

requirement if (1) compliance with both the non-Federal and the Federal requirement is not possible; (2) the non-Federal requirement creates an obstacle to accomplishment of the Federal law or regulations; or (3) it is preempted under section 105(a)(4), concerning certain covered subjects, or section 105(b), concerning highway routing. Covered subjects include:

- (i) The designation, description, and classification of hazardous materials;
- (ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;
- (iv) The written notification, recording, and reporting of unintentional release in transportation of hazardous material; or
- (v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials. (49 App. U.S.C. 1804(a)(4)(A) and (B)).

This advance notice of proposed rulemaking addresses certain covered subjects. If rulemaking action leads to promulgation of a final rule, this rule would preempt any State, local, or Indian tribe requirements concerning covered subjects unless the non-Federal requirements are "substantively the same" (56 FR 20424, May 13, 1992) as the Federal requirement. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

Based on limited information concerning size and nature of entities likely affected, I certify that this advance notice of proposed rulemaking will not, if promulgated, have a significant impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act. This certification is subject to modification based on the merits of comments received.

Issued in Washington, DC, on February 26, 1993, under authority delegated in 49 CFR part 106, appendix A.

Robert A. McGuire,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-4882 Filed 3-2-93; 8:45 am]

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49 CFR Part 195

[Docket No. PS-117; Notice 3]

RIN 2137-AB86

Transportation of a Hazardous Liquid in Pipelines Operating at 20 Percent or Less of Specified Minimum Yield Strength

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: By regulatory exception, the Federal pipeline safety standards governing hazardous liquid pipelines do not apply to pipelines operated at a stress level of 20 percent or less of the specified minimum yield strength (SMYS) of the pipe. In this Notice of Proposed Rulemaking (NPRM), the Research and Special Programs Administration (RSPA) proposes to revise the current exception and to apply the pipeline safety standards to certain pipelines operating at a stress level of 20 percent or less of SMYS. RSPA expects that this rulemaking will improve public safety and environmental protection by minimizing the possibility of accidents.

DATES: Comments must be received by May 3, 1993. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8421 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: G. Joseph Wolf, (202) 366-4560, regarding the subject matter of this NPRM. Contact the Dockets Unit, (202) 366-4453, for copies of the NPRM or other docket material. Contact the Transportation Safety Institute, Pipeline Safety Division, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125, (405) 680-4643, for a copy of 49 CFR part 195.

SUPPLEMENTARY INFORMATION:

Background

When the Federal pipeline safety regulations applicable to transportation of hazardous liquids by pipeline (49 CFR part 195) were issued in 1969, pipelines operated at a stress level of 20 percent or less of SMYS, hereafter referred to as low stress pipelines, were

excepted from the regulations because they were thought to pose little risk to public safety. Since then, however, accidents that have occurred on low stress pipelines provide reasons to reconsider the exception. Recent failures of such pipelines and recommendations to revise their exception from regulation were described in the Advance Notice of Proposed Rulemaking (ANPRM) published on October 31, 1990 (Notice 1; 55 FR 45822). The ANPRM noted that RSPA would determine whether and to what extent to remove the exception. Based on data in the responses to the ANPRM, which indicate a favorable benefit to cost ratio, RSPA is proposing to regulate certain low stress pipelines.

Current Requirements

Section 195.1(b)(3) provides that Part 195 does not apply to "Transportation of a hazardous liquid through pipelines that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe." The pipelines excepted are those steel pipelines in which the internal operating pressure results in a stress level of the pipe that does not exceed 20 percent of SMYS at any point along the length of the pipeline.

Information Acquisition

Because low stress pipelines have been excepted under § 195.1(b)(3), owners and operators are excepted from filing accident reports with RSPA pursuant to subpart B of part 195.

Consequently, RSPA lacked accident data about such pipelines. However, the ANPRM contained a questionnaire for the purpose of gathering information to make a decision regarding rulemaking. The owners or operators of hazardous liquid pipelines operated at 20 percent or less of SMYS and not otherwise excepted under § 195.1(b) were requested to complete the questionnaire for each such pipeline and return it. RSPA requested the information in the questionnaire to estimate the number and mileage of low stress pipelines, to perform a regulatory impact analysis (including a cost-benefit analysis), and to develop and consider alternatives that would ensure the safe operation of low stress pipelines.

In addition, state and local governments and other interested parties were invited to provide comments and available information about low stress pipelines located within their jurisdictions. Comments received provided the data to develop the proposals in this NPRM.

Data Summary

RSPA received 50 responses to the ANPRM: 40 from pipeline operators, 2 from other representatives of the pipeline industry, 5 from government representatives, and 3 from unaffiliated members of the public. The data furnished in the responses were tabulated in computerized format. Using the computerized data and the narrative comments in the responses, the Volpe National Transportation Systems Center (VNTSC) of RSPA prepared a draft regulatory evaluation titled "Economic Evaluation of Regulating Certain Hazardous Liquid Pipelines Operating at 20% or Less of Specified Minimum Yield Strength."

Nine of the 40 pipeline operators who submitted comments furnished no data. The other 31 operators reported the operation of 1555 individual pipelines, a total of more than 3,600 miles, operating at a stress level of 20% or less of SMYS. The largest number of these are classified as interfacility lines (lines between petrochemical facilities) with 996 lines (939 miles) reported. Also reported were 272 trunk pipelines (1,816 miles), 153 gathering lines (564 miles), 116 offshore pipelines (463 miles, estimated), and 105 delivery pipelines (126 miles). Interfacility and delivery lines are described later. For 12 pipelines, information furnished was inadequate for classifying the lines. Based on the data submitted, regulated hazardous liquid pipeline miles would increase an estimated 5 percent to 157,100 miles if low stress pipelines were regulated to the extent proposed in this NPRM.

The sum of the miles of pipelines in high risk areas as defined in the ANPRM exceeded the total miles of pipelines reported because many pipeline lengths are in more than one kind of higher risk area. For those pipelines for which risk or absence of risk was reported, the sum of the total length of all pipelines that traverse higher risk areas was 1,045 miles. Of those 1,045 miles, 349 miles (33 percent) traverse populated areas, and 101 miles (10 percent) cross navigable waters, some both traversing populated areas and crossing navigable waters.

Comments and Analysis

RSPA anticipated that there were three categories of low stress pipelines—interfacility lines moving hazardous liquids between petrochemical facilities, gathering lines, and trunk (long distance transportation) lines. Commenters to the ANPRM discussed an additional category of low stress pipelines which they called

delivery lines. Delivery lines generally were described as pipelines that transport hazardous liquids between trunk lines or marine facilities and other petrochemical facilities, for example, refineries, manufacturing plants, and storage or transfer terminals.

In general, operators report that deleting the exception would have minimal economic impact on the operation of low stress trunk lines. Minimal impact is expected because many low stress trunk lines already are operated in accordance with Part 195 even though they are excepted from this requirement. On the other hand, operators anticipate that the initial and continuing annual cost of complying with Part 195 for delivery lines, interfacility lines and gathering lines will be high. Some operators reported anticipated costs of compliance, which have been considered in a regulatory impact analysis of the proposed changes.

Most trunk lines are operated at an internal pressure creating a pipe hoop stress in excess of 20 percent of SMYS of the pipe because it is not economical to construct and operate trunk lines at a low stress. To maximize economy, many trunk lines are designed to be operated at the maximum pressure permitted by Part 195, which is equivalent to 72 percent of SMYS. Low stress trunk pipelines represent 18 percent of the pipelines and 53 percent of the mileage reported and have an average length of 6.7 miles. They are operated at low stress for varying reasons.

In the ANPRM, RSPA stated that it believed that there may be a limited number of low stress trunk lines that transport hazardous liquids for long distances. RSPA believed that these pipelines are operated at low stress because typically they are old and potentially in poor condition. Some operators disputed RSPA's belief, stating that a pipeline is operated at low stress for numerous reasons but not because of its age or condition. Among the reasons given were: structural considerations other than internal pressure (for example, rigidity); low volume demands on the pipeline; diminishing volumes transported; and minimal consequences of damage from external sources.

Of the pipelines for which length was reported, 20 pipelines were reported to be 30 miles and longer. Of the 20 lines, 15 were trunk lines which normally would be operated at high stress. RSPA considered that the average accident costs per mile reported for these 20 longer lines are about one-fourth of the average for all types of low stress

pipelines. Therefore, the longer low stress trunk lines represent no greater risk than all reported pipelines operated at low stress. Regulation of a low stress pipeline on the basis of its length is not proposed.

Gathering lines represent another category of low stress pipelines. As set forth in § 195.1, gathering lines in non-rural areas, other than low stress lines, currently are subject to Part 195, while gathering lines in rural areas, regardless of their stress level, are not subject to those rules. Of 1526 pipelines identifiable by pipeline category for which length was reported, there were 153 gathering lines (564 miles) with an average length of 3.7 miles. They represent 16 percent of the mileage and 10 percent of the pipelines analyzed.

Some operators and one industry trade association commented that, if regulated, low stress gathering lines in economically marginal operations could be shut down. They further commented that shutdown would result in hazardous liquids being moved by other modes of transportation, which they argue are more expensive and more hazardous. The commenters did not suggest specific separate treatment for economically marginal gathering operations.

Some operators expressed concern that gathering lines in rural areas would become regulated. No change in the definition of rural area is proposed, and rural gathering lines have been excepted from regulation by statute. However, the Pipeline Safety Act of 1992, Public Law No. 102-508, which was enacted on October 24, 1992, allows regulation of rural gathering lines. Therefore, certain rural gathering lines currently excepted from regulation may be regulated in the future. In this NPRM, RSPA proposes to regulate low stress gathering lines only to the extent they are located in populated areas or offshore.

The ANPRM questionnaire requested reports of pipelines within 220 yards of populated areas, defined as areas other than rural areas under § 195.2. Currently, gathering lines in non-rural (populated) areas are subject to Part 195 unless they are operated at low stress. The data reported indicate that some low stress gathering lines are transporting large volumes of hazardous liquids in populated areas. Some operators suggested that no gathering lines should be regulated but offered nothing to address the safety and environmental concerns about gathering lines or a rationale for different treatment. RSPA proposes to regulate those lengths of low stress level gathering lines traversing populated areas. Whether all gathering lines

(regardless of their stress level), including those in populated areas, should be excepted from regulation is beyond the scope of this rulemaking.

Some operators expressed concern that incorporated political subdivisions of state governments such as counties and townships would be considered by regulation to be non-rural areas, and therefore that gathering lines in such areas would become regulated. Under the definition in § 195.2, rural area means outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development. A county, township, and similar political subdivision is not the same as a city, town, or village. Therefore a gathering line in a rural area of a county, township or similar political subdivision is not intended to be regulated.

Comments confirmed RSPA's belief that low stress interfacility pipelines used to move hazardous liquids to or from petrochemical facilities such as refineries, manufacturing plants, and hazardous liquid terminals, are relatively short. Low stress operation is adequate to move the liquid to or from the complex at the rate required for operation. Design of such pipelines frequently is based on considerations other than internal pressure, for example, additional thickness to provide rigidity or an allowance for expected corrosion. The operators of low stress interfacility lines usually have not operated pipelines subject to part 195, and therefore may not be familiar with its requirements. Certain interfacility pipelines will become regulated under the proposed rulemaking. Interfacility lines represented about 65 percent of the pipelines and 27 percent of the miles reported. Included in these interfacility pipeline statistics are 891 pipelines (716 miles) reported by one operator, Shell, of a total of 996 interfacility pipelines (939 miles) reported.

In response to the ANPRM, commenters asked whether intrafacility lines (in-plant piping) within petrochemical facilities and interfacility lines (piping connecting facilities) crossing a common boundary or a single public thoroughfare between adjacent properties would be subject to regulation if the regulations were changed. Intrafacility lines are excepted from regulation in accordance with § 195.1(b)(6). However, intrafacility piping connecting adjacent facilities separated by navigable waterways or separated by third party property other

than single public thoroughfares in populated areas would be subject to the regulations if the 20% SMYS exception is modified.

The data reported in response to the ANPRM indicate that delivery lines were a type of low stress pipeline not anticipated by RSPA prior to the ANPRM. Comments by operators indicate that low stress delivery lines typically are short lines. The data for those reported (105 lines, 126 miles) indicate an average length of about 1¼ mile. They represent a small portion of the lines affected by the proposed rulemaking, but generally they move large volumes of hazardous liquids. Of all pipelines reported, delivery lines represent only about 7 percent of the lines and 4 percent of the miles. The proposed rules would regulate many of these low stress delivery lines based on their transporting a highly volatile liquid or traversing a populated area or navigable waterway. RSPA does not propose a separate treatment for them.

Some operators expressed concern that piping within storage or terminal facilities would become regulated. Piping associated with breakout tanks at storage facilities of regulated hazardous liquid pipelines currently is regulated, regardless of operating stress, if the liquids are reinjected and transported further by a pipeline system that is regulated. Conversely, piping within distribution and marketing terminals exclusively transferring hazardous liquids between modes of transportation excepted from regulation under § 195.1(b)(7).

Some operators explicitly included the cost to pressure test in their estimates of the cost of compliance. The treatment of the cost of hydrostatic testing is covered in the regulatory impact analysis performed by VNTSC.

Some operators and one government representative have suggested the use of pneumatic testing (air under pressure) as a low cost alternative to hydrostatic testing (water under pressure). The American Society of Mechanical Engineers (ASME) Code for Pressure Piping ASME B31.4-1989 Edition for Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols (B31.4) permits the use of hydrostatic or pneumatic testing for pipelines to be operated at a hoop stress of 20 percent or less of SMYS of the pipe. Part 192 (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards) permits the use of pneumatic tests as an alternative to hydrostatic tests. The use of pneumatic testing would eliminate the need to collect and process the testing water

contaminated by residual contents of the pipeline. RSPA has not included a proposal to permit pneumatic testing of hazardous liquid pipelines. Comments are invited on whether and to what extent pneumatic testing should be permitted in lieu of hydrostatic testing.

Some commenters claimed that the cost to bring low stress pipelines into compliance and to operate the pipelines in compliance with Part 195 is not commensurate with the benefits of regulation. The principal costs noted were preparation and maintenance of operations and maintenance manuals, drug testing programs, pressure monitoring equipment, cathodic protection systems, and pressure testing. Some operators of low stress pipelines suggest that, because of the cost, only low stress pipelines traversing populated areas, navigable waters, or environmentally sensitive areas should be considered for regulation. Two government commenters supported removing the blanket exception for low stress pipelines, but argued for a limited exception based on criteria such as age, length, location, and volume transported. Two other government commenters supported regulation of all low stress pipelines.

RSPA carefully considered comments that suggested regulating low stress pipelines. The regulatory impact analysis indicates that the benefits of regulating all low stress pipelines substantially exceed the costs. At this time, RSPA proposes regulating low stress pipelines only on the basis of one or more measures of risk as discussed below.

Several commenters discussed the length of time needed to comply with regulations if the exception is deleted or modified. Both 1 year and 5 years were suggested as the time needed for compliance. Comments are solicited as to whether one year would provide sufficient time to bring newly regulated low stress pipelines into compliance with parts 195 and 199.

A letter from Senator Lautenberg of New Jersey suggested that RSPA require that operators of low stress pipelines apply to RSPA on an individual basis to continue the exception from regulation of individual low stress pipelines. The Senator would require that operators certify initially and annually thereafter the conditions justifying the exception. Since RSPA's proposal would discontinue the exception for most higher risk pipelines, and there is an existing method to obtain waiver from regulation, RSPA plans no further action on this comment.

Proposal

RSPA proposes to revise § 195.1(b)(3) which exempts low stress pipelines from regulation under Part 195 by excepting from regulation only a low stress pipeline that is not used in the transportation of a highly volatile liquid or that does not traverse a populated area or a navigable waterway. RSPA does not propose to regulate low stress pipelines on the basis of any additional criteria. RSPA's proposed rule will reduce the risk to public safety and the environment and is supported by a favorable benefit/cost ratio determined on the basis of data furnished by operators of low stress hazardous liquid pipelines and published data on pipelines. This proposal was developed in response to recommendations from the National Association of Pipeline Safety Representatives (NAPSR) and the Safety Review Task Force of the Department of Transportation (DOT). It also is responsive to the delegation to RSPA following passage of the Oil Pollution Act of 1990 regarding prevention of spills and the containment of oil in pipelines. This delegation concerns the prevention of pollution of navigable waters, shorelines, and the exclusive economic zone. Finally, this proposal is responsive to the amendment to section 203(b) to the Hazardous Liquid Pipeline Safety Act (HLPESA) made by section 206 of the Pipeline Safety Act of 1992. That amendment provides that exception to regulation under the HLPESA shall not be based solely on operation at low internal stress.

RSPA now proposes to regulate the low stress pipelines which are used for the transportation of highly volatile liquids or which traverse populated areas or crossing navigable waterways. RSPA is deferring a decision on whether to propose regulation of low stress lines in environmentally sensitive areas because that subject is being studied to evaluate the extent to which pipeline spills affect environmentally sensitive areas and to develop a definition of environmentally sensitive areas appropriate for pipeline regulation.

This proposal to regulate low stress pipelines that cross navigable waters will assure that pipelines that could be struck and damaged by vessel operations, will not be excepted from regulation. Low stress pipelines also may be located in water which is "navigable" under some definitions, but which is not navigable in fact. Because these pipelines are not at risk of being damaged by vessel operations, RSPA does not propose to regulate such pipelines at this time. They will be

considered for regulation when RSPA considers extension of the regulation of low stress pipelines in environmentally sensitive areas.

Regardless of the stress at which they are operated, pipelines are vulnerable to damage from the two principal causes of pipeline failures—outside force damage and corrosion. Admittedly, pipelines which are operated at lower stresses may survive damage from outside force and corrosion for a longer period before failure than will high stress pipelines, but the risk of failure is present nevertheless. The December 1989 Exxon pipeline failure, which spilled oil into the Arthur Kill waterway between New York and New Jersey at a cost of \$45 million, is an illustration of a spill from an unregulated low stress pipeline caused by outside force damage. The December 1986 Kinley pipeline failure, which spilled 5000 gallons of jet fuel into surface and ground water in Iowa and has cost \$273,000 to date, is an illustration of a spill from an unregulated low stress pipeline caused by corrosion.

Under the proposed rulemaking, RSPA would revise § 195.1(b)(3), which now exempts from regulation all low stress pipelines, to regulate certain new and existing low stress pipelines. Existing pipelines that would be brought under the regulations because of the modification of the exception would be subject to Part 199 and all subparts of Part 195 except Subparts C—Design Requirements, D—Construction, and E—Hydrostatic Testing, except that Subpart E would apply only to low stress pipelines used in the transportation of a highly volatile liquid (HVL). The exception from the design and construction requirements is covered by the proposed addition of § 195.401(c)(5). Although the requirements of Subpart E—Hydrostatic Testing currently would not apply to non-HVL pipelines constructed before dates specified in § 195.302, an NPRM published on May 22, 1991 (Docket No. PS-121; Notice 1; 56 FR 23538) proposes hydrostatic testing of those pipelines at a pressure at least 25 percent in excess of the maximum operating pressure or, alternatively, a commensurate reduction of the operating pressure. RSPA proposes that the testing rules proposed in PS-121 Notice 1 would not apply to non-HVL low stress pipelines that would become subject to Part 195 if § 195.1(b)(3) is modified as proposed in this NPRM.

All sections of parts 195 and 199 would apply to regulated low stress pipelines constructed after the effective date of the issuance of a final rule. The proposed modification of § 195.1(b)(3)

would not affect pipelines currently excepted by other criteria in § 195.1(b).

RSPA proposes to correct § 195.1(b)(7) to delete the period at the end and add "; and". This will clarify that part 195 does not apply to pipelines excepted under any of the criteria in § 195.1(b).

Operators of pipelines currently excepted under § 195.1(b)(3) are cautioned that proposed regulations being considered now or in the future may apply to the operation of those pipelines currently excepted under § 195.1(b)(3), and are advised to follow all notices pertaining to hazardous liquid pipeline regulation appearing in the Federal Register.

Request for Comments

Comments may address any aspect of this proposal. However, RSPA requests specific comments on the following: Whether there should be separate treatment in this rulemaking for economically marginal gathering line operations in non-rural areas and what form such treatment should take; whether pneumatic testing of low stress pipelines should be permitted as an alternative to hydrostatic testing under subpart E; and whether one year would provide sufficient time to comply with parts 195 and 199 to the extent they would be made applicable.

Impact Assessment

These proposals would extend the requirements of parts 195 and 199 to certain steel pipelines currently excepted from regulation solely on the basis of a low operating stress level under § 195.1(b)(3). Pipelines constructed prior to or under construction on the effective date of the proposed rule would be subject to all of Part 195 except subparts C, D, and E which apply respectively to design, construction, and hydrostatic testing. Operators have raised issues regarding the cost of implementation, particularly regarding the cost of implementation for gathering lines in areas other than rural areas. Operators also have suggested that any change to the existing exception be limited to low stress pipelines in higher risk areas. The proposed modification of the regulations is consistent with these operator comments.

From the responses to the ANPRM, the accident cost per mile per year on low stress pipelines not operated in accordance with those regulations was estimated to be \$3692. The accident cost per mile per year on low stress pipelines already operated in accordance with the pipeline safety regulations was estimated to be \$105 per mile per year. Further, the five-year average cost of

accidents on high stress (regulated) lines taken from incident reports in OPS files is similar to the costs for those low stress lines operated in compliance with the regulations. Therefore, RSPA presumes that the cost of accidents on low stress pipelines will be reduced to a level of \$105 per mile per year.

In developing the analysis, the cost of the Exxon Arthur Kill accident was distributed over ten years. RSPA considers this distribution period equitable because of the age of pipelines systems in general, and because the cost consequences of accidents are increasing rapidly as a consequence of environmental considerations. Overall, the regulatory impact analysis indicates a favorable benefit/cost ratio.

Regulatory Analyses and Notices Executive Order 12291 and DOT Policies and Procedures

This proposed rule is considered to be non-major under Executive Order 12291, and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A Draft Regulatory Evaluation has been prepared and is available in the docket.

Paperwork Reduction Act

The reporting requirements in subpart B and recordkeeping requirements under §§ 195.54, 195.55, 195.56, 195.57, 195.234, 195.266, 195.310, 195.402, and 195.404 are being submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Transportation. This submission would modify the current approval of pipeline recordkeeping and accident reporting under OMB Nos. 2137-0047, 2137-0578, and 2137-0583. The proposed regulation of certain pipelines operated at 20 percent or less of SMYS would represent an increase of about 7100 additional pipeline miles subject to the reporting and recordkeeping requirements in Part 195, or 5 percent more than the miles currently subject to those requirements. RSPA estimates that burden hours for recordkeeping and accident reporting will increase a total of 2494 hours above the current burden of 55639 hours to 58133 hours.

Regulatory Flexibility Act

Based on the facts available about the anticipated impact of this proposed rulemaking action, I certify, pursuant to

section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that the action will not have a significant economic impact on a substantial number of small entities, because few, if any, small entities operate pipelines subject to part 195. Each operator responding to the ANPRM reported that it was not a small business.

Executive Order 12612

RSPA has analyzed this action in accordance with the principles and criteria contained in E.O. 12612 (52 FR 41685) and has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

Part 195—Transportation of Hazardous Liquids by Pipeline

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

Authority: 49 App. U.S.C. 2001 et seq.; 49 CFR 1.53.

2. Section 195.1 would be amended by revising paragraphs (b)(3) and (b)(7), and adding paragraph (d) to read as follows:

§ 195.1 Applicability.

* * * * *

- (b) * * *
- (3) Transportation of a hazardous liquid through a pipeline that is operated at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe, and that:
- (i) Is not used in the transportation of highly volatile liquids;
- (ii) Does not traverse a populated area; or
- (iii) Does not traverse a navigable waterway.

(7) Transportation of a hazardous liquid or carbon dioxide by vessel, aircraft, tank truck, tank car, or other vehicle, or terminal facilities used exclusively to transfer hazardous liquids or carbon dioxide between such modes of transportation; and

(d) The operator of a pipeline that was excepted from regulations prior to [date of publication of the final rule will be inserted] on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe must comply with this part by [one year after the date of publication of the final rule will be inserted].

3. Section 195.2 would be amended by adding in appropriate alphabetical order the following definitions:

§ 195.2 Definitions.

* * * * *

Navigable waterway means a waterway which is navigable in fact and is currently used for commercial navigation.

* * * * *

Populated area means any onshore area other than a rural area.

* * * * *

4. Section 195.302 would be amended by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

§ 195.302 General requirements.

* * * * *

(c) After [one year after date of publication of the final rule will be inserted], no person may transport a highly volatile liquid in a pipeline that was excepted from regulation under this part prior to [date of publication of the final rule will be inserted] on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe unless the pipeline has been hydrostatically tested in accordance with this subpart or its maximum operating pressure has been established under § 195.406(a) (6) or (7).

* * * * *

5. Section 195.401 would be amended by adding paragraph (c)(5) to read as follows:

§ 195.401 General requirements.

(c) * * *

(5) A pipeline not regulated on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe prior to [date of publication of the final rule will be inserted] on which construction was begun after [date of publication of the final rule will be inserted].

6. Section 195.406 would be amended by adding paragraphs (a)(6) and (a)(7) to read as follows:

§ 195.406 Maximum operating pressure.

(a) * * *

(6) In the case of a pipeline used for the transportation of hazardous liquids that was not regulated prior to [date of publication of the final rule will be inserted] because it was operated at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe and that was not tested under subpart E of this part, 80 percent of the test pressure or 100 percent of the highest operating pressure to which the

pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

(7) In the case of a pipeline used for the transportation of highly volatile liquids that was not regulated prior to [date of publication of the final rule will be inserted] because it was operated at

a stress level of 20 percent or less of the specified minimum yield strength of the line pipe and that was not tested under subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the

time the test or operations were conducted.

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Issued in Washington, DC on February 26, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

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