

equal access. Some of those LECs' end offices are equipped with SPC switches, but the LECs have never received a bona fide request to provide equal access. In other instances, the LECs' end offices are not equipped with SPC switches and, therefore, the LECs are not required to convert to equal access according to a specific timetable, even if a LEC received a reasonable request for equal access. The Commission acknowledged, therefore, that a requirement that all LEC end office switches be upgraded to accept four-digit CICs by January 1, 1998, may have the unintended effect of requiring those LECs that have never received a bona fide request for equal access or that are not subject to a specific timetable for providing equal access nonetheless to upgrade their end offices to offer equal access by January 1, 1998. Such a requirement would modify the Commission's equal access implementation schedule for non-GTE independent telephone companies, set by the 1985 Independent Telephone Company Equal Access Report and Order. More than twelve years have passed since the adoption of the Independent Telephone Company Equal Access Report and Order. The Second FNPRM therefore tentatively concludes that all LEC end offices, including those LECs whose end offices are equipped with SPC switches, but have not received a bona fide request for equal access and those LECs whose end offices are equipped with non-SPC switches, should nevertheless be required to provide equal access. This requirement also would apply to LECs who may have received a waiver of the Commission's equal access rules, to the extent those waivers remain in place. The Second FNPRM tentatively concludes that LECs with SPC switches that have not received a bona fide request for equal access should be required to upgrade their facilities to provide equal access and to accept four-digit CICs within three years of the effective date of an Order adopted in this proceeding. The Second FNPRM further tentatively concludes that LECs whose end offices are equipped with non-SPC switches should be required to provide equal access and to convert their switches to accept four-digit CICs when they next replace their switching facilities. The Second FNPRM tentatively concludes that requiring LECs whose end offices are equipped with SPC switches to upgrade their facilities to enable them to offer equal access, even if they have not received a request for equal access, and LECs whose end offices are equipped with non-SPC switches to convert their

facilities to provide equal access, is not inconsistent with the Commission's general goal, expressed in the Independent Telephone Company Equal Access Report and Order, that equal access occur as soon as practicable, regardless of whether a request has been made for equal access, and regardless of the type of switch with which an end office is equipped. Moreover, the Commission stated, in the Independent Telephone Company Equal Access Report and Order, that where generic software is available, the telephone company should endeavor to make the necessary conversions in less than three years. The Second FNPRM notes that the responses to inquiries by Commission staff indicate that the four-digit CIC software generally is included in equal access software packages developed since 1995. The Commission indicated that commenters that oppose the tentative conclusion should discuss why a twelve year period of time in which to convert to provide equal access has been insufficient and should propose specific alternatives to the Commission's proposal.

Ordering Clauses

2. *It is further ordered*, pursuant to Sections 1, 4(i) and (j), 201–205, 218 and 251(e)(1) of the Communications Act as amended, 47 U.S.C. Sections 151, 154(i), 154(j), 201–205, 218 and 251(e)(1), that the Second Further Notice of Proposed Rulemaking is hereby ADOPTED.

3. *It is further ordered* that the Commission's Office of Managing Director *shall send* a copy of the Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 52

Local exchange carrier, Numbering, Telecommunications.

47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-28678 Filed 10-28-97; 8:45 am]

BILLING CODE 6712-01-U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA-97-2362; Notice 1]

RIN 2137-AD05

Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt as a referenced document an industry publication for pipeline leak detection, API 1130, "Computational Pipeline Monitoring," published by the American Petroleum Institute (API). This proposal would require that an operator of a hazardous liquid pipeline use API 1130 in conjunction with other information, in designing, evaluating, operating, maintaining, and testing its software-based leak detection system. The use of this document will significantly advance the acceptance of leak detection technology on hazardous liquid pipelines. However, RSPA is not proposing to require operators to install such systems.

DATES: Interested persons are invited to submit written comments in duplicate by December 29, 1997. Late-filed comments will be considered to the extent practicable. Interested persons should submit as part of their written comments all the material that is relevant to any statement of fact or argument.

ADDRESSES: Comments should be sent to the Docket Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590-0001. Comments should identify the docket number (RSPA-97-2362) and the RSPA Rulemaking Number (2137-AD05). Commenters should submit an original and one copy. Commenters wishing to receive confirmation of receipt of their comments must include a stamped, self-addressed postcard with their comments. The docket clerk will date stamp the postcard and return it to the commenter. Comments will be available for inspection at the Docket Facility, located on the plaza level of the Nassif Building in Room 401. The Docket Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, telephone:(202) 366-4556, FAX: (202) 366-4566, e-mail:

lloyd.ulrich@rspa.dot.gov regarding the subject matter of this notice, or Dockets Unit, (202) 366-5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Mandate and Advance Notice of Proposed Rulemaking

Congress, in section 212 of the Pipeline Safety Act of 1992 (codified at 49 U.S.C. 60102(j)), required the Secretary of Transportation, by October 24, 1994, to survey and assess the effectiveness of emergency flow restricting devices (EFRDs) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities. Congress further mandated that the Secretary issue regulations two years after completing the survey and assessment (no later than October 24, 1996). These regulations would prescribe the circumstances under which operators of hazardous liquid pipelines would use EFRDs or other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product release from pipeline facilities¹. The Secretary delegated this authority to the Research and Special Programs Administration (RSPA).

To conduct the required survey, RSPA issued an advance notice of proposed rulemaking (ANPRM) (59 FR 2802, Jan. 19, 1994) to solicit information from the public. The ANPRM contained questions directed mostly to operators of hazardous liquid pipelines about operational data and costs related to EFRDs and about the performance of leak detection systems as another means to detect and locate hazardous liquid pipeline ruptures and minimize product release. The ANPRM also sought information to help determine which critical locations should be protected from pipeline releases.

Nineteen comments were submitted in response to the ANPRM. Sixteen comments were from hazardous liquid pipeline operators, two were from leak detection vendors, and one was from the API. Commenters were generally against requiring leak detection equipment and EFRDs. Ten of the sixteen hazardous liquid operators responded with usable data.

¹ Proposed regulations on the circumstances where operators would be required to use EFRDs and other equipment have been postponed until a definition for areas unusually sensitive to environmental damage, or USAs, is established, as discussed later in this notice.

B. Volpe Report

In response to a recommendation in an earlier Departmental report² dealing with pipeline EFRDs and leak detection, the Volpe National Transportation Systems Center (Volpe Center) released a report entitled "Remote Control Spill Reduction Technology: A Survey and Analysis of Applications for Liquid Pipeline Systems" (September 29, 1996). The study looked at the pipeline industry overall and its application of SCADA³ and leak detection systems. The report looked at several leak detection performance measures including response time, false alarms, sensitivity, and leak location accuracy.

The report contained conclusions on leak detection systems relevant to this present rulemaking. One was that because of the pipeline industry's diversity, each system used for leak detection must be custom configured for a particular pipeline system. Another conclusion was that SCADA and leak detection systems were dependent on the sophistication of the host computer and how rapidly the host computer can gather remote field data. The report found that operators have made major investments in SCADA systems, but have invested much less in software-based leak detection systems.

Another conclusion was the dispatcher who operates the pipeline system was key to SCADA and leak detection systems operating successfully. Most operators interviewed for the study believed that dispatcher training and the dispatcher's ability to interpret the data provided by the SCADA system were critical in reducing the number of incidents and the volume of pipeline spills.

Finally, the report concluded that a SCADA system or a leak detection system can be configured for most pipeline systems, but that the high cost/benefit and the evolving technology of

² A March 1991 Departmental report entitled "Emergency Flow Restricting Devices Study (A Study Mandated by Pub. L. 100-561)" recommended that the Department conduct a research study on whether SCADA systems, including well-designed leak detection subsystems, should be required on hazardous liquid pipelines to enhance the safe operation of the pipelines. RSPA contracted with the Volpe National Transportation Systems Center (Volpe Center) to conduct the study.

³ SCADA is an acronym for Supervisory Control and Data Acquisition. SCADA systems utilize computer technology to continuously gather data (e.g., pressure, temperature, and delivery flow rates) from remote locations on the pipeline. Dispatchers use SCADA systems to assist in day-to-day operating decisions on the pipeline. SCADA systems can also provide input for real-time models of the pipeline operation. Such models compare current operating conditions with calculated data values. A deviation may indicate the possibility of a leak.

such systems has slowed industry's adopting computer-based leak detection systems.

C. Public Workshop

RSPA wanted to accomplish the Congressional mandate consistent with the President's policy (E.O. 12866) that regulations provide for public safety and environmental protection at the least cost to society. Toward this end, and because RSPA received limited data in response to the ANPRM's questionnaire, RSPA held a public workshop on October 19, 1995, to obtain more data on EFRDs and leak detection systems. Two formal presentations on leak detection were made at the workshop. One was by Dr. Sherry Smith Borener from the Volpe Center, who presented the preliminary results of the report discussed above, and the other was by the American Petroleum Institute (API).

The Volpe Center report's finding that each leak detection system is unique to the pipeline on which it is installed was confirmed at the workshop. Industry expressed its desire to improve its leak detection capability, its concern about releases to the environment, and its dedication to automation. Also evident was that the hazardous liquid pipeline industry is driven by cost control.

Discussions at the workshop included operational and economic problems with leak detection systems. Participants said that many dynamic factors, such as changes in product characteristics and hydraulic transient conditions, can change a pipeline system's operating characteristics and affect leak detection capability. Other less frequent changes, such as the physical parameters of the pipeline can also impact leak detection performance. Further, participants said that leak detection systems increase a pipeline's overall maintenance, such as equipment calibration checks and preventive maintenance, which affects an operator's cost. Also, when equipment is down, leak sensitivity may be impaired. Participants also said that a pipeline's transient conditions adversely affect leak detection system performance.

Also discussed were operational and economic benefits. Among these benefits were that a leak detection system improves a pipeline's everyday operation because the system allows the operator to collect more usable operating data about the pipeline system, including data from remote locations. Participants also said that a leak detection system allows for faster leak detection, resulting in reduced commodity loss, lower short-term cleanup costs from releases, and lower

long-term remediation costs. Participants noted that a leak's location is secondary to confirming that a leak has occurred.

Discussions at the workshop brought out that a leak detection system can result in a more rapid response to a leak. Participants said that the simplest system can indicate large leaks, while detecting smaller leaks depends on many factors including the dispatcher's competency. Participants confirmed the Volpe study's conclusion that dispatcher training is of paramount importance.

D. Definition for Areas Unusually Sensitive to Environmental Damage

Congress required that in prescribing standards, RSPA identify the "circumstances" where EFRDs and other equipment must be installed. RSPA's current policy is to base regulations on risk assessment. RSPA believes that a primary high risk circumstance would be where a pipeline is located in an environmentally sensitive area. RSPA has been conducting public workshops since 1995 to enable government and industry to better understand the problems involved in identifying a subset of such areas, areas unusually sensitive to environmental damage, or USAs. RSPA expects to publish a NPRM proposing a definition for USAs in the Spring of 1998.

Because of the ongoing regulatory effort to define USAs, RSPA has decided to wait before issuing a NPRM proposing where leak detection systems should be required.

E. Development of API 1130

In April 1994, the API formed a task force to develop a document on computational pipeline monitoring (CPM). The task force produced API 1130, entitled "Computational Pipeline Monitoring" addressing the use of software-based leak detection equipment. API 1130 defines computational pipeline monitoring as "an algorithmic monitoring tool that allows the pipeline controller to respond to a pipeline operating anomaly which may be indicative of a commodity release." As stated in the document,

The purpose of this publication is to assist the pipeline operator in the selection, implementation, testing, and operation of a CPM system. When used in conjunction with other API publications, this publication will prove useful to identify the complexities, limitations and other implications of detecting anomalies on liquid pipelines using CPM systems.

To gather data for a leak detection rulemaking, RSPA and Volpe Center staff have monitored the task force's work. Minutes of task force meetings, as well as copies of final drafts of the document, are available in Docket No. PS-133.

II. Statement of the Problem and Proposed Solution

Pipeline safety regulations do not require hazardous liquid pipeline operators to meet any leak detection system performance standards. As mentioned before, a lack of a USA definition has delayed RSPA proposing the circumstances where EFRDs and other equipment must be installed on hazardous liquid pipeline systems. However, RSPA believes it should not delay addressing the safety and environmental advantages of using software-based leak detection technology to reduce releases from pipeline ruptures. RSPA proposes to remedy this by requiring operators to use API 1130 in operating, maintaining, and testing their existing software-based leak detection systems and in designing and installing new software-based leak detection systems or replacing components of existing systems. RSPA is taking this action for several reasons.

(1) RSPA monitored the development of API 1130 and its development is well documented in Docket No. PS-133. The API task force members who developed API 1130 are experts in the pipeline industry, well versed in leak detection systems.

(2) Due to its comprehensiveness, API 1130 advances safety by providing for more rapid detection of ruptures and response to those ruptures, thus limiting releases of hazardous liquids.

(3) Adopting API 1130 complies with the spirit of the President's initiative to reduce and simplify regulations by adopting industry developed standards. Its adoption should not create controversy since the pipeline industry, the primary user, developed the publication.

III. Role of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC)

The proposal to adopt API 1130 as a referenced document in 49 CFR part 195 was brought before the THLPSSC at its meeting on November 6, 1996. The THLPSSC is a 15 member Congressionally mandated advisory committee (49 U.S.C. 60115) responsible for reviewing proposed pipeline safety standards for technical feasibility, reasonableness, and practicability. The THLPSSC Chairperson appointed a three person subcommittee to work with

RSPA to provide technical expertise on the feasibility of adopting API 1130 as a referenced standard in part 195. The subcommittee met with RSPA and submitted to the THLPSSC Chairperson the following recommendations, which THLPSSC accepted:

(1) API 1130 in its entirety should be referenced in 49 CFR part 195 regulations.

(2) The operations, maintenance, and testing portions of API 1130 should be applicable to all existing and newly installed Computational Pipeline Monitoring (CPM) systems, and API 1130 in its entirety should be applicable to all newly installed CPM systems or replacement sections of existing CPM systems.

(3) Compliance with API 1130 should be within 12 months of incorporation of this document into the part 195 regulations.

(4) If and when API 1130 is referenced in the part 195 regulations, the reference only applies to single phase liquid pipelines (see Section 1.3 of API 1130, which limits the document's application to single phase liquid pipelines).

(5) The preamble to the draft and final Part 195 rules should state that the reference to API 1130 is a first step in meeting the mandate of section 60102(j) of the federal pipeline safety law (49 U.S.C. 601), and is not intended to delay issuance of additional requirements or actions under this section of the law.

RSPA agrees with these recommendations and has drafted this NPRM to comply with them.

IV. Discussion of the Proposed Rule

This proposed rule would require an operator of a hazardous liquid pipeline to comply with API 1130 in designing, operating, maintaining, and testing the operator's software-based leak detection system. Although the proposed rule does not require an operator to install a software-based leak detection system, whenever such a leak detection system is installed or a component replaced, API 1130 would have to be followed. Likewise, each existing software-based leak detection system would have to comply with the operating, maintenance, testing, and training provisions of API 1130.

To be consistent with the scope limitations of Section 1.3 in API 1130, the proposed regulation limits API 1130 applicability to single phase, liquid pipelines. Pipelines transporting both gas and liquid, called dual phase pipelines, are prevalent in offshore operations where the gas and liquid stream is transported by pipeline to onshore facilities where it is more economical to separate the gas and liquid for further transport. Designing a leak detection system for such a pipeline is extremely complex because of the different physical and chemical characteristics of gas and liquid.

1. *Proposed additions to § 195.2 Definitions:* The term "computational pipeline monitoring" which has not been used in 49 CFR part 195, would be added to the list of definitions in § 195.2. The proposed definition is identical to API 1130's definition except that the term "monitoring tool" is modified to "software-based monitoring tool." RSPA is also replacing the term "controller" with "dispatcher" as dispatcher is the term presently used in the pipeline safety regulations.

2. *Proposed addition to § 195.3*

Matters incorporated by reference:

RSPA will propose that API 1130 be added as one of the referenced API publications under § 195.3(c)(2).

3. *Proposed new section § 195.134*

CPM leak detection systems: RSPA will propose a new section in Subpart C—Design Requirements, to require that whenever an operator installs a CPM leak detection system, that the operator design it according to the design requirements of API 1130. The proposed new section also requires that each component replaced on an existing system be designed in accordance to the design requirements of API 1130. This conforms to the THLPSSC recommendation that both newly installed CPM systems and replacement sections of existing CPM systems follow API 1130.

4. *Proposed new section § 195.444*

CPM leak detection systems: RSPA proposes a new section in Subpart F—Operation and Maintenance, to require each operator who has a CPM leak detection system to follow API 1130 in the operation, maintenance, and testing of the system.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant action under section 3(f) of Executive Order 12866 and is not considered significant under the Department of Transportation Policies and Procedures (44 FR 11034, Feb. 26, 1979). This proposal is to adopt an industry document, API 1130. Adopting API 1130 should result in leak detection systems that allow for faster leak detection, resulting in reduced commodity loss, lower short-term cleanup costs from releases, and lower long-term remediation costs. The Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) recommended that we adopt the document into part 195. This proposal does not require an operator to adopt a computational pipeline monitoring system (CPM) if the operator does not

already have one. It only requires that if an operator has such a system that the operator follow this document. This document represents good industry practices. Conversations with officials of the API confirm that the vast majority of the industry that uses CPM already has adopted these practices.

Because RSPA is not mandating the use of CPM and is simply adopting the practices already instituted and developed by industry, RSPA believes that the cost of this regulation will be minimal. Therefore, RSPA believes that a regulatory evaluation of this proposal is not necessary.

Nonetheless, RSPA does not have good data on any potential costs that this proposal would have on industry. RSPA is soliciting information on costs, if any, of referencing API 1130. Please send cost information to the Department of Transportation Docket Office listed in the ADDRESSES section of this preamble.

B. Regulatory Flexibility Act

As discussed above RSPA is not requiring that operators install CPM but simply requiring that where hazardous liquid operators have such a system that they meet the standards industry developed. As stated above, most operators with such systems already comply with these requirements. Therefore, based on the facts available, I certify pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this action will not have a significant economic impact on a substantial number of small entities.

C. Federalism Assessment

The proposed rulemaking action would 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 Executive Order 12612 (52 FR 41685, Oct. 30, 1987), RSPA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Unfunded Mandates

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does 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 is the least burdensome alternative that achieves the objective of the rule.

E. Paperwork Reduction Act

There are minimal record keeping requirements included in

API 1130 on testing and retesting of each CPM. However, as discussed above, this proposal does not require an operator to have a CPM. API 1130 was developed by the industry, and the vast majority of the industry that uses CPM already has adopted the practices in API 1130. Because the record keeping requirements represent the usual and customary practices of the industry, there is minimal paperwork burden on the public. Nevertheless, RSPA prepared a paperwork analysis for this proposed rule and submitted it to the Office of Management and Budget (OMB) for review. The paperwork analysis for this proposed regulation is available for review at the Docket Office, U.S. Department of Transportation, Plaza 401, 400 Seventh St. SW, Washington, DC. Comments on the paperwork burden of this proposed regulation can be submitted within 60 days of the publication of this notice to Office of Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW Washington, DC 20503 ATTN.: Desk Officer for the Department of Transportation, RSPA. Please send a duplicate copy of comments to the Docket Office, U.S. Department of Transportation Plaza 401, 400 Seventh St. SW, Washington, DC 20590-0001, identifying the RSPA Docket Number (RSPA-97-2362) and the RSPA Rulemaking Number (2137-AD05). Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

List of Subjects in 49 CFR Part 195

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

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

PART 195—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.

Subpart A—General

2. Section 195.2 would be amended by adding the definition for Computational Pipeline Monitoring to read as follows:

§ 195.2 Definitions.

* * * * *

Computation Pipeline Monitoring (CPM) means a software-based monitoring tool that allows the pipeline dispatcher to respond to a pipeline operating anomaly that may be indicative of a commodity release.

* * * * *

3. Section 195.3 would be amended by redesignating paragraphs (c)(2)(i) through (c)(2)(iii), as paragraphs

(c)(2)(ii) through (c)(2)(iv), and adding a new paragraph (c)(2)(i) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) * * *

(i) API 1130 "Computational Pipeline Monitoring" (1st Edition, 1995).

* * * * *

Subpart C—Design Requirements

4. Section 195.134 would be added to read as follows:

§ 195.134 CPM leak detection.

This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system that will be installed and each replaced component of an existing CPM system must comply with the selection criteria of section 4.2

of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

Subpart F—Operation and Maintenance

5. Section 195.444 would be added to read as follows:

§ 195.444 CPM leak detection.

Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

Issued in Washington, DC, on October 20, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

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