

not contain objects that could damage the pipe or pipe coating. RSPA/OPS reasoned that such material may not always be available near construction sites, and under the proposed standard, material with such objects could only be used if damage is prevented by means such as a sufficient initial layer of material that is free of potentially damaging rocks. Nevertheless, WUTC was concerned that operators could still use large rocks that could later cause damage to the pipe. WUTC suggested that backfill material not contain either rocks larger than six inches or organic material, such as wood, that may decay and cause subsidence or erosion.

WUTC is correct that the proposed standard would not preclude operators from using backfill material that contains large rocks. However, to do so operators would have to take steps to insure that the rocks do not damage the pipeline. RSPA/OPS said in the NPRM that one means of protection is an initial layer of rock-free material. WUTC implied that this method may not be adequate in the presence of large rocks. If so, operators would have to use some other means of protection. For example, they could install a durable rock shield either by itself or in addition to a layer of rock-free material. Because reasonable means are available to protect against rock damage, RSPA/OPS does not think a restrictive standard like WUTC suggested is necessary for safety. The performance nature of proposed § 195.252 would also require operators to take protective action if backfill material contains enough organic material to cause damage through subsequent decay. Therefore, RSPA/OPS has adopted proposed § 195.252 as final.

Advisory Committee Consideration

The Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) considered the NPRM and the associated evaluation of costs and benefits at a meeting in Washington, DC on March 25, 2003 (68 FR 11176; March 7, 2003). The committee is a statutorily mandated advisory committee that advises us on proposed safety standards and other policies for hazardous liquid pipelines. The committee has an authorized membership of 15 persons, five each representing government, industry, and the public. Each member is qualified to consider the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed pipeline safety standards. A transcript of the meeting as well as other material related to the committee's consideration of the NPRM are available in Docket No. RSPA-98-4470.

At the meeting, the THLPSSC voted on whether the proposed rules are technically feasible, reasonable, cost-effective, and practicable, and whether the evaluation of costs and benefits is satisfactory. The THLPSSC voted unanimously to approve the proposed rules and the evaluation.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures. RSPA/OPS does not consider this 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/OPS also does not consider this rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

RSPA/OPS prepared a Regulatory Evaluation of the final 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 rules. No comments were received on the draft evaluation that accompanied the NPRM.

Regulatory Flexibility Act

The final 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 rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking will not have a significant impact on a substantial number of small entities.

Executive Order 13084

The final 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 rules will not significantly or uniquely affect the communities of the Indian tribal governments and will 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) adds minor information collection requirements to an already existing information collection requirement. Operators are required to record the temperature during testing and keep the

records for as long as the pipeline concerned is in service. However, RSPA/OPS believes most operators already maintain records of temperature. Also, RSPA/OPS believes the burden of retaining temperature records is 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 rule are likely to be minimal, RSPA/OPS believes that submitting an analysis of the burdens to OMB under the Paperwork Reduction Act is unnecessary.

Use: Records are kept to help RSPA/OPS 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 rule.

Annual Burden Estimate: 51,011 hours per year.

Frequency: Variable.

Unfunded Mandates Reform Act of 1995

This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will 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 rulemaking proceeding.

National Environmental Policy Act

RSPA/OPS has analyzed the final rule for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the final rule parallels present requirements or practices, RSPA/OPS has determined that the rule will not significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket.

Executive Order 13132

The final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The rule does not establish 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.