opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 28, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in June 28, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 10, 1998. This rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3031 Filed 2–9–98; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–121; Notice–2]

RIN 2137–AB46

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

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

ACTION: Response to petitions for reconsideration; request for comments.

SUMMARY: On June 7, 1994, RSPA issued a final rule amending existing regulations for liquid and carbon dioxide pipeline facilities. The rule required the hydrostatic pressure testing of certain older pipelines that were never pressure tested to current standards. The American Petroleum Institute (Petitioner or API) and Williams Pipe Line Company (Petitioner or Williams) filed Petitions for Reconsideration (petitions) concerning certain provisions of the final rule. In response to these petitions, this document clarifies certain provisions of the final rule and seeks comments on one issue.

DATES: Interested persons are invited to submit comments on this notice by April 13, 1998. Late filed comments will be considered to the extent practicable.

ADDRESSES: Written comments must be submitted in duplicate and mailed or hand-delivered to the OPS, Room 2335, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Identify the docket and notice number stated in the heading of this notice. Alternatively, comments may be submitted via e-mail to ''ops.comments@rspa.dot.gov''. Comments will become part of this docket and will be available for inspection or copying in Room 2335 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or OPS (202) 366–4046, for copies of this petition document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the pressure testing rule (59 FR 29379; June 7, 1994) is to ensure that certain older hazardous liquid and carbon dioxide pipelines have an adequate safety margin between their maximum operating pressure and test pressure. The rule applied to those pipelines never pressure tested according to current standards. The compliance dates for pressure testing the older pipelines have been extended. (62 FR 54591; October 21, 1997). The extension is to allow for consideration of rulemaking providing an alternative to pressure testing in certain circumstances. This alternative to pressure testing is based on a petition from API.

In its petitions for reconsideration of the final rule, API raised three issues and Williams raised two issues. The most significant issue raised by both API and Williams related to the prohibition of testing with petroleum. The pressure testing rule prohibited the use of petroleum as a test medium in pressure testing such pipelines. RSPA withdrew the prohibition by amendment of the pressure testing rule on August 11, 1994 in the **Federal Register** (59 FR 41259).

Remaining Issues in Petitions

Disposal of Test Water

API asserted that the final rule did not adequately address its comments concerning problems with obtaining permits to acquire and dispose of test water. API reiterated concerns raised in its comments submitted during the pressure testing rulemaking comment period. Specifically, API asked that RSPA issue administrative procedures, perhaps in conjunction with the Environmental Protection Agency (EPA), that would facilitate the process of obtaining permits to acquire and dispose of test water. In its petition, API claimed that RSPA's coordination effort ''has not reached the appropriate persons within EPA so that it has any impact on the ability of an operator to obtain a permit or waiver.'' Furthermore, API stated that some of its member companies have been attempting to get EPA's attention on the subject of permits for hydrostatic test water for several years with little success. API claimed that member companies in EPA Region VI have experienced ''delays of years in obtaining permits, with some permits never issued.'' API stated that, because

Texas and Louisiana do not have EPA approved state programs for issuing EPA disposal permits, operators must obtain permits from both the state and EPA in Texas and Louisiana (both in EPA Region VI). In addition, API claimed that its member companies have experienced similar delays in obtaining water disposal permits in other EPA regions. As a result, API asserted that operators will not be able to obtain such permits, and will be unable to schedule testing to meet the compliance deadlines established in the final rule.

Response—RSPA has written to the Assistant Administrator for Water requesting that EPA give prompt attention to requests from operators for National Pollutants Discharge Elimination System (NPDES) permits to dispose of test water used to comply with the final rule. We have provided EPA headquarters with information regarding delays in issuing permits. RSPA believes that EPA will provide permits to dispose of test water. If an operator cannot obtain such a permit, this would be a basis for a waiver request. In addition, as already noted, RSPA intends to publish an NPRM on an alternative to pressure testing in the near future. If adopted, the alternative would at times allow an operator to elect a means of ensuring the integrity of its pipeline other than pressure testing. This would avoid the need to dispose of test water.

Inert Gas as Test Medium

Petitioner asserts that the final rule results in the prohibition of any test medium other than water, although some companies use inert gas to test short segments of line. API states that inert gas testing accomplishes the same purpose as hydrotesting.

Response—The use of inert gas in lieu of water or liquid petroleum as test medium was not raised in the proposed rulemaking. Therefore, we can not address it in this response to petition for reconsideration of the pressure test rule. However, § 195.306(c) allows, under specified conditions, the use of inert gas or carbon dioxide as a test medium rather than water or petroleum for carbon dioxide pipelines. Further, § 195.306(d) permits the use of air or inert gas as the test medium in low-stress pipelines.

Terminal Piping

Williams disagreed that piping systems within terminals need to be tested. Terminal piping includes receiving and reinjection lines, both connected by piping to breakout tanks. Williams believes that terminal piping systems should be exempt from the testing requirements of the regulation. Williams' position is that the final rule was issued to test older high pressure ''pipes'' in cross-country pipelines. Williams offered the following reasons not to test such systems.

1. Williams' low pressure piping systems operate below 275 psi, below 20 percent of specified minimum yield strength (SMYS).

2. The ERW or seamless piping in the low-pressure systems are generally Grade B pipe of standard wall construction in pipe sizes of 6, 8, 10, and 12 inch diameter with maximum operating pressures (MOP) of 2130, 1881, 1711, and 1482 psi, respectively.

3. These low-pressure piping systems have series 150 American National Standard Institute (ANSI) flanges good only for 275 psi MOP, well under 20 percent SMYS.

4. These low-pressure piping systems are protected by full-flow low pressure manifold relief systems set to operate at 275 psi in accordance with 49 CFR § 195.406(b).

5. A one-time pressure leak test provides an insignificant amount of protection for the public safety and the environment.

6. Williams has no records of any seam failures occurring in ERW pipe within its terminal boundaries.

Response—In another final rule issued after Williams filed the petition for reconsideration (Transportation of Hazardous Liquids at 20 percent or Less of Specified Minimum Yield Strength (59 FR 35465; July 12, 1994)), RSPA extended Part 195 to cover certain previously unregulated low-stress pipelines. (These did not include piping in terminal areas which are addressed in the Williams petition.) However, RSPA did not apply the pressure testing requirements of Subpart E to these previously unregulated low-stress pipelines except for replacements, relocations, and lines carrying highly volatile liquids (HVL).

The piping at Williams' terminal is designed with relief valves which ensure that the piping will never experience pressure at or exceeding 20% SMYS. If the same rationale used in the low-stress pipeline rule is applied, pressure testing may not be needed for safety as long as the piping does not transport HVL. However, RSPA wants to explore this issue further by inviting comments from the public on the following issues:

(1) Should a segment of pipeline system (such as pipeline within terminal, or tank farm) which is designed and operated so that stress levels can never exceed 20% SMYS qualify for an exemption from pressure testing?

(2) Should we require pressure testing of piping in terminals and tank farms based on risk (considering such risk factors as location, history of corrosion leaks, weld type, underground or above ground terminal piping, percentage of lines under corrosion protection, etc.)?

As noted above, the requirement for pressure testing has been stayed to allow completion of rulemaking on a risk-based approach to pressure testing. This stay should provide sufficient time for RSPA to evaluate comments received in response to this request and to decide on a course of action. In any case, until these comments are evaluated and a course of action is decided on, RSPA will not enforce the requirement for pressure testing within terminal areas that are designed and operated so that stress levels can never exceed 20% SMYS.

Issued in Washington D.C. on February 5, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–3345 Filed 2–9–98; 8:45 am]

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