

§ 318.9 Disclosure of record to persons other than the individual to whom it pertains.

(a) *General.* No record contained in a system of records maintained by DSWA shall be disclosed by any means to any person or agency within or outside the Department of Defense without the request or consent of the subject of the record, except as described in 32 CFR part 310.41, Appendix C to part 310, and/or a Defense Special Weapons Agency system of records notice.

(b) *Accounting of disclosures.* Except for disclosures made to members of the DoD in connection with their official duties, and disclosures required by the Freedom of Information Act, an accounting will be kept of all disclosures of records maintained in DSWA system of records.

(1) Accounting entries will normally be kept on a DSWA form, which will be maintained in the record file jacket, or in a document that is part of the record.

(2) Accounting entries will record the date, nature and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(3) Accounting records will be maintained for at least 5 years after the last disclosure, or for the life of the record, whichever is longer.

(4) Subjects of DSWA records will be given access to associated accounting records upon request, except for those disclosures made to law enforcement activities when the law enforcement activity has requested that the disclosure not be made, and/or as exempted under section 318.11 of this part.

§ 318.10 Fees.

Individuals may request copies for retention of any documents to which they are granted access in DSWA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with DoD 5400.11-R.

Dated: December 18, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 194

[Docket No. PS-130; Amdt. 194-1]

RIN 2137-AD12

Pipeline Safety: Change in Response Plan Review Cycle

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

ACTION: Direct final rule.

SUMMARY: This direct final rule changes the reporting cycle for facility response plan submissions to 5 years for operators who are required to submit facility response plans to RSPA. Pipeline operators were previously required to submit facility response plans every 3 years.

OPS is undertaking this change to improve safety by ensuring consistency between OPS requirements and those of the other federal agencies under the Oil Pollution Act of 1990, and encouraging the use of integrated plans, while easing the burden on the regulated community. The comments to the docket have fully supported this change.

EFFECTIVE DATES: This direct final rule takes effect February 23, 1998. If RSPA does not receive adverse comment or notice of intent to file an adverse comment by January 23, 1998, the rule will become effective on the date specified. RSPA will issue a subsequent notice in the **Federal Register** by February 9, 1998 after the close of the comment period to confirm that fact and reiterate the effective date. If an adverse comment or a 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 RSPA would withdraw direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Identify the docket number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in room 8419 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Jim Taylor, (202) 366-8860, or by e-mail

(jim.taylor@rspa.dot.gov), regarding the subject matter of this Notice; or the RSPA Dockets Unit, (202) 366-5046, for copies of this final rule or other material in the docket. General information about OPS programs can be obtained by accessing OPS' Internet home page at ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

In recent years, several catastrophic oil spills have damaged the marine environment of the United States. These spills have resulted in extensive environmental impact, including the loss of fish and wildlife. In response to these catastrophic spills, Congress passed the Oil Pollution Act of 1990, 33 U.S.C. 2701-2761 (OPA 90). OPA 90 amended section 1321(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1251-1387), and established a new national planning and response system, including a requirement for the development of facility response plans.

The FWPCA requires the President to issue regulations that require the operator of a tank vessel, an onshore facility, and certain offshore facilities, to prepare and submit to the President, a plan for responding, to the maximum extent practicable, to a worst case oil discharge and to a substantial threat of such a discharge. 33 U.S.C. 1321(j)(5). The FWPCA also requires the President to review and approve facility response plans and periodic reviews of each plan. 33 U.S.C. 1321(j)(5)(D).

To be consistent with OPA 90 and FWPCA plan submission requirements of the Environmental Protection Agency and U.S. Coast Guard, RSPA is revising 49 CFR § 194.121(b) to require a response plan to be resubmitted every 5 years for review and approval. For significant and substantial harm facilities, the plan shall be resubmitted 5 years after the latest approval date by RSPA. For substantial harm facilities, operators must resubmit the plan to RSPA 5 years after the date of initial submission and every 5 years thereafter.

In the event there are no changes in the plan, the operator must submit a written certification to RSPA stating that there are no changes to the plan previously submitted to RSPA. Upon receipt of the certification, RSPA will review the existing plan and, for significant and substantial harm facilities, RSPA will re-approve the plan. Substantial harm facility plans will be reviewed only. Although the current 3-year cycle for all plans is ending, when this rule becomes effective there will be no requirement to

resubmit existing response plans until 2 years from now.

Regulatory History

RSPA published an interim final rule (IFR) on January 5, 1993 (58 FR 244). This interim final rule implemented provisions of OPA 90. With limited exceptions, this direct final rule applies to all onshore transportation-related oil pipelines whether or not such pipelines are exempt from existing Federal pipeline safety regulations or statutes. RSPA conducted a public meeting in New Orleans, Louisiana on January 27, 1997, to solicit feedback from interested parties on implementation of the regulation and revisions to the IFR. A copy of the transcript of the public meeting is available in the docket. This direct final rule modifies the interim final rule, 49 CFR Part 194 (58 FR 244, January 5, 1993). RSPA intends to issue a final rule for 49 CFR Part 194 at a later date.

Rulemaking Notices and Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This direct final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not reviewed by the Office of Management and Budget (OMB). The direct final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

The direct final rule has been analyzed with the principles and criteria in Executive Order 12612 ("Federalism") (52 FR 41685), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

Based on the facts available, I certify that this direct final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no new information collection requirements in this direct final rule. In fact, this rulemaking eases the paperwork burden on pipeline operators by reducing the reporting frequency from three to five years.

Unfunded Mandates Reform Act of 1995

This direct final 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 direct final rule.

List of Subjects in 49 CFR Part 194

Oil pollution, Facility Response Plan, Pipeline safety.

In consideration of the foregoing, RSPA amends part 194 of title 49 of the Code of Federal Regulations as follows:

1. The authority citation for Part 194 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

2. Section 194.121(a) is revised to read as follows:

§ 194.121 Response plan review and update procedures.

(a) Each operator shall review its response plan at least every 5 years from the date of submission and modify the plan to address new or different operating conditions or information included in the plan.

* * * * *

Issued in Washington, DC on December 16, 1997.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97-33289 Filed 12-23-97; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. PS-102; Amendment 199-16]

RIN 2137-AC67

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations

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

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the "Scope and Compliance" section of the Drug Testing Rules to revise the applicability requirement with respect to any operator whose employees are located outside the territory of the United States.

DATES: This direct final rule is effective on April 15, 1998. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by February 23, 1998, the rule will become effective on the date specified. RSPA

will issue a subsequent notice in the **Federal Register** by March 16, 1998 to confirm that fact and reiterate the effective date. If an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact, and RSPA may withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: Send comments in duplicate to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Please identify the docket and amendment number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8421 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Catrina Pavlik, Drug/Alcohol Program Analyst, Research and Special Programs Administration, Office of Pipeline Safety, Room 2335, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-6199, Fax: (202) 366-4566, e-mail: catrina.pavlik@RSPA.dot.gov. Information is also available on the Office of Pipeline Safety's internet home page at OPS.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1988, RSPA, along with other operating administrations of the Department of Transportation, adopted regulations requiring pre-employment, post-accident, reasonable cause, and random drug testing (53 FR 47084).

The drug testing required by these rules applies to some persons located outside of the United States. However, the rule provided that drug testing would not apply to any person for whom compliance would violate the domestic laws or policies of another country. The rule provided that 49 CFR part 199 would not be effective until January 1, 1990, with respect to any person for whom a foreign government contends that application of the rule raises questions of compatibility with the country's laws or policies.

At the same time, RSPA stated that the Department of Transportation and other elements of the U.S. Government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. If as a result of those discussions an amendment to the rules