

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

[Docket No. PS-117; Amdt. 195-57A]

RIN 2137-AC87

Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals**AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Withdrawal of direct final rule.

SUMMARY: This action withdraws the direct final rule that excluded from RSPA's safety standards for hazardous liquid pipelines low-stress pipelines regulated by the U.S. Coast Guard and low-stress pipelines less than 1 mile long that serve certain plants and transportation terminals without crossing an offshore area or a waterway currently used for commercial navigation. (62 FR 31364, June 9, 1997.) Applicable procedural rules require withdrawal because an interested person submitted an adverse comment on the direct final rule. RSPA's stay of enforcement of the safety standards against these pipelines will remain in effect until the matter is resolved through further rulemaking.

DATES: The direct final rule published at 62 FR 31364 is withdrawn on October 7, 1997.

FOR FURTHER INFORMATION CONTACT:

L. M. Furrow, (202)366-4559, regarding the subject matter of this notice. Contact the Dockets Unit, (202) 366-5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: In response to increased environmental awareness, critical accidents involving low-stress pipelines, and Congressional direction, RSPA extended its hazardous liquid pipeline safety standards (49 CFR Part 195) to cover certain low-stress pipelines of higher risk (Docket No. PS-117; 59 FR 35465; July 12, 1994). The term "low-stress pipeline" means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe (§ 195.2). Except for onshore rural gathering lines and gravity-powered lines, the following categories of low-stress pipelines were brought under the regulations: pipelines that transport highly volatile liquids, pipelines located onshore and outside rural areas, pipelines located offshore, and pipelines located in waterways that are currently used for commercial

navigation (§ 195.1(b)(3)). Because the rulemaking record showed that many low-stress pipelines probably were not operated and maintained consistent with Part 195 requirements, operators were allowed to delay compliance of their existing lines until July 12, 1996, (§ 195.1(c)).

The largest proportion of low-stress pipelines brought under Part 195 consisted of interfacility transfer lines (about two-thirds of the pipelines and one-third of the overall mileage). The remainder included trunk lines and certain urban gathering lines. Interfacility transfer lines move hazardous liquids locally between facilities such as truck, rail, and vessel transportation terminals, manufacturing plants, petrochemical plants, and oil refineries, or between these facilities and associated storage or long-distance pipeline transportation. The lines usually are short, averaging about a mile in length.

Interfacility transfer lines are also impacted by the Process Safety Management regulations of the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.119). These regulations, which involve hazard analysis and control, operating and maintenance procedures, and personnel training, are intended to reduce the risk of fires and explosions caused by the escape of hazardous chemicals from facility processes. In addition, transfer lines between vessels and marine transportation-related facilities are subject to safety regulations of the U.S. Coast Guard (33 CFR Parts 154 and 156).

We considered the costs and potential confusion of this regulatory overlap with Part 195 as well as information that showed that bringing interfacility transfer lines into full compliance with Part 195 would be difficult for many operators. Weighing these problems against the need for risk reduction, we decided that the potential benefits of complying with Part 195 do not justify the effort if the line is short and does not cross an offshore area or a commercially navigable waterway, or if the line is regulated by the Coast Guard.

Consequently, we announced a stay of enforcement of Part 195 against certain interfacility transfer lines (61 FR 24245; May 14, 1996). The stay applies to low-stress pipelines that are regulated by the Coast Guard or that extend less than 1 mile outside plant or terminal grounds without crossing an offshore area or any waterway currently used for commercial navigation. We intend to keep the stay in effect until modified or until we finally revise the Part 195 regulations to eliminate the need for the stay.

Following publication of the stay of enforcement, we issued a direct final rule to amend Part 195 to comport with the stay (62 FR 31364; June 9, 1997). This direct final rule revised § 195.1(b)(3) to exclude from Part 195 those low-stress interfacility transfer lines that were covered by the stay, while continuing to exclude other low-stress pipelines that were previously excluded.

The procedures governing issuance of direct final rules are in 49 CFR 190.339. These procedures provide for public notice and opportunity for comment subsequent to publication of a direct final rule. They also provide that if an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and withdraw the direct final rule in whole or in part. Under the procedures, RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

Four persons submitted comments on the direct final rule: American Petroleum Institute (API), California Department of Fish and Game (CDF&G), California Independent Petroleum Association (CIPA), and Western States Petroleum Association (WSPA). API made an editorial comment, while CIPA and WSPA argued that the direct final rule should be expanded to also exclude from Part 195 short low-stress pipelines serving production/shipping facilities in urban areas.

However, CDF&G opposed the direct final rule. It argued, first, that the Coast Guard's regulations are not an adequate substitute for RSPA's because of weak pressure testing requirements and the absence of cathodic protection requirements to guard against corrosion. Secondly, it said the exclusion of short plant and terminal transfer lines should apply only if a discharge would not impact marine waters of the United States. In contrast, the direct final rule excluded these lines if they did not cross offshore or a commercially navigable waterway.

Because of the adverse comment from CDF&G, we are withdrawing the direct final rule. We intend to follow up this action with a notice of proposed rulemaking that will propose to amend the application of Part 195 in a way similar to the direct final rule, but by taking into account the comments we received on it.

Issued in Washington, DC, on October 3, 1997.

Kelley S. Coyner,

Acting Administrator.

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