chlorodibromo-methane, methylene chloride and TCE. Soil samples, taken during the well installations, revealed the presence of methylene chloride and 1,1,1-TCA. On June 10, 1986, the Site was placed on the National Priorities List.

On June 2, 1989, EPA issued an Administrative Order on Consent to the K.B. Company, the owner of the property and successor to Kobar, to undertake a remedial investigation/feasibility study (RI/FS) to determine the nature and extent of contamination at the Site and to evaluate options for cleanup. Field work was completed in February 1995 and an RI report was submitted to EPA in March 1995. The report revealed a significant decrease in the concentration of the contaminants in the groundwater and soil from those levels observed in the early 1980s. In addition, the risk assessment determined that the Site did not pose an unacceptable risk to human health and the environment. EPA published these findings in a Record of Decision (ROD) on September 29, 1995.

The ROD stated that the risks posed by the Site contamination are within the acceptable risk range, but noted that four dry wells on Site were found to be contaminated with chromium, lead, 1,1,1-TCA and other volatile compounds. Groundwater samples from several monitoring wells on Site also showed concentrations of chromium and 1,1,1-TCA above Maximum Contaminant Levels. On September 29 and 30, 1995, a removal action was performed at the Site. The action consisted of the removal and off-Site disposal of contaminated soils and sediments from the dry wells to prevent further groundwater contamination. The excavated materials were disposed of in accordance with Resource Conservation and Recovery Act (RCRA) requirements. The completion of the removal action was documented in a Removal Action Report, dated May 1996, by the responsible parties. The ROD stated that no additional action was necessary at the Site upon completion of the removal action. EPA formally acknowledged completion of the action in a Preliminary Closeout Report for the Site on September 30, 1996. Results from two rounds of groundwater samples, which were collected in April 1996 and July 1997, confirmed the effectiveness of the removal action and that the Site does not pose an unacceptable risk to human health and the environment. A Final Close Out Report was not prepared by EPA, since completion of all response actions for the Site has been documented in the ROD and in the Preliminary Closeout Report.

The responsible parties have completed all necessary response actions at the Site. EPA, in consultation with NYSDEC, has determined that the Anchor Chemicals Superfund Site does not pose a significant threat to human health or the environment. No further Site remediation is necessary.

Because all of the necessary response actions have been competed at the Site, and since the Site does not pose an unacceptable risk to human health and the environment, EPA has also determined that the five-year review requirement of section 121(c) of CERCLA, as amended, is not applicable.

Dated: July 27, 1999.

Herb Barrack,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20550 Filed 8–11–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 190

[Docket No. RSPA–98–4284; Notice 1]

RIN 2137–AD22

Pipeline Safety Enforcement Procedures

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

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to revise our pipeline safety enforcement procedures concerning alleged violations for which persons agree to proposed compliance orders or pay proposed civil penalties without contesting the allegations. At present, if a person responds to a notice of probable violation (NOPV) by paying a civil penalty proposed for an alleged violation, we consider the allegation uncontested and find that the person committed the violation. The violation then counts as a prior offense in determining the amount of any future civil penalty assessment against that person. We are proposing to adopt identical procedures for NOPV responses that agree to proposed compliance orders without contesting the alleged violations. Further, we are proposing to stop preparing final orders for alleged violations for which persons agree to proposed compliance orders or pay proposed civil penalties without contesting the allegations. The proposed rule changes would unify and streamline the handling of uncontested alleged violations in enforcement cases.

DATES: Persons interested in submitting written comments on this notice must do so by October 12, 1999. Late filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Or you may submit written comments to the docket electronically. To do so, log on to the following Internet Web address: http://dms.dot.gov. Click on ''Help & Information'' for instructions on how to file a document electronically. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Linda Daugherty at (202) 366–4577 or linda.daugherty@rspa.dot.gov. Comments may be read on the internet at http://dms.dot.gov. General information about RSPA's pipeline safety program can be obtained at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Response Options

Under the pipeline safety enforcement procedures in 49 CFR Part 190, in responding to an NOPV (§ 190.207), a person may decide not to contest an alleged violation. To do so, the person, or ''respondent,'' either pays a proposed civil penalty (§ 190.209(a)(1)) or agrees to a proposed compliance order (§ 190.209(b)(1)), or both when applicable.

If a proposed civil penalty is paid, we then ''close the case with prejudice to the respondent,'' as § 190.209(a)(1) provides. Such closure means that we consider the alleged violation to have been committed by the respondent, and that we will treat the violation as a ''prior offense'' under § 190.225(c) in determining the amount of any future assessment against the respondent (see 53 FR 1634; Jan. 21, 1988).

In contrast, the procedures do not provide for a similar closure when a person agrees to a proposed compliance order without contesting the alleged violation. This inconsistency may be confusing when an NOPV proposes both a civil penalty and a compliance order for the same alleged violation.

Therefore, we are proposing to revise § 190.209 to treat uncontested responses involving civil penalty payments and compliance order agreements alike. The separate lists of response options now stated in § 190.209(a) and § 190.209(b) would be combined in proposed § 190.209(a). Proposed § 190.209(a)(1) would clarify that by paying a proposed civil penalty or agreeing to a proposed compliance order, the respondent elects not to contest the underlying alleged violation. The phrase ''close the case with prejudice to the respondent'' would be replaced by a fuller explanation, under proposed § 190.209(b), of the consequences of paying a proposed civil penalty or agreeing to a proposed compliance order without contesting the underlying alleged violation.

A separate option under present § 190.209(b) to request execution of a consent order would be removed as unnecessary. Under § 192.219, a respondent may request execution of a consent order at any time before issuance of a compliance order. And a consent order may be requested in connection with any response that contests an alleged violation.

The present paragraph (c) in § 190.209 is published incorrectly as the third item in a list instead of as an independent paragraph. This paragraph also references a previously deleted paragraph (c). So we are proposing to revise the paragraph structure of § 190.209 for clarity and to omit the obsolete reference in paragraph (c).

Final Order

Under § 190.213, we now prepare a final order in every enforcement case. Each order addresses each alleged violation in the case. Based on the evidence presented, the order states our findings on whether a violation has been committed as alleged, and if a sanction is to be imposed, states the amount of the civil penalty or terms of the compliance order.

For alleged violations a respondent decides not to contest by paying a proposed civil penalty or agreeing to a proposed compliance order, or both, we believe preparation of a separate document called a final order is a redundant administrative step.

Proposed § 190.209(b)(3) would eliminate the unnecessary paperwork of preparing a final order for alleged violations a respondent decides not to contest by paying a proposed civil penalty or agreeing to a proposed compliance order, or both. A conforming change to § 190.213(a) also would be made. Despite the lack of a separate document called ''Final Order,'' if an operator did not comply with the terms of an agreed to compliance order, RSPA could enforce the agreement by assessing civil penalties or by obtaining a court injunction.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Policies and Procedures

The Office of Management and Budget (OMB) does not consider this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). Therefore, OMB has not reviewed this rulemaking document. DOT does not consider this proposed rulemaking significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979). Because the proposed rulemaking should enhance governmental efficiency without cost to the regulated industry, a further regulatory evaluation is not warranted.

B. Regulatory Flexibility Act

The proposed rule changes would not impose additional requirements on pipeline operators, including small entities that operate regulated pipelines. Based on the facts available about the anticipated impact of this proposed rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this proposed rulemaking would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13084

The proposed 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 proposed rules would not significantly or uniquely affect the Indian tribal governments, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Paperwork Reduction Act

This proposed rulemaking contains no information collection that is subject to review by OMB under the Paperwork Reduction Act of 1995.

E. Unfunded Mandates Reform Act of 1995

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

F. Executive Order 12612

This 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; October 30, 1987), RSPA has determined that the final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

G. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 Problem.

This notice of proposed rulemaking does not propose business process changes or require modifications to computer systems. Because this notice apparently does not affect the ability of organizations to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the rule changes proposed in this notice.

List of Subjects in 49 CFR Part 190

Enforcement procedures, Penalty, Pipeline safety.

In consideration of the foregoing, we propose to amend 49 CFR part 190 as follows:

1. The authority citation for Part 190 continues to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 *et seq.*; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.53.

2. Section 190.209 would be revised to read as follows:

§ 190.209 Response options.

(a) Within 30 days of receipt of a notice of probable violation, the respondent shall respond to the allegations of violation and proposed

sanctions in the following way to the Regional Director who issued the notice:

(1) Elect not to contest an allegation by paying the proposed civil penalty or agreeing to the proposed compliance order applicable to the allegation;

(2) Submit written explanations, information, or other materials that answer the allegations or seek mitigation of the proposed civil penalty or proposed compliance order; or

(3) Request a hearing under § 190.211.

(b) If a respondent responds to an alleged violation under paragraph (a)(1) of this section—

(1) The allegation automatically becomes an agency determination that the respondent has committed the violation as alleged, allowing OPS to consider the violation as a prior offense in assessing civil penalties in the future;

(2) The proposed civil penalty applicable to the violation is assessed, or the terms of the proposed compliance order applicable to the violation are imposed, without further action; and

(3) The finding of violation, assessment of civil penalty, or compliance terms imposed under § 190.209(b)(1) and (2), as evidenced by the notice of probable violation and the respondent's response, constitute a final order under 49 U.S.C. 60101 *et seq.*

(c) Failure of the respondent to respond in accordance with paragraph (a) of this section constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Associate Administrator, OPS, without further notice to the respondent, to find facts to be as alleged in the notice of probable violation and to issue a final order under § 190.213.

3. Section 190.213(a) is revised to read as follows:

§ 190.213 Final order.

(a) Except with respect to violations resolved under § 190.209(b), after a hearing under § 190.211 or, if no hearing has been requested, after expiration of the 30 day response period prescribed in § 190.209, the case file of an enforcement proceeding commenced under § 190.207 is forwarded to the Associate Administrator, OPS, for issuance of a final order.

* * * * *

Issued in Washington, DC on August 6, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

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