

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 152 and 158**

[OPP-2002-0171; FRL-6818-4]

RIN 2070-AC12 and 2070-AD47

**Pesticide Registration Data Requirements; Notification to the Secretary of Agriculture****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notification to the Secretary of Agriculture.

**SUMMARY:** This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft proposed rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The draft proposed rule would update data requirements for conventional pesticide products to reflect current scientific knowledge and understanding and to support the Agency's mandate to better protect sensitive subpopulations from pesticide risks. The proposal would also codify existing data requirements that are applied on a case-by-case basis. Please note that the draft proposed rule is not currently publicly available. It will only become publicly available when the proposed rule is signed, at which time it will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Melissa Chun, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone number: 703-305-4027; e-mail address: chun.melissa@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does This Action Apply to Me?*

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to USDA and does not otherwise affect any specific entities. This action may, however, be of particular interest to persons who register pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or who seek a tolerance or tolerance exemption for a pesticide under the Federal Food, Drug and Cosmetic Act (FFDCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the this action,

consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information?*

*Electronically.* You may obtain electronic copies of this **Federal Register** document from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. Please note that the draft proposed rule is not currently publicly available. It will only become publicly available when the proposed rule is signed, at which time it will be published in the **Federal Register**.

**II. What Action Is EPA Taking?**

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include the comments of the Secretary and the Administrator's response to those comments in the proposed rule when published in the **Federal Register**. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

**III. Do Any Regulatory Assessment Requirements Apply to This Notification?**

No. this document is not a proposed rule, it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

**List of Subjects in 40 CFR Parts 152 and 158**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 28, 2002.

**Marcia E. Mulkey,**

Director, Office of Pesticide Programs.

[FR Doc. 02-22730 Filed 9-5-02; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Part 195**

[Docket No. RSPA-97-2717; Notice 1]

RIN 2137-AD10

**Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards****AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We are proposing to change some of the safety standards for hazardous liquid and carbon dioxide pipelines. The changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR). We believe the changes will improve the clarity and effectiveness of the present standards.

**DATES:** Persons interested in submitting written comments on the rules proposed in this notice must do so by November 5, 2002. Late filed comments will be considered so far as practicable.

**ADDRESSES:** You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Or you may submit written comments to the docket electronically at the following Web address: <http://dms.dot.gov>. See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

**FOR FURTHER INFORMATION CONTACT:** L. M. Furrow by phone at 202-366-4559, by fax at 202-366-4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC, 20590, or by e-mail at [buck.furrow@rspa.dot.gov](mailto:buck.furrow@rspa.dot.gov).

**SUPPLEMENTARY INFORMATION:****Filing Information, Electronic Access, and General Program Information**

All written comments should identify the docket and notice numbers stated in

the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to <http://dms.dot.gov>, click on "ES Submit." You can also read comments and other material in the docket at <http://dms.dot.gov>. General information about our pipeline safety program is available at <http://ops.dot.gov>.

## Background

NAPSR is a non-profit association of officials from state agencies that participate with RSPA in the federal pipeline safety regulatory program. Each year NAPSR holds regional meetings to discuss safety and administrative issues, culminating in resolutions for program improvement.

Following NAPSR's comprehensive review of the gas pipeline safety standards in 49 CFR Part 192,<sup>1</sup> we asked NAPSR to begin a similar review of the hazardous liquid pipeline safety standards in 49 CFR Part 195. As with Part 192, the purpose of the Part 195 review was to identify standards that NAPSR considered unclear or hard to enforce. NAPSR compiled the results of its review in a report titled "Part 195 Project" (April 1995), a copy of which is in the docket. The report includes 30 different recommendations for changes to Part 195.

We have reviewed each recommendation to decide if rulemaking is needed. The results of that review, which led to the rule changes proposed by this notice, are discussed under the next heading. We found that 18 of the recommendations had already been adopted or proposed to be adopted in earlier rulemaking actions (No. 1, 4, 5, 6, 9, 10, 12, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, and 30). Of the remaining 12 recommendations, we are proposing to adopt 5 (No. 11, 13, 17, 19, and 28) and have declined to adopt 7 (No. 2, 3, 7, 8, 14, 22, and 29).

## Disposition of NAPSR Recommendations

### 1. § 195.1(b)(7) Applicability

*Recommendation.* Exempt marine transfer piping systems that do not cross public thoroughfares.

*Response.* Transfer lines between vessels (e.g., ships) and port facilities

are regulated for safety by the U.S. Coast Guard. Section 195.1(b)(3)(ii) exempts from Part 195 all low-stress pipelines regulated by the U.S. Coast Guard. This exemption covers low-stress marine transfer lines. In addition, transfer lines at a marine terminals fall under the exemption in § 195.1(b)(8)(ii). This latter exemption applies to facilities at 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. NAPSR suggested it is unclear that the term "materials transportation terminal" includes marine terminals. However, within the context of § 195.1(b)(8), the term clearly relates to non-pipeline modes of transportation, and § 195.1(b)(8)(i) identifies vessels as one these modes. Thus, we do not think rulemaking is needed to clarify the exemption of transfer lines at marine terminals.

### 2. § 195.2 Definitions

*Recommendation.* To be consistent with the Pipeline Safety Act, define "gathering line" as a pipeline 6.625 inches or less in nominal diameter.

*Response.* We have not adopted this recommendation because doing so would not be consistent with the pipeline safety law. Rural gathering lines<sup>2</sup> are exempt from Part 195 (§ 195.1(b)(4)). The effect of redefining "gathering line" as NAPSR recommended would be to extend Part 195 to cover currently unregulated rural gathering lines that are larger than 6.625 inches in diameter.

RSPA's authority to regulate rural gathering lines is limited to certain lines called "regulated gathering lines," which must be defined based on various factors in addition to pipe diameter (49 U.S.C. 60101). The statutory provision we believe NAPSR had in mind merely requires that the definition of "regulated gathering line" exclude certain lines 6 inches or less in nominal diameter. This provision does not require DOT to regulate rural gathering lines larger than 6 inches in nominal diameter. We have not yet decided to regulate any rural gathering lines and so have not yet proposed to define "regulated gathering line."

### 3. § 195.2 Definitions

*Recommendation.* In the definition of "production facility," specifically

<sup>2</sup> Section 195.2 defines "gathering line" as "a pipeline 219.1 mm (8½ in) or less nominal outside diameter that transports petroleum from a production facility."

exclude storage tanks not associated with production.

*Response.* We have not adopted this recommendation because we feel the present definition of "production facility" clearly includes only those storage tanks that are associated with production. Not only does the definition specifically refer to "equipment used in production \* \* \* or associated storage," but it specifically excludes equipment not "used in the process of extracting petroleum or carbon dioxide from the ground," a process generally thought of as production.

### 4. § 195.3 Matter Incorporated by Reference

*Recommendation.* Add API tank standards 650 and 653 to the list of documents incorporated by reference.

*Response.* Section 195.3 has been amended to include API standards 650 and 653 (64 FR 15935; Apr. 2, 1999).

### 5. § 195.3 Matter Incorporated by Reference

*Recommendation.* Clarify which parts of referenced documents are incorporated by reference.

*Response.* Section 195.3 has been amended to clarify which parts of documents are incorporated by reference (59 FR 33396; June 28, 1994).

### 6. § 195.50(e)

*Recommendation.* Make the hospitalization criterion for accident reporting consistent with the comparable gas pipeline reporting criterion.

*Response.* Section 195.50 has been amended to make the hospitalization reporting criterion consistent with comparable reporting criterion for gas pipelines (67 FR 836; Jan. 8, 2002).

### 7. Subpart C Design Requirements, Design Factor § 195.105

*Recommendation.* In furtherance of Recommendation No. 8, define class locations for hazardous liquid pipelines similar to the class location definitions for gas pipelines under 49 CFR 192.5.

*Response.* We have not adopted this recommendation because the need to base design requirements for hazardous liquid and carbon dioxide pipelines on class location has not been satisfactorily demonstrated. Also, the concept is controversial in view of the behavioral differences between hazardous liquid and gas pipelines. Furthermore, § 195.452, our recently published integrity management rule, requires additional safety in areas of increased population, which is what NAPSR sought to do through class location definitions.

<sup>1</sup> We invited the public to comment on the results of NAPSR's Part 192 review during a proceeding to eliminate overly burdensome gas pipeline safety standards (Docket PS-124; 58 FR 59431; November 9, 1993). Although in that proceeding we adopted only four of NAPSR's 34 recommendations, three more were proposed in a proceeding to update regulations (65 FR 15290; Mar 22, 2000), and we are actively considering the rest for further rulemaking.

### 8. § 195.106 *Internal Design Pressure*

**Recommendation.** Establish design safety factors based on class location and temperature similar to the factors required for gas pipelines.

**Response.** As stated in the response to Recommendation No. 7, the need to base design requirements for hazardous liquid and carbon dioxide pipelines on class location has not been satisfactorily demonstrated. Also, there is no need to establish temperature derating factors for hazardous liquid and carbon dioxide pipelines like those for gas pipelines in 49 CFR 192.115. As indicated by the table of factors in § 192.115, the properties of pipeline steel are not affected by temperatures as high as 250°F. While the heat of compression may cause gas pipelines to exceed this temperature, the operation of hazardous liquid and carbon dioxide pipelines does not cause the pipeline temperature to exceed 250°F. This difference is recognized by the American Society of Mechanical Engineers (ASME). The ASME B31.8 Code for gas pipelines includes a temperature derating factor in the design formula for steel pipe, but the ASME B31.4 Code for petroleum pipelines does not include a temperature derating factor in the design formula for steel pipe.

### 9. § 195.132 *Aboveground breakout tanks*

**Recommendation.** Require tank design according to API 650.

**Response.** Section 195.132 has been amended to require tank design according to API 650 (64 FR 15935; Apr. 2, 1999).

### 10. § 195.214 *Welding: General*

**Recommendation.** Reference API 1104 and ASME Boiler & Pressure Vessel Code, Section IX, as welding procedure qualification standards.

**Response.** In a notice of proposed rulemaking entitled "Pipeline Safety: Periodic Updates to Pipeline Safety Regulations" (65 FR 15290; Mar. 22, 2000), we proposed to amend § 195.214 by incorporating by reference Section 5 of API 1104 and Section IX of ASME Boiler & Pressure Vessel Code as standards for qualifying welding procedures.

### 11. § 195.222 *Welders: Qualification of Welders*

**Recommendation.** Require continuing qualification of welders.

**Response.** Paragraph 434.8.3(c) of ASME B31.4 requires requalification of welders who have not engaged in a particular welding process for a period of 6 months or more. Similarly, our gas pipeline safety regulations (49 CFR Part

192) do not allow a welder to weld with a particular process unless the welder has welded with that process within the previous 6 months (§ 192.229(b)). Further, within the previous 6 months, each welder must have had one weld tested and found acceptable under API 1104 (§ 192.229(c)(1)).<sup>3</sup>

In the interest of making our gas and hazardous liquid pipeline regulations consistent as far as practical, we are proposing to amend § 195.222 as NAPSRS recommended. In view of the B31.4 requirement for welder requalification, which generally represents current industry safety practices, the proposed amendment should not significantly increase the costs of compliance. Moreover, companies that operate both regulated gas and hazardous liquid pipelines may find regulatory consistency advantageous because it may ease the transfer of welders from liquid to gas pipelines.

### 12. § 195.228 *Welds and Welding Inspection: Standards of Acceptability*

**Recommendation.** Require tank welding according to API 650.

**Response.** Section 195.132 has been amended to require tank construction, which includes welding, according to API 650 (64 FR 15935; Apr. 2, 1999).

### 13. § 195.252 *Backfilling*

**Recommendation.** Require backfilling to be performed according to the standards for gas pipelines to guard against structural damage.

**Response.** NAPSRS reported that inspections of pipelines using instrumented internal inspection devices have identified many deleterious dents and gouges due to poor quality backfill material adversely affecting the pipeline. Paragraph 434.11 of B31.4 requires that backfilling must provide firm support for the pipe and prevent damage to the pipe and coating. A similar requirement is in effect for gas pipelines (§ 192.319(b)) and for hazardous liquid and carbon dioxide pipelines (§ 195.252). However, § 192.319(b) specifically states that pipe and coating are not to be damaged by either the backfilling equipment or material.

We agree with NAPSRS that this more specific wording has the potential to increase safety for hazardous liquid and carbon dioxide pipelines, particularly in light of the requirement in § 195.204 that pipe installation must be inspected for compliance with Part 195. Therefore,

<sup>3</sup> Because of the large amount of low-stress distribution lines, welder qualification standards in §§ 192.227 and 192.229 allow alternative means of qualifying welders on low-stress pipe.

we are proposing to replace § 195.252 with the standards in § 192.319(b). Because this proposal merely clarifies an existing requirement, there should not be any increased cost of compliance.

NAPSRS further suggested we require that backfill material be free of objects which may cause damage to the pipe or pipe coating. We did not adopt this suggestion because such material may not always be readily available in the quantity needed to fill the ditch. Under § 192.319(b) and the proposed rule, material with potentially damaging rocks may be used in backfilling, but only if damage to the pipe or coating is prevented by means such as a sufficient initial layer of material that is free of potentially damaging rocks.

### 14. § 195.260 *Valves: Location*

**Recommendation.** Establish a 10-mile maximum distance between shutoff valves to minimize the adverse effects of spills.

**Response.** To minimize the effects of spills, remote-control or automatic shut-off valves and a leak detection system are needed. In Docket PS-93, Notice 2, we concluded that there was insufficient justification to require the installation of remote-control or automatic shut-off valves at uniform intervals along gas and hazardous liquid pipelines (55 FR 23514; June 8, 1990). Subsequently, we completed a study required by the Pipeline Safety Reauthorization Act of 1988 on the feasibility and effectiveness of installing remote-control or check valves in certain circumstances. This study, "Emergency Flow Restricting Devices Study" (March, 1991), and our further assessment of remote control valves and associated means to minimize product releases (Docket No. PS-133) (59 FR 2802; January 19, 1994; and 60 FR 44822; August 29, 1995) provided the basis for a new integrity management rule in § 195.452(i) (65 FR 75408; Dec. 1, 2000). This new rule requires operators to install remote control or check valves in particular circumstances to protect high consequence areas. In view of our previous decision against requiring operators to install uniformly spaced valves and the lack of any new information to the contrary, we have not adopted NAPSRS's valve spacing recommendation. However, we feel the new requirement in § 195.452(i) substantially resolves the safety concern that caused NAPSRS to make the recommendation.

### 15. § 195.264 *Construction-Breakout Tanks*

**Recommendation.** Require tank construction according to API 650.

*Response.* Section 195.132 has been amended to require tank construction according to API 650 (64 FR 15935; Apr. 2, 1999).

#### 16. § 195.302(c) Hydrostatic Testing

*Recommendation.* Require tank testing according to API 650.

*Response.* Section 195.307(c) has been established to require hydrostatic testing of tanks according to API 650 (64 FR 15936; Apr. 2, 1999).

#### 17. § 195.310 Hydrostatic Test Records

*Recommendation.* Require hydrostatic test records to include temperature of the test medium or pipe.

*Response.* We agree with NAPSRS that temperature data are an important consideration in determining the validity of a hydrostatic test. A pressure drop due to a decrease in temperature during the test period could be incorrectly seen as a leak. More important, a pressure rise due to an increase in temperature could hide the indication of a small leak.

Therefore, it is necessary to mathematically account for any temperature-related pressure change to ensure the absence of leaks during the test. Operators customarily collect temperature data and make such calculations during hydrostatic tests.

The main purpose of keeping test records is to show compliance with the testing requirements, one of which is to maintain the test pressure without leakage (§ 195.302(a)). NAPSRS's recommendation is consistent with this objective. Adopting the recommendation should not increase costs significantly because operators commonly collect temperature data. Therefore, we are proposing to amend § 195.310 to require operators to include relevant temperature data among their test records.

#### 18. § 195.401(b) Continuing Surveillance and Risk Management Programs

*Recommendation.* Require a risk-based continuing evaluation program to assure pipeline integrity.

*Response.* Section 195.452 requires operators to undertake a continual process of assessment and evaluation of integrity threats as part of a risk-based integrity management program.

#### 19. § 195.403 Training

*Recommendation.* Clarify the training required for personnel to evaluate and respond to fire emergencies.

*Response.* We agree with NAPSRS that § 195.403(a)(5), which requires operators to train personnel in "the proper use of firefighting procedures

and equipment, fire suits, and breathing apparatus," is unclear regarding the level of training required for firefighting. We also agree that the terms "fire suit" and "breathing apparatus" are ambiguous, and using such gear with inadequate training could be harmful to personnel and unnecessarily delay or impede response by fully trained firefighters.

Therefore, as NAPSRS recommended, we are proposing to amend § 195.403(a)(5) to require that emergency response training include basic evaluation of fire hazards and the appropriate use of portable fire extinguishers and other on-site fire control equipment. We did not include in the proposed rule several other items NAPSRS recommended (response appropriate to the situation, contacting the fire department, evacuating people from the immediate area, closing valves which could supply fuel to the fire, and coordination with emergency responders such as firefighters) because they are covered by existing regulations. Under §§ 195.402(e) and 195.403(a)(1), operators must develop procedures for handling these items and then train personnel to carry out the procedures.

#### 20. § 195.406 MOP

*Recommendation.* For pipelines existing before Part 195 took effect that transport hazardous liquids that are not highly volatile, allow the maximum operating pressure to be set at 80 percent of past pressure in lieu of testing under Subpart E.

*Response.* Section 195.406(a)(5) allows all older hazardous liquid pipelines to be operated at 80 percent of a qualified past pressure in lieu of testing under Subpart E.

#### 21. Subpart F, Part 195, Operation and Maintenance

*Recommendation.* Establish definite requirements for abandoning pipelines; apply these requirements to any temporarily idle, inactive, or out-of-service pipeline not maintained under Part 195; and apply the requirements for converted pipelines (§ 195.5) to abandoned pipelines that are returned to service.

*Response.* Section 195.402(c)(10), which requires operators to establish and follow procedures for abandoning pipelines, covers the essence of NAPSRS's recommendation with respect to abandoning pipelines. Those procedures are subject to review and amendment by federal and state government inspectors. We believe these existing requirements are sufficient and substantially satisfy

NAPSRS's recommendation to establish definite requirements for abandonment.

Regarding pipelines temporarily removed from service, if the pipeline continues to contain a potentially harmful quantity of hazardous liquid or carbon dioxide, we consider it to be used in transportation and subject to the operation and maintenance requirements of Part 195, including corrosion control and routine surveys. If no potentially harmful quantity of hazardous liquid or carbon dioxide remains in the pipeline, we do not consider it to be in use, and the pipeline need not meet the operation and maintenance requirements while it is not used in transportation. However, before returning the pipeline to service, the operator must ensure that it fully complies with the operation and maintenance requirements. NAPSRS recommends that if an operator defers maintenance on a temporarily out-of-service pipeline, the pipeline should be disconnected, purged, and sealed as if it were abandoned. Considering the low risk involved (given the absence of a potentially harmful quantity of hazardous liquid or carbon dioxide), and the temporary out-of-service status of the pipeline, we do not think such additional requirements are needed for safety or environmental protection. Furthermore, under § 195.402, operators' operation and maintenance manuals should contain procedures for the safe temporary removal of a pipeline from service and for responding to any inadvertent operation of the pipeline while it is out of service. Thus, we have not adopted NAPSRS's recommendation regarding out-of-service pipelines.

Any pipeline that is abandoned under Part 195 and later returned to Part 195 service would have to fully comply with the operation and maintenance requirements upon its return to service. NAPSRS recommends that, in addition, we require such pipelines to meet the § 195.5 conversion requirements, which entail review of operation and maintenance records, visual inspections, and strength testing. But compliance with the operation and maintenance standards would involve a records review to learn which recurring inspections and tests must be performed. And visual inspections of rights-of-way and aboveground facilities would also be required. Although the operation and maintenance standards do not require visual inspection of selected portions of buried pipelines as § 195.5 does, if a recommissioned abandoned pipeline affects a high consequence area, the operator would have to pressure test or internally inspect the pipeline in accordance with

the schedule required by § 195.452. In addition, upon return to service, every abandoned pipeline must meet the strength testing requirements of § 195.302 or § 192.303. Given that abandoned pipelines are not often returned to service and the lack of reported accidents attributable to recommissioned abandoned pipelines, we do not think rulemaking is needed at this time. Thus, we have not adopted NAPSRS's recommendation to apply § 195.5 to abandoned pipelines that are recommissioned.

#### 22. § 195.412(b)

*Recommendation.* Add a 6-month grace period to the maximum 5-year interval between inspections of water crossings to account for flood disturbances.

*Response.* We believe that 5 years allows operators enough time to schedule inspections to avoid anticipated periods of flooding. If unanticipated flooding precludes a scheduled inspection, in enforcing § 195.412(b) we would allow the operator a reasonable time to conduct the inspection, and we encourage participating state agencies to do likewise. Adding 6 months to the maximum interval between inspections would not necessarily alleviate the problem of unanticipated flooding. Therefore, we have not adopted NAPSRS's recommendation.

#### 23. § 195.414 Cathodic Protection

*Recommendation.* Establish criteria for the adequacy of cathodic protection.

*Response.* New § 195.571 incorporates by reference paragraphs 6.2 and 6.3 of NACE Standard RP0169-96 as criteria for cathodic protection (66 FR 67005; Dec. 27, 2001).

#### 24. § 195.416 External Corrosion Control

*Recommendation.* Require prompt action to correct corrosion control deficiencies.

*Response.* New § 195.573(e) requires operators to correct identified corrosion control deficiencies within the times allowed by § 195.401(b) or § 195.452(h), as applicable (66 FR 67006; Dec. 27, 2001).

#### 25. Subpart F, Part 195, Operation and Maintenance Upgrading

*Recommendation.* Establish steps to follow in upgrading a pipeline, or increasing its maximum operating pressure (MOP).

*Response.* The Part 195 regulations that apply to upgrading are §§ 195.402 and 195.406. Under § 195.402, operators must have and follow procedures for

normal operations. Since upgrading is a normal operation, if an operator upgrades a pipeline, the operator's procedures for normal operations must cover upgrading. In addition to these procedures, § 195.406 limits any upgraded MOP to the lowest pressure among five parameters.

NAPSRS's report suggests that more specific requirements for upgrading are needed, like those for gas pipelines in Part 192. However, the report does not explain why the present regulations are inadequate, and we are not aware of any accidents related to inappropriate upgrading procedures. Although the report indicates that a few operators may not fully understand the present requirements, we do not feel lack of knowledge is sufficient reason to make the regulations more detailed. Therefore, we have not adopted the recommendation.

#### 26. § 195.428 Overpressure safety devices

*Recommendation.* Specifically require testing of thermal relief valves at maximum 3-year intervals.

*Response.* Section 195.428 requires annual inspection and testing of "relief valves." We believe this term is generally understood to mean a valve designed to open or close a vent when a preset pressure or temperature is reached. Although NAPSRS may be correct that most operators do not consider thermal relief valves to be pressure control devices, § 195.428 distinguishes pressure control devices from relief valves. Because we believe thermal relief valves, or relief valves set to function at preset temperatures, are covered by the existing inspection and testing requirements in § 195.428, we do not think specific treatment of thermal relief valves is necessary. Nor do we think there is a need to relax those requirements by allowing thermal relief valves to be inspected and tested at 3-year intervals instead of annually. Therefore, we have not adopted the recommendation.

#### 27. § 195.432 Breakout Tanks

*Recommendation.* Require tank inspection according to API 653.

*Response.* Section 195.432 has been amended to require tank inspection according to Section 4 of API 653 (64 FR 15936; April 2, 1999).

#### 28. § 195.434 Signs

*Recommendation.* Clarify that the emergency telephone number on signs at pump station and breakout tank areas is a number where the operator is always available.

*Response.* Section 195.434 requires that publicly visible signs around each

pump station and breakout tank area display "the name of the operator and an emergency telephone number to contact." Undoubtedly the purpose of the number is to enable the public to notify the operator of an emergency involving the area. However, NAPSRS reported that in many instances the number could not always be used for that purpose because it did not reach the operator at all times. We agree that clarification would be helpful, particularly since a similar requirement governing line marking signs specifically states that the telephone number must be one "where the operator can be reached at all times" (§ 195.410(a)(2)(ii)). Therefore, we are proposing to change § 195.434 to make the telephone number requirement consistent with a similar requirement under § 195.410(a)(2)(ii).

#### 29. § 195.438 Smoking or Open Flame

*Recommendation.* Require operators to post "no smoking" signs in certain locations in pump station and breakout tank areas.

*Response.* Section 195.438 requires operators to prohibit smoking in certain locations in pump station and breakout tank areas. While some operators may comply by posting signs in those locations, others may comply by prohibiting smoking throughout the entire area or by limiting smoking to a designated location. NAPSRS's recommendation would narrow the range of possible compliance options for no reason other than "no smoking" signs are not mandatory under § 195.428. We are not aware of any fires caused by smoking in pump station and breakout tank areas that might warrant rulemaking action. Also the efficacy of signs in preventing smoking in pump station and breakout tank areas was not discussed and may be uncertain. Thus, we have not adopted the recommendation.

#### 30. § 195.440 Public Education

*Recommendation.* Require an annual review of programs designed to educate the public to recognize and report hazards and emergencies.

*Response.* Section 195.402(c)(3) requires each operator to have and follow procedures for carrying out the operation and maintenance requirements of Part 195, including the requirements for public education under § 195.440. Moreover, § 195.402(a) requires operators to review their procedures annually and modify them if necessary for effectiveness. We believe these existing requirements satisfy NAPSRS's recommendation regarding

annual reviews of public education programs.

NAPSR's recommendation closely parallels the National Transportation Safety Board's recommendation (P-98-38) that operators periodically evaluate the effectiveness of their public education programs using scientific techniques. In response to that recommendation, we are working with the Common Ground Alliance to develop guidelines operators may use in evaluating the effectiveness of their public education programs. In addition, we are working with industry trade associations to develop consensus standards that operators can use to improve their public education programs. To this end, we invited the public to participate in this voluntary standards-setting effort (67 FR 34754; May 15, 2002). Upon completion of these activities, we will decide if regulatory changes are needed regarding public education programs.

#### Regulatory Analyses and Notices

*Executive Order 12866 and DOT Policies and Procedures.* RSPA does not consider this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this rulemaking to review. RSPA also does not consider this proposed rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

We prepared a Draft Regulatory Evaluation of the proposed rules and a copy is in the docket. The evaluation concludes there should be only minimal additional cost, if any, for operators to comply with the proposed rules. If you disagree with this conclusion, please provide information to the public docket described above.

*Regulatory Flexibility Act.* The proposed rules are consistent with customary practices in the hazardous liquid and carbon dioxide pipeline industry. Therefore, based on the facts available about the anticipated impacts of this proposed rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this proposed rulemaking would not have a significant impact on a substantial number of small entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket described above.

*Executive Order 13084.* The proposed rules have been analyzed in accordance with the principles and criteria

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

#### Paperwork Reduction Act

*Title:* Transportation of Hazardous Liquids by Pipeline Recordkeeping and Accident Reporting Requirements. OMB Number: 2137-0047

*Summary:* Section 195.310(b)(10) proposes minor additional information collection requirements to an already existing information collection requirement. Operators would be required to record the temperature during testing and keep the records for as long as the pipeline concerned is in service. However, we believe most operators already maintain records of temperature. Also, we believe the burden of retaining temperature records would be minimal. These records are largely computerized. Maintaining these records on a floppy disk or computer file represents very minimal costs. Because the additional paperwork burdens of this proposed rule are likely to be minimal, we believe that submitting an analysis of the burdens to OMB under the Paperwork Reduction Act is unnecessary. If you disagree with this conclusion, please submit your comments to the public docket.

*Use:* Records are kept to help RSPA determine compliance with pipeline safety requirements.

*Respondents (including the number of):* There are 200 hazardous liquid pipeline operators that could potentially be subject to this proposed rule.

*Annual Burden Estimate:* 51,011 hours per year.

*Frequency:* Variable.

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

*National Environmental Policy Act.* We have analyzed the proposed rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the proposed rules parallel present requirements or practices, we have preliminarily determined that the proposed rules

would not significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket. A final determination on environmental impact will be made after the end of the comment period. If you disagree with our preliminary conclusion, please submit your comments to the docket as described above.

*Impact on Business Processes and Computer Systems.* We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to "Y2K" or related computer problems. The proposed rules would not mandate business process changes or require modifications to computer systems. Because the proposed rules would not affect the ability of organizations to respond to those problems, we are not proposing to delay the effectiveness of the requirements.

*Executive Order 13132.* The proposed rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The proposed rules do not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

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

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

For the reasons discussed in the preamble, RSPA proposes to amend 49 CFR part 195 as follows:

#### PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

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

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

2. Amend § 195.222 as follows:  
a. Redesignate the existing text as paragraph (a); and  
b. Add paragraph (b) to read as follows:

#### § 195.222 Welders: Qualification of welders.

\* \* \* \* \*

(b) No welder may weld with a particular welding process unless,

within the preceding 6 calendar months, the welder has—

- (1) Engaged in welding with that process; and
  - (2) Had one weld tested and found acceptable under Section 6 of API 1104.
3. Revise § 195.252 to read as follows:

**§ 195.252 Backfilling.**

When a ditch for a pipeline is backfilled, it must be backfilled in a manner that:

- (a) Provides firm support under the pipe; and
  - (b) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.
4. Amend § 195.310 as follows:
- a. Remove the word “and” at the end of paragraph (b)(8);
  - b. Remove the period at the end of paragraph (b)(9) and add “; and” in its place; and
  - c. Add paragraph (b)(10) to read as follows:

**§ 195.310 Records.**

\* \* \* \* \*

(b) \* \* \*

- (10) Temperature of the test medium or pipe during the test period.
5. Revise § 195.403(a)(5) to read as follows:

**§ 195.403 Training.**

(a) \* \* \*

(5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.

\* \* \* \* \*

6. Revise § 195.434 to read as follows:

**§ 195.434 Signs.**

Each operator must maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

Issued in Washington, DC on August 29, 2002.

**Stacey L. Gerard,**

*Associate Administrator for Pipeline Safety.*  
[FR Doc. 02–22735 Filed 9–5–02; 8:45 am]

**BILLING CODE 4910–60–P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Parts 571, 580, 581, 582, 583, 584, 585, 586, 587, and 588**

[Docket No. NHTSA–02–13206]

**Federal Motor Vehicle Safety Standards (FMVSS); Small Business Impacts of Motor Vehicle Safety**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.  
**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) seeks comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, motorcycles, and motor vehicle equipment.

**DATES:** Comments must be received on or before September 20, 2002.

**ADDRESSES:** You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. You may call Docket Management at: (202) 366–9324. You may visit the Docket from 10 am to 5 pm Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Nita Kavalauskas, Office of Regulatory Analysis, Office of Planning, Evaluation and Budget, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Facsimile (fax): (202) 366–2559.

**SUPPLEMENTARY INFORMATION:**

**I. Section 610 of the Regulatory Flexibility Act**

*A. Background and Purpose*

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial

number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

*B. Review Schedule*

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on November 22, 1999, listing in Appendix D (64 FR 64684) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT’s 10-year review plan for all of its existing regulations.

The National Highway Traffic Safety Administration (NHTSA, “we”) has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and a Review Year. For purposes of these reviews, a year will coincide with the fall-to-fall publication schedule of the Semiannual Regulatory Agenda. Thus, Year 1 (1998) began in the fall of 1998 and ended in the fall of 1999; Year 2 (1999) began in the fall of 1999 and ended in the fall of 2000; and so on.

During the Analysis Year, we will request public comment on and analyze each of the rules in a given year’s group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall’s Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area