

June 22, 1973

Martin A. Spritzer, Esq.
Borough of Metuchen
Middlesex County
P. O. Box 567
Metuchen, New Jersey 08840

Dear Mr. Spritzer:

Your letter of May 7, 1973, acknowledges our letter of April 9, 1973, in which we advised that the Office of Pipeline Safety (OPS) is not authorized to prescribe the location or routing of any pipeline. However, you call attention to ?195.210 which you say definitely refers to pipeline location in regard to residential areas, and you ask what recourse an aggrieved person would have for interpretation and enforcement of that section.

Section 195.210(a) places a requirement on a carrier to select a right-of-way that avoids "as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly." Section 195.210(b) prohibits location of a pipeline within 50 feet of certain buildings and assembly places unless additional cover is provided.

The requirements of ?195.210 are limitations with which a carrier must comply in placing a new pipeline. This section, however, gives our office only limited authority to determine the location of pipelines. Generally, we do not "approve" the location of pipelines. The regulations have no procedure for granting licenses, but ?195.210 does require that pipelines be located away from dwellings "as far as practicable." If it is not "practicable" to locate pipelines away from dwellings--in other words, if there is no alternative open area--then 12 inches of additional cover must be added. What is "practicable" is a question of judgment and all facts must be evaluated.

The OPS does not review individual pipeline proposals prior to construction unless some specific safety problem is brought to our attention. In the event a person believes a carrier is not complying with any requirement of 49 CFR Part 195, he may communicate all the known facts to this office for appropriate action. For an alleged violation of ?195.210(a), the person reporting should state in what respects, in his opinion, the carrier's right-of-way selection has not avoided, as far as practicable, buildings and places of public assembly.

Please contact us if you have any further questions in this regard.

Sincerely,

Joseph C. Caldwell
Director
Office of Pipeline Safety