

Branch, EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8909. Copies of the Tennessee and Memphis-Shelby County submittals, and other supporting documentation relevant to this action, are available for inspection during normal business hours at EPA Region 4, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8909.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA Region 4, at (404) 562-9124 or pierce.kim@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the final rules section of this **Federal Register**.

Dated: March 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA-01-8663]

RIN 2137-AD56

Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions

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

ACTION: Notice of proposed rulemaking; request for comments on revised form.

SUMMARY: This notice of proposed rulemaking would amend the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline spills from 50 barrels to 5 gallons. We are also seeking comments on revisions to the hazardous liquid accident form to improve its usefulness. On the revised accident form, reporting for spills from 5 gallons to less than 5 barrels will require minimal information. The improvements to the hazardous liquid accident form are necessary to address known deficiencies in the current information collection. The improved information on failure cause categories and more detailed information about the impact of failed pipelines will improve pipeline safety statistics, increasing the overall usefulness of the data and making analysis more efficient and meaningful.

DATES: Comments on the subject of this proposed rule must be received on or before May 21, 2001.

ADDRESSES: You may submit written comments by mail or in person by delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Or, you may submit written comments to the docket electronically at the following Web address: <http://dms.dot.gov>. See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

FOR FURTHER INFORMATION CONTACT: Roger Little by phone at (202) 366-4569, by e-mail at roger.little@rspa.dot.gov, or by mail at the Office Of Pipeline Safety, Room 7128, 400 7th St. SW., Washington, DC 20590 regarding the subject matter of this notice or to access comments in the docket.

SUPPLEMENTARY INFORMATION:

Filing Information, Electronic Access, and General Program Information

The Dockets facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except federal holidays. All comments should identify the docket number of this notice, RSPA-01-8663. You should submit the original and one copy. If you wish to receive confirmation of receipt of your comments, you must include a stamped, self-addressed postcard. To file written comments electronically, after logging onto <http://dms.dot.gov>, click on "Electronic Submission." You can read comments and other material in the docket at this Web address: <http://dms.dot.gov>. General information about our pipeline safety program is available at this address: <http://ops.dot.gov>.

Background

RSPA Pipeline Safety Mission

RSPA's Office of Pipeline Safety has responsibility for assuring adequate safety and environmental protection for risks posed by the nation's approximately 2 million miles of natural gas and hazardous liquid pipelines. The OPS shares responsibility for inspecting and overseeing the nation's pipelines with state pipeline safety offices that also depend on the information RSPA collects.

RSPA Pipeline Safety Data

To fulfill its safety mission, RSPA maintains a hazardous liquid pipeline accident database that is widely recognized as the nation's best source of such information. The information that RSPA collects on reportable hazardous liquid accidents provides an important tool for identifying safety trends in the hazardous liquid pipeline industry. RSPA has collected hazardous liquid

pipeline accident information since the early 1970s, with only one revision to the accident collection procedures in July 1984. Under 49 CFR part 195, RSPA is authorized to develop regulations, inspect facilities, and ensure compliance with standards established to ensure safety and environmental protection from risks to the public and the environment that are posed by hazardous liquid pipelines. Operators are required to report accidents according to the procedures established in 49 CFR 195.50. The information is used to identify safety trends for regulatory purposes and to target inspections of hazardous liquid pipeline facilities based on risk.

The Need for Pipeline Safety Data

Accurate, meaningful pipeline safety incident information is needed for general trending of pipeline safety data and risk assessment, for deciding which pipelines need rehabilitation vs. replacement, for analyzing cost benefits, and for comparing individual operator performance with industry performance. This safety information is used by RSPA for daily decision making in RSPA's assessment of pipeline risks, regulatory development, and programmatic resource allocation. In addition to the need for information for safety trending and diagnosis, RSPA uses the information in monitoring industry performance and regulatory compliance, and for planning company standard safety inspections. State pipeline safety programs with hazardous liquid pipeline safety responsibility also use the information for these purposes. The information is also widely used by third-parties, including state governors, Congress, metropolitan planners, pipeline research engineers, industry safety experts, the media, and the public.

Why Revise the Hazardous Liquid Accident Report Form?

In 1984, the RSPA hazardous liquid accident form was revised as a result of the Paperwork Reduction Act. The report has been in use since 1984 without revision, providing 16 years of data upon which pipeline safety analysis has been extensively conducted. Over the years we became aware of shortcomings in the data collection that need improvement. In recent years, the usefulness of the hazardous liquid accident data collection has been found to be limited due to the level of detail and accuracy, and the quality of the collected data. Recognizing the limitations to effective pipeline safety analysis that these data deficiencies cause, the National

Transportation Safety Board, the DOT Office of the Inspector General, and others have urged RSPA to improve the collection of pipeline safety data.

Department of Transportation Inspector General Recommendation

DOT's Office of the Inspector General, in a March 2000 audit report of RSPA's pipeline safety program, recommended that RSPA

implement revisions in the collection and processing of pipeline accident data to expand accident causal categories for more detailed trend analysis, and to clarify accident form instructions so that operators will be more consistent and accurate in reporting accident causes.

National Transportation Safety Board Recommendation

In its special investigation report PB96-917002 (January 23, 1996), the National Transportation Safety Board (NTSB) issued recommendation P-96-1 which directed the Office of Pipeline Safety (OPS) to develop

a comprehensive plan for the collection and use of gas and hazardous liquid pipeline accident data that details the type and extent of data to be collected, to provide the Research and Special Programs Administration (RSPA) with the capability to perform methodologically sound accident trend analysis and evaluations of pipeline operator performance using normalized accident data.

Congressional Recommendations

Recent significant pipeline accidents have focused the regulators, Congress, the media, and the public's attention on the need for better pipeline safety information. Congress has advised RSPA to seek quick action to improve the quantity, quality, and usefulness of safety information to better perform its safety mission.

During the 106th Congress, the proposed Pipeline Safety Improvement Act of 2000 (S. 2438) was considered by both houses of Congress. The proposed bill included provisions to require RSPA to gather improved pipeline spill information for spills as small as five gallons:

SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—
(1) by inserting “(1)” before “To”; 25
(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following: “(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean-up the release.”

Although this proposed Act did not achieve final passage in the last Congress, we believe the intention to require improved data collection is apparent.

White House Memorandum

In a letter to the Secretary of Transportation, the President (November 3, 2000) asked the Secretary of Transportation to provide for

collection of more complete and detailed information on the causes of accidents, thereby facilitating better trends analysis and helping to prevent future accidents. Specifically, you should improve accident reporting forms as soon as possible for both hazardous liquid and natural gas pipelines by expanding causal categories and clarifying instructions so that data submissions are more consistent and accurate.

Industry Recognition of the Need for Better Information

The pipeline industry has recognized the need to improve the usefulness of the hazardous liquid pipeline data. In recent years, the American Society of Mechanical Engineers (ASME) B31.4 committee conducted annual reviews of hazardous liquid pipeline accident data collection to evaluate the usefulness of the information. The ASME B31.4 committee developed an extended set of pipeline failure causes. The findings of the ASME committee have been made available to OPS and others for additional scrutiny as part of the ongoing effort to seek improvements in data usefulness. The ASME causes have been widely recognized and have gained industry and government acceptance.

Joint Industry/State/Federal Data Team

RSPA has been working with a joint industry/State/Federal team since 1997 to examine hazardous liquid pipeline accident data needs. The team determined that standardization of accident causes based on the causes proposed by the ASME B31.4

committees would be the best way to address accident reporting deficiencies. The team determined that the American Petroleum Institute (API) could develop and collect additional hazardous liquid pipeline data with a voluntary reporting system. API developed the data collection scheme in a system known as the Pipeline Performance Tracking Initiative (PPTI), and is now pilot-testing the system using calendar year 1999 data.

Standardization of Accident Data Across Industry

RSPA plans to implement the recommendations of the NTSB, the DOT's Office of the Inspector General, Congress, and the White House by clarifying and standardizing the accident cause categories, and collecting better information for both natural gas and hazardous liquid pipeline accidents. Furthermore, the natural gas pipeline transmission industry has recently accepted the expanded ASME B31.4 accident cause categories.

RSPA acknowledges the need for consistent pipeline information for both natural gas and hazardous liquid pipeline accidents. Plans are currently underway to similarly revise natural gas transmission incident pipeline information. RSPA also plans to adopt a similar failure cause scheme for natural gas distribution pipeline incidents later in 2001. By adopting recognized industry proposed failure causal categories for natural gas and hazardous liquid pipeline incidents, we are taking a step toward further standardization of pipeline safety statistics for all pipeline types, increasing the overall usefulness of the data, and making analysis more efficient and meaningful.

Identified Shortcomings in RSPA Pipeline Safety Data

Some key deficiencies that have been identified and which are being addressed in the current proposed revision are: insufficient information about spills below 50 barrels and spills in water; absence of complete information; oversimplification of the failure cause categories on the current accident form (including a high percentage of causes reported in the “OTHER” category where accident cause does not fit into the three causes provided); and insufficient accident consequence and cause subelements for proper analysis.

RSPA's Approach for Improving Hazardous Liquid Accident Data

New Reporting Threshold

This notice proposes to lower the existing threshold for accident reporting for operators of hazardous liquid pipeline systems subject to RSPA regulations under Part 195. The existing threshold of 50 barrels would be lowered to the new threshold of 5 gallons. RSPA believes the consequence of spills as small as 5 gallons does not warrant full reporting to the extent justified for larger spills. Consequently, RSPA proposes to minimize the reporting burden for small spills by collecting only minimal information for spills from 5 gallons to less than 5 barrels, except where a spill of 5 gallons or more occurs in water. Spills between 5 gallons and less than 5 barrels that occur during normal maintenance activities are exempt if they are confined to the operator's property or pipeline right-of-way and they are cleaned up without delay. A spill of 5 or more barrels, or any accident reportable by the already existing criteria specified in section 195.50 will, as at present, require complete reporting.

In addition, because of the proposed reduction in the minimum spill reporting threshold, the requirement in § 195.50(c) for reporting highly volatile liquid (HVL) releases as small as 5 barrels is no longer needed. The proposed rule requires reporting of all releases down to 5 barrels, including HVLs. Therefore, we propose to delete § 195.50(c).

Improved Cause and Consequence Information

RSPA proposes to further improve the usefulness of the information collected on the hazardous liquid accident form RSPA F 7000-1 by strengthening the cause and consequence detail information. For details on the proposed changes, see the proposed form RSPA F 7000-1 and the proposed Instructions for Completing Form RSPA F 7000-1 in Docket No. RSPA-01-8663. The proposed accident report form revision will enhance safety and environmental protection from risks that hazardous liquid pipelines pose to people and the environment by helping RSPA to better identify safety trends and issues, target solutions, and monitor effectiveness and compliance.

Rulemaking Analyses*Executive Order 12866 and DOT Policies and Procedures*

RSPA does not consider this proposed rulemaking to be a significant regulatory action under section 3(f) of Executive Order 12866. RSPA also does not consider this proposed rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

A copy of the Draft Regulatory Evaluation is available for review in the docket. This section summarizes the findings of the draft regulatory evaluation. This proposed rulemaking addresses the problems with the data collection of hazardous liquid pipeline accidents.

Introduction

In recent years, the usefulness of the hazardous liquid accident data collection has been found to be limited due to the level of detail and accuracy and the quality of the data collected. Recognizing the limitations to effective pipeline safety analysis that these data deficiencies cause, the National Transportation Safety Board, the Department of Transportation Office of the Inspector General, and others have urged RSPA to make the pipeline safety data which RSPA collects more useful.

This proposal amends the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline spills from 50 barrels to 5 gallons, with an accompanying revision to the hazardous liquid accident form to improve its usefulness. On the revised accident form, reporting for spills from less than 5 barrels down to 5 gallons will require reporting minimal information, whereas any spill in water of 5 gallons or more, any spill of 5 barrels or more, or where otherwise reportable according to existing reporting criteria as outlined in 49 CFR 195.50, will require completion of the entire new proposed accident report. Additionally, RSPA proposes to further improve the usefulness of the information collected on the hazardous liquid accident form RSPA F 7000-1 by strengthening the cause and consequence detail information on the accident report.

Benefits

Accurate, meaningful pipeline safety incident information is needed for general trending of pipeline safety issues and for risk assessment applications, for deciding which pipelines need rehabilitation vs. replacement, for analyzing cost benefits, and for comparing individual operator

performance with industry performance. This safety information is used by RSPA for daily decision making in RSPA's assessment of pipeline risks, regulatory development, and programmatic resource allocation. RSPA also uses the information in monitoring industry performance and regulatory compliance, and for planning company standard safety inspections.

Costs

RSPA estimates that it will take each operator 1 hour to complete the short form, and estimates the long form will take each operator 7 hours to complete.

Based on a survey by the American Petroleum Institute (API), RSPA estimates the number of incidents reported annually will be 1,839. Of these reports, RSPA estimates that 427 will require the long form and 1,412 will require the short form.

Below is RSPA's estimate for the new requirements and an estimate of the former requirement for comparison purposes.

427 long forms × 7 hours = 2,989 hours.
1,412 short forms × 1 hour = 1,422 hours.

1,839 forms total; 4,411 hours total.

If the average cost is \$40 per hour, the total industry cost annually is \$176,440 (4,411 × \$40).

The previous cost to industry was 166 reports × 6 hours = 996 × \$40 = \$39,840. The net increase of the proposed change in the reporting threshold and the proposed changes to the forms is \$136,600 annually.

Conclusion

RSPA believes that the additional cost of \$136,600 annually is a relatively modest burden on the hazardous liquid pipeline industry. The benefits accruing to RSPA and the pipeline industry through the increase in the number of reports and the more detailed data should easily outweigh this modest cost. This increase in information received should allow RSPA and the hazardous liquid pipeline industry to identify safety issues and trends in the present state of pipeline safety, and to provide information that will allow operators to make changes to procedures and practices that will ultimately reduce pipeline accidents and improve pipeline safety.

Regulatory Flexibility Act

Dividing the incremental cost increase of \$136,600 by the approximately 200 hazardous pipeline operators shows the average incremental cost increase of this proposal is \$683 per operator. Based on this small increase in costs to the industry of this proposed rulemaking, I

certify, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this proposed rulemaking would not have a significant impact on a substantial number of small entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket described in the Filing Information, Electronic Access, and General Program Information section of the preamble.

Paperwork Reduction Act

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the DOT has submitted a copy of the Paperwork Reduction Act Analysis to the Office of Management and Budget (OMB) for its review. The name of the information collection is "Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Recordkeeping and Reporting Requirements (2137-0047)." A copy of the Paperwork Reduction Act analysis is available for review in the docket. This paperwork burden is an amendment to an already existing information collection that includes additional information requirements that are not a part of this rulemaking.

The approximately 192 hazardous liquid pipeline operators will be required to submit approximately 1,839 incident reports annually. The total hour burden will be 4,411 hours costing \$176,440 annually.

Organizations and individuals desiring to submit comments on the information collection should direct them to the addresses listed in the **ADDRESSES** section of the preamble. Comments must be sent within 60 days of the publication of this notice.

The OMB is specifically interested in the following issues concerning the information collection:

1. Evaluating whether the collection is necessary for the proper performance of the functions of the DOT, including whether the information would have a practical use;

2. Evaluating the accuracy of the DOT's estimate of the burden of the collection of information, including the validity of assumptions used;

3. Enhancing the quality, usefulness and clarity of the information to be collected; and

4. Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of

information technology (e.g., permitting electronic submission of responses).

The Paperwork Reduction Act of 1995 does not require a person to respond to a collection of information unless a valid OMB control number is displayed. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by OMB. For more details, see the Paperwork Reduction Analysis available for copying and review in the public docket.

Executive Order 13084

The proposed rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13084, "Consultation and Coordination with Indian Tribal Governments." Because the proposed rules would not significantly or uniquely affect the communities of the Indian tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Unfunded Mandates Reform Act of 1995

This proposed rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act

We have analyzed the proposed rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the proposed rule parallels present reporting requirements and practices, we have preliminarily determined that the proposed rule would not significantly affect the quality of the human environment. Generally, collection of information does not constitute an environmental impact. A final determination on environmental impact will be made after the end of the comment period. If you disagree with our preliminary conclusion, please submit your comments to the docket as described above.

Executive Order 13132

The proposed rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The proposed rule change does not propose any regulation that (1) has substantial direct effects on the States,

the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Nevertheless, during our review of the existing hazardous liquid reporting requirements, representatives of state pipeline safety agencies gave us advice both in private sessions and in the form of formal recommendations for pursuing improved accident information. In addition, our pipeline safety advisory committees, which include representatives of state governments, have been briefed on our plans for improving accident data.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Part 195 as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Amend § 195.50 to revise paragraph (b), to remove paragraph (c), and to redesignate paragraphs (d) through (f) as paragraphs (c) through (e), to read as follows:

§ 195.50 Reporting accidents.

* * * * *

(b) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) if the release is:

(1) Not one described in § 195.52(a)(4);

(2) Attributable to a pipeline maintenance activity;

(3) Confined to company property or pipeline right-of-way; and

(4) Cleaned up promptly.

* * * * *

Issued in Washington, D.C. on January 17, 2000.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

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