

they choose this option in lieu of must-carry status.

VII. *Any significant alternatives minimizing impact on small entities and consistent with stated objective.* None.

35. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice of Proposed Rule Making, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).
Ex Parte

36. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.203, and 1.206(a).

Comment Dates

37. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 4, 1993, and reply comments on or before January 19, 1993. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, 1919 M Street NW., Washington, DC 20554.

Ordering Clauses

38. Authority for this proposed Rule Making is contained in sections 4 (i) and (j), and 303 of the Communications Act of 1934, as amended, and the Cable Television Consumer Protection and

Competition Act of 1992, Public Law No. 102-385.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Assistant Secretary.

[FR Doc. 92-28712 Filed 11-25-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket PS-127; Notice 1]

RIN 2137-AC27

Regulatory Review: Hazardous Liquid and Carbon Dioxide Pipeline Safety Standards

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change miscellaneous hazardous liquid and carbon dioxide pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic growth. The proposed changes result from the regulatory review RSPA carried out in response to the President's directive on reducing the burden of government regulation. The proposed changes would reduce costs in the liquid pipeline industry without compromising safety.

DATES: RSPA invites interested persons to submit comments by December 28, 1992. Comments filed after this deadline will be considered only to the extent that is 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 numbers 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: J. Willock, (202) 366-2392, regarding the subject matter of this notice, or the Dockets Unit, (202) 366-5046, regarding copies of this notice or other material that is referenced in this notice.

SUPPLEMENTARY INFORMATION:

Background

In a January 28, 1992, memorandum, President Bush wrote to Department and agency heads about the need to reduce the burden imposed by government regulation. The President was concerned that agencies were not doing enough to review and revise existing regulations to eliminate unnecessary and overly burdensome requirements. The President recognized that regulations that do not keep pace with new technologies and innovations impose needless costs and impede economic growth.

The President's memorandum called for a 90-day moratorium on issuing certain proposed or final regulations. The President asked agencies to use that period to review their existing regulations to identify those that are not cost-effective and to determine which could be more goal-oriented, could include market mechanisms, and could be clarified to avoid needless litigation. Each agency was asked to propose, as soon as possible, administrative changes to correct those regulations identified by the review.

In response to the President's memorandum, DOT published a notice requesting public comment on the Department's regulatory programs (57 FR 4745; Feb. 7, 1992). Commenters were asked to identify regulations that substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, impose needless costs or red tape, or overlap or conflict with other DOT or Federal regulations. The deadline for submitting comments was March 2, 1992.

RSPA received comments from six organizations about the pipeline safety regulations in part 195. Comments were from three regulated pipeline companies, a pipeline trade association, a state pipeline safety agency, and a federal agency. RSPA has carefully considered all comments in its review of the regulations, and these comments are available in the docket. Some comments will be considered in future rulemakings. Additionally, RSPA is preparing a separate rulemaking "Update of Standards Incorporated by Reference" which updates the editions of the industry standards that are incorporated in part 195.

By memorandum of April 29, 1992, the President continued the moratorium on certain proposed and final regulations for 4 additional months. With regard to the review of existing regulations, the President requested that, as soon as

possible, agencies publish those proposed changes which require public comment.

Proposed Changes to Part 195 Safety Standards

The following discussion explains the changes RSPA proposes to various standards in part 195:

Section 195.1 Applicability

Section 195.1(b)(5) currently states that part 195 does not apply to the offshore transportation of hazardous liquid or carbon dioxide upstream from the outlet flange of each facility on the Outer Continental Shelf (OCS) where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. RSPA proposes to delete the phrase "on the Outer Continental Shelf", and to apply the same exception to similar pipelines in state offshore waters.

The current regulations are not clear where the applicability of Part 195 begins on offshore gathering lines in state waters. Shell Offshore, Inc. proposed a similar change in comments to an NPRM proposing to better define gathering lines (56 FR 48505; September 25, 1991; Docket PS-122).

This revision will clarify that part 195 does not apply to field production lines; i.e., flow lines in state offshore waters, similar to the present exception on the OCS. Part 195 regulations are currently being applied to some production lines in state offshore waters where such regulations were not intended to apply. The drug testing requirements in part 199 are also being applied to workers on some production platforms in state offshore waters where such regulations were not intended to apply. The proposed revision would make federal and state offshore rules consistent and should reduce operating expenses for the operator. Comments are solicited on whether there is a gap in the regulation of offshore production line in state waters.

Section 195.1(b)(6) provides that part 195 does not apply to pipeline transportation through onshore production, refining, or manufacturing facilities, or storage or in-plant piping systems associated with such facilities. This exception is based on section 201(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(3)). However, RSPA's review disclosed that § 195.1(b)(6) does not clearly distinguish where the application of Part 195 over pipeline transportation begins or ends at a production, refining, or manufacturing plant. For example, the

demarcation between an in-plant piping system and a pipeline serving the plant is unclear. Also unclear from the language is the applicability to transfer line that connect parts of the same plant at separate locations.

To clarify these issues, we are proposing to define the term "in-plant piping system" as piping that is located on the grounds of a plant and used to transfer hazardous liquid or carbon dioxide between plant facilities or between plant facilities and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline. This proposed definition is intended to exclude from the meaning of "in-plant piping system" segments of transfer lines that are not located on plant grounds. Not only does their location make such segments inconsistent with an ordinary understanding of "in-plant," but because access to these segments is not under plant control, they pose a greater risk to the public. Certain pressure control devices and associated piping are excluded from the proposed definition because part 195 requires pipeline operators to provide adequate controls and equipment to maintain pipeline pressure within set limits (§ 195.406(b)). These devices now mark the limit of part 195 jurisdiction inside plants. Under the proposal, the inlet of the pressure control device would demarcate in-plant piping if the pipeline is moving product away from plant grounds; the outlet of the pressure control device if the pipeline is supplying the plant. If there is no such pressure control device on plant grounds, in-plant would extend to the boundary of plant grounds.

Section 195.1(b)(7) excepts from part 195 the transportation of hazardous liquid or carbon dioxide by vessel, aircraft, tank truck, tank car, or other vehicle, or terminal facilities used exclusively to transfer hazardous liquid or carbon dioxide between such modes of transportation. The language of this terminal facilities exception leaves unclear the applicability of Part 195 to transfer lines that exit terminal grounds to effect transfers. Also, because the pipeline mode of transportation is not mentioned, § 195.1(b)(7) has led some to conclude that terminal facilities used to transfer hazardous liquid between a pipeline and another mode of transportation are covered by part 195. However, this inference is incorrect, since part 195 does not apply to facilities at pipeline terminals other than breakout tanks, as defined in § 195.2, and associated piping.

As with in-plant piping discussed above, a proposed amendment to § 195.1(b)(7) would clarify that the

terminal facilities exception applies only to those terminal facilities located on the grounds of the terminal. Terminal owned or operated transfer lines that are located outside terminal grounds are currently subject to part 195.

Section 195.1(b)(7) would be further amended to clarify that the terminal facilities exception applies to facilities used exclusively to transfer hazardous liquid or carbon dioxide between a non-pipeline mode of transportation and a pipeline, except for any device and associated piping that are necessary to control pressure in the pipeline. The terminal facilities exception does not include breakout tanks and associated piping, for these facilities are not used exclusively for transfers between non-pipeline and pipeline modes.

Section 195.1(b)(8) provides that part 195 does not apply to "transportation of carbon dioxide downstream from a point in the vicinity of the well site at which carbon dioxide is delivered to a production facility." The Texas Railroad Commission believes this section should be modified so that part 195 does not apply to carbon dioxide lines used for oil recovery injection systems. Although the purpose of § 195.1(b)(8) is to exclude from Part 195 pipelines used in the injection of carbon dioxide for oil recovery operations, we agree that the language of § 195.1(b)(8) does not do so. Therefore, we are proposing an amendment to § 195.1(b)(8) as set forth below.

Section 195.2 Definitions (Petroleum, Petroleum product)

Part 195 applies to the transportation of hazardous liquids by pipeline. As defined in § 195.2, the term "hazardous liquid" means "petroleum, petroleum product, and anhydrous ammonia." However, because the terms "petroleum" and "petroleum product" are generic and are not defined in part 195, RSPA's review disclosed that the applicability of part 195 to particular commodities may be unclear.

This notice proposes to define these two terms. For "petroleum", we propose to adopt the definition published in the 1989 edition of the American Society of Mechanical Engineers (ASME) B31.4 Code. For "petroleum product", we propose to adopt a definition based on the American Petroleum Institute (API) definition, published in Technical Report No. 1, fourth edition, printed in 1988. Because the API definition is broad enough to include any product derived from hydrocarbon compounds, we are proposing that "petroleum product" cover only those products that are flammable, toxic, or corrosive. This

modification would indicate the hazardous nature of the commodity transported, consistent with the definition of "gas" in 49 CFR part 192.

The definition of "Secretary" would be amended to eliminate the connotation of gender.

The proposed new definitions and definition change would not compromise pipeline safety, because they would not alter the intended application of the existing part 195 regulations.

Sections 195.2, 195.106, 195.112, 195.212 and 195.413 (Nominal Outside Diameter of the Pipe in Inches)

Section 195.106(a) sets out the formula for calculating the internal design pressure for steel pipe. One of the variables in the formula is "D", defined as the "nominal outside diameter of the pipe in inches." However, throughout part 195 the dimensioning of pipe size is inconsistently designated. Line pipe sizes less than 14 inches nominal outside diameter are furnished by pipe mills in nominal outside diameters that are not even inches, e.g. 2 $\frac{3}{8}$ inches, 8 $\frac{7}{8}$ inches, and 10 $\frac{3}{4}$ inches. Nonetheless, the pipe sizes in the table of § 195.106(b) are shown as "6 inches in outside diameter", but should be "6 $\frac{5}{8}$ inches nominal outside diameter." Also, the "12 $\frac{3}{4}$ inches outside diameter" would be more correctly shown as "12 $\frac{3}{4}$ inches nominal outside diameter." Similar incorrect dimensioning of pipe sizes are shown in § 195.2 (under Gathering Line), 195.106(c), 195.112(c), 195.212(b)(3)(ii) and 195.413(a). RSPA proposes to rectify these instances of incorrect dimensioning. The proposed corrections would be consistent with the line pipe sizes and dimensions used by pipe mills and the pipeline industry. The proposed corrections would not compromise safety, but, for inexperienced persons, these corrections will improve the clarity and meaning of the regulations.

Section 195.3 Matter Incorporation by Reference

Section 195.3 sets out the general requirements for the incorporation in the regulations of industry standards for the design, construction and operation of hazardous liquid and carbon dioxide pipelines. Paragraph 195.3(a) states that incorporation of a document by reference has the same force as if the document were copied in the regulations. Some operators have misinterpreted this section to mean that they must comply with all of the terms contained in a referenced document. RSPA proposes to revise § 195.3(a) to clarify that an entire document is not incorporated when the document is

incorporated by reference; rather, only those portions specifically referenced in the regulations are incorporated.

Section 195.5 Conversion to Service Subject to This Part

This section establishes various criteria for qualifying a pipeline previously used in service not subject to this part for use under this part. Section 195.5(a)(1) requires that the design of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in a satisfactory condition for safe operation. Section 195.5(a)(4) currently requires that the pipe must be hydrostatically tested in accordance with subpart E of this part to substantiate the maximum allowable operating pressure (MAOP) permitted by § 195.406. The term "maximum allowable operating pressure" is proposed to be revised to "maximum operating pressure" to conform to the use of this term in other regulations in part 195.

Several of the comments received by RSPA concerning Part 192 gas pipeline safety regulations suggested using a hydrostatic test to establish the yield strength of pipelines for which yield strength is now known. Neither part 195 nor the ASME B31.4 Code provide for hydrostatic testing as a method to determine the yield strength of pipe (ASME B31.4 Code for Pressure Piping, Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols). However, the ASME B31.8 Code for gas pipelines provides for establishing MAOP on the basis of hydrostatic testing of existing natural gas pipelines or those pipelines being converted to natural gas service where one or more of the factors in the design formula is unknown (ASME B31.8 Code for Pressure Piping, Gas Transmission and Distribution Piping Systems, paragraph 845.214, Qualification of a Steel Pipeline or Main to Establish the MAOP). The test pressure used in the MAOP calculation is limited to the test pressure obtained at the high elevation point of the minimum strength test segment and to the pressure required to produce a stress equal to the yield strength as determined by hydrostatic testing. The procedure for determining yield strength by hydrostatic testing is included in B31.8 appendix N, Recommended Practice for Hydrostatic Testing Pipelines in Place.

In light of the above discussion, RSPA proposes to add § 195.3(c)(2)(iii) incorporating by reference the ASME B31.8, "Code for Pressure Piping, Gas

Transmission and Distribution Piping Systems" (1989 Edition with Addenda A, B, C). In addition, RSPA proposes to revise § 195.5(a)(1) to permit an operator wishing to qualify pipe for use under Part 195, where the pipe was previously used in service other than transporting hazardous liquids or carbon dioxide, to verify the review of the pipe design pressure and substantiation of the maximum operating pressure (MOP), when one or more of the variables necessary to determine those pressures are unknown, by (1) testing the pipeline in accordance with ASME B31.8, appendix N, to produce a pressure equal to yield strength, and (2) applying to not more than 80 percent of the first pressure that produces yielding the design factor F in § 195.106(a) and the appropriate factor in § 195.106(e).

The proposed change will enable the conversion of certain pipelines used in other service or reduce the cost of conversion and will enable the operation of these lines at their fullest potential.

The proposed change should not have an adverse effect on pipeline safety. To determine the MOP at a stress equivalent to the yield strength of the pipe in the affected pipelines, testing the lines to hydrostatic pressures greater than otherwise required for the determination of the MOP under § 195.406(a)(3) will be necessary. The result will be a greater margin between hydrostatic test pressure and MOP. Any defects present in the pipeline will likely fail during hydrostatic testing prompting the pipeline operator to correct the defect.

Section 195.8 Transportation of Hazardous Liquid or Carbon Dioxide in Pipelines Constructed With Other Than Steel Pipe

The last sentence in § 195.8 would be revised to replace the word "he" with "the Secretary" to remove any implication of gender.

Section 195.50 Reporting Accidents and Section 195.52 Telephonic Notice of Certain Accidents

Sections 195.50(f) and 195.52(a)(3) require operators to prepare reports and give telephonic notice of accidents, respectively, when the estimated property damage due to an accident exceeds \$5,000. The API stated that the reporting criteria of \$5,000 is outdated, unnecessarily burdensome and results in unnecessary costs and red tape. Because the \$5,000 reporting requirement sometimes requires the reporting of minor accidents, RSPA proposes to amend §§ 195.50(f) and

195.52(a)(3) by increasing the reporting threshold to \$50,000, the same level as required in 49 CFR part 192.

In addition, RSPA has discovered from both its regulatory review and previous enforcement cases that there is a significant amount of confusion among pipeline operators as to which cost estimates must be included in calculating the "estimated property damage to the property of the operator or others * * *." Frequently, when reporting accidents pipeline operators fail to include as "property damage" the fair market value of the product released or those costs associated with clean-up and recovery efforts.

RSPA views these costs as "property damage to the property of the operator" and proposes to clarify the issue by amending § 195.50(f) to read: "(f) Estimated total property damage to the property of the operator * * *" and § 195.52(a)(3) to read: "(3) Caused estimated total property damage to the property of the operator * * *."

This proposed change will reduce the number of supplemental reports operators must file in order to revise their initial reports which failed to include the fair market value of the product released and those costs associated with clean-up and recovery efforts.

Moreover, these proposed rule changes should reduce the overall number of reports submitted to RSPA by 15 percent and thereby cause a corresponding reduction in pipeline reporting costs. Incidents resulting in death, injury or a spill over 50 barrels must still be reported, thus, this change would not reduce the level of pipeline safety.

Section 195.106 Internal Design Pressure

This section establishes the formula to be used in determining the design pressure for the pipe in a pipeline and criteria for determining the yield strength to be used in the design formula. When the yield strength of the pipe is not known, this section provides means for determining the yield strength by performing tensile tests of random samples of the pipe.

In the gas pipeline safety regulations, § 192.107(b)(2) permits presuming a yield strength of 24,000 p.s.i. if pipe of unknown tensile strength is not tensile tested. A change is proposed for consistency between Parts 192 and 195.

RSPA proposes to revise and renumber paragraphs within § 195.106(b) and add a new subparagraph to permit presuming a yield strength of 24,000 p.s.i. if pipe of unknown tensile strength is not tensile tested.

The proposed change will enable operators of pipelines to use pipe of unknown properties without performing tensile tests of random samples of the pipe by presuming that the yield strength of the pipe is 24,000 p.s.i., thereby eliminating the expense of performing tensile tests of the number of pipe currently required under the table in § 195.106(b).

The change will not compromise safety because the presumed yield strength of 24,000 p.s.i. is the lowest value of yield strength ever specified for steel pipe. Thus, it is highly improbable that a value for yield strength determined by tensile testing would be less than 24,000 p.s.i.

Section 195.204 Inspection—General

The last sentence of § 195.204 would be revised to avoid the implication of gender.

Section 195.234 Welds: Nondestructive Testing

Paragraph (e) requires that 100 percent of each day's girth welds installed in certain locations must be nondestructively tested 100 percent unless impracticable, in which case at least 90 percent must be tested. Nondestructive testing must be impracticable for each girth weld not tested. Subordinate paragraphs (e)(1) through (e)(5) set out the criteria for the locations that must be nondestructively tested 100 percent unless impracticable.

Paragraph (g) requires that at pipeline tie-ins, 100 percent of the girth welds must be nondestructively tested.

RSPA proposes to amend paragraph (e) to clarify that "90 percent" pertains to the number of girth welds nondestructively tested, over their entire circumference, that were installed that day.

RSPA proposes to amend paragraph (g) to add the phrase "including tie-ins of replacement sections."

The proposed revisions would improve clarity and understanding among operators as to the percentage of girth welds that require nondestructive testing. However, the proposed revisions would not compromise safety because the change merely clarifies the intent of the regulation.

Sections 195.246 Installation of Pipe in a Ditch and 195.248 Cover Over Buried Pipeline

Under § 195.246(b), all offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place

by anchors or heavy concrete coating, or protected by an equivalent means. For offshore pipe installed under water less than 12 feet deep, as measured from mean low tide, § 195.248(a) requires a minimum cover of 36 inches in soil or 18 inches in consolidated rock, between the top of the pipe and the natural bottom, unless an underground structure prevents installation with the minimum cover, and the pipe is additionally protected to withstand anticipated external loads.

At the same time, a recently adopted rule, § 195.413(b)(3), requires operators to provide similar cover, without the exception for underground structures, over pipelines in the Gulf of Mexico and its inlets under water less than 15 feet deep, if the pipelines are exposed or a hazard to navigation (Amendment 195-47; 56 FR 63771; Dec. 5, 1991). Section 195.2 defines "hazard to navigation" as "a pipeline where the top of the pipe is less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water." The term "Gulf of Mexico and its inlets" is defined to include only areas under 15 feet of water.

We view § 195.246(b) as inconsistent with § 195.413(b)(3) for pipe in the Gulf of Mexico and its inlets under water less than 15 feet deep but at least 12 feet deep, because § 195.246(b) permits the pipe to be without cover or to be above the seabed if properly protected. Such pipe is a "hazard to navigation" under the definition of that term in § 195.2, and must have the minimum cover that § 195.413(b)(3) requires. In addition, §§ 195.248 (a) and (b) are inconsistent with § 195.413(b)(3) for pipe in the Gulf of Mexico and its inlets under water less than 12 feet deep. Section 195.248(a) allows pipe to be less than 12 inches below the seabed (i.e., a hazard to navigation). In certain instances, § 195.248(b) allows pipe to be without cover or less than 12 inches below the seabed. Neither condition is allowed under § 195.413(b)(3). In light of these inconsistencies, RSPA proposes to amend §§ 195.246(b) and 195.248 (a) and (b) to correct the problem.

Section 195.262 Pumping Equipment

This section prescribes minimum requirements pertaining to the use of pumping equipment located near pipeline systems, constructed of steel pipe, that are under construction or are being relocated, replaced, or otherwise changed in an existing system. Some operators and pipeline safety inspectors have stated that the intent of the current rule is not clear. RSPA proposes that the meaning of this section be clarified to

show that pumping equipment may not be installed in either location described in the regulation. The proposed change would not compromise pipeline safety since it would not alter the current interpretation of the regulation.

Section 195.304 Testing of Components

Section 195.304(b) excludes from post-construction hydrostatic testing any component that is the only item being replaced or added to a pipeline system if the component or a prototype was tested at the factory. Because § 195.2 defines "component" to include pipe, RSPA's review revealed that the exception in § 195.304(b) could be understood to cover pipe. An examination of § 195.304(a) shows, however, that the terms pipe and component are used distinctly in § 195.304. Therefore, only components other than pipe may qualify for exclusion from hydrostatic testing under § 195.304(b). To clarify this point, we propose to amend the introductory clause of § 195.304(b) as set forth below by adding the words "other than pipe" following "component."

Section 195.412 Inspection of Rights-of-Way and Crossings Under Navigable Waters

Section (a) requires an operator, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, to inspect the surface conditions on or adjacent to each pipeline right-of-way. RSPA proposed that the section be changed to indicate that aerial patrols are an optional method of compliance. The proposed change would clarify the permitted use of this option for operators who may not be aware that flying the right-of-way of hazardous liquid and carbon dioxide pipelines is acceptable. Some surface condition activities adjacent to the right-of-way, that affect the safety and operation of pipelines, are more visible from an aerial patrol than from walking or driving the right-of-way.

Section (b) requires operators, at intervals not exceeding 5 years, to inspect each crossing under a navigable waterway (except offshore) to determine the condition of the crossing. The purpose of the inspection is to look for any damage, unanticipated loading, or loss of protection that could threaten the safety of the pipeline. Our review shows that this requirement is more appropriate for crossings installed by trenching or jetting than it is for most crossings that are "bored". Bored crossings are usually so deep that there is little likelihood the pipeline could be affected by waterway-related events, such as scouring or anchor dragging.

Thus, we are proposing to add an exception to § 195.412(b) to cover bored crossings that are too deep to be subject to waterway-related damage.

Section 195.416 External Corrosion Control

Paragraph (a) of this section states that each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, conduct tests on each underground facility that is under cathodic protection to determine whether the protection is adequate. RSPA proposes to clarify the rule to reduce any misunderstanding regarding what is meant by "underground". The word "underground" in this paragraph means any facility that is buried or in contact with the ground. This rule clarification will not change the burden required by paragraph (a) because RSPA compliance inspectors have consistently required any facility in contact with the ground to be cathodically protected.

Paragraph (f) requires that any pipe found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must either be replaced with coated pipe that meets the requirements of this part or, if the area is small, must be repaired. However, the operator need not replace generally corroded pipe if the operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness.

Paragraph (g) states that if localized corrosion pitting is found to exist to a degree where leakage might result, the pipe must be replaced or repaired, or the operating pressure must be reduced commensurate with the strength of the pipe based on the actual remaining wall thickness in the pits.

RSPA recognizes that paragraphs (f) and (g) provide no guidance for an operator's use in determining the strength of the actual remaining wall thickness of corroded steel pipe. To provide this needed guidance, RSPA proposes the adoption of the ASME Manual B31G procedure for determining the remaining strength of corroded steel pipe in existing pipelines. Application of the procedure would be in accordance with the limitations set out in the B31G Manual. The proposal would provide guidance as to whether a corroded region (not penetrating the pipe wall) may be left in service; an option that might require a reduction in maximum allowable operating pressure, but may be more economical than the replacement or repair of the corroded pipe. The proposed revision would not compromise safety because it merely

accepts an established pipeline industry guidance, and does not impose any new requirements on the operators.

Rulemaking Analyses

Paperwork Reduction Act

The documentation for the information collection requirements for part 195 was submitted to the Office of Management and Budget (OMB) during the original rulemaking processes. Currently, regulations in part 195 are covered by OMB Control Numbers 2137-0047 (approved through May 31, 1994), 2137-0578 (approved through October 31, 1994) and 2137-0583 (approved through May 31, 1994). This notice proposed no additional information collection requirements. Instead, the notice proposed to relax the information collection or retention and record retention burden on pipeline operators (described above). Accordingly, there is no need to repeat those submissions with this notice of proposed rulemaking.

E.O. 12291 and DOT Regulatory Policies and Procedures

RSPA has concluded that this proposal is not a major rule under Executive Order 12291 and it is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A Regulatory Evaluation has been prepared and is available in the docket. RSPA estimates the proposed changes to existing rules would result in an estimated savings of \$1,534,000 per year for the hazardous liquid pipeline industry at no cost to the industry, and with no adverse effect on safety. As discussed above, these savings would come largely from the use of new technology, greater flexibility in constructing and operating pipelines, and the elimination of unnecessary requirements.

Regulatory Flexibility Act

RSPA criteria for small companies or entities are those with less than \$1,000,000 in revenues and are independently owned and operated. Few of the companies subject to this rulemaking meet these criteria. However, RSPA seeks such impact information in response to this rulemaking. Accordingly, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that this proposal would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

E.O. 12612

RSPA has analyzed the proposed rules under the criteria of Executive Order 12612 (52 FR 41685; October 30, 1987). We find it does not warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

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

In consideration of the foregoing, RSPA proposes to amend 49 CFR Part 195 as follows:

PART 195—[AMENDED]

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

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

2. In § 195.1, the introductory text of paragraph (b) would be republished, paragraph (b)(5) would be revised, in paragraph (b)(6) a hyphen would be added between the words "in" and "plant", and paragraphs (b)(7) and (b)(8) would be revised to read as follows:

§ 195.1 Applicability.

* * * * *

(b) This part does not apply to—

* * * * *

(5) Transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide

are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

* * * * *

(7) Transportation of hazardous liquid or carbon dioxide—

(i) By vessel, aircraft, tank truck, tank car, or other nonpipeline mode of transportation; or

(ii) Through facilities, located on the grounds of a materials transportation terminal, that are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline.

(8) Transportation of carbon dioxide downstream from the following point, as applicable:

(i) The inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is further upstream; or

(ii) If paragraph (b)(8)(i) of this section does not apply, the connection of the first branch pipeline in the production field that transports carbon dioxide to injection wells or to headers or manifolds from which pipelines branch to injection wells.

* * * * *

3. In § 195.2, the introductory text would be republished, definitions of *In-plant piping system*, *Petroleum*, and *Petroleum product* would be added and the definition of *Secretary* would be revised:

§ 195.2 Definitions.

As used in this part—

* * * * *

In-plant piping system means piping that is located on the grounds of a plant and used to transfer hazardous liquid or carbon dioxide between plant facilities or between plant facilities and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline.

* * * * *

Petroleum means crude oil, condensate, natural gasoline, natural gas liquids, and liquefied petroleum gas.

Petroleum product means flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.

* * * * *

Secretary means the Secretary of Transportation or any person to whom the Secretary has delegated authority in the matter concerned.

* * * * *

4. In the list below, for each section indicated in the left column, the phrase indicated in the middle column would be removed and the phrase indicated in the right column would be added:

Section	Remove	Add
195.2 Gathering Line	8 inches or less in nominal diameter	8½ inches or less in nominal outside diameter
195.112(c)	an outside diameter of 4 inches or more	A nominal outside diameter of 4½ inches or more.
195.212(b)(3)(ii)	The pipe is 12 inches or less in outside diameter	The pipe is 12¾ inches or less in nominal outside diameter.
195.413(a)	Except for gathering lines of 4 inch nominal diameter or smaller.	Except for gathering lines of 4½ inches nominal outside diameter or smaller.

5. Section 195.3 would be amended by revising paragraph (a) and by adding paragraph 195.3(c)(2)(iii) to read as follows:

§ 195.3 Matter incorporation by reference.

(a) Any document or portion thereof incorporated by reference in this part is included in this regulation as though it were printed in full. When only a portion of a document is referenced, then this part incorporates only that referenced portion of the document and the remainder is not incorporated. Applicable editions are listed in paragraph (c) of this section in parentheses following the title of the referenced materials. Earlier editions

listed in previous editions of this section may be used for components manufactured, designed, or installed in accordance with those earlier editions at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier editions.

* * * * *

(c) * * *

(2) * * *

(iii) ASME Code for Pressure Piping B31.8, "Gas Transmission and Distribution Piping Systems" (1989 Edition with Addenda A, B, C).

* * * * *

6. Section 195.5 would be amended by revising paragraphs (a)(1) and (a)(4) to read as follows:

§ 195.5 Conversion to service subject to this part.

(a) * * *

(1) The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in satisfactory condition for safe operation. If one or more of the variables necessary to verify the design pressure under § 195.106 or to perform the testing under paragraph (a)(4) of this

section is unknown, the design pressure may be verified and the maximum operating pressure determined by:

- (i) Testing the pipeline in accordance with ASME B31.8, Appendix N, to produce a stress equal to the yield strength, and
- (ii) Applying, to not more than 80 percent of the first pressure that produces a yielding the design factor F in § 195.106(a) and the appropriate factors in § 195.106(e).

(4) The pipeline must be tested in accordance with subpart E of this part to substantiate the maximum operating pressure permitted by § 195.406.

7. In § 195.8, the last sentence would be revised to read as follows:

§ 195.8 Transportation of hazardous liquid or carbon dioxide in pipelines constructed with other than steel pipe.

If the Secretary determines that the transportation of the hazardous liquid or carbon dioxide in the manner proposed would be unduly hazardous, the Secretary will, within 90 days after the receipt of the notice, order the person that gave the notice, in writing, not to transport the hazardous liquid or carbon dioxide in the proposed manner until further notice.

8. Section 195.50(f) would be revised to read as follows:

§ 195.50 Reporting accidents.

(f) Estimated total property damage to the property of the operator or others, or both, exceeding \$50,000.

9. Section 195.52(a)(3) would be revised to read as follows:

§ 195.52 Telephonic notice of certain accidents.

(3) Caused estimated total damage to the property of the operator or others, or both, exceeding \$50,000;

10. Section 195.106(b) would be revised to read as follows:

§ 195.106 Internal design pressure.

(b) The yield strength to be used in determining the internal design pressure under paragraph (a) of this section is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following:

(1) The yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected

specimens with the following number of tests:

Pipe size	Number of tests
Less than 6 3/4 inches in nominal outside diameter.	One test for each 200 lengths.
6 3/4 inches through 12 3/4 inches in nominal outside diameter.	One test for each 100 lengths.
Larger than 12 3/4 inches in nominal outside diameter.	One test for each 50 lengths.

If the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 24,000 p.s.i. If the average yield-tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following:

(i) Eighty percent of the average yield strength determined by the tensile tests.

(ii) The lowest yield strength determined by the tensile tests.

(2) If the pipe is not tensile tested as provided in paragraph (b) of this section, the yield strength shall be taken as 24,000 p.s.i.

11. In § 195.106(c), the last sentence would be revised to read as follows:

§ 195.106 Internal design pressure.

(c) * * * However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 20 inches in nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 20 inches or more in nominal outside diameter.

12. In § 195.204, the last sentence would be revised to read as follows:

§ 195.204 Inspection—general.

* * * No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

13. Section 195.234 would be amended by revising the introductory text of paragraph (e) and by revising paragraph (g) to read as follows:

§ 195.234 Welds: Nondestructive testing.

(e) One hundred percent of each day's girth welds installed in the following locations must be nondestructively tested over their entire circumference unless impracticable, in which case at least 90 percent of the number of welds installed each day must be tested over their entire circumference.

Nondestructive testing must be

impracticable for each girth weld not tested:

(g) At pipeline tie-ins, including tie-ins of replacement sections, 100 percent of the girth welds must be nondestructively tested.

14. Section 195.246 would be amended by revising paragraph (b) to read as follows:

§ 195.246 Installation of pipe in a ditch.

(b) Except for pipe in the Gulf of Mexico and its inlets, all offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

15. Section 195.248 would be amended by revising in the table in paragraph (a), the language "Other offshore areas under water less than 12 ft-deep as measured from the means low tide" to read "Gulf of Mexico and its inlets under water less than 15 ft-deep and other offshore areas under water less than 12-ft deep as measured from the mean low tide" and by revising paragraph (b) introductory text to read as follows:

§ 195.248 Cover over buried pipeline.

(b) Except for the Gulf of Mexico and its inlets, less cover than the minimum required by paragraph (a) of this section and § 195.210 may be used if—

18. Section 195.262(d) would be revised to read as follows:

§ 195.262 Pumping equipment.

(d) Except for offshore pipelines, pumping equipment may not be installed in either of the following locations:

- (1) Property that is not under the control of the operator.
- (2) Property that is less than 50 feet from the boundary of the pump station.

17. The introductory text of § 195.304(b) would be revised to read as follows:

§ 195.304 Testing of components.

(b) A component, other than pipe, that is the only item being replaced or added to the pipeline system need not be hydrostatically tested under paragraph

(a) of this section if the manufacturer certifies that either—
* * * * *

18. Section 195.412 would be revised to read as follows:

§ 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

(b) Each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.

However, this paragraph does not apply to offshore pipelines or to bored crossings that are too deep to anticipate damage from waterway conditions or vessel traffic.

19. Section 195.416 would be amended by revising paragraph (a), redesignating paragraph (h) as paragraph (i) and adding a new paragraph (h) to read as follows:

§ 195.416 External corrosion control.

(a) Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, conduct tests on each buried or submerged pipeline facility in its pipeline system that is under cathodic protection to determine whether the protection is adequate.
* * * * *

(h) The strength of the pipe, based on actual remaining wall thickness, for paragraphs (f) and (g) of this section may be determined by the procedure in ASME B31G manual for Determining the Remaining Strength of Corroded Pipelines. Application of the procedure in the B31G manual shall apply to corroded regions (not penetrating the pipe wall) in existing steel pipelines in accordance with limitations set out in the B31G manual.

(i) * * *

Issued in Washington, DC, on November 19, 1992.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

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