

City	Channel No.		Concur- rence required
	Present	Proposed	
Auburndale.....		260A.....	Canada Canada
Black River Falls.....		259A.....	
Bloomer.....		291A (3. SE).....	
Boscobel.....		267A.....	
Brillion.....		242A.....	
Columbus.....		263A (3.6 NE).....	
Evansville.....		290A (4 SW).....	
Mayville.....		259A (2.1 NW).....	
Oconomowoc.....		283A (3.9 SE).....	
Oconto Falls.....		280A (5. W).....	
Peshigo.....		241A (0.6 W).....	
Plymouth.....		282A.....	
Wyoming:			
Kemmerer.....		297A.....	
Puerto Rico:			
Naguabo.....		247A.....	

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BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-80, Notice No. 1]

Transportation of Hazardous Liquids by Pipeline; Regulation of Intrastate Pipelines

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The existing Federal safety standards for pipelines transporting hazardous liquids apply to pipelines operating in interstate or foreign commerce. This notice proposes to extend the applicability of these standards to include pipelines transporting hazardous liquids that affect interstate or foreign commerce. The Hazardous Liquid Pipeline Safety Act of 1979 requires this action to provide for consistent State regulation of risks associated with intrastate transportation of hazardous liquids.

DATE: Interested persons are invited to submit written comments on this proposal by May 25, 1984. Late filed comments will be considered as far as practicable.

ADDRESS: Comments should identify the docket and notice numbers and be submitted in triplicate to the Dockets Branch, Materials Transportation Bureau, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. All comments and other docket material are available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. working day.

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

regarding the content of this proposal, or the Dockets Branch (202) 426-3148, regarding copies of this proposal or other information in the docket.

SUPPLEMENTARY INFORMATION:

Requirement for Regulation

Section 203(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 U.S.C. 2002) requires the Secretary of Transportation to establish minimum Federal Safety standards for the pipeline transportation of hazardous liquids in or affecting interstate or foreign commerce. Prior to enactment of the HLPSA, the Department's jurisdiction over hazardous liquid pipelines was derived from the Transportation of Explosives Act (18 U.S.C. 831-835), which applied only to carriers engaged in interstate or foreign commerce in the United States. The HLPSA repealed this Act and granted the Secretary enlarged safety jurisdiction to include pipelines in Puerto Rico and pipelines that are not in interstate or foreign commerce, called intrastate pipelines.

The legislative history of the HLPSA shows that Congress intended Federal safety regulation of intrastate pipelines not only to control the risk of transporting hazardous liquids, but also to provide continuity among State regulations through the establishment of a Federal minimum level of pipeline safety. Currently, in the absence of Federal minimum standards, safety regulation of intrastate hazardous liquid pipelines is open to all States or municipalities, with the potential for inconsistent regulations from State to State. In § 203(d) of the HLPSA, Congress foreclosed this undesirable possibility by providing that "Any State agency may adopt additional or more stringent safety standards for intrastate pipeline facilities and the transportation of hazardous liquids associated with

such facilities if such standards are compatible with the Federal standards issued under this title."

In adopting this limited Federal preemption of the exercise of State regulatory powers, Congress was guided by similar preemptive language in § 3 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1672). The clear purpose was to establish a uniform Federal policy governing State safety regulation of pipelines transporting hazardous materials in gas or liquid form that are subject to the two statutes. This purpose will be realized upon issuance of Federal safety standards for intrastate hazardous liquid pipelines.

Under the NGPSA, MTB has established minimum Federal safety standards for intrastate gas pipelines (49 CFR Part 192). These standards provide the basis for well developed State-run safety regulatory programs for intrastate gas pipelines. The HLPSA has a similar purpose with respect to intrastate hazardous liquid pipelines. In addition to the continuity required by section 203 of the HLPSA, section 205 of the Act encourages State agencies to take the lead in regulating intrastate hazardous liquid pipelines, paralleling the role for State agencies regarding natural gas pipelines under the NGPSA. Like the gas programs, the section 205 programs are to be a cooperative effort, with State agencies adopting applicable Federal safety standards under State laws. Also, State agencies that so participate become eligible for Federal funding of up to 50 percent of their program costs. To meet these objectives under section 205 of the HLPSA, minimum Federal safety standards applicable to intrastate hazardous liquid pipelines must be issued. (It should be noted, however, that Congress has not appropriated funds for State programs. Furthermore, adoption by MTB of the standards being

proposed does not mean that funds will become available or be sought by MTB. Funding is a matter that can be considered only in the context of future Federal budget proposals and appropriation proceedings.)

In summary, prior to enactment of the HLPESA, there was no Federal statute guiding State safety regulation of intrastate pipelines transporting hazardous liquids. Because the HLPESA: (1) Has extended the Department's regulatory authority to include intrastate pipelines, (2) has provided for State participation in the safety regulation of intrastate pipelines together with possible Federal funding of part of the State safety programs, and (3) has made Federal preemption and participation contingent upon adoption by the Department of minimum Federal safety standards, MTB believes there is a clear Congressional intent for Federal intrastate hazardous liquid pipeline safety standards.

Choice of Standards

MTB's experience with the pipeline industry shows that intrastate pipelines are designed, constructed, tested, maintained, and operated in the same manner as interstate pipelines. Further, most intrastate operators voluntarily utilize the current Federal safety standards now applicable to interstate facilities or the industry code, ANSI B31.4, upon which the Federal standards were based, totally or in part as their safety standards. Consequently, MTB proposes that the existing Federal safety standards in Part 195 for interstate pipelines transporting petroleum, petroleum products, or anhydrous ammonia be adopted as appropriate safety standards for intrastate pipelines carrying these commodities.

MTB reissued the Federal safety standards in Part 195 under the authority of the HLPESA on July 27, 1981, (46 FR 38357). The Supplementary Information in the reissuance document set forth, among other things, the distinction between interstate and intrastate pipeline facilities and MTB's plans to apply Part 195 to intrastate pipelines. MTB said the Federal regulations would not be applied to intrastate pipelines for at least two years to allow the States time to amend or adopt the necessary authorizing statutes and time to consider whether they should assume the intrastate regulatory responsibility or leave it to the Federal government. In responses to the reissuance document, both the American Petroleum Institute (API), speaking for the petroleum industry, and the National Transportation Safety Board (NTSB) argued against the two

year period and urged quick application of the existing Federal safety standards to intrastate pipelines. Clearly, the API and NTSB comments solidly support the proposition that the existing Federal safety standards for interstate pipelines are the appropriate standards for intrastate pipelines.

Status of State Programs

Since Part 195 was reissued, the MTB has formally solicited the participation of all of the States, the District of Columbia, and the Commonwealth of Puerto Rico in a Federal/State program as provided in Section 205 of the HLPESA. Fifteen States (Texas, California, Wyoming, Pennsylvania, Kansas, New Mexico, Montana, Ohio, North Dakota, Arkansas, Arizona, New York, Iowa, Nevada, and Hawaii) currently have enabling legislation to regulate intrastate liquid pipelines. Seven States (Louisiana, Oklahoma, Mississippi, Alabama, West Virginia, Washington, and Wisconsin) are considering enactment of the necessary legislation. The remaining States, the District of Columbia, and the Commonwealth of Puerto Rico have not as yet expressed an interest in safety regulation of intrastate liquid pipelines. MTB estimates that total of 11,000 miles of intrastate pipelines would be affected by this rulemaking proceeding (another 33,000 miles of intrastate pipelines would be excepted from the applicability of Part 195 by § 195.1(b)). Of this total, approximately 64 percent are in the fifteen states which have legislation enabling the States to regulate intrastate pipelines. Further, the States seeking the necessary legislation have an additional 24 percent of the total intrastate pipelines, making possible the regulation of the great bulk of the affected intrastate pipelines via Federal/State programs.

Proposed Amendments

Only minor changes are needed in the text of Part 195 to make the Federal safety standards for hazardous liquid pipelines applicable to intrastate pipelines and to provide for various extended compliance times beyond the proposed overall effective date of 30 days; following publication of the final rule. On the whole, these changes would establish identical safety standards for interstate and intrastate pipelines. It is not the purpose of this rulemaking proceeding to examine the need for or merits of particular standards. While comments in this regard cannot be ignored if they impact intrastate pipelines, MTB intends to handle substantive matters involving the appropriateness of individual standards

in separate proceedings involving both interstate and intrastate pipelines.

Gathering Lines. Movement of hazardous liquids through gathering lines in rural areas is outside the scope of the HLPESA. Under the existing regulatory language, MTB does not apply Part 195 to any part of a gathering system that is in a rural area even though other parts of the same system are in nonrural areas. To make sure that the language limiting the scope of Part 195 is consistent with this regulatory intent, MTB is proposing a clarifying change to § 195.1(b)(4). For interstate pipelines and intrastate pipelines, § 195.1(b)(4) would be amended to provide that Part 195 does not apply to "transportation of a hazardous liquid in those parts of an onshore pipeline system that are located in rural areas between a production facility and an operator trunkline reception point.

With regard to interstate pipelines, there has not been a serious problem under the existing § 195.1(b)(4) in distinguishing rural from non-rural areas or in distinguishing a gathering line from a trunkline. MTB is concerned, however, that these distinctions may be more of a problem for intrastate pipelines, since there is a significant number of rural intrastate gathering lines in the United States. Therefore, MTB would appreciate comments on the distinction between rural and nonrural and the point that marks the end of a gathering line and the beginning of a trunkline. If the comments indicate a significant problem in distinguishing intrastate gathering lines or in distinguishing rural from non-rural, MTB will make an appropriate change to § 195.1(b)(4) as it applies to intrastate pipelines (other than the change discussed above) either in the final rule or through a separate rulemaking proceeding.

The following gives a section-by-section discussion of the proposed changes:

Section 195.1 Applicability. This section currently limits the application of Part 195 to interstate hazardous liquid pipelines (referred to as those which are subject to the jurisdiction of the Federal Energy Regulatory Commission) and those hazardous liquid pipelines which are on the Outer Continental Shelf. The MTB proposes to extend the applicability of Part 195 to intrastate hazardous liquid pipelines by addition of the term "in or affecting interstate or foreign commerce" to identify the pipeline facilities and transportation to which the regulations would apply. The use of Federal Energy Regulatory Commission (FERC) jurisdiction to refer to interstate pipelines would be deleted

from § 195.1. The new language comports with the language of the HLPISA in order to make sure that the distinction between interstate and intrastate pipelines under the regulations is the same as under the HLPISA. Although FERC's list of jurisdictional pipelines will continue to provide some indication of whether a particular pipeline is interstate or intrastate, as defined below, an "interstate pipeline" is one that is used "in interstate or foreign commerce" while an "intrastate pipeline" is one that affects such commerce but is not an "interstate pipeline." The HLPISA defines "interstate or foreign commerce" as "commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof."

The regulations currently apply to the transportation of petroleum, petroleum products, or anhydrous ammonia. No change is proposed to this group of regulated commodities. Also, as provided in § 195.1(b), the regulations currently do not apply to certain forms of transportation, including those portions of gathering lines located in rural areas and low stress level pipelines. Other than the clarifying change discussed above regarding rural gathering lines, no change is proposed to the exceptions for these unregulated forms of transportation.

A new paragraph (c) would exempt intrastate pipelines from the accident reporting requirements of Subpart B and the recordkeeping requirements of §§ 195.266, 195.310, and 195.404. More is said about this later under "Information Collection."

Section 195.2 Definitions. Because the terms "interstate pipeline" and "intrastate pipeline" are needed to apply the Part 195 regulations to intrastate pipelines, these terms are defined. The definitions of "interstate pipeline" and "intrastate pipeline" parallel the definition of like terms in Section 202 of the HLPISA.

Section 195.300 Scope. This section would be changed to specifically include onshore steel intrastate pipelines constructed before (30 days after publication of the final rule) which transport highly volatile liquids (HVL) among those pipelines to which the hydrostatic testing subpart applies. To make the section easier to read, the proposed revised section is presented in a listing format.

Section 195.302(b) General Requirements. Paragraph (b) would be changed to require that onshore steel intrastate pipelines which transport HVL and are constructed before (30 days after publication of the final rule)

meet the hydrostatic test requirements of Subpart E unless operating pressure is reduced. Intrastate pipelines that do not transport HVL that are constructed before (30 days after publication of the final rule) would not be required to meet the hydrostatic test requirements of Subpart E. For existing pipelines in HVL service when the rules being proposed are issued, MTB is proposing a one year period for planning and scheduling the hydrostatic testing or pressure reduction and a five year period for conducting the hydrostatic testing. These periods are consistent with the compliance periods established for similar HVL interstate pipelines.

Section 195.401 General Requirements. Paragraph (c) would be changed to require that intrastate pipelines upon which construction is begun after (29 days after publication of the final rule) be designed and constructed (including hydrostatic testing) in accordance with Part 195. Also, this section would be redrafted to make it easier to read.

Section 195.402 Procedural Manual for Operating, Maintenance, and Emergencies. This section would not become effective with respect to intrastate pipelines until two years after publication of the final rule to provide a reasonable period for preparation of the procedural manual, training employees, and installing equipment. This extended compliance period would be stated in the effective date of the final rule rather than incorporated into § 195.402.

Section 195.406 Maximum Operating Pressure. Paragraph (a)(5) would be changed to limit the maximum operating pressure of onshore steel intrastate pipelines transporting HVL which are constructed before (30 days after publication of the final rule) but not hydrostatically tested under Subpart E. Operating pressure would be limited to 80 percent of a prior test or operating pressure.

Section 195.414 Cathodic Protection. Paragraph (a) would be changed to permit the same 3-year lead time for cathodic protection of coated intrastate pipelines as was provided for coated interstate pipelines. Paragraph (b) would be changed to permit the same 5-year lead time for corrosion control of bare intrastate pipelines as was provided for bare interstate pipelines. Paragraph (c) would be changed to permit the same 3-year lead time for corrosion control of breakout tank areas and buried station piping on intrastate pipelines as was provided for interstate pipelines. Paragraph (d) would be deleted as unnecessary.

Section 195.414(b) refers to §§ 195.416 (f) and (g) as required remedies for

corroded pipe. Interested persons should note that MTB has proposed to revise § 195.416(g), which concerns isolated pitting (see 48 FR 46589, Oct. 13, 1983). If the proposed change to § 195.416(g) is adopted, it should apply to intrastate pipelines that may become subject to Part 195 as a result of this proceeding. Therefore, the proposal to revise § 195.416(g) as set forth in 48 FR 46589 is hereby made part of this rulemaking proceeding.

Classification. These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979) based on a Draft Evaluation of the economic impact of this proposal, a copy of which is in the docket. Based on the Draft Evaluation, the agency certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Information Collection. The information collection requirements of 49 CFR Part 195 (i.e., the accident reporting requirements of Subpart B as well as the recordkeeping requirements of §§ 195.266, 195.310, and 195.404) are currently under review to determine which may create an unnecessary burden and whether any changes are appropriate. Consequently, none of the existing information collection requirements is proposed to be adopted for intrastate pipelines at this time. Upon completion of the review, separate proceedings will be used to propose identical information collection requirements for interstate and intrastate pipelines. In the interim, an exception from the information collection requirements would be included under § 195.1(c) for intrastate pipelines.

List of Subjects in 49 CFR Part 195

Interstate pipeline, Intrastate pipeline, Pipeline safety.

PART 195—[AMENDED]

In view of the foregoing, the MTB proposes to amend 49 CFR Part 195 in the following manner:

1. By revising § 195.1 (a) and (b)(4) and adding a new paragraph (c) to read as follows:

§ 195.1 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to pipeline facilities and the transportation of hazardous liquids associated with those facilities in or affecting interstate or foreign commerce, or on the Outer Continental Shelf.

(b) * * *

(4) Transportation of a hazardous liquid in those parts of an onshore pipeline system that are located in rural areas between a production facility and an operator trunkline reception point;

(c) Subpart B of this part and §§ 195.266, 195.310, and 195.404 do not apply to intrastate pipelines.

2. By adding two new definitions to § 195.2 to read as follows:

§ 195.2 Definitions.

"Interstate pipeline" means a pipeline used in the transportation of hazardous liquids in interstate or foreign commerce.

"Intrastate pipeline" means a pipeline to which this part applies that is not an interstate pipeline.

3. By revising § 195.300 to read as follows:

§ 195.300 Scope.

This subpart prescribes minimum requirements for hydrostatic testing of—

(a) Newly constructed steel pipeline systems;

(b) Existing steel pipeline systems that are relocated, replaced, or otherwise changed;

(c) Onshore steel interstate pipelines constructed before January 8, 1971, that transport highly volatile liquids; and

(d) Onshore steel intrastate pipelines constructed before (30 days after publication of the final rule) that transport highly volatile liquids.

However, this subpart does not apply to movement of pipe covered by § 195.424.

4. By revising § 195.302(b) to read as follows:

§ 195.302 General requirements.

(b) No person may transport a highly volatile liquid in an onshore steel interstate pipeline constructed before January 8, 1971, or an onshore steel intrastate pipeline constructed before (30 days after publication of final rule) unless the pipeline has been hydrostatically tested in accordance with this subpart or, except for pipelines subject to § 195.5, its maximum operating pressure is established under § 195.406(a)(5). Dates to comply with this requirement are:

(1) For onshore steel interstate pipelines in highly volatile liquid service before September 8, 1980—

(i) Planning and scheduling of hydrostatic testing or actual reduction in maximum operating pressure to meet

§ 195.406(a)(5) must be completed before September 15, 1981; and

(ii) Hydrostatic testing must be completed before September 15, 1985, with at least 50 percent of the testing completed before September 15, 1983.

(2) For onshore steel intrastate pipelines in highly volatile liquid service before (publication of the final rule)—

(i) Planning and scheduling of hydrostatic testing or actual reduction in maximum operating pressure to meet § 195.406(a)(5) must be completed before (one year after publication of the final rule); and

(ii) Hydrostatic testing must be completed before (5 years after publication of the final rule) with at least 50 percent of the testing completed before (3 years after publication of the final rule).

5. By revising § 195.401(c) to read as follows:

§ 195.401 General requirements.

(c) Except as provided by § 195.5, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this part:

(1) An interstate pipeline on which construction was begun after March 31, 1970.

(2) An interstate offshore pipeline located between a production facility and an operators trunkline reception point on which construction was begun after July 31, 1977.

(3) An intrastate pipeline on which construction was begun after (29 days after publication of the final rule).

6. By revising § 195.406(a)(5) to read as follows:

§ 195.406 Maximum operating pressure.

(a) * * *

(5) In the case of onshore HVL interstate pipelines constructed before January 8, 1971, or onshore HVL intrastate pipelines constructed before (30 days after publication of the final rule), that have not been tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted. (See § 195.302(b) for compliance schedules for HVL interstate pipelines in service before September 8, 1980, and for HVL intrastate pipelines in service before (publication of final rule).)

8. By revising § 195.414 to read as follows:

§ 195.414 Cathodic protection.

(a) No operator may operate an interstate pipeline after March 31, 1973, or an intrastate pipeline after (3 years after 1 day before effective date of the final rule), that has an external surface coating material, unless that pipeline is cathodically protected. This paragraph does not apply to breakout tank areas and buried pumping station piping.

(b) Each operator shall electrically inspect each bare interstate pipeline before April 1, 1975, and each bare intrastate pipeline before (5 years after effective date of the final rule) to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where active corrosion is found, the operator shall provide cathodic protection. Section 195.416 (f) and (g) apply to all corroded pipe that is found.

(c) Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on interstate pipelines before April 1, 1973, and on intrastate pipelines before (3 years after effective date of the final rule) as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

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

Issued in Washington, D.C. on March 20, 1984.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries Off the Coast of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings.

SUMMARY: This notice sets forth the schedule of the forthcoming public hearings of the Pacific Fishery Management Council (Council), for the 1984 ocean salmon fishing season regulations off of the coasts of