

Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket PS-72; Notice 1]

Transportation of Hazardous Liquids by Pipeline Retention of Radiographic Film

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to delete the requirement in § 195.234(g) to retain radiographic film for 3 years after a pipeline is placed in service and to map the location of the radiographed welds. The existing rule does not appear to enhance safety, but does impose a significant cost burden.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by November 18, 1982. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, and identify the docket and notice numbers.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION:

Background

Under the requirements of § 195.234, at least 10 percent of the girth welds made daily on a pipeline must be nondestructively tested to determine the acceptability of the welds. In addition, 100 percent of the girth welds that are located in specified areas (where a defect might occur or a spill could have serious consequences) must be nondestructively tested. To assure compliance with these testing requirements, § 195.234(g) requires that a record be kept for 3 years of welds that have been nondestructively tested, showing, if practicable, the location of the weld, and including the developed film for welds tested by radiography. Besides serving as a check on compliance, MTB believes that the drafters of § 195.234(g) thought that retained radiographs would be advantageous in analyzing any leak that might develop in a radiographed weld.

In addition to the § 195.234(g) requirements, § 195.266(a) requires that a complete record be kept for the life of the facility showing the total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.

Two persons have petitioned MTB to delete the radiograph retention requirement from § 195.234(g). In a letter dated September 21, 1977 (Pet. 77-11), Consolidated X-Ray Service

Corporation requested that § 195.234(g) be made identical to the comparable recordkeeping requirement for gas pipelines set forth in § 192.243(f), which does not require retention of radiographs, or the exact location of each weld. Consolidated argued that the requirement for gas pipelines should be sufficient for liquid pipelines, since the construction methods (i.e., materials used, welding practices, and inspection techniques) are the same for the two types of pipelines. Consolidated also pointed out that although radiograph retention was initially proposed for inclusion in § 192.243(f) (35 FR 1112), it was deleted in the final rule (35 FR 13248) in favor of the current, more general requirement on grounds that "retention of X-ray film would present a substantial clerical burden, and will not prove too valuable in accident investigation."

Colonial Pipeline Company, by letter dated October 17, 1978, also requested that the requirement to retain weld radiographs be deleted from § 195.234(g). Colonial argued that the objective of radiographic inspection of girth welds is to control the quality of welding, and that this objective is met by immediately bringing any problems that are detected to the attention of the welders. Thus, Colonial concludes, a weld radiograph loses its usefulness after a weld is initially accepted or rejected. In further argument against the need to retain radiographs beyond their initial interpretation, Colonial argued that a record of film interpretation and subsequent disposition of the weld, combined with a metallurgical examination, would be sufficient to explain any weld failure that might occur. Colonial also said the burdens associated with radiograph retention (the clerical tasks of rolling, marking, transporting, and storing film as much as 132 inches in length) are costly, and the time spent by inspectors who perform these tasks reduces their effectiveness in visually inspecting and interpreting film of additional welds.

Objective

Part 192 for gas pipelines and Part 195 for hazardous liquid pipelines both have recordkeeping requirements pertaining to nondestructive testing of girth welds. The requirements are not the same, however, and MTB believes the requirements of Part 192 are adequate for the purposes of providing evidence for enforcement and information to supplement a metallurgical analysis of any future leaks occurring in girth welds that have been nondestructively tested.

The added burdens of keeping radiographic film as well as mapping the

location of each weld currently imposed by § 195.234(g) do not appear necessary to achieve the recordkeeping purposes, since for similarly constructed gas pipelines, mere statements attesting to compliance have proved sufficient for enforcement needs, and as one of MTB's predecessor agencies, the Office of Pipeline Safety, concluded in 1970, old radiographs are not particularly helpful in accident analysis. Therefore, MTB is proposing to revoke § 195.234(g) but retain § 195.266(a) for the girth weld recordkeeping requirement, making the requirements of Part 195 similar to Part 192. Under this proposal, in contrast to the present rule, retention of radiographic film would not be required; records would have to be kept for the life of the pipeline, but the records need not show the precise location of each weld tested.

Issue

A further benefit that derives from § 195.234(g) is that retained radiographs enable enforcement personnel to verify the judgments about weld quality made by persons who originally interpreted the film. Welding irregularities involving both misread and falsified radiographs were discovered in this manner on the Trans-Alaska crude oil pipeline, and have been discovered by pipeline operators' own quality control personnel on other pipelines. Some persons might argue, therefore, that radiographs should be retained for this reason. MTB does not agree, however, because deliberate misrepresentation can occur with respect to any type of record, and because the quality of finished girth welds is further assured by Part 195 through requirements other than nondestructive testing. For example, Subpart D requires that welds be visually inspected and that welders and welding procedures be qualified by testing. Also, under Subpart E, each pipeline must be hydrostatically tested. MTB believes that these controls, including the requirement to nondestructively test certain welds, are sufficient to assure weld quality, making the added requirement of retaining radiographs until there is opportunity for examination by MTB enforcement personnel superfluous. Such examination may occur, nevertheless, during the normal course of MTB's compliance investigations of pipeline construction activity.

If § 195.234(g) is deleted as proposed, the question of whether radiographs must be retained beyond the stage of initial interpretation until they are reviewed by an operator's quality control personnel would depend on the procedures the operator establishes

under § 195.234(c) for interpretation of radiographs. If those procedures provide for quality control review, then the radiographs would have to be kept until that review is completed and a final decision is made as to weld acceptability. However, since Part 195 does not require a second level review of radiographs, if an operator does not include one in its interpretation procedures under § 195.234(c), then radiographs could be disposed of after the initial interpretation and decision as to weld acceptability.

MTB believes that significant cost savings will result from this proposed rule. Determining the exact location of each weld and identifying, transporting, and storing film is relatively expensive, especially on large pipelines. The MTB estimates that approximately \$2.5 million is spent annually by the liquid pipeline industry mapping radiographed welds, and an additional \$0.8 million is spent annually on retaining radiographs. The MTB believes these costs can be substantially eliminated without reducing public safety. A Regulatory Evaluation is available in the docket.

Since this proposed rulemaking action will have a positive effect on the economy of less than \$100 million a year, will result in a cost savings to consumers, industry, and government agencies, and no adverse effects are anticipated, the action is not "major" under Executive Order 12291 or "significant" under Department of Transportation procedures.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to Sec. 605 of the Regulatory Flexibility Act, that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In view of the above, MTB proposes to amend Part 195 of Title 49 of the Code of Federal Regulations by revoking § 195.234(g).

(49 U.S.C. 2002; 49 CFR 1.53, Appendix A to Part 1, and Appendix A to Part 106)

Issued in Washington, D.C., on September 28, 1982.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

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