

Billing Code: 4910-60

DEPARTMENT OF TRANSPORTATION

**RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
Petroleum Products and Low-stress Pipelines**

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

ACTION: Notice of interpretation and partial stay of enforcement.

SUMMARY: This notice interprets the definition of "petroleum product" under RSPA's safety regulations for hazardous liquids pipelines. The definition has been applied to petrochemical products that the regulations were not intended to cover. The interpretation should reduce confusion in deciding which low-stress pipelines² are subject to the regulations.

In addition, this notice stays enforcement of the regulations against low-stress pipelines regulated by the U.S. Coast Guard, and against certain short low-stress pipelines that serve plants and transportation terminals. Application of the regulations to these lines would cause undue burdens for industry and government. The stay should ease difficulties in applying the regulations to low-stress pipelines.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 366-4559.

SUPPLEMENTARY INFORMATION:

Background In response to a Congressional directive³, RSPA extended its hazardous liquid pipeline safety regulations (49 CFR Part 195) to cover certain low-stress pipelines other than rural gathering lines and gravity-powered lines (59 FR 35465; July 12, 1994). That rulemaking action affected low-stress pipelines that transport highly volatile liquids, low-stress pipelines that are located onshore in non-rural areas, and low-stress pipelines that are located offshore or in waterways that are navigable in fact and currently used for commercial navigation (§ 195.1(b)(3)).

Transfer lines comprised the largest proportion of low-stress pipelines brought under Part 195 (about two-thirds of the pipelines and one-third of the mileage). The remainder included trunk lines and non-rural gathering lines. Transfer lines are used to transport hazardous liquid locally between facilities such as transportation terminals, manufacturing plants, petrochemical plants, and oil refineries, or to connect these facilities to associated storage or long-distance pipeline transportation. Because the rulemaking action affected the current operating practices of many companies unfamiliar with Part 195, we allowed operators to delay compliance of existing low-stress pipelines until July 12, 1996 (§ 195.1(c)).

¹ "Hazardous liquid" means petroleum, petroleum products, or anhydrous ammonia. (§ 195.2)

² Low-stress pipelines mean a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe. (§ 195.2)

³ The Secretary of Transportation may not provide an exception from regulation for a hazardous liquid pipeline facility only because the facility operates at low internal stress. (49 U.S.C. § 60102(k))

Meaning of Petroleum Product The impact of the rulemaking action intensified last fall, particularly for petrochemical companies, when RSPA interpreted the definition of "petroleum product."

Part 195 defines "petroleum product" as "flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds"⁴ (§ 195.2). The Hoechst Celanese Corporation had asked us whether two of its products come under this definition. Focusing on the "miscellaneous hydrocarbon compounds" aspect of the definition, we said the products, ethylene glycol and formic acid, were petroleum products because they are, respectively, flammable and toxic, and are produced by processing hydrocarbon compounds. Upon further consideration, however, we now believe that interpretation was too broad in light of the historical context of Part 195.

Since its inception, Part 195 has applied to petroleum products transported in liquid form by pipeline (34 FR 15473; Oct. 4, 1969). Only recently, while trying to clarify Part 195 requirements and reduce the burden of government regulation, did we adopt the present definition of petroleum product (59 FR 33395; June 28, 1994). Previously, both RSPA and the hazardous liquid pipeline transportation industry identified petroleum products as hydrocarbon compounds derived from processing natural gas or petroleum. This processing typically occurs at oil refineries, gas processing plants, and gasoline plants.⁵

Petroleum products include such products as butane, propane, gasoline, heating oil, aviation fuel, kerosene, and diesel fuel. Also included are hydrocarbon feedstocks, such as ethylene and propylene, that are the basis of hundreds of petrochemical products, including paints, plastics, synthetic fibers, and fertilizers. Prior to the definition, we did not consider the intermediate and finished products manufactured at petrochemical plants by further processing hydrocarbon feedstocks to be petroleum products. These petrochemical products are characterized by the addition of chemicals, such as chlorine, nitrogen, or oxygen, to the hydrocarbon feedstocks.

In adopting the definition of petroleum product, we did not seek to expand this prior understanding of the term, only to clarify it.⁶ For this reason, the definition of petroleum product must be applied consistent with its regulatory background. Thus, petrochemical products that are made by chemical means using petroleum products as a raw material do not come under the definition. Ethylene glycol, which is used in car antifreeze and other finished products, is an example of a petrochemical product that does not come under the Part 195 regulations.

⁴ Hydrocarbon compounds are chemical compounds composed solely of hydrogen and carbon.

⁵ Part 195 was based largely on voluntary standards contained in the 1966 edition of "Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems," (designated USAS B31.4-1966) prepared and published by the American Society of Mechanical Engineers. A diagram on page 2 of the code shows that the code applies to pipelines that run between production facilities, refineries, gasoline plants, gas processing plants, terminals, and bulk plants.

⁶ In the *Federal Register* notice concerning petroleum product and other terms that RSPA proposed to define, RSPA said "[t]he proposed new definitions and definition change would not compromise pipeline safety because they would not alter the intended application of the existing part regulations." (57 FR 56306; Nov. 27, 1992)

Stay of Enforcement of 49 CFR Part 195 Against Certain Low-stress Pipelines As mentioned above, Part 195 applies to certain low-stress pipelines used to transfer hazardous liquids locally. These transfer lines link long-distance pipelines and truck, rail, and vessel transportation terminals with various industrial plants, including manufacturing plants, petrochemical plants, and oil refineries. Many of the lines interconnect the plants themselves. These local transfer lines are generally short, averaging about a mile in length. They are usually operated in association with transfer piping on the grounds of the plants and terminals. Some transfer lines that serve industrial plants or terminals may be operated by long-distance pipeline operators.

Transfer lines or segments of lines on the grounds of industrial plants and transportation terminals generally are excepted from Part 195 (§ 195.1(b)(6) and (7)).⁷ However, this excepted piping is subject to Occupational Safety and Health Administration

(OSHA) safety standards, including, when 10,000 pounds or more of flammable liquid are involved, the Process Safety Management regulations (29 CFR 1910.119) issued under the Clean Air Act Amendments of 1990. These regulations are designed to reduce the risk of fires and explosions caused by the escape of hazardous chemicals from facility processes. In addition, transfer lines between vessels and marine transportation-related facilities are subject to safety requirements of the U.S. Coast Guard (33 CFR Parts 154 and 156). These requirements apply to transfer lines from the dock loading arm or manifold up to the first valve after the line enters the Spill Prevention Control and Countermeasure (SPCC) containment or secondary containment if the facilities are not protected by SPCC plans.

RSPA is concerned that the impending imposition of the Part 195 regime on a multitude of short hazardous liquid transfer lines throughout the U.S. and Puerto Rico may create difficulties for both industry and government that are not counterbalanced by a reduction in risk. A significant difficulty for many operators of transfer lines is that the lines may be designed and operated according to standards and specifications that differ from Part 195 requirements. Some time and expense would be necessary for operating personnel to become familiar with Part 195 and the companion drug and alcohol rules in 49 CFR Part 199.

Another difficulty for industry is the separate federal regulatory regimes over transfer piping. Part 195 generally does not displace OSHA regulations over on-grounds transfer piping. So, most plants and terminals would have to comply with OSHA's Process Safety Management regulations for some transfers and Part 195 for others.⁸ For transfers between vessels and marine transportation-related facilities, the Coast Guard safety regulations would apply as well. Application of Part 195 to these marine terminal transfer lines duplicates agency efforts within DOT and creates uncertainty in the industry as to which DOT regulations apply to particular facilities. The upshot of these separate regulatory regimes of RSPA, OSHA, and the Coast Guard is that differing safety rules and enforcement policies could confuse operating personnel and increase administrative costs through separate operating plans and recordkeeping.

Carrying out adequate government inspections presents a further difficulty. The task of finding and educating the many new operators coming under Part 195 because of low-stress pipelines is likely to be a major, protracted effort that could swamp current inspection resources.

At the same time, the risk to the public from short low-stress transfer lines off plant or terminal grounds is generally low. A low operating stress is itself a safety factor against several accident causes. And the short length means the potential spill volume would be limited should an accident occur. Also, typically there is limited public exposure in the industrial areas where low-stress transfer lines are located. The risk of marine transfer lines is reduced even more by the U.S. Coast Guard regulations and inspection force.

⁷Part 195 applies to transfer piping on facility grounds if the piping is necessary to control the operating pressure of off-grounds lines covered by Part 195, or if the on-grounds piping serves a breakout storage tank.

⁸ However, where Part 195 applies to facility transfer piping, OSHA regulations may be preempted, because OSHA is precluded from enforcing its regulations against employee working conditions over which another federal agency prescribes or enforces safety regulations. (29 U.S.C. § 653(b)(1))

Therefore, we are considering amending Part 195 to except short, low-stress transfer lines that traverse areas outside plant and terminal grounds. We are also considering excepting low-stress transfer lines of any length that are regulated by the U.S. Coast Guard. We intend to publish a notice of proposed rulemaking (NPRM) in the *Federal Register* to seek public comment on these proposals.

Meanwhile, effective immediately, I am staying enforcement of Part 195 against two categories of low-stress pipelines: (1) low-stress pipelines regulated by the U.S. Coast Guard; and (2) low-stress pipelines that are less than 1 mile in length (measured outside plant or terminal grounds), except if the pipeline crosses offshore or any waterway currently used for commercial navigation. This stay will remain in effect until modified through another *Federal Register* notice or until Part 195 is amended as a result of the NPRM, whichever happens first. RSPA will continue to enforce Part 195 over short lines that cross offshore or commercially navigable waterways but do not come under U.S. Coast Guard regulations because of the need to reduce the threat of environmental damage.

(49 U.S.C. § 60102 *et seq.*; 49 CFR 1.53)

Issued in Washington DC on _____

Richard B. Felder
Associate Administrator for Pipeline Safety

U.S. Department of Transportation
United States Coast Guard

MEMORANDUM

Subject: LOW-STRESS TRANSFER PIPELINE
JURISDICTION 16451
From: Chief Port and Facilities Compliance
Branch, G-MCO-3

To: Cesar De Leon, Deputy Associate Administrator for Pipeline Safety, DPS-2

Ref: (a) Draft Federal Register Notice of Interpretation and Partial Stay of Enforcement

1. A review of reference (a) has been completed by this branch. In general, I concur with the content of the draft notice, subject to the recommendations attached as enclosure (1).
2. I would like to thank you for the opportunity to review the draft notice and look forward to further cooperation between our offices. If you have any questions, you may contact Lieutenant (junior grade) David Deaver at x7-0502.

T.M. Keegan

RECOMMENDED CHANGES TO THE OFFICE OF PIPELINE SAFETY'S (OPS) FEDERAL REGISTER NOTICE OF INTERPRETATION AND PARTIAL STAY OF ENFORCEMENT

Page 7, Lines 12-15

- currently reads: "In addition, at ports, transfer lines between marine vessels and inland storage facilities are subject to safety requirements of the U. S. Coast Guard (33 CFR Parts 154 and 156)."
- recommend: In addition, at marine transportation related facilities, transfer lines from the dock loading arm or manifold up to the first valve encountered after the pipeline enters the Spill Prevention Control and Countermeasure (SPCC) containment or the secondary containment, for facilities not protected by SPCC plans, are subject to the safety requirements of the U. S. Coast Guard,
- Reason for change: Ensure that the extent of Coast Guard jurisdiction is clear by using the same terminology as the MOU between the EPA and DOT and the Pipeline testing policy put out by Commandant on 03 August 1994 and avoid having part of the pipeline not covered.

Page 8, line 14-16

- Currently reads: "For transfers between marine vessels and inland storage tanks, the Coast Guard safety regulations would apply as well."
- Recommend: For transfers between vessels and marine transportation related facilities, the Coast Guard safety regulations would apply as well.
- Reason for change: Current wording could be interpreted to limit Coast Guard jurisdiction only to transfers to or from inland storage tanks and exclude transfers to or from other facilities such as mobile facilities (tank trucks, tank cars, etc.).