risk management quality teams'' (JRAQT) composed of representatives of State pipeline regulatory agencies, the oil and gas industries, and local public safety and environmental representatives to develop the five primary components of the Pipeline Risk Management Demonstration Program. These components include the Interim Risk Management Program Standard, the guidance for assessing risk management as a regulatory alternative using general industry data, the training protocols for instructing government and corporate participants about their new roles under risk management, a plan for productive communication between all participants and the public, and the regulatory framework presented in this notice. The standard and the regulatory framework are now ready for public comment. The guidance for assessing risk management as a regulatory alternative will be ready for public comment in November.

The Interim Risk Management Program Standard will serve as a common ground upon which the pipeline industry can develop and refine effective risk management demonstration projects that regulators can approve and monitor. It defines certain elements that all programs should contain, but allows flexibility to each company to customize its project to fit its particular needs and corporate practices, and allows projects to evolve as experience is gained. The standard will also provide companies guidance for selecting performance measures to ensure that safety and environmental protection are safeguarded in demonstration projects. Directions for obtaining and commenting on the standard are at the front of this notice.

The regulatory framework component presented in this notice guides pipeline companies in how they can gain OPS approval of their risk management projects and describes how OPS would monitor the plans. The framework presented here will guide the demonstration projects that begin in 1997. The experience gained from the demonstration projects will help OPS to later develop a permanent procedure for approving risk management projects, if risk management proves to be a viable regulatory alternative. Directions for public comment on the regulatory framework are also at the front of this notice.

To help ensure that the Demonstration Program components provide the flexibility to fairly and consistently evaluate and support actual risk management projects, OPS has been conducting a series of meetings with individual operators since August 1996. The topics of discussion include risk management projects the operator has in place or under consideration and criteria OPS might use to evaluate them. During the meetings, operators also learn about and comment on the Demonstration Program components under development.

OPS has held two public meetings on risk management demonstration projects and will hold a third on Tuesday, January 28, 1997, in New Orleans, Louisiana. At that meeting, OPS and the JRAQT will present the Interim Risk Management Program Standard that operators will use during the demonstration projects. OPS will also present prototype risk management projects to illustrate the documentation needed and the types of issues to be addressed during project review, approval and monitoring. After the meeting, OPS will publish a **Federal Register** notice to begin the project approval process described in Section IV of this notice. Between now and the January meeting, OPS will continue to refine the Demonstration Program components based on public comment on this notice, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through the JRAQT teams.

III. Risk Management Demonstration Project Objectives and Policies

The objectives of the Pipeline Risk Management Demonstration Program, which stem from the statutory requirements and the Presidential directive, are to accomplish the following:

- To show that more effective allocation of resources can result in improved safety and environmental protection over what is presently achieved through regulatory compliance.
- To address risks not addressed by regulations by capitalizing on features inherent to the risk management process, such as improved quality and integration of safety data and, as a result, more comprehensive assessment of threats.
- To systematically test risk management as a regulatory alternative through objective evaluation under a broad range of conditions.
- To establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process.
- To develop and apply new risk assessment models, processes and technologies.

OPS believes that the following elements need to be structured into the Demonstration Program:

(1) Operators participating in the Pipeline Risk Management Demonstration Program will need to provide sufficient data and background information to enable OPS to determine whether risk management is an effective regulatory alternative that provides superior safety and environmental protection.

Implicit in a company's participation in the Demonstration Program should be the commitment to work in partnership with OPS to determine whether and how risk management might become a permanent feature of the Federal pipeline safety program. OPS will ask for evidence that risk management, as it relates to the proposed demonstration project, is or will be developed and implemented as an integral part of the day-to-day business practices of the company. OPS will also periodically ask

companies for suggested refinements to the primary program components.

In keeping with the Interim Risk Management Program Standard, the operator must identify project-specific performance measures that demonstrate the effectiveness of the risk-control decisions being made. During the project approval process, OPS will determine whether these local project-specific performance measures appear appropriate and adequate. Throughout a demonstration project, the operator will evaluate local and broader program measures and ensure that the performance measures are appropriate and adequate. The operator would periodically report on these project-specific performance measurements to OPS.

OPS is developing guidance for additional more general measures operators would report during the four-year demonstration period to enable OPS to determine the effectiveness of risk management as a regulatory alternative. These measures will help OPS answer the following questions:

- Does risk management result in a greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?
- Are resources being better prioritized and more effectively applied under risk management?
- Has agency and industry involvement in the discussion of risks and risk control options, and the agency and industry's ability to impact desired outcomes, increased under risk management?

(2) Operators will be allowed to reallocate resources geographically, as long as safety is adequately safeguarded at each location along a demonstration site

OPS will allow operators the flexibility in a risk management demonstration project to reallocate safety resources across several pipeline segments. An operator may substitute one or more activities for others, or do away with redundant activities altogether, as long as the basic safety and environmental protection along the pipeline is safeguarded at each point. However, it is still expected that the overall demonstration project performance will result in superior safety and environmental protection.

(3) OPS will consider approving demonstration projects of various scopes and complexities

The scope of a risk management demonstration project may be an entire pipeline system and all safety activities, or may be focused on parts of a system and specific activities.

Since operators have different levels of experience with, and confidence in, risk management, OPS expects some proposals to begin with approaches that are limited in scope. Therefore, an operator may propose a phased entry into a demonstration project, broadening the scope of the project as experience is gained. During the project approval process, OPS will favor projects showing a potential for expansion and more comprehensive application of risk management. OPS expects to work with companies to develop a profile which compares the demonstration site to the rest of the pipeline.

OPS recognizes that significant benefits can accrue from even the less sophisticated applications of risk management. Because no single risk management approach will be universally appropriate for every situation, OPS is looking for those that match the level of risk management with the complexity of the risks being managed. However, any operator who participates in the Demonstration Program must have in place the program elements defined in the Interim Risk Management Program Standard. The program elements provide the structure for the limited scope proposal.

When an operator proposes risk control alternatives to implement during a demonstration project, the operator should demonstrate a knowledge and understanding of the range of risks along the demonstration site and show that it has considered significant failure modes. An operator may draw on corporate experience, skills, and available documentation to support the proposed alternatives.

(4) OPS considers an operator's compliance with the provisions of an OPS-approved risk management project to be an equivalent and acceptable alternative to compliance with the regulations

OPS considers the provisions of an approved risk management project to be a regulatory commitment. The terms and conditions of the project will be incorporated into an order that is subject to enforcement authority. By this order, an operator conducting risk management activities in an approved project will be exempt from regulations corresponding to the stated scope of the project, but will be required to comply with the provisions of the project. An operator not complying with the provisions of its OPS-approved project will be subject to the same civil penalties administered under existing regulations.

OPS has the authority to exempt, by order, an owner or operator participating in a risk management demonstration project from all or a portion of the regulatory requirements, and from any new regulations, applying to the covered pipeline facility. OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 192 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations.

When the project concludes at the end of four years, or if it is terminated earlier, consideration will be given to installations or facility modifications made during the demonstration project that conflict with existing or future regulatory actions. Actions taken by the operator in good faith in an approved risk management project could be ''grandfathered'' and exempt from future regulatory compliance, provided safety and environmental protection are not compromised.

(5) The operator is responsible for active communication with State and local officials regarding risk management. OPS will ensure that such communication is part of the operator's demonstration project plan and that the communication is carried out.

OPS sees potential for risk management to provide better accountability to the public for safety and environmental programs. OPS is beginning to explore appropriate strategies for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. Similarly, OPS realizes the importance of training and other information exchange in supporting the institutional change that would occur under risk management.

Companies must establish appropriate dialogue with State and local public safety and environment officials. At a minimum, these public officials should be aware that a risk management demonstration project is underway on the pipeline, that OPS is monitoring the project, and who functions as a point-of-contact. Such a dialogue would enable local officials to reassure the public that an appropriate regulatory presence is in place and how the overall safety and environmental protection are enhanced by risk management. OPS will discuss external communications with the operator during a consultation prior to formal application.

IV. Process for Selecting Projects

OPS is providing the following as guidance for operators to seek approval of their risk management demonstration projects. OPS plans to formally solicit operators to voluntarily participate in the risk management demonstration projects via a **Federal Register** Notice in first quarter 1997. That notice will give target dates for the various steps described below.

(1) *Letter of Intent*

Operators would notify OPS of interest in participating in a demonstration project, and OPS would screen operators to ensure that only companies whose demonstration project concepts have a reasonable likelihood of being approved expend the resources to develop formal applications. OPS will screen Letters of Intent to identify no more than ten projects as candidates for selection in the Demonstration Program. Ten is the maximum number OPS can reasonably expect to evaluate and, if selected, to monitor. OPS would accept Letters of Intent during a 60-day window in early 1997. A Letter of Intent is an expression of a company's interest, but does not obligate a company to participate in a demonstration.

OPS would require that a demonstration project cover any part or all of a pipeline system that is covered by either 49 CFR Part 192 or 195, is under State oversight or oversight by a participating interstate agent, and is currently in operation or under conversion to service. Operators should commit to a project duration of at least four years, and provide evidence that they will address all considerations raised in the Interim Risk Management Program Standard. This includes providing a description of the means by which the company would communicate with local officials regarding its demonstration project.

OPS would like to choose operators who provide evidence of consistent corporate commitment to risk management. This could be demonstrated by a corporate officer, who controls the resource allocation for the demonstration project and competing operations, signing the Letter of Intent.

The Letter of Intent would include a general discussion of risk management principles as part of a company's operating philosophy. To provide OPS adequate data to choose a diverse set of demonstration projects, the Letter would provide a brief system profile of the pipeline, including product(s) transported, pipeline age and operating history, types of population distributions and geographic conditions in proximity of the pipeline, and any other features the operator thinks are notable. The Letter would also describe the scope of the project as defined per the Interim Risk Management Program Standard and any new technologies and processes to be developed or deployed during the demonstration phase.

In making its choice, OPS would consider those operators who have clear records of safety and environmental compliance, based on OPS records and consultation with other interested agencies. OPS will also limit selection to projects which would achieve superior safety and environmental protection. Operators should have completed any OPS-initiated corrective actions.

OPS will publish for public comment a **Federal Register** notice describing proposals of selected companies and the demonstration sites under consideration. OPS will also follow through with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed.

(2) *Consultation*

OPS would invite each operator submitting a promising Letter of Intent to a consultation within 60 days of receipt of the Letter of Intent. The purpose of the consultation would be to familiarize OPS and affected States with specific aspects of an operator's risk management project concept, to provide guidance to the operator on what refinements (if any) are needed for OPS to approve the concept as a demonstration project, to enable regulators to plan the expected level of monitoring based on the company's own audit process, and to enable regulators and the operator to agree on the roles and responsibilities of each throughout the project duration. OPS intends that the consultation begin a negotiation process that results in a demonstration project that OPS could approve.

OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them in the consultation process.

OPS would constitute a Project Review Team (PRT) to consult with the operator, keep abreast of any subsequent discussions, and provide technical input on whether a demonstration project could be approved. OPS would customize the make-up of each PRT to the company and project. The PRT members'' roles would be defined in OPS-developed protocols, designed to ensure rigorous yet fair and consistent treatment of all operators throughout plan negotiation, approval, and monitoring. The mix of States and OPS regional personnel on the PRTs, as well as any outside technical expertise consulted, would vary from project to project depending on the demonstration's technical focus and geographic location.

Some of the same OPS headquarters staff would be on all PRTs to ensure consistent application of policy throughout the project and to follow all issues raised during the consultations to their resolution.

The consultation would focus on the design, operations, and maintenance practices that would replace practices required by 49 CFR Part 192 or 195, and that would achieve superior overall safety and environmental protection. The operator would provide the rationale for these risk control alternatives by generally describing the specific risk management models, processes, and sources of data supporting their selection.

Other consultation discussion topics would include the program goals, the project scope defined per the Interim Risk Management Program Standard, the project-specific performance measures, the operator's auditing plan, a plan for OPS audits, proprietary issues, provisions for public communication, and the outline for a work plan including benchmarks, risk assessment processes, new technologies applied, points-of-disclosure, and mechanisms for monitoring and refinement.

(3) Formal Application and Approval

An operator would submit an application formally indicating its intent to enter into a risk management demonstration project. Consistent with the program standard's intent for an efficient information flow among appropriate stakeholders, a summary of this formal application would be published in the **Federal Register**, and the application itself would be made available for review and comment in the docket. OPS will again communicate with national public, environmental and other interested organizations about the sites in which we intend to approve demonstration projects so that local officials can be notified and informed.

The formal application, including a detailed work plan, would document operator/PRT resolution of issues raised during the consultation and any subsequent discussions. It would also provide assurance of a corporate commitment to implement the project in accordance with the operator's risk management application. Other issues may be included at the operator's

discretion, such as how to return to compliance with the regulations should a demonstration be terminated.

OPS would review the application and comments, and decide whether to approve the project. If OPS decides to approve the project, OPS would issue the operator a written order. The order, in addition to exempting an operator from the applicability of specified pipeline safety regulatory requirements for the period of the demonstration, would set forth the terms and conditions for the operator's participation in the demonstration project. The order would be enforceable.

(4) Implementation

A risk management project would start as soon as OPS approves the formal application and work plan, issues the order, and notifies the public through the **Federal Register** that the order is in effect. Regulators and operators would monitor risk management demonstration projects for compliance with the order. OPS would provide each participating operator with a plan describing the regulators' expected level of effort in monitoring the demonstration, including the type of audits, their frequency, the participants, the audit scope, and the operator's means of addressing those aspects of the demonstration site remaining in compliance with the regulations, but this plan would not limit OPS's statutory authority to inspect a pipeline facility during the period of the demonstration. Planned OPS audits would coincide with the operator's data taking at key decision points, such as when the operator evaluates the effectiveness of safety activities or considers modifying safety activities.

An operator would notify OPS of any intent to make substantive modifications to the risk management project once a demonstration is underway. The PRT may reconvene to renegotiate project approval or to resolve other significant issues. Provisions will be made for public review and comment on renegotiated projects.

OPS could, through appropriate administrative action, address any unsafe conditions that arise during the demonstration period to ensure that such conditions are quickly addressed. OPS would also administer civil penalties within the provisions of the existing regulations for operators not complying with the order.

(5) Termination

OPS intends that, where a risk management demonstration project is determined to have been successful, the operator could, in lieu of switching to compliance with the regulations, continue to exercise risk management on that part of the system that was covered by the demonstration. However, this determination could not be made until the end of the demonstration period. Upon conclusion of the project, or if it is terminated earlier, consideration would be given to installations or facility modifications made during the demonstration project that conflict with future regulatory actions.

OPS may consider terminating a demonstration project if:

(i) The operator requests termination due to changed circumstances;

(ii) The operator does not comply with the terms and conditions of the approved risk management project;

(iii) Safety has been compromised; or

(iv) OPS and the operator fail to agree on a substantive modification to a risk management project.

V. Summary of Means of Achieving Meaningful Public and Community Involvement

OPS is providing numerous opportunities for public participation in the design and implementation of the Pipeline Risk Management Demonstration Program. One of OPS's objectives for the demonstrations is to establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. OPS believes meaningful public input is essential if the demonstrations are to be successful.

The public was invited to comment on early regulatory framework concepts via **Federal Register** notices published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995. OPS is soliciting public comment on the latest framework concepts via this notice. In addition to the notices, OPS has held two public meetings in preparation for the demonstrations and has scheduled a third for January 28, 1997, in New Orleans, LA. The previous public meetings were held on November 7, 1995, in McLean, Virginia, and on April 14–15, 1996, in Houston, TX. At the third meeting, OPS plans to present the final framework and supporting documents, and to demonstrate the review and approval process using prototype risk management projects.

This notice directs interested members of the public to the docket, to the American Petroleum Institute (API), or to a website to obtain and comment on the latest draft of the Interim Risk Management Program Standard. The standard describes the elements that OPS, its State partners, and industry agree must be common to all demonstration projects. One requirement is an external communications element, in which regulator and other stakeholder interests and concerns are understood, and program goals and results are communicated to and discussed with the public, as well as Federal, State, and local regulators, and other stakeholders as appropriate. The docket associated with this notice will have available for review any comments received on the standard and on the regulatory framework.

This notice also describes the numerous opportunities OPS is offering the public for comment during the demonstration review and approval process. Before formal applications are due, OPS will publish for public comment a **Federal Register** notice describing the demonstration projects under consideration and each company's concept for communicating with local safety officials should OPS approve its demonstration project. The public will be noticed again once the formal application is received and approval is imminent. At this time, a summary of the formal application will be published in the **Federal Register**, and the application itself will be made available for review and comment through the docket. At each opportunity for notice in the **Federal Register**, OPS will communicate with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed about planned program activities.

Affected States will be a part of the Project Review Team (PRT) recommending whether or not OPS should approve a demonstration project. OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them with the PRT.

OPS and industry's communications effort focusing on public and environmental officials and other interested organization representatives is intended to provide these officials with adequate information to reassure the public that an appropriate regulatory presence is in place during the demonstrations, and to describe how safety and environmental protection will be enhanced by risk management. OPS would appreciate comments on whether these mechanisms are adequate to ensure public and community involvement, and if not, what OPS and operators choosing to participate in the

demonstration projects can do to achieve such involvement.

VI. Report to Congress

By March 31, 2000, OPS will submit a Report to Congress on the results of the demonstration projects, evaluating how effectively safety, environmental protection, and reliability have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

Appendix B—The Pipeline Risk Management Demonstration Program Public Meeting, January 28, 1997, New Orleans, Louisiana

Note: The complete transcript of this Public Meeting is available on the Internet at: http://ops.dot.gov

1. Background and Objectives

Moving into Implementation

Over the last few years, the Office of Pipeline Safety (OPS) has been investigating the use of risk management as a regulatory alternative that would produce superior performance in more cost-effective ways. Over this time, OPS has worked in partnership with the pipeline industry and State regulators through a series of Risk Assessment Quality Teams (RAQTs) and has discussed progress and concerns at a series of meetings and conferences, including a Pipeline Safety Summit in 1994, and Risk Management Conferences in 1995 and 1996.

The initial RAQTs, which investigated the feasibility of using risk management within the pipeline industry, concluded that risk management had the potential to provide significant benefits by improving safety, environmental protection, reliability, and cost-effective operation. However, these Teams noted a variety of technical and regulatory issues that still needed to be resolved, and recommended that a demonstration program be planned and implemented to test the viability of risk management as a regulatory alternative.

The first Risk Management Conference, held in McLean, Virginia, in November 1995, identified the most important of these issues. A major conclusion from this first Risk Management Conference was that a set of ''building blocks'' needed to be developed to provide an adequate foundation upon which a viable and responsible Risk Management Demonstration Program could be constructed. After this conference, partnerships representing OPS, States, localities, industry and the public were formed to design and construct the following building blocks:

- The Risk Management Program Framework that defines how OPS receives, reviews, approves, and monitors operators risk management demonstration projects;
- The Risk Management Program Standard that defines the essential elements and characteristics of an operator's risk management program;
- Guidance on Performance Measures that supports the ability of operators and OPS to monitor performance, ensure that superior performance is being achieved, and evaluate the results of the Risk Management Demonstration Program;
- A Communications Plan that describes how information about the demonstration projects will be provided to local safety officials and other interested parties, and how information from these parties will be input to the demonstration process;
- A Training Plan that defines how OPS, States, and industry will be trained in the risk management building blocks.

Work commenced on these building blocks in early 1996. A second Risk Management Conference was held in Houston, Texas in April, 1996 to review progress and to hear input, concerns, and suggestions about the building blocks.

A draft version of the Program Framework was developed by OPS and published in the **Federal Register** on November 15, 1996, followed by a 60-day public comment period.

A draft Program Standard was developed by the Program Standard Quality Team and referenced in the **Federal Register** notice. Comments were received, and incorporated into an Interim Program Standard in early January, 1997.

A draft Performance Measures Guidance was produced by the Performance Measures Working Group, and distributed for comment in December, 1996.

A draft Communications Plan was produced by OPS and the JRAQT Coordination Team and distributed for comment in early January, 1997.

A draft Training Plan was produced by OPS and distributed for comment in early January, 1997.

The Accountable Pipeline Safety and Partnership Act of 1996 was passed by Congress and signed into law by President Clinton on October 12, 1996. This Act required the Secretary of Transportation to ''establish risk management demonstration projects—A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management, and B) to evaluate the safety and cost-effectiveness of the program.'' President Clinton provided additional direction to the Secretary through a Memorandum that directed the Secretary to implement administrative safeguards for carrying out the law that will enhance accountability and protection of public safety and the environment.

Meeting Purpose

This Public Meeting was designed to allow OPS to: 1) Present to the public the basic risk management demonstration program building blocks, 2) Describe and illustrate, with simple examples, how the review and approval process is envisioned to work, and 3) Obtain input from all interested parties concerning the building blocks or any other aspect of the Risk Management Demonstration Program.

Each of the draft building block documents, the Act of 1996, the President's Directive, and other relevant documents were provided as handout to each person attending the meeting and distributed to all State pipeline safety agencies.

[OPS received input from this Meeting, revised the draft building blocks as necessary, and published a final Program Framework in the **Federal Register** in March 1997, inviting companies to submit Letters of Intent for risk management demonstration projects.]

2. Conference Synopsis

This section provides a brief summary of each of the major sessions on the Meeting agenda.

Welcome and Introduction

Richard Felder—Associate Administrator for Pipeline Safety

Mr. Felder opened the conference by welcoming everyone. He noted that OPS and its State and industry partners started out over two years ago with the realization that there may be a better way of approaching pipeline safety regulation, an approach that is not event-driven and that does not result in specification-based regulation. OPS is looking for a better approach that will give superior safety through customization, flexibility, collaboration, and innovation.

Mr. Felder read a letter from Mr. Bruce Ellsworth, a Public Service Commissioner in New Hampshire and

Chairman of the National Association of Regulatory Utility Commissioners, to illustrate changes in perception from the first risk management meetings until now. Mr. Ellsworth noted that he was originally skeptical about replacing the existing safety regulations with risk management. He believes that the Natural Gas Pipeline Safety Act of 1968 has led to an outstanding safety record, and was reluctant to fix something that was not broken. However, as a result of his participation on the Joint Risk Assessment Policy Steering Team, he has seen that there may be an opportunity to make the system work better, cheaper, and more effectively. Mr Ellsworth's letter stated that he believed OPS has been right in exploring the viability of risk management as a regulatory alternative, and communicated his support for the pilot demonstration program.

Mr. Felder then delineated the basic building blocks of the Demonstration Program and emphasized the new awareness and resolve on the part of OPS to address the issues of public involvement.

RSPA Perspectives

Kelley Coyner, Research and Special Programs Administration

Ms. Coyner's discussion focused on the two twins of ''opportunity'' and ''responsibility'' that risk management presents. Risk management provides a tremendous opportunity, but only if we take the responsibility to do it right very seriously. She said that the pipeline risk management initiative was consistent and supportive of President Clinton's vision of a government that is humble enough not to solve all of our problems, but strong enough to give us the tools to solve our problems ourselves.

Ms. Coyner described the opportunities that risk management provides to comprehensively analyze risks, prioritize resources, and track performance; to be smarter and more accountable. She spoke of the responsibilities of continuing the partnerships that got us to this point, to continuously improve as we move forward, and to set clear and ambitious performance goals.

A major theme of Ms. Coyner's talk was the need for communication and public involvement. Improving public involvement has been a program goal from the beginning. She asked members of the audience to take seriously the challenge to make sure that OPS and its partners are off to a good start and going in the right direction by providing their comments in this public meeting.

Risk Management Building Blocks Panel

Program Framework

Stacey Gerard, Office of Pipeline Safety

Program Standard

Denise Hamsher, Lakehead Pipe Line

Performance Measures Guidance

Ivan Huntoon, Office of Pipeline Safety, Don Stursma, Iowa Commerce Department

Communications Plan

Stacey Gerard, Office of Pipeline Safety

Training Outline

Richard Sanders, Transportation Safety Institute

Program Framework

Ms. Gerard discussed the Program Framework, which describes the processes by which OPS will receive, review, approve, audit, and communicate information about operator risk management demonstration projects. She described the contents of the draft Program Framework (published in the **Federal Register**) and the comments received on this draft. Ms. Gerard also discussed the Accountable Pipeline Safety and Partnership Act of 1996 and the President's Directive that accompanied the law. She noted that the President's Directive requires that risk management demonstration projects produce superior safety and environmental protection, and directed OPS to place more emphasis on meaningful public and community involvement.

Ms. Gerard outlined the basic steps in the regulatory process, including:

- The Letter of Intent (LOI), in which the company communicates its intention to develop and propose a risk management demonstration project;
- The Screening Process, in which OPS screens the LOI to select a set of potential projects that have the best chance of supporting the Demonstration Program goals;
- Pre-consultations, in which OPS staff meets with the selected operators to discuss their proposed project, clarify information in the LOI, and prepare the Project Review Team (PRT) for an efficient consultation with the operator;
- The Consultation Process, in which an PRT meets with the company, and through a series of discussions, information exchange, and interactions come to agreement on the scope and characteristics of an acceptable risk management demonstration project, leading to the submittal of an application by the operator;
- The Review and Approval Process, in which OPS reviews the operator's application, approves it if appropriate, and reflects the commitments and terms and conditions of the program in a DOT Order;
- The Audit Plan, developed by OPS, which will coincide with the company's Work Plan milestones and decision points, and which describes the specific processes and areas of OPS audits of the risk management demonstration project;
- The Implementation Phase, in which OPS and the operator monitor progress, and modify or terminate the project as necessary.

She noted that, based on comments to the FR Notice, the window of time for submitting LOIs will be extended to 90 or 120 days. She strongly encouraged capable companies to submit LOIs.

Ms. Gerard discussed the issue of the ''clear and established'' safety record required by the President in his Directive of all demonstration program participants. She noted that OPS wanted companies with a clear record of compliance to start the project, and OPS will work with companies to be sure there is a clear record.

Ms. Gerard also discussed the issue of ''superior performance''. The President's Directive states that: ''The Secretary [of Transportation] shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Ms. Gerard noted that, consistent with other aspects of the President's Directive, superior performance would be achieved through a combination of:

(a) Improved analytical and decision-making processes. Risk management programs consistent with the Program Standard would be expected to include a comprehensive examination of risks, improved allocation of resources, enhanced communications within the company, better interactions with the regulators, meaningful public involvement, and other features that would lead to superior performance.

(b) Selection of an integrated set of risk control activities that is expected to reduce risks to the public, workers, and the environment.

(c) Full accountability. Operators will be expected to identify project-specific performance measures and submit project work plans that explicitly define operator commitments. These commitments are reflected in Orders that delineate the terms and conditions under which the operator's risk management program is authorized, and which are subject to the full

enforcement authority of the United States.

She clarified the role of the States, stating that OPS is inviting the States to participate in the PRT process, but not mandating participation of the States.

Program Standard

Ms. Hamsher, Co-Chair of the Joint Risk Assessment Program Standard Team, described the basic objectives of the Program Standard, how it was developed, and its basic elements. She stated that the Program Standard describes the basic elements and characteristics of an operator's risk management program. The Program Standard describes the basic program and process elements, and the functional requirements of a risk management program, but does not specify exactly how these elements or functions should be performed, allowing operators to customize their specific programs and technical tools to their situation and needs. It is not an instruction manual, a substitute for training, or a tool box. The Program Standard can provide the starting point for the OPS review of proposed demonstration projects, but it is not intended as a checklist for review and approval of demonstration projects.

Ms. Hamsher discussed some of the risk management guiding principles that were developed by the JRAQT. One of the key guiding principles is that risk management is a management decision support process. It is not just a set of technical models, but a comprehensive program that is integrated with the overall operation of the company to produce better decisions leading to superior performance. Risk management supports responsible, prudent, and experienced managers, it does not replace them. She also noted a guiding principle that risk can be controlled and often reduced, but it cannot be totally eliminated. We all need to reinforce, and communicate this realization so that expectations for zero risk are not established. Another guiding principle that went into the development of the Standard was that risk management produces integrated information about safety and environmental protection. Risk management increases information and information flow, between the company, its regulators, and the public.

She noted that the JRAQT recognized that the technical models, tools, and processes associated with a risk management program necessarily include some subjective judgements, uncertain assumptions, and limited data. Accordingly, the Program Standard includes a Performance Monitoring element that includes the definition and monitoring of performance measures that are directly tied to validating the specific assumptions and input data of the operator's risk assessment model and process.

Ms. Hamsher concluded by discussing the future of the Program Standard. Progress on the demonstration projects will be monitored, and the Program Standard will be refined and improved over the next four years. However, because of the way the Program Standard was developed, laying out the basic elements without prescribing details, it is not expected that major modifications will be necessary over the demonstration period. It is expected that this Program Standard will eventually be transformed into an industry consensus standard.

Performance Measures Guidance

Mr. Huntoon, Regional Director for the OPS Central Region, and Don Stursma, from the Iowa Commerce Department, discussed the work of the Performance Measures Workgroup and the issues the group addressed in producing the draft Guidance on Performance Measures. The Performance Measures Workgroup was formed after a number of issues related to performance measures were identified by the JRAQT Program Standard Team.

The Workgroup concluded that there were two key areas where performance measures were important:

(1) In monitoring the specific results produced by individual company demonstration projects to ensure that the underlying assumptions and input data of the risk assessment and risk control models are valid, and that the approved projects are indeed resulting in superior performance as predicted.

(2) In assessing the overall success of the Risk Management Demonstration Program, providing input to the required OPS report to Congress, and other progress reports.

Key issues that the Workgroup addressed were the availability of data to support meaningful performance monitoring and the cost and sensitivity of data reporting.

The report produced by the Workgroup is intended to provide guidance for operators who are planning to participate in the risk management demonstration program. The guidance should assist operators in developing a performance monitoring process as described in the Program Standard, and provide OPS the information it needs to assess the overall effectiveness of risk management as a regulatory alternative.

The project-specific performance measures will be included as part of the operator's demonstration project application, and will depend upon the expected outcomes of the demonstration project, and the selected risk control activities. Mr. Huntoon delineated some of the criteria developed by the Workgroup for these project-specific performance measures.

In order to assess the overall benefit of risk management as a regulatory alternative, the Workgroup felt that program-wide performance measures were needed to allow individual companies and OPS to address the following questions:

(1) Safety and Reliability. Does risk management result in greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?

(2) Resource Effectiveness. Are resources being better prioritized and more effectively applied under risk management?

(3) Communication and Partnership. Have agency and industry involvement in the discussion of risks and risk control options, and the agency's and industry's ability to impact desired outcomes increased under risk management?

Mr. Stursma discussed each of these major areas in turn, describing the issues that the Workgroup discussed in the process of producing the Guidance on Performance Measures. He also gave a variety of practical, everyday examples of the different types of performance measures to illustrate the concepts.

He noted that the information gained from these program-wide performance measures will be used by OPS to prepare a report to Congress on the results of the Risk Management Demonstration Program. The report will address each individual project and provide an overall recommendation on the application of risk management as a regulatory alternative. It was recommended that a successor group to the Performance Measures Workgroup be formed, which would prepare annual, interim progress reports. It is expected that OPS, the successor group to the Performance Measures Workgroup, and operators participating in the demonstration program will jointly prepare the interim annual progress reports.

Communication Plan

Ms. Gerard described the evolution of the Communications Plan and its basic elements. She reiterated the importance of meaningful public involvement to the

success of the risk management program, and summarized the numerous mechanisms planned for communication and involvement. In response to concerns expressed by some that the public would only be informed too late in the game to have any meaningful impact, Ms. Gerard pointed out that OPS will, right at the beginning of the review and approval process, summarize the Letters of Intent from companies selected to provide risk management project applications. In addition to publication in the **Federal Register**, project summaries will be distributed to local safety officials, and feedback loops will be established to obtain input from interested parties, at the very beginning of the consultation process. Information that comes in will feed into the pre-consultation and consultation process.

Each project summary, referred to as a prospectus, will describe to local officials the objectives of each project, the safety alternatives being discussed, and the company's approach to communications with the public. The prospectus will define at least three points of contact for anyone wishing to provide information or comment. One point of contact will be from OPS Headquarters, one will be at the State level (if the State agrees), and one from the operating company. As new or additional information is developed during the consultation process, the prospectus will be updated to keep people posted on events throughout the process.

At the time of the formal application from the company, the company's application will be made available in the docket, and a summary will be published in the **Federal Register**. When the application is approved and an Order is issued, OPS will issue another **Federal Register** Notice.

Ms. Gerard stated that the aggressive OPS communications effort under risk management is a much larger commitment that they have ever made before because they understand how important meaningful public involvement is to the success of the program.

Training Outline

Mr. Sanders, from the Transportation Safety Institute, summarized the training program that OPS is developing to support the risk management demonstration program. OPS is committed to joint government/industry training to ensure that all parties have a mutual understanding of the program, and speak the same language (or can at least accurately interpret each other's language) to facilitate the consultation process, and ensure high quality, comprehensive risk management programs result that produce superior performance.

Mr. Sanders outlined the currently envisioned training program, which is designed to support the Project Review Team, OPS, and the company during the project review and approval process. The program includes:

- An Overview of the Risk Management Demonstration Program.
- The Demonstration Process and Building Blocks.
- The Risk Management Program and Process Elements.
- OPS Auditing of an Approved Risk Management Demonstration Project.
- Prototypical Examples to Illustrate the Demonstration Process.

The training program will be developed in a modular format, so that orientations and training courses can be customized to the specific audience, its level of experience, and its specific training needs. The first two blocks of the training listed above, and selected portions of the other blocks, can be provided as an orientation or ''headstart'' program to those that have not been actively involved in the program development phase, or who wish to establish a common starting point.

The Risk Management Program and Process Elements portion of the training is based on the Program Standard building block produced by the JRAQT, and will provide overview descriptions of various types of risk assessment and prioritization models and processes.

Mr. Sanders asked for review of the training material, and input about training needs, including the usefulness of video, computer-based training, or Internet interactive training.

Prototypes

Moderator: Mike Neuhard, Fairfax County Fire Department

Panelists: Bruce Hansen, Office of Pipeline Safety, Andy Drake, PanEnergy Corporation, Beth Callsen, Office of Pipeline Safety, Gary Zimmerman, Shell Pipeline

Two examples of possible regulatory alternatives, one from the natural gas industry and one from the hazardous liquid industry were discussed to illustrate the demonstration process described in the Program Framework and discussed in the Building Blocks Panel. The examples were simplified versions of what would be expected in a real demonstration project, designed to illustrate the interactive process between OPS and the company, and were not presented as practical examples of comprehensive risk management programs or to illustrate the critical public involvement aspects of the process.

The topics addressed by each of the prototypes included:

- The information expected in the Letter of Intent.
- The characteristics of the proposed demonstration project that OPS would look for in screening Letters of Intent.
- The topics that would be discussed at pre-consultation sessions between OPS staff and the operator.
- The discussions between the PRT and the company concerning the risk-based justification for the proposed safety alternatives.
- The performance measures necessary to validate assumptions of the risk models and to confirm that superior performance was being produced.

Audience Questions and Comments

Questions and comments from the audience were received by speakers and panelists at a few different points in the meeting. Some of the major areas of questions and comments are summarized below. A full, verbatim set of all questions, comments, and OPS responses is available in the meeting transcript.

- *The liability of companies under risk management demonstration projects for compliance with the existing Federal or State regulations.*

Mr. Felder stated that a company that implements an OPS-approved demonstration project is committed to abiding under the terms of their approved application, as reflected in the associated OPS Order. Participation in a demonstration project is not an exemption from the minimum Federal pipeline safety standards as a whole. The underlying regulations that would otherwise apply would not apply to the segment of the pipeline within the demonstration project; the approved project and corresponding Order would apply. There should be no problem from the public's perspective if the company is in compliance with the provisions of its demonstration project as opposed to being in compliance with the underlying regulations; compliance with provisions of the project is equivalent to compliance with the pipeline safety regulations. The up-front review and approval process assures at the outset that the demonstration project will result in a superior level of safety compared to what you would have under the minimum State standards.

- *The quality of the data to support risk management.*

Mr. Felder noted that some of the audience comments reflected the

situation at OPS in years past, but did not reflect the many efforts over the past few years that OPS has taken in increasing partnership with industry, States, and the public to identify new regulatory pathways, to get the type of information needed to regulate effectively. He also noted that considerable work has gone into ensuring that the risk management process will significantly improve the amount and quality of data that will be available to OPS. The past is not a good indicator of where OPS is going in the future as far as risk information and data is concerned.

• *The level and type of communication with the public, and OPS's role in this process.*

Mr. Felder and Ms. Gerard reiterated the importance placed on communication by OPS, and the need to engage in an unprecedented outreach effort from OPS, but also noted the joint responsibility for communication among OPS, industry, local safety officials, and the public. Government cannot, and should not, do everything. Mr. Felder said that it was important to understand that the people who run the companies are also citizens of the country. They have a great stake in the outcome of the work they do, and a great stake in the communities that they affect. That is why OPS is enlisting their resources as part of the public outreach process. He further noted that OPS is working with national organizations because they have people and resources in every community in America, and this can leverage OPS efforts in getting down to the local community level. He stated that we need a communication partnership among Federal regulators, the States, national organizations, local officials, and the public.

Mr. Felder also pointed out that the situation with a risk management demonstration project is not analogous to the siting of new pipeline, where a company may be introducing a new risk into a community that did not exist before. Risk management demonstration projects will only be allowed by OPS where the company can demonstrate that superior performance can be achieved. The communications and due-process needs and mechanisms are accordingly different than that associated with a new right-of-way or zoning change hearing where new and additional risks are being introduced.

Ms. Hamsher pointed out that, in addition to the OPS Communication Plan, the Program Standard contained explicit requirements for the company to develop a two-way communications effort, ensuring that public information will be input to the risk assessment and risk control processes.

• *Public access to the Letters of Intent.*

Mr. Felder stated that the Letters of Intent, as well as the formal company application will be available in the docket for public examination.

• *The interactive nature of the screening process.*

Mr. Felder and Ms. Gerard stated that the screening process may require information meetings and interactions with the companies to clarify points in the Letters of Intent or to gather additional information needed by OPS. However, any interactions, consultations, or discussions with the company or States does not change the ultimate responsibility for public safety, which sits in the hands of the OPS regulators.

• *The relationship between the OPS program and other regulators such as EPA.*

Mr. Felder noted that OPS has had close collaboration with Mineral Management Service and works closely with the Coast Guard, a part of DOT. OPS is interested in putting together a larger network of agencies to share experiences about risk management and other alternative approaches to regulation. OPS has already performed a study that looked at over a dozen other State agency programs in risk management, defining and incorporating lessons learned from these programs into the pipeline risk management program. OPS has began meeting with EPA and will continue to consult with the EPA on issues of mutual interest.

[Subsequent to the public meeting, OPS briefed the 15 State National Response Team (NRT) agencies and invited them to participate in the Demonstration Program. As part of the screening and selection process, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via annual program briefings, project prospectuses, and updates.]

• *Limitations on the number of demonstration projects.*

Mr. Felder stated that OPS is restricted by Presidential directive to ten demonstration projects, involving interstate pipelines. No demonstration projects are planned for the local distribution companies at this time. In addition, OPS will be undertaking a variety of other initiatives related to regulatory reform and risk-based regulation beyond the demonstration projects themselves. OPS is committed to ensuring a high quality demonstration program that protects and improves safety and the environment, understands the significant resources required to support this program, and will not take on any more projects than it can responsibly and prudently handle.

Summary and Closing

John Riordan, Interstate Natural Gas Association of America (INGAA) Pipeline Safety Task Force, Joe Martinelli, API General Committee on Pipelines, Rich Felder, Office of Pipeline Safety

Mr. Riordan, from MidCon and the spokesman for INGAA, discussed how the Board of INGAA, which is represented by the Chief Executive Officers of the major pipelines in the United States, Mexico, and Canada became interested in risk management as a means to improve safety. He noted that society and the marketplace are demanding increased accountability from industry and the people that regulate the industry, and INGAA believes that the risk management demonstration program is very important in this regard. He emphasized the importance of communications, and the need to continuously improve in a changing world.

Mr. Martinelli, past President of Chevron Pipeline and Chairman of the General Committee on Pipeline for API, recounted the history of how industry, OPS, and other interested parties got to this point on risk management. He applauded the tremendous amount of work done by a large number of people in government and industry and the public. He noted that a key recognition four years ago was ''one size fits all'' regulation was not in the best interests of anybody, and a fundamental change was needed. Mr. Martinelli discussed the difficulty of change, whether in a person, a company, or an entire industry, and challenged all parties to not be fearful of change. He warned people not to get caught up in the ''30-year'' syndrome or the ''not invented here'' syndrome that resists change. He also talked about the recognition that government and industry had to be more collaborative than adversarial. Mr. Martinelli also noted that we were not

at the end of a journey with the development of the risk management building blocks, but just at the beginning of the journey, and the journey will be a long and hard one that requires significant continued effort from all parties. A key message was: ''Get comfortable with change'' and he provided a rule of thumb called the Rule of Three Positives. ''When somebody suggests a change to you, don't say: 'No, that won't work. That's not the way I do it.' When somebody suggests something new, stop and think and make three positive comments about the new idea before you make one negative comment.'' He challenged the companies to be innovative, creative, and provide OPS with so many quality demonstration proposals that their selection process will be difficult.

Mr. Felder closed the conference by expressing appreciation to all those that attended and to all of his staff that made the public meeting possible. He and Stacey Gerard then handed out DOT certificates of appreciation to individuals outside the government, in industry, the public, and contractors, that have worked with the various Risk Assessment Quality Teams.

[FR Doc. 97–7827 Filed 3–26–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of National Customs Automation Program Test of Account-Based Declaration Prototype

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs' plan to conduct an account-based declaration prototype (NCAP/P) under the National Customs Automation Program (NCAP), and invites eligible importers to participate. The NCAP/P will be initially applicable to merchandise imported by truck through the ports of Laredo, Texas (Colombia Bridge only), and Detroit and Port Huron, Michigan. This notice provides a description of the test, outlines the development and evaluation methodology to be used in the test, sets forth the eligibility requirements for participation in the test and invites public comment on any aspect of the planned test.

DATES: The account-based declaration prototype (NCAP/P) will commence no earlier than August, 1997 and will run for approximately eighteen months, with evaluations of the prototype occurring periodically. All applications to participate in the test must be received on or before April 25, 1997. Public comments on any aspect of the planned test must be received on or before April 25, 1997.

ADDRESSES: Applications should be addressed to Ms. Margaret Fearon at U.S. Customs Service, 1301 Constitution Avenue, NW, Room 4139, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding eligibility of specific importers: Margaret Fearon, Process Analysis and Requirements Team, at (202)927–1413. For questions on reconciliation: Shari McCann, Process Analysis and Requirements Team, at (202)927–1106. For questions on other aspects of the Account-Based Declaration Prototype: Daniel Buchanan, Process Analysis and Requirements Team, at (617)565–6236.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (the Mod Act). Subtitle B of title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411–1414), which define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for remote location filing (section 414). Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), concerns the testing of NCAP components. See, T.D. 95–21 (60 FR 14211, March 16, 1995).

A key element of Customs efforts to re-engineer its Trade Compliance process is a shift in emphasis from the traditional transaction-based approach of ensuring compliance with import laws and regulations to an account-based approach, which addresses an importer's overall compliance through account management, process reviews, and audits. One feature of this approach is a new account-based declaration process. Customs is also developing a new commercial processing system, the Automated Commercial Environment (ACE), which will be designed to support the new Trade Compliance processes. An account-based declaration prototype (NCAP/P) is being developed to provide the first operational demonstration of ACE capabilities for processing imports, integrating the new account-based import declaration process with other aspects of the Trade Compliance process and with selected features of NCAP elements of the Mod Act.

I. Development Methodology

NCAP/P will be monitored by a Joint Prototype Team consisting of trade participants, the Customs Offices of Field Operations and Strategic Trade, the ACE Development Team, and other interested government agencies. This team will meet regularly throughout the prototype period in Detroit, Laredo and Washington, DC, to set development milestones, monitor progress, resolve issues and evaluate program effectiveness. The development effort will be coordinated with other on-going NCAP prototype programs such as Remote Location Filing and Reconciliation, and will be as consistent as possible with the overall direction of ACE development.

Potential participants should recognize that this is a prototype test of new processes. Data definitions and values and formats for electronic transmission of manifest, entry and commercial data will differ from those currently used in the Automated Commercial System (ACS). It is also important to note that development efforts undertaken for NCAP/P may not meet the eventual requirements for programs as they are finally implemented in ACE.

The public is invited to comment on any aspect of the NCAP/P test as described by this notice.

II. Eligibility Requirements

In order to be eligible for participation in the NCAP/P, an importer must:

1. Be designated as one of the top 350 U.S. importers in terms of entered value, while importing no less than 50% of their merchandise specified as Customs' Primary Focus Industries, which are as follows:

(a) Advanced Displays
(b) Agriculture
(c) Auto/Truck Parts
(d) Automobiles
(e) Bearings
(f) Circuit Boards
(g) Fasteners
(h) Footwear
(i) Manufacturing Equipment
(j) Steel Products
(k) Telecommunications
(l) Textiles and Flatgoods
(m) Wearing Apparel