

the DAB will be sent by certified mail, return receipt requested, to the Chief Counsel to the IG. The petition copy will be time-stamped by the clerk of the court when the original is filed with the court.

(3) If the Chief Counsel to the IG receives two or more petitions within 10 days after the DAB issues its decision, the Chief Counsel to the IG will notify the U.S. Judicial Panel on Multidistrict Litigation of any petitions that were received within the 10-day period.

Dated: March 11, 1998.

**June Gibbs Brown,**

*Inspector General, Department of Health and Human Services.*

Approved: April 13, 1998.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 98-23462 Filed 8-28-98; 4:23pm]

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 195

[Docket No. PS-117; Amdt. 195-64]

RIN 2137-AC87

#### Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals

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

**ACTION:** Final rule.

**SUMMARY:** This final rule excludes from RSPA's safety standards for hazardous liquid pipelines low-stress pipelines regulated for safety by the U.S. Coast Guard and low-stress pipelines less than 1 mile long that serve certain plants and transportation terminals without crossing an offshore area or a waterway currently used for commercial navigation. RSPA previously stayed enforcement of the standards against these pipelines to mitigate compliance difficulties that did not appear warranted by the safety risk. The rule change conforms the standards with this enforcement policy and eliminates duplicative and unnecessarily burdensome regulation.

**EFFECTIVE DATE:** October 2, 1998.

**FOR FURTHER INFORMATION CONTACT:** L.M. Furrow at (202)366-4559 or furrowl@rspa.dot.gov.

**SUPPLEMENTARY INFORMATION:**

#### Background

In 1994, in response to a new pipeline safety law (49 U.S.C. 60102(k)), RSPA

amended the hazardous liquid pipeline safety standards in 49 CFR Part 195 to cover certain low-stress pipelines (59 FR 35465; July 12, 1994). A low-stress pipeline is a pipeline that operates in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe (§ 195.3). Except for onshore rural gathering lines and gravity-powered lines, the following categories of low-stress pipelines were brought under the standards: (1) Offshore pipelines; (2) onshore pipelines that transport highly volatile liquids; (3) onshore pipelines located outside rural areas; and (4) onshore pipelines located in waterways currently used for commercial navigation (§ 195.1(b)(3)).

Interfacility transfer lines comprised the largest percentage of low-stress pipelines brought under Part 195. These lines move hazardous liquids for short distances between truck, rail, and vessel transportation terminals, manufacturing plants (including petrochemical plants), and oil refineries, or between these facilities and associated storage or long-distance pipeline transportation.

Information in the rulemaking docket showed that bringing interfacility transfer lines into full compliance with Part 195 would be difficult for many operators. The primary difficulty was that transfer lines are not customarily installed and operated according to Part 195 standards. For example, considering their short length and low operating stress, additional pipe wall thickness is often used to resist expected corrosion instead of cathodic protection as Part 195 requires. Because of this and other disparities, operators were allowed to delay compliance of their existing lines until July 12, 1996 (§ 195.1(c)).

Before the compliance deadline, interfacility transfer line operators and their Washington representatives continued to argue that meeting Part 195 requirements would not bring commensurate safety benefits. The operators were particularly concerned about the strain on resources and potential adverse effects of having to meet the separate federal regulatory regimes of RSPA, the Occupational Safety and Health Administration (OSHA), and the U.S. Coast Guard.

The operators explained that segments of interfacility transfer lines on facility grounds are subject to OSHA's Process Safety Management standards (29 CFR 1910.119). Compliance with these standards affects operation of the off-grounds segments that come under Part 195. Similarly, compliance with Part 195 on off-grounds segments would affect operation of the on-grounds segments.

Operators said this overlapping effect would result in analogous administrative costs for records, procedures, and manuals. Worse yet it would create opportunities for mistakes when operating personnel have to meet different requirements with similar objectives. In addition, for transfer lines between vessels and marine transportation-related facilities, the U.S. Coast Guard safety regulations (33 CFR Parts 154 and 156) would compound the overlap problem. Not only would applying Part 195 to these marine terminal transfer lines duplicate agency efforts within DOT, it also would leave the industry uncertain which DOT safety standards apply in particular instances.

At the same time, we began to realize that carrying out adequate compliance inspections on interfacility transfer lines would require a significant increase in resources. We estimated that about 11,000 miles of low-stress pipelines were brought under Part 195, with over a third of the mileage composed of short interfacility transfer lines. Just the job of finding and educating the many operators of these short lines would likely be a major, protracted effort.

In consideration of these industry and government compliance difficulties and the limited public risk involved, we concluded that the potential benefits of complying with Part 195 did not justify the expense for certain short interfacility transfer lines and lines regulated by the Coast Guard. Consequently, we announced a stay of enforcement of Part 195 against these lines (61 FR 24245; May 14, 1996). The stay applied to low-stress pipelines that are regulated by the Coast Guard or that extend less than 1 mile outside plant or terminal grounds without crossing an offshore area or any waterway used for commercial navigation.

Following the stay of enforcement, we published a direct final rule that excluded from Part 195 interfacility transfer lines covered by the stay (62 FR 31364; June 9, 1997). However, because we received a written adverse comment on this action, we withdrew the direct final rule before it took effect (62 FR 52511; October 8, 1997).

Later, based on the direct final rule and comments we had received on it, we again sought to remove the lines from Part 195 by issuing a notice of proposed rulemaking (63 FR 9993; February 27, 1998). Four persons submitted comments on this notice: the Chemical Manufacturers Association, the Independent Liquid Terminals Association, the Independent Fuel Terminal Operators Association, and the American Petroleum Institute. Each of

the commenters supported the proposed action. The commenters agreed with our assessment that the limited safety and environmental risk of the lines does not warrant applying Part 195 standards on top of the existing regulatory coverage by OSHA and the Coast Guard.

**Advisory Committee Review**

We presented the proposed rule change, including risk assessment and supporting analyses, for consideration by the Technical Hazardous Liquid Pipeline Safety Standards Committee at a meeting in Washington, D. C. on May 6, 1998. This statutory advisory committee reviews all safety rules RSPA proposes for hazardous liquid pipelines. The Committee comprises 15 members, representing industry, government, and the public, who are qualified to evaluate hazardous liquid pipeline safety standards. The Committee voted to recommend adoption of the proposed rule without change. The Committee's report on the matter is available in the docket of this proceeding.

**Regulatory Analyses and Notices**

*A. Executive Order 12866 and DOT Policies and Procedures*

The Office of Management and Budget (OMB) does not consider this action to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). Therefore, OMB has not reviewed this final rule document. DOT does not consider this action significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979).

RSPA prepared a study of the costs and benefits of the Final Rule that extended Part 195 to cover certain low-stress pipelines (Final Regulatory Evaluation, Docket No. PS-117). That study, which encompassed short or Coast Guard regulated interfacility transfer lines, showed that the Final Rule would result in net benefits to society, with a benefit to cost ratio of 1.5.

The Final Regulatory Evaluation determined costs and benefits of the Final Rule on a mileage basis. But while costs were evenly distributed, most of the expected benefits were projected from accident data that did not involve short or Coast Guard regulated interfacility transfer lines. Since the present action affects only these lines, it is reasonable to believe the action will reduce more costs than benefits. Thus, the present action should enhance the net benefits of the Final Rule. Because of this likely economic effect, a further regulatory evaluation of the Final Rule

in Docket No. PS-117 or of the present action is not warranted.

*B. Regulatory Flexibility Act*

Low stress interfacility transfer lines covered by the present action are associated primarily with the operation of refineries, petrochemical and other industrial plants, and materials transportation terminals. In general, these facilities are not operated by small entities. Nonetheless, even if small entities operate low-stress interfacility transfer lines, their costs will be lower because this action reduces compliance burdens. Therefore, based on the facts available about the anticipated impact of this rulemaking action, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

*C. Executive Orders 13083 and 13084*

This rule will not have a substantial direct effect on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government, and also would not significantly or uniquely affect Indian tribal governments. Therefore, the consultation requirements of Executive Orders 13083 ("Federalism") and 13084 ("Consultation and Coordination with Indian Tribal Governments") do not apply. Nevertheless, because states with hazardous liquid pipeline safety programs ultimately monitor the compliance of intrastate pipelines with the rule, RSPA routinely consults with state pipeline safety representatives during early stages of rulemaking.

*D. Paperwork Reduction Act*

This action reduces the pipeline mileage and number of operators subject to Part 195. Consequently, it reduces the information collection burden of Part 195 that is subject to review by OMB under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of Part 195 through May 31, 1999 (OMB No. 2137-0047).

*E. Unfunded Mandates Reform Act of 1995*

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does 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 is the least

burdensome alternative that achieves the objective of the rule.

**List of Subjects in 49 CFR Part 195**

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

In consideration of the foregoing, RSPA amends 49 CFR Part 195 as follows:

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. In § 195.1, the introductory text of paragraph (b) is republished, and paragraph (b)(3) is revised to read as follows:

**§ 195.1 Applicability.**

\* \* \* \* \*

(b) This part does not apply to—

\* \* \* \* \*

(3) Transportation through any of the following low-stress pipelines:

(i) An onshore pipeline or pipeline segment that—

(A) Does not transport HVL;

(B) Is located in a rural area; and

(C) Is located outside a waterway currently used for commercial navigation;

(ii) A pipeline subject to safety regulations of the U.S. Coast Guard; or

(iii) A pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than 1 mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation;

\* \* \* \* \*

Issued in Washington, D.C. on August 28, 1998.

**Kelley S. Coyner,**  
*Administrator.*

[FR Doc. 98-23661 Filed 9-1-98; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 226**

[Docket No. 971124276-8202-02; I.D. No. 110797B]

RIN 0648-AH88

**Designated Critical Habitat; Green and Hawksbill Sea Turtles**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Endangered Species Act of 1973 (ESA), NMFS is