be accomplished at the discretion of the ratifying official.

(e) *Paid Advertisements.* (1) EPA is generally not authorized to ratify improperly ordered paid advertisements. The ratifying official, however, may determine payment is proper subject to the limitations in FAR 1.602-3(c) if the individual responsible for the unauthorized commitment acted in good faith to comply with Agency acquisition policies and procedures.

(2) The paying office shall forward invoice claims received in its office for improper paid advertisdements to the cognizant ratifying official for a determination regarding ratification of the action.

(3) Of the ratifying official determines that an unauthorized commitment cannot be ratified by the Agency, the ratifying official shall instruct the submitter to present its claim to the General Accounting Office in accordance with the instructions contained in 4 CFR part 31, Claims Against the United States, General Procedures.

(f) *Payment of Properly Ratified Claims.* In determining the payment due date, in addition to the requirements concerning receipt and acceptance in FAR, subpart 32.9 and OMB Circular A-125, receipt of a proper invoice is not considered to have occurred until after ratification.

1501.670 [Removed]

3. Subpart 1501.6 is amended by removing section 1501.670.

Dated: November 28, 1989.

John C. Chamberlin,

Director, Office of Administration

[FR Doc. 89-28610 Filed 12-8-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-115; Notice 1]

RIN 2137 AB53

Gas Pipeline Operating Above 72 Percent of Specified Minimum Yield Strength

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: A "grandfather clause" allows certain steel gas pipelines to operate at hoop stress levels above 72 percent of the specified minimum yield strength (SYMS) of the pipe—the highest operating hoop stress permitted on steel pipe in all other regulated gas pipelines. The grandfathered pipelines may not provide as much protection against stress-related failures as lines constructed more recently in similar locations. OPS is concerned about this possible disparity in protection, and invites public participation in determining an appropriate course of action regarding the "grandfather clause.

DATES: Interested persons are invited to submit written comments on this notice by March 12, 1989 Late filed comments will be considered to the extent practicable. All persons must submit as part of their written comments all of the material that they consider relevant to any statement of fact made by them.

ADDRESSES: Send comments in duplicate to the Dockets Unit, Room 8417 Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and other docketed material will be available for inspection and copying in Room 8426 between the hours of 8:30 a.m. and 5:00 p.m. each working day.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 366-2392, regarding the subject matter of this notice, or the Dockets Unit, (202) 366-4148, regarding copies of this notice or other material in the docket that is referenced in this notice.

SUPPLEMENTARY INFORMATION:

Background

Over a period of about 2 years, gas transmission lines operated by the Texas Eastern Gas Pipeline Company experienced four serious accidents. The first occurred November 25, 1984, on Line 14 in St. Francisville, Louisiana because of a construction defect, killing five persons and injuring 23 others. The second, which happened April 27 1985, on Line 10 near Beaumont, Kentucky, was caused by external corrosion inside a casing, and resulted in five deaths and three injuries. Then on October 26, 1985, Line 25 failed in Fleming County, Kentucky due to cracks propagating from a material defect, injuring four people. The defect had not been revealed during hydrostatic testing to 105 percent of SMYS. Finally, on February 21, 1986, six persons were injured near Lancaster, Kentucky when Line 15 failed due to corrosion.

Because three of these four accidents occurred within a 10-month period in one State, OPS formed a task force with the Kentucky Public Service Commission to review and evaluate Texas Eastern's operation and maintenance procedures. As set forth in its report, "Texas Eastern Gas Pipeline Company Operations and Maintenance Procedures Evaluation, November 1986, the task force found deficiencies in Texas Eastern's corrosion control program, which OPS ordered Texas Eastern to correct.

In addition to corrosion control problems, the task force's review revealed that the operating pressure of each of the four pipelines at the time and location of failure stressed the pipe to a level above 72 percent of SMYS. Except on these and other grandfathered lines described below, 72 percent of SMYS is the highest operating hoop stress permissible on steel pipe under the rules governing maximum allowable operating pressure (MAOP) (49 CFR 192.619).

The four Texas Eastern pipelines, which were initially placed in operation between 1952 and 1965, are among a group of pipelines that have been allowed to operate under an exception to the MAOP rule, often called the "grandfather clause" (§ 192.619(c)). Under this clause, pipelines put into service before July 1, 1970, and found to be in satisfactory condition, may be operated in Class 1 locations (essentially rural or offshore as defined by § 192.5) at the highest actual operating pressure they achieved during the 5 years preceding July 1, 1970, regardless of the level of hoop stress on the pipe. (The relevant date for offshore gathering lines is July 1, 1976, instead of July 1, 1970). Three of the four Texas Eastern pipelines are qualified under the grandfather clause to operate as high as 76.9 percent of SMYS, while Line 14 is qualified for operation up to 84.6 percent of SMYS. The task force recommended that OPS begin a research project to evaluate limiting the operating hoop stress of all grandfathered pipelines to 72 percent of SMYS.

History of Grandfather Clause

The "grandfather clause" was adopted at the final rule stage (35 FR 13248; August 19, 1968) in response to comments by the Federal Power Commission (now the Federal Energy Regulatory Commission (FERC)) on a DOT proposed rule concerning the maximum allowable operating pressure (MAOP) of gas pipelines (Notice 70-5, 35 FR 5482, April 2, 1970). DOT had proposed that the MAOP of any steel

gas pipeline in a Class 1 location be limited either to the design pressure of its weakest element or its test pressure divided by 1.1, whichever is lower. The Federal Power Commission said the operating pressures of many interstate gas transmission lines would have to be reduced if this proposal became law because the lines' test pressures had not been high enough to qualify their current operating pressures under the proposed rule. The Commission also said it had found no evidence that requiring a reduction in the operating pressures of these pipelines would materially increase safety.

In view of these statements and because DOT did not have enough information to determine whether the existing operating pressures were unsafe, a "grandfather clause" was added to the final MAOP rule, allowing continued operation of pipelines existing on July 1, 1970, at the highest pressure achieved during the previous 5 years. Operation under the grandfather clause, however, was made subject to the rules on confirmation or revision of MAOP when population near a line increases above the Class 1 limit (§ 192,611). Additionally, in the final rule, the proposal to limit the MAOP of pipelines to "the design pressure of the weakest element" was changed to read "the design pressure of the weakest element in the segment, determined in accordance with Subparts C and D of this part. (See § 192.619(a)(1)). The effect of these changes was to limit the operating hoop stress of non-grandfathered pipelines to 72 percent of SMYS in Class 1 locations, but to allow the grandfathered lines in Class 1 locations to operate above that stress level.

The regulatory history does not explain the safety rationale for limiting the operating hoop stress of Class 1 steel pipelines to 72 percent of SMYS. DOT included this limitation in § 192.619 because it was in the 1968 edition of the *USAS B31.8 Code* and had long been a basis for the industry's recommended MAOP for steel pipelines in Class 1 locations. The 72 percent limitation is not applied universally, however. Canada allows operation at up to 80 percent of SMYS in Class 1 areas, while Japan does not allow operation at more than 40 percent of SMYS.

NTSP Position

After the task force report was released, the National Transportation Safety Board (NTSB) issued a Pipeline Accident Report (NTSB/PAR-87-1), dated February 18, 1989, on the Texas Eastern accidents near Beaumont and Lancaster, Kentucky. The report contains the following recommendation (P-87-9):

> Revise 49 CFR part 192 and, if necessary, request legislative authority to amend 49 CFR part 192 to eliminate the "grandfather clause" which permits operators of [gas] pipelines installed before [July 1, 1970], to operate at levels of stress that exceed those levels permitted for pipelines installed after the effective date of 49 CFR part 192.

In the analysis section of its Accident Report that precedes this recommendation (p. 41), NTSB concluded that if the MAOP of the Beaumont and Lancaster pipelines had been lowered to produce a hoop stress of no more than 72 percent of SMYS, the accidents probably would not have occurred until a later date. NTSB then speculated that in the Lancaster case, the resultant pressure difference at the time and place of failure (924 *vs* 965 psig) "may well have allowed the gas company [time] to have replaced the damaged segment before the accident. (Texas Eastern had begun a rehabilitation program on the Lancaster line about a year before the corrosion-caused accident occurred.) NTSB further stated in the Accident Report (p. 42) that it "does not believe it is sound engineering practice to allow older pipelines, constructed with materials and procedures inferior to those used in new pipelines, to operate at SMYS levels greater than those [allowed] new pipelines.

Preliminary Report on Research

Acting in accordance with the recommendation of its task force, OPS researched the safety considerations pertinent to the operation of pipelines above 72 percent of SMYS. The research also compared the failure record of such pipelines with those operated at 72 percent of SMYS, or less. OPS produced a preliminary report on its research titled, "A Safety Evaluation of Gas Pipelines Operating Above 72 Percent of SMYS," dated August 1987

The preliminary research report states that the primary factors contributing to the failure of pipelines operating between 72 and 80 percent of SMYS are the number and size of defects present and their rate of growth. The report also states that while time-dependent flow growth was the cause of each failure examined, lowering operating hoop stress to 72 percent of SMYS, as NTSB recommended, would have increased the time to failure only slightly, and would not have prevented any of the failures. OPS concluded in the report that the margin between operating pressure and hydrostatic test pressure, rather than operating hoop stress limit of 72 percent of SMYS, provides primary protection against leaks or ruptures caused by growth of time-dependent defects.

OPS's research identified three operators that had lines operating above 72 percent of SMYS: Colorado Interstate Company, Texas Gas Transmission Company, and Texas Eastern Transmission Company. Since 1970, the incident rate they reported for those lines ranged from 1/10 to 1/2 the incident rate for lines the companies operate below 72 percent SMYS. Another company, El Paso Natural Gas Company, had lines qualified for operation above 72 percent of SMYS, but had none operating in that range.

In the preliminary research report, OPS recommended that operators test grandfathered pipelines operating above 72 percent of SMYS, and that they do not raise the MAOP of other grandfathered lines above the 72 percent level. Testing would include a one-time hydrostatic test to at least 1.25 times MAOP followed by periodic tests with an internal instrumented pig and close-interval electrical surveys. The purpose of the testing would be to minimize the likelihood of failure in service because of the growth of time-dependent defects.

At a meeting on September 22, 1987 OPS presented the preliminary research report for consideration by its gas pipeline advisory committee, the Technical Pipeline Safety Standards Committee (TPSSC). No consensus was reached on the report; the most significant point of discussion was that the recommendation for additional testing might be inappropriate in view of OPS's unfinished study on the frequency of running smart pigs. (OPS has since published a request for information regarding the feasibility of pigging pipelines at periodic intervals (Docket No. PS-105, Notice 1; 54 FR 20948, May 15, 1989), and a report is to be submitted to Congress by April 30, 1990.)

Earlier Rulemaking Effort

Notwithstanding its research conclusion that minimized the importance of the 72 percent of SMYS limit in protecting against time-dependent defect growth, OPS remained concerned that allowing grandfathered lines to operate at higher stress levels than newer pipelines results in an unnecessary safety differential in Class 1 areas. Consequently, in 1988, OPS proposed to repeal the grandfather clause. A draft notice of proposed rulemaking was developed, proposing to require that operators reduce the pressure in grandfathered lines so that they operate at a hoop stress of no more than 72 percent of SMYS by July 1, 1993.

Since the proposal, if adopted, would affect the continuity of gas service, OPS wrote FERC on August 19, 1988, to request its comments on the draft notice. On September 9, 1988, FERC replied that it supported the safety goals of the draft notice, but recommended that OPS further investigate the costs of compliance with the proposal.

On September 13, 1988, OPS again asked the TPSSC to take up the issue of the grandfathered pipelines. This time the TPSSC voted eleven to one to disapprove OPS's draft notice of proposed rulemaking. The TPSSC's objection to the proposal, as set out in the minutes of the meeting, centered on the absence of data showing that the grandfathered lines are unsafe, the need to quantify costs, and the need to justify the proposal in light of the findings of OPS's preliminary research report. Many TPSSC members felt OPS should not take general rulemaking action, but should handle safety problems found on grandfathered lines by taking enforcement action against the company concerned.

Speaking from the audience at the TPSSC meeting, representatives of Texas Eastern Gas Pipeline Company and Texas Gas Transmission Corporation voiced opposition to the OPS draft rulemaking proposal. Texas Eastern argued that its approximately 4,200 miles of grandfathered lines have operated safely above 72 percent of SMYS since 1955, with only four incidents caused by corrosion. The company attributed this safety record not only to its aggressive inspection and maintenance program, but primarily to its policy of post-construction hydrostatic testing to actual yield, which may exceed 100 percent of SMYS. It said high pressure testing provides the largest practical margin of safety against operational failures from latent material or construction defects. Texas Eastern outlined its maintenance program as: (1) Intelligent pig inspection, (2) visual inspection and removal of anomalies detected by the pig, and (3) selective high pressure hydrostatic retesting to validate the pig inspection and ensure the integrity of replaced pipe. Texas Eastern estimated that if the proposal became final, it would have to spend between $300–$350 million in the form of capital additions needed to maintain service under its delivery contracts.

Texas Gas also argued that its grandfathered lines (about 1,183 miles) were being operated safely, and that OPS had not presented any substantial evidence to justify eliminating the grandfather clause. Like Texas Eastern, Texas Gas attributed the safety record of its grandfathered lines to a strong maintenance program, which includes (1) reconditioning, (2) replacement of pipe where necessary, and (3) revalidation hydrostatic testing. Texas Gas emphasized that good maintenance can stop or retard the effect of time degradation on pipelines.

In addition to disputing the need to eliminate the grandfather clause, Texas Gas's challenged OPS's legal authority to do so, citing the restriction in section 3(a) of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1672(a)) against establishing safety standards that affect the design of gas pipelines in existence when the standards are adopted. Texas Gas argued that since pipeline design is a function of operating pressure, any safety standard that requires a reduction in operating pressure affects pipeline design and, therefore, may not be applied to pipelines in existence when the standard is adopted. OPS believes, however, that this argument blurs the clear distinction between pipeline design and operation contained in the statutory language that provides DOT broad regulatory authority over the operation of existing gas pipelines (49 App. U.S.C. 1672(a)). In fact, under § 192.611, DOT has already exercised this authority, without legal challenge, to require reductions in the MAOP of grandfathered lines when population near the lines increases above the Class 1 limit.

Safety Concerns

As explained previously in this document, DOT adopted the grandfather clause primarily so that gas transmission lines that had not been pressure tested to a level of at least 1.1 times their operating pressure could continue to operate in Class 1 locations without retesting or reducing pressure. However, all grandfathered lines operating above 72 percent of SMYS that OPS examined in its recent research (discussed above) had been tested well above that level. Although not exhaustive, the research covered all transmission companies subject to OPS jurisdiction. Thus, insufficient qualifying test levels do not appear to be a problem for grandfathered pipelines operating above 72 percent of SMYS.

OPS has concluded that the 72 percent limit provides only slight protection against failures caused by time-dependent defect growth. But, the 72 percent limit also protects against another type of failure. The margin between operating stress, as represented by the 72 percent limit, and SMYS protects against failures due to accidental overloading. The greater the margin, the greater the accidental overloading a pipeline can withstand before failure.

In this respect, Japanese pipelines in areas of high seismic activity are safer operating at 40 percent of SMYS than they would be if operated at 72 percent of SMYS. Besides earthquakes, accidental overloading can come, for example, from overpressure, land slides, or sudden impact. Excessive overloading can cause latent defects to grow rapidly to failure. Although OPS's research did not indicate that accidental overloading is a significant safety consideration for grandfathered pipelines, it is no less a consideration for these lines than other Class 1 lines that are subject to the 72 percent limitation. Therefore, in view of (1) the continual occurrence of accidents due to latent defects on grandfathered lines operating above 72 percent of SMYS, (2) the lower level of protection these lines provide against failures due to time-dependent defect growth and accidental overloading, and (3) the NTSB recommendation, OPS is concerned about the prudence of continuing to allow grandfathered lines to operate above 72 percent of SMYS, especially in the absence of a requirement that operators conduct a program to detect and remove as many latent defects as reasonably possible.

Request for Information

OPS is considering three alternative courses of action: (1) Repeal the grandfather clause by a date certain for lines operating above 72 percent of SMYS; (2) modify the grandfather clause for lines operating above 72 percent of SMYS, making it contingent on conducting certain remedial activities, such as hydrostatic testing and pigging; and (3) retain the grandfather clause as is.

To assist OPS in selecting a course of action and responding to the concerns of the TPSSC, interested persons are invited to answer the following questions in commenting on this notice:

1. What operators, if any, besides Colorado Interstate, Texas Gas, Texas Eastern, and El Paso have Class 1 pipelines whose MAOP is authorized by the grandfather clause of § 192.619(c)? If you are such an operator, please estimate the number of miles of pipeline involved, and the number of miles authorized to operate at hoop stress levels above 72 percent of SMYS.

2. Should OPS continue to allow grandfathered pipelines to operate at hoop stress levels above 72 percent of SMYS? If yes, please describe any safety measures over and above the

requirements prescribed by part 192 that you consider necessary to qualify the lines for safe operation, estimate the costs involved in implementing these additional safety measures, and state the extent to which they are being implemented. If no, please explain your position in terms of public safety considerations, and describe the effects and estimate the costs of reducing the allowable operating hoop stress of grandfathered lines to 72 percent of SMYS.

Commenters are not limited to filing comments only on the questions presented above, and may submit any facts and views consistent with the intent of this advance notice. In addition, commenters are encouraged to provide comments on (1) "major rule" considerations under the terms of Executive Order 12291; (2) "significant rule" considerations under the terms of DOT regulatory procedures (44 FR 11634); (3) potential environmental impacts subject to the National Environmental Policy Act; (4) information collection burdens that must be reviewed under the Paperwork Reduction Act; (5) the economic impact on small entities under the Regulatory Flexibility Act; and (6) impacts on Federalism under Executive Order 12612.

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53; and App. A of part 106.

Issued in Washington, DC on December 6, 1989.

George W. Tenley, Jr.,

Director, Office of Pipeline Safety.

[FR Doc. 89-28793 Filed 12-8-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-25 Notice 1]

RIN 2127-AC69

Federal Motor Vehicle Safety Standard 205 Glazing Materials

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Head up displays (HUD's), systems that are capable of optically projecting instrument panel readings so that they appear on some portion of the windshield, could affect the ability of drivers to view the road ahead. As a result of requests for interpretation on the extent to which HUD's and other devices may be allowed on passenger car windshields, the agency is conducting a review of visibility through windshields. This review is necessary to enable the agency to address issues such as the size and location of HUD's and determine whether it is desirable to propose new requirements for the purpose of allowing the use of HUD's while ensuring that the HUD's do not interfere with the driver's viewing of road conditions.

DATES: Comments must be received on or before January 25, 1990.

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC, 20590. [Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.].

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Office of Vehicle Safety Standards, NRM-11, Room 5307 National Highway Traffic Safety Administration, 400 Seventh Street, SW Washington, DC 20590. Telephone: (202) 355-5276.

SUPPLEMENTARY INFORMATION: In order to assist motorists' driving performance, motor vehicle manufacturers are introducing new devices to enhance driver awareness of how their motor vehicle is operating. One such new device is the head up display (HUD), a system that is capable of optically projecting instrument panel readings so that they appear on some portion of the windshield. Although the image is not the same as a holographic image, it resembles a hologram in that the image appears to float in space in front of the viewer. The companies that are developing HUD's believe that having the readings projected in this manner places them closer to the driver's line of sight and thus allows the driver to view the information more readily than if the driver had to look further down for the information on the instrument panel.

NHTSA has a policy of facilitating technological innovations, especially those that in some respect may enhance safety. At the same time, the agency wishes to assure that innovative devices do not adversely affect safety. In the case of HUD's, the agency believes that there is a need to address several issues. One issue is the possibility that they may, depending upon their placement, interfere with the ability to see the view of road conditions ahead. Another is that, again depending on factors such as location or brightness, they may distract the driver from viewing the road ahead. Accordingly, the agency is examining these issues through the issuance of this notice. Because the areas of a windshield necessary for driver visibility to ensure safe driving are not objectively defined, this ANPRM explores two approaches to defining and regulating these areas, for the limited purpose of defining where HUD's may be placed. Neither of the approaches entails restricting the placement of existing components, such as wiper blades and hood ornaments, seen through the vehicle windshields. Finally, the approaches relate to passenger cards, multipurpose passenger vehicles (MPV's) and light trucks only.

Background of Advance Notice of Proposed Rulemaking

The agency has occasionally issued interpretation letters in response to questions relevant to HUD's, but has not attempted to address the issue through rulemaking. A brief review of these interpretations will provide a context for consideration of the rulemaking options.

Standard No. 205 embodies the concept that some window are more important than others for visibility, but does not systematically address the question whether some areas within a given window are more important than others, or how these areas are to be defined. The standard incorporates American National Standard Z-26.1-1977 and its 1980 supplement, Z-16.1a, which have also been the subject of letters requesting interpretation. In a 1974 interpretation, NHTSA stated that the reference in S5.1.1 to "levels requisite for driving visibility" (a term also used in Z26) referred to vertical height relative to the driver's eyes, but the agency did not seek to define those levels. In 1987 the developer of a HUD that employs a small membrane near the lower left edge of the windshield sought an interpretation that the membrane was not at a level requisite for driving visibility, arguing in support of its case that the membrane was transparent and that, while its light transmittance was below 70 percent, similar transmittance values were permitted for the shade bands. In its letter permitting the use of the requested HUD, the agency cited the foregoing characteristics of the HUD, as well as the fact that the HUD lay largely outside the areas of the windshield that are required to be cleared by the defroster and the windshield wipers under Standards No. 103 and 104. The interpretation thus dealt with considerations that might be relevant to a general regulatory treatment of HUD's, but in the limited context of a single HUD design.