DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-121; Amdt. 195-51]

RIN 2137-AB 46

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

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

ACTION: Final rule.

SUMMARY: This final rule provides that operators may not transport a hazardous liquid in a steel interstate pipeline constructed before January 8, 1971, a steel interstate offshore gathering line constructed before August 1, 1977, or a steel intrastate pipeline constructed before October 21, 1985, unless the pipeline has been pressure tested hydrostatically according to current standards or operates at 80 percent or less of a qualified prior test or operating pressure. In addition, this final rule creates a comparable requirement for carbon dioxide pipelines constructed before July 12, 1991, except for production field distribution lines in rural areas. The purpose of this final rule is to ensure that the affected pipelines have an adequate safety margin between their maximum operating pressure and test pressure. This safety margin is essential to prevention of particular kinds of pipeline accidents.

EFFECTIVE DATES: The changes to part 195, except §195.306(b), take effect July 7, 1994. The final rule under § 195.306(b) takes effect August 8, 1994, unless RSPA receives, by July 7, 1994, comments that illustrate that disallowing the use of petroleum as a test medium for pressure testing required by this rulemaking is not in the public interest. Upon receipt of such comments, RSPA will publish a document in the **Federal Register** withdrawing the final rule under §195.306(b).

ADDRESSES: Written comments must be submitted in duplicate and mailed or hand-delivered to the Dockets Unit, room 8421, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Identify the docket and amendment number stated in the heading of this notice. Comments will become part of this docket and will be available for inspection or copying in room 8421 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 366-2392, regarding the subject matter of this final rule document, or Dockets Unit (202) 366-4453, for copies of this final rule document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Any steel pipeline may contain hidden physical defects that result from the manufacture or transportation of pipe and from pipeline construction. Over the operational life of the pipeline, new physical defects can be created by external forces acting on the pipeline. When a physical defect is large enough, it can cause the pipeline to fail during operation. Also, during pipeline operation, internal or environmental stresses can cause smaller defects to grow and become large enough to cause the pipeline to fail.

Adequate pressure testing can disclose hidden physical defects in a pipeline. Pressure testing involves raising a pipeline's internal pressure above its maximum operating pressure (MOP) for a time sufficient for leaks to develop from defects. A test that is adequate in pressure level and duration will disclose physical defects that are large enough to cause pipeline failure during operation. In addition, an adequate pressure test will provide a proven margin of safety against failure during operation from the growth of defects.

Line pipe research has demonstrated that 125 percent of MOP is the minimum test level adequate to protect hazardous liquid pipelines against failure in operation from physical defects. A pressure test at this level for a sufficient duration provides a 25 percent proven margin of safety against failures caused by the growth of physical defects.

Under §195.302, new steel pipelines must be pressure tested to provide at least a 25 percent proven margin of safety. Hazardous liquid pipelines may be tested hydrostatically, but carbon dioxide pipelines may be tested pneumatically, using inert gas or carbon dioxide as the test medium (see §195.306). Portions of existing steel pipelines that are replaced, relocated, or otherwise changed are also

subject to this pressure testing requirement. The requirement became effective as follows for pipelines subject to part 195: January 8, 1971, for interstate pipelines transporting hazardous liquid (35 FR 17183); August 1, 1977, for interstate offshore gathering lines transporting hazardous liquid (41 FR 34039); October 21, 1985, for intrastate pipelines transporting hazardous liquid (50 FR 15895); and July 12, 1991, for pipelines transporting carbon dioxide in a supercritical state (56 FR 26922).

Section 195.302 also requires that certain older pipelines transporting highly volatile liquids (HVL) must have at least a 25 percent proven margin of safety. These pipelines are onshore steel interstate pipelines constructed before January 8, 1971, and onshore steel intrastate pipelines constructed before October 21, 1985. If an older HVL pipeline has not been hydrostatically tested to part 195 standards, §195.302(b) permits operators to provide the proven margin of safety either by hydrostatic testing or by establishing the pipeline's MOP under §195.406(a)(5) at 80 percent or less of a qualified prior test or operating pressure. Establishing MOP under §195.406(a)(5) and hydrostatic testing to part 195 standards provide equivalent proven margins of safety.

Apart from these older HVL pipelines, the 25 percent proven margin-of-safety requirement does not apply to older pipelines constructed before the dates (stated above) the pressure testing requirement went into effect for new pipelines. Consequently, many older pipelines subject to part 195 are not operated with a minimum 25 percent proven margin of safety. It was not common industry practice to test to at least 125 percent of MOP or to test to that pressure level for a sufficient duration.

Notice of Proposed Rulemaking

Older pipelines that do not have a minimum 25 percent proven margin of safety are more susceptible to failures from defect growth in service than pipelines that meet the part 195 pressure testing requirements. They are also more susceptible to failure from defect growth during instances of overpressure permitted by §195.406(b). This increased potential for failure is prevalent in pipelines made of pre-1970 electric resistance welded (ERW) pipe.

RSPA's pipeline accident statistics show the benefits of requiring older pipelines to have a minimum 25 percent proven margin of safety. September 15, 1985, was the date by which onshore interstate pipelines constructed before January 8, 1971, that transport HVL had a minimum 25 percent proven margin of safety. By that date these pipelines had to have been pressure tested hydrostatically to part 195 requirements or operated at 80 percent or less of a qualified prior test or operating pressure. To learn the effect of the 25-percent-safety-margin requirement, RSPA compared the period for which accident data were available before the requirement was adopted with the period from September 15, 1985, through December 31, 1989. Onshore HVL interstate pipelines had a 68 percent lower rate of failure from material defects and corrosion during the latter period. RSPA attributed this dramatic drop in failure rate to the 25-percent-safety-margin requirement imposed on the older onshore HVL interstate pipelines. In addition, RSPA concluded that operators could achieve a comparable reduction in failure rate on all other older pipelines subject to part 195 that lack an adequate proven margin of safety.

To bring about this reduction in failure rate, RSPA published a Notice of Proposed Rulemaking (NPRM) (Docket PS-121; 56 FR 23538, May 22, 1991) on testing older pipelines. The notice proposed to extend the part 195 requirement for a proven margin of safety to all pipelines that are covered by part 195 but excepted from the testing standards in subpart E of part 195. These pipelines are (1) hazardous liquid steel interstate pipelines constructed before January 8, 1971, other than onshore HVL pipelines; (2) hazardous liquid steel interstate offshore gathering lines constructed before August 1, 1977; (3) hazardous liquid steel intrastate pipelines constructed before October 21, 1985, other than onshore HVL pipelines; and (4) carbon dioxide steel pipelines constructed before July 12, 1991.

In the NPRM, RSPA also discussed the unique safety problems with longitudinal seams on ERW pipe manufactured before 1970. RSPA proposed that operators give pipelines with a predominance of pre-1970 ERW pipe priority in scheduling tests. Under this proposal, testing of pipelines known to have more than 50 percent (by mileage) of pre-1970 ERW pipe would have to be completed within 4.5 years after a final rule is published.

Thirteen persons submitted written comments on the NPRM: 11 pipeline operators, the American Petroleum Institute (API), and the U.S. Department of the Interior (DOI). A discussion of the

significant comments and their disposition in development of the final rules follows.

General Comments

Most commenters discussed specific problems they anticipated in carrying out the rulemaking proposals, without objecting to them outright. DOI favored adoption of the proposals, especially for offshore pipelines. One commenter, a major operator of hazardous liquid pipelines, clearly supported the proposed rules. A few other operators hedged their apparent agreement with the proposals by suggesting RSPA allow smart pigs as a substitute for pressure testing or MOP reduction, an issue discussed separately below. Another operator asserted that RSPA should require pressure testing or MOP reduction only where risk is heightened by factors such as adverse leak or corrosion history, environmental sensitivity, or high population. Only two operators strongly objected to the proposals. But, they aimed their remarks at carbon dioxide pipelines, and as discussed below, the final rule addresses their concerns. By and large, RSPA believes the commenters supported the objective of the notice concerning older untested or inadequately tested hazardous liquid pipelines.

Limiting the application of the proposed rules to older pipelines that have an increased risk of failure or that are near environmentally sensitive areas or a large number of people does not sufficiently address safety concerns. The problem of the growth of defects is common among all pipelines regulated by part 195. It is not limited to pipelines that are in a worrisome condition or a high risk location. For such problems, RSPA believes that all pipelines should provide a basic level of protection. The proposals in the NPRM were consistent with this view. They would assure that older pipelines provide at least the same basic level of protection against the growth of defects as newer pipelines must provide. Also, limiting the proposed rules to pipelines that involve some added element of risk would leave many miles of older pipelines without adequate protection against failures caused by the growth of defects. RSPA strongly believes these potential failures and preventable damages should not go unchecked.

Pump Stations and Tank Farms

API and two operators argued that the proposed rules should not apply to pump stations, tank farms, or tank farm delivery facilities. They said compliance would be an extremely time-consuming task because of the many fittings, valves, tanks, and instrumentation. API also suggested the benefits would be questionable since most accidents, as described in the NPRM, occur on pipeline rights-of-way.

Part 195 has limited application at tank farms. In general, it applies to only receiving and reinjection lines, to tanks used as breakout tanks, and to facilities associated with breakout tanks.

Although the job of testing pump station and breakout tank facilities may be time-consuming, it is crucial to ensure public safety and protect the environment. Population has encroached on the older pump stations and tank farms since their construction, increasing their threat to public safety. Also, slow leaks at tank farms have polluted ground water and endangered neighborhoods.

In considering the issue of pump stations and tank farms, RSPA examined the existing rule in §195.302 regarding the testing of older onshore HVL pipelines. Except for tank farm facilities to which the rule does not apply, §195.302 does not exclude any of the facilities the commenters suggested RSPA exclude from the present rulemaking. RSPA believes non-HVL facilities should not be treated differently. Leaks at non-HVL hazardous liquid facilities can have fire and pollution consequences. Also, even minor accidents at breakout tanks in tank farms have the potential to become uncontrollable emergencies because of proximity to other large volume hazardous liquid storage tanks. Therefore, RSPA has adopted the final rule as proposed concerning pump stations and breakout tanks. The demands of testing these facilities should be mitigated, however, by the compliance deadlines, which are discussed next.

Compliance Deadlines

RSPA proposed a deadline of 1 year after publication of the final rule for operators to plan and schedule testing or to reduce MOPs. RSPA also proposed a deadline of 4.5 years after publication of the final rule for testing all pipelines with more than 50 percent pre-1970 ERW pipe, and for testing at least 50 percent of all other pipelines. Finally, RSPA proposed that operators complete all testing within 7.5 years after publication of the final rule.

One operator argued that RSPA should allow operators to use the entire test period to plan testing or to reduce MOPs. This commenter said that planning for testing or reduction in MOP would

involve complicated analyses that would take longer than 1 year. The commenter also said any plan may need to be changed because of unforeseen operational problems that may arise during the test period.

RSPA proposed a 1-year deadline to assure that operators start their testing program early in the test period. Early planning is necessary to minimize unexpected delays and assure that operators complete testing within the time allowed. Also, RSPA assumed that when operators plan to reduce MOP, the reduction could be done without lengthy preparations. Further, RSPA strongly believes any MOP reduction should be done early in the program to lessen the continuing risk to the public. If unforeseen testing or operational problems arise during the test period, an operator could modify its initial testing plan and schedule as needed to resolve those problems. Of course, any modified plan or schedule would still have to provide for completion of testing before the applicable deadline.

The proposed 1-year deadline for MOP reduction or planning and scheduling testing was the same amount of time that §195.302 allowed for similar activities on the older onshore HVL pipelines. However, the process will involve more mileage than it did for onshore HVL pipelines. Also, RSPA expects operators will need further planning to maintain the product-supply requirements of their customers. Therefore, RSPA has extended the proposed planning and scheduling deadline to 1.5 years in the final rule.

Another operator thought the proposed test period for pre-1970 ERW pipelines was unfair to operators who have many of these pipelines. These operators would not be able to spread costs and impacts on operations over as much time as other operators. This commenter suggested that an equitable approach would be to require that operators give pre-1970 ERW pipelines priority in testing over the full test period.

RSPA proposed a shorter test period for the pre-1970 ERW pipelines because these pipelines have unique safety problems. The unique problems cause pre-1970 pipelines to have a greater potential for failure than other older pipelines. Since pre-1970 ERW pipelines pose a greater risk, requiring operators to test them sooner than other older pipelines is critical to safety.

API declared that the proposed testing periods would crate an undue hardship on consumers and the pipeline industry. It suggested RSPA lengthen the period to 10 years for all older pipelines, with testing priorities based on risk. Operators and shippers need the additional time, API said, so the nation's pipeline network can adapt to the impact of the testing program on the market. The operators and shippers would use the time to arrange alternative transportation and to prevent regional supply disruptions.

Using similar reasoning, two operators also urged us to allow more time for testing. One operator thought a reasonable period would be 7 years for pre-1970 ERW pipelines, and 10 years for the others. The other operator thought the periods should be 5 and 10 years, respectively.

RSPA, too, is concerned about the potential adverse impact on the nation's fuel supplies that could result from testing thousands of miles of pipelines. Aside from the substantial planning that must be done before testing, many operators will need time to obtain waste water disposal permits from various jurisdictions. Operators will need time to prepare pipeline systems for testing and to arrange for personnel and equipment to conduct the tests.

System changes and actual testing must be coordinated with product-supply operations to minimize the impact on refineries, distributors, and users of the transported products. Also, operators need time to assure that testing is done safely, with the least environmental risk, and in accordance with applicable Federal and State regulations. However, RSPA weighed these time demands in deciding upon the compliance deadlines proposed in the NPRM. None of the commenters who addressed the compliance-time issue substantiated their opinions that more time should be allowed. Although it is admittedly difficult to predict how much time is appropriate, the comments do not convince us that there are too many pre-1970 ERW pipelines to test in 4.5 years or that a decade is needed to complete testing of all other pipelines. Therefore, the final rule adopts the testing deadlines as proposed.

RSPA has not adopted API's suggestion to allow 10 years for all older pipelines, with priorities based on risk, because the unique problems of pre 1970 ERW pipelines demand correction sooner. Also, considering the mileage involved, the potential savings from reusing test water, and the need to minimize market impacts, API's suggestion would further complicate the development of test schedules. Still, the final rule does provide operators flexibility in planning and scheduling tests. When feasible, operators could use this flexibility to select pipelines for testing according to leak history or other risk factors. RSPA encourages

such testing priorities provided all required testing is completed within the periods allowed.

Charts or Logs

Two operators commenting on proposed §195.406(a)(5) asked us not to limit allowable documentation of prior tests or operating pressures to recording charts or logs. They said the industry has never had to keep these charts and logs for older pipelines, and many have been lost. They suggested that the final rule allow alternative documentation, such as construction specifications, pipeline completion reports, and affidavits from responsible people.

Considering the importance of a minimum 25 percent proven margin of safety to the integrity of pipelines, public safety cannot tolerate doubts about whether a pipeline has been adequately tested. Only recording charts or logs made at the time of prior testing or operations show with certainty that the minimum margin exists for the pipeline concerned. Alternative documentation, including specifications, reports, or affidavits, is less probative. Such evidence leaves some room for doubt because it does not result directly from pipeline testing or operation. Although recording charts and logs may no longer be available for some older pipelines, RSPA does not believe a lack of a proper records justifies allowing a lesser level of proof for a matter so serious as pipeline integrity. Therefore, the final rule allows only recording charts or logs to document a prior test or operating pressure.

Another operator was concerned that the documentation available for use under the proposed revision of §195.406(a)(5) may not meet exiting §195.310. For example, the operator said calibration data may not be available. Section 195.310 specifies the records operators must keep for each pressure test required by subpart E of part 195. Section 195.310 does not affect the documentation required by existing §195.406(a)(5), and would not affect documentation under the proposed revision of §195.406(a)(5). Thus, operators need not have documentation under final §195.406(a)(5) in the same detail as §195.310 requires.

Permits for Disposal of Test Water

When existing petroleum pipelines are pressure tested hydrostatically, the testing process introduces hydrocarbons into the test water. If test water picks up unacceptable quantities of hydrocarbons, the National Pollutant Discharge Elimination System (NPDES) governs its discharge into the environment. (See 40 CFR parts 122-124.) The NPDES is a regulatory program administered by the U.S. Environmental Protection Agency (EPA) in cooperation with qualified State agencies under the Federal Water Pollution Control Act, as amended by the Clean Water Act (33 U.S.C. 1251 *et seq.*).

Several commenters were concerned that the procedure of obtaining NPDES permits from State agencies and EPA for treatment and disposal of test water could significantly delay testing. This potential for delay probably would be limited to areas where operators do not transport test water to refineries for treatment and discharge, or do not store it for use in subsequent tests. Although none of the commenters estimated the time that would be needed to secure the NPDES permits, RSPA has considered this potential for delay in setting deadlines for compliance.

Two operators and API suggested that RSPA somehow help the industry in obtaining from EPA a general NPDES permit for the disposal of treated test water. They also requested our assistance in obtaining a general waiver of the EPA requirement to measure the toxicity of test water. API said these actions would provide flexibility for efficient scheduling and implementation of testing.

EPA has procedures for issuing permits and waivers under its NPDES program. EPA's decisions on applications for permits and waivers depend on facts known to the industry. Under these circumstances, RSPA believes an operator is the appropriate party to apply for permits or waivers.

To hasten the process, RSPA will notify EPA of this final rule. RSPA will urge that agency to give prompt attention to requests for NPDES permits involving disposal of test water used to comply with the final rule. RSPA will also ask EPA to request its cooperating State agencies to give prompt attention to requests for permits and waivers.

Smart Pig Alternative

Several operators and API recommended that the final rule allow the use of smart pigs (internal inspection devices) as an alternative to pressure testing for all pipelines, except the pre-1970 ERW pipelines. Two of these operators said pigging is superior to pressure testing because it shows where potential problems lie. Two operators thought pigging is better at finding corrosion problems, particularly deep isolated pits that may survive

a pressure test. One operator and API argued that smart pigs cold alleviate potential disruptions of service and many environment and scheduling problems.

Despite the capabilities of smart pigs, RSPA knows of no evidence that they can provide satisfactory long-term protection against the growth of defects. Only a minimum 25 percent proven margin of safety between MOP and a previous test or operating pressure is generally recognized as able to provide this protection.

Various manufacturers have significantly improved the data collection and recording capabilities of smart pigs. The ability of trained personnel to interpret recorded pig data has also improved. Yet smart pigs still cannot detect as many pipeline defects that could grow to failure during operation as can an adequate pressure test. Longitudinal defects, like cracks in a longitudinal weld seam, are particularly resistant to detection by smart pigs. More important, an adequate pressure test provides a basis for safe operation, with a proven margin of safety against the growth of defects that survive the test. Smart pigs cannot provide such a margin of safety. Thus, they are not adequate substitute for pressure testing in achieving the objectives of this rulemaking proceeding.

Carbon Dioxide Pipeline

Two operators argued that RSPA should not adopt the proposed rules for older carbon dioxide pipelines, particularly production field distribution lines. They offered various reasons to exempt carbon dioxide pipelines:

- Carbon dioxide is non-polluting.
- The pipelines are relatively new, having been constructed in the 1980's.
- The pipelines have been pressure tested hydrostatically, but perhaps not to part 195 standards.
- The failure data used as a basis for the proposed rules did not include carbon dioxide pipelines.
- After hydrostatic pressure testing, carbon dioxide pipelines must be dehydrated, an expensive process that is not applicable to hazardous liquid pipelines.
- Pneumatic testing with carbon dioxide or inert gas poses a greater risk than hydrostatic testing because of the high pressures at which supercritical carbon dioxide pipelines operate.
- The alternative of MOP reduction would dramatically reduce enhanced oil recovery rates.

As for carbon dioxide distribution lines, the two operators said these pipelines generally are smaller than transmission lines, and only affect isolated areas in oil production fields. The commenters said pressure testing of carbon dioxide distribution systems would seriously disrupt oil field operations. One of these operators said that over 50 separate tests may be needed to minimize disruption, depending on the layout of the distribution system.

In view of these comments, RSPA has reviewed both the need to apply the proposed rules to carbon dioxide pipelines and the burden of compliance. Carbon dioxide pipelines have not been subject to part 195 long enough for us to develop an accident history for them. Still, because of their similarity to hazardous liquid pipelines, untested or inadequately tested carbon dioxide pipelines can fail in service from the growth of physical defects, whatever the pipeline's age. Although carbon dioxide is non-polluting and nonflammable, any failure that releases large quantities of carbon dioxide would expose nearby persons to the risk of suffocation.

This risk is less, however, for production field distribution lines that transport carbon dioxide than for transmission lines that transport carbon dioxide. Compared to transmission lines, which move large volumes of carbon dioxide over long distances, individual pipelines in a production field distribution system carry smaller volumes over localized areas. Normally these areas are rural. In addition, the burden of compliance would be greater for field distribution systems than for transmission lines. Testing field distribution systems could disrupt oil production and require a multiplicity of tests to minimize that disruption. RSPA believes this combination of decreased risk and increased burden of compliance justifies excluding from the final rule production field distribution lines that are in a rural area. As defined in §195.2, the term "rural area" means "outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development."

In the final rules, §195.302(b)(2)(ii) reflects our decision to exclude older carbon dioxide field distribution lines in rural areas from the 25-percent-safety-margin requirements. Consistent with the present pressure testing requirement, any portion of these older lines that is replaced, relocated, or otherwise changed on or after July 12, 1991, or any older line converted to carbon dioxide

service under §195.5 would have to be pressure tested to at least 1.25 times its MOP.

Test Pressure

In the NPRM, RSPA proposed to redesignate existing §195.302(c), concerning the level and duration of test pressure, as new §195.303. RSPA received no comments on this proposal, and has adopted it as final. However, the term "hydrostatic test" is replaced by "pressure test" because under existing requirements, carbon dioxide pipelines may be pressure tested either pneumatically or hydrostatically.

Test Medium

In most cases, operators must use water as the hydrostatic test medium for hazardous liquid pipelines (§195.306(a)). However, under specified conditions, onshore pipelines may be tested with petroleum that does not vaporize rapidly (§195.306(b)).

This exception allowing operators to use petroleum as the test medium was established when only newly constructed pipelines were subject to hydrostatic testing under part 195. Newly constructed pipelines are less likely to rupture during a hydrostatic test than pipelines that have been in operation for a number of years and never tested or inadequately tested. Therefore, RSPA is concerned that if existing pipelines subject to testing under the final rule were tested with petroleum, operators would not be able to contain all the petroleum that would spill from ruptures. To preclude this outcome, RSPA has revised §195.306(b) to prohibit the use of petroleum as a test medium in pressure testing pipelines to meet the final rule.

Although RSPA's NPRM did not propose to limit the use of petroleum, the NPRM asked operators to estimate the pipeline mileage they would test with petroleum to learn the extent to which operators might use petroleum instead of water as the test medium. Only four operators responded, and the answers ranged from none to practically none. Based on this information and RSPA's experience in administering the hydrostatic testing rules of part 195, disallowing the use of petroleum as a test medium under the final rule should not significantly affect the burden of compliance with the rule.

Although RSPA believes this action is within the scope of the NPRM, because we did not specifically propose it, §195.306(b) will be effective August 8, 1994, unless by July 7, 1994, RSPA receives comments that illustrate that this final rule is not in the public interest. Upon receipt of such comments, RSPA will withdraw §195.306(b) before the effective date by simultaneously publishing two subsequent documents. One document will withdraw this section of the final rule. The other will announce a proposal to disallow the use of petroleum as a test medium for pressure testing required by this rulemaking and establish a new comment period. If RSPA does not receive comments that illustrate that §195.306(b) is not in the public interest, RSPA will publish a notice advising that §195.306(b) will be effective on August 8, 1994.

Advisory Committee Review

RSPA presented a draft of the NPRM to the Technical Hazardous Liquid Pipeline Safety Standards committee (THLPSSC) for its consideration at a meeting in Washington, DC on September 14, 1988. THLPSSC is RSPA's statutory advisory committee for hazardous liquid pipeline safety. It is comprised of 15 members, representing industry, government, and the public, who are technically qualified to evaluate liquid pipeline safety.

THLPSSC's discussion of the draft centered on cost of compliance; problems of compliance, such as waste water disposal; and the smart-pig alternative. THLPSSC voted not to support the draft NPRM primarily because RSPA had not yet demonstrated that the proposed rules were cost beneficial.

At a meeting on September 14, 1989, RSPA updated THLPSSC on the status of the draft NPRM. Committee members discussed many issues, including product supply to customers, disposal of test water, and the time needed for compliance. Although no vote was taken, THLPSSC members representing industry indicated agreement with the need to test the older untested or inadequately tested pipelines.

RSPA has decided to adopt final rules in this proceeding despite THLPSSC's negative note in 1988. RSPA did so because THLPSSC's primary concern was that the rules be cost beneficial, and the final regulatory evaluation supports that conclusion. Also, RSPA has addressed THLPSSC's other concerns elsewhere in this preamble in response to similar concerns raised by commenters. The THLPSSC's reports of the 1988 and 1989 meetings are available in the docket of this proceeding.

Wording of Final Rules

The final rules are worded differently from the proposed

rules. However, other than the substantive changes discussed above, the changes in wording are for editorial or clarification purposes. In several existing rules, the word "hydrostatic" or "hydrostatically" is replaced by "pressure," because under subpart E carbon dioxide pipelines may be pressure tested either hydrostatically or pneumatically. Also, the title of subpart E is changed from "Hydrostatic Testing" to "Pressure Testing." In §§195.304(b)(1) and (2), the word "hydrostatically" is not changed to "pressure," because these rules concern factory testing of components, not post-construction pipeline testing.

Paperwork Reduction Act

This final rule incrementally increases the current information collection burden under §195.310. Section 195.310 requires operators to keep certain records of each test required by subpart E of part 195 for as long as the tested facility is in use. The Office of Management and Budget (OMB) has approved this increased burden under the Paperwork Reduction Act of 1980, as amended (44 U.S.C. chap. 35). The OMB approval number is 2137-0047.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is a significant regulatory action under Executive Order 12866. Therefore, it was reviewed by the Office of Management and Budget. In addition, the final rule is significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979) because it involves a substantial change in regulations affecting certain existing pipelines.

Several operators and API suggested revisions to the draft "Economic Evaluation" RSPA prepared in support of the NPRM. Also, some of these commenters and others responded to our specific requests in the NPRM for information to aid us in assessing the impact of the final rule. How RSPA dealt with these comments is discussed in the final regulatory evaluation, a copy of which is in the docket. The final regulatory evaluation shows net benefits resulting from the final rule.

Regulatory Flexibility Act

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 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.

Executive Order 12612

This rulemaking action will not have substantial direct effects 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. Therefore, in accordance with E.O. 12612 (52 FR 41685). RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

National Environmental Policy Act

RSPA has analyzed this action for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and has determined that this action would not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact are in the docket.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, carbon dioxide. Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA amends part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195-[AMENDED]

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

Authority: 49 App. U.S.C. 2001 *et seq., and 49 CFR 1.53.*

Subpart E-[Amended]

2. The title of subpart E is revised to read as follows: "Subpart E-Pressure Testing."

3. Section 195.300 is revised to read as follows:

§195.300 Scope.

This subpart prescribes minimum requirements for the pressure testing of steel pipelines. However, this subpart does not apply to the movement of pipe under §195.424.

4. Section 195.302 is revised to read as follows:

§195.302 General requirements.

(a) Except as otherwise provided in this section and in §195.304(b), no operator ma operate a pipeline unless it has been pressure tested under this subpart without leakage. In addition, no

operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this subpart without leakage.

(b) Except for pipelines converted under §195.5, the following pipelines may be operated without pressure testing under this subpart:

(1) Any hazardous liquid pipeline whose maximum operating pressure is established under §195.406(a)(5) that is–

(i) An interstate pipeline constructed before January 8, 1971;

(ii) An interstate offshore gathering line constructed before August 1, 1977; or

(iii) An intrastate pipeline constructed before October 21, 1985.

(2) Any carbon dioxide pipeline constructed before July 12, 1991, that–

(i) Has its maximum operating pressure established under §195.406(a)(5); or

(ii) Is located in a rural area as part of a production field distribution system.

(c) Except for onshore pipelines that transport HVL, the following compliance deadlines apply to pipelines under paragraphs (b)(1) and (b)(2)(i) of this section that have not been pressure tested under this subpart:

(1) Before December 7, 1995, for each pipeline each operator shall–

(i) Plan and schedule testing according to this paragraph; or

(ii) Establish the pipeline's maximum operating pressure under §195.406(a)(5).

(2) For pipelines scheduled for testing, each operator shall–

(A) Each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and

(B) At least 50 percent of the mileage of all other pipelines; and

(ii) before December 7, 2001, pressure test the remainder of the pipeline mileage.

5. Section 195.303 is added to read as follows:

§195.303 Test pressure.

The test pressure for each pressure test conducted under this subpart must be maintained throughout the part of the system being tested for at least 4 continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and, in the case of a pipeline that is not visually inspected for leakage during the test, for at least an additional 4 continuous hours at a pressure equal to 100 percent, or more, of the maximum operating pressure.

§195.304 [Amended]

6. In §195.304, in paragraph (a), the word "hydrostatic" is removed and the word "pressure" is added in its place; and in the introductory text of paragraph (b), the word "hydrostatically" is removed and the word "pressure" is added in its place.

7. The introductory text of §195.306(b) is revised to read as follows:

§195.306 Test medium.

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(b) Except for offshore pipelines and pipelines to be tested under §195.302(c), liquid petroleum that does not vaporize rapidly may be used as the test medium if–

§195.308 [Amended]

8. In §195.308, the word "hydrostatically" is removed and the word "pressure" is added in its place.

§195.310 [Amended]

9. In §195.310(a), the word "hydrostatic" is removed and the word "pressure" is added in its place.

10. In §195.406, in paragraph (a)(3), the word "hydrostatically" is removed and the word "pressure" is added in its place; and paragraph (a)(5) is revised to read as follows:

§195.406 Maximum operating pressure.

(a) * * *

(5) For pipelines under §§195.302(b)(1) and (b)(2)(i) that have not been pressure tested under subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for 4 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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Ana Sol Gutiérrez.

Acting Administrator, RSPA.

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