

PI-74-0130

August 6, 1974

Interpretation of 49 CFR §195.210

Deputy Director, OPS, TES-31

Assistant General Counsel, Regulation

This refers to your memo of July 18, 1974, regarding an interpretation of 49 CFR §195.210. We have noted your comments on this interpretation and agree with your interim interpretation on this section which is consistent with previous interpretations in this regard.

We feel that a rule change in this matter should be considered in the evaluation in the over-all updating of the hazardous liquid regulations. We are, therefore, placing this recommendation in the project files for consideration at that time.

Signed

Cesar DeLeon, TES-31

Unites States Government
Department of Transportation
Office of the Secretary

MEMORANDUM

July 18, 1974

SUBJECT: Interpretation of 49 CFR §195.210
FROM: Assistant General Counsel, Regulation
TO: Deputy Director, OPS, TES-31

In view of the need for clarification of the requirements of 49 CFR § 195.210(b) and prior inconsistent interpretations of its provisions provided by this office, it is recommended that this issue be resolved by modification of the regulation. A draft amendment is attached (Attachment A). Because of the increasing frequency with which this question is being raised, this amendment should be published for public comment as soon as possible.

In the interim it is our legal opinion that §195.210(b) requires an operator to provide twelve inches additional pipeline cover in any case in which the operator is a voluntary participant, through granting permission for right-of-way encroachment or otherwise, to the reduction of the distance between a pipeline and adjacent private dwellings or buildings in which people work, congregate or assemble to less than 50 feet.

Stephen L. Grossman

ATTACHMENT A

. . . . In consideration of the foregoing, it is proposed to amend Subchapter B of Chapter I of Title 49, Code of Federal Regulations, as follows:

1. By revising § 195.210 to read as follows:

§ 195.210 Pipeline location.

A pipeline route or right-of-way must be selected to avoid, as far as practical, areas containing private dwellings and other buildings or places of public assemblage in which persons work, congregate or assemble.

2. By adding a subparagraph (e) to § 195.402 to read as follows:

§ 195.402 General requirements.

* * * * *

(e) A pipeline may not be operated within 50 feet of any private dwelling, or any building or place of public assembly in which persons work, congregate or assemble, unless it is provided with at least 12 inches of cover in addition to that prescribed in § 195.248.