DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket PS-83, Amdts. 192-50 and 195-35]

Transportation of Gas or Hazardous Liquids by Pipeline; Nondestructive Testing

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule allows some exception to the requirements to nondestructively test 100 percent of the girth welds in certain onshore locations. In certain cases where 100 percent testing is impracticable, testing less than 100 percent is allowed if at least 90 percent is tested. An operator who avails itself of the "90 percent testing" rule must determine that, under the circumstances, nondestructive testing is impracticable for each weld not tested.

EFFECTIVE DATE: The effective date of this final rule is October 15, 1985, except that October 21, 1985, is the effective date for intrastate hazardous liquid pipelines, see **SUPPLEMENTARY INFORMATION** for further details.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, (202) 426-2392, regarding the content of this final rule or the Dockets Branch, (202) 426-3148, regarding other information in the docket.

SUPPLEMENTARY INFORMATION: Under the current requirements of § 195.234(e) for hazardous liquid pipelines, 100 percent of the girth welds in the following onshore locations must be nondestructively tested, while offshore, only 90 percent of each day's welds need be tested when testing 100 percent is impracticable:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area unless impracticable, in which case only 90 percent of each day's welds need be tested.

(2) Within railroad or public road rights-of-way.

(3) At overhead road crossings and within tunnels.

(4) At pipeline tie-ins.

(5) Within the limits of any incorporated subdivision of a State government.

(6) Within populated areas, including but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities public institutions, and places of public assembly.

For gas pipelines welds that are required to be nondestructively tested, the current § 192.243(d)(4) prescribes 100 percent testing within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, and at pipeline tie-ins. In Class 3 and Class 4 locations (populated areas), at crossings of major or navigable rivers, and offshore, § 192.243(d)(3) requires testing 100 percent if practicable, but not less than 90 percent of each day's welds.

A notice of proposed rulemaking (NPRM) (50 FR 11921, March 26, 1985) was published proposing to extend the "90 percent testing" rule currently embodied in §§ 195.234(e)(1) and 192.243(d)(3) to all hazardous liquid and gas pipeline locations where 100 percent testing is now required, except tie-ins. The "90 percent testing" rule does not allow an operator to routinely test less than 100 percent of the girth welds. Rather, an operator who wishes to avail itself of the "90 percent testing" rule must determine that under the circumstances, nondestructive testing is impracticable for each girth weld not tested. The MTB examined the safety impact of relaxing the 100 percent testing requirements and found that the proposed rule would not reduce safety, but had the potential to reduce costs. Comments were solicited from interested parties.

Fourteen commenters responded to the notice: 10 operators of hazardous liquid or gas pipelines, the Iowa State Commerce Commission, the American Petroleum Institute (API), the American Gas Association (AGA), and the Interstate Natural Gas Association of America (INGAA).

The proposed rule was supported without suggested change by 8 pipeline operators, the AGA, and the API.

INGAA supported the proposal but recommended minor changes for clarity which MTB has not adopted, preferring the language proposed. However, as INGAA suggested, the term "must be tested" has been deleted from the end of the proposed § 192.243(d)(3) for consistency with the wording of paragraphs (d) (1), (2), and (4) and because the "must" command to test is already expressed in the lead-in text of paragraph (d).

INGAA and a gas operator also suggested that the proposed § 192.243(d), which requires nondestructive testing of all tie-ins, be changed to apply only to tie-in welds which are not strength tested. INGAA said this change would make the proposed § 192.243(d)(4) consistent with § 192.719(a)(2), which requires nondestructive testing only of non-strength tested girth welds made in the repair of transmission lines. MTB did not propose any substantive change to the existing rule. It was merely restated in the NPRM in view of other proposed changes to paragraph (d)(4). Therefore, the commenters' recommended rule change is beyond the scope of the NPRM. Furthermore, MTB does not believe that § 192.243(d)(4) and § 192.719(a)(2) are inconsistent. Although there are wording differences between the two rules, the effect of § 192.719(a)(2) is to require nondestructive testing of all tie-ins, because these girth welds are too impractical to strength test when a section of transmission line is replaced.

One commenter recommended that the radiographic test requirement for offshore pipelines in § 192.243(d)(3) be made the same as that for Class 1 pipelines (test at least 10 percent), since § 192.5 classifies offshore as Class 1 areas. Because offshore pipeline welds are outside the scope of the NPRM, this commenter's suggestion could not be adopted in this proceeding even if meritorious. Nevertheless, MTB notes that until Amendment 192-27 (41 FR 34598), the rule for offshore welds was identical to that for welds in Class 1. That amendment adopted a more stringent test requirement for offshore girth welds to reduce the opportunity for pipeline damage which can result from lifting an underwater pipeline to repair a weld. It also made the offshore rule consistent with the requirement for testing welds located in navigable river crossings. MTB does not have any new information which indicates that the existing offshore rule is too burdensome or could be safely relaxed, and so does not plan any action on the subject at this time.

One commenter recommended that in cases where an operator avails itself of the "90 percent testing" rule, the operator be required to keep a record of each weld not tested and the reasons for not testing. This commenter argued that under the proposed rule an operator might skimp on weld tests under the guise that testing is impracticable, and that the recommended record would prevent this type of abuse. This recommendation was not adopted in the final rule because the type of abuse envisioned by the commenter would be equally possible under the current rule in situations where "90 percent testing" applies, and MTB is not aware of any abuses of this type. Further, the burden to determine that nondestructive testing is impracticable for each weld not tested

rests on the operator and the language of the rule reflects this. Therefore, any enforcement problems that might arise should be minimized. Finally, one of MTB's goals is to eliminate unnecessary recordkeeping requirements (see 49 FR 44928, November 13, 1984, Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting), and adding a recordkeeping requirement in the absence of information showing need would be contrary to that goal.

An editorial change is made in this final rule to make the title of § 195.234 consistent with the content. The title of § 195.234 has been changed from "Welds: Nondestructive testing and retention of testing records" to simply "Welds: Nondestructive testing," deleting the reference to record retention. This title change should have been made when the record retention requirement was deleted from § 195.234 (48 FR 9014, March 3, 1983) but was overlooked at that time.

Safety Standards Committees

The NPRM was presented to the Technical Hazardous Liquid Pipeline Safety Standards Committee on November 1, 1984, and to the Technical Pipeline Safety Standards Committee for gas pipelines on February 28, 1985. Both Committees found the proposed rules to be technically feasible, reasonable, and practicable. Copies of the Committees' reports are available in the docket.

Intrastate Hazardous Liquid Pipelines

The NRPM noted that the proposed rule would be adopted for intrastate hazardous liquid pipelines should Part 195 be extended to those pipelines. There were no adverse comments to this proposal. A final rule was published (50 FR 15895, April 23, 1985) extending the Part 195 regulations to intrastate hazardous liquid pipelines effective October 21, 1985. As a consequence, this final rule is adopted for intrastate hazardous liquid pipelines, but as indicated above under the "Effective Date" heading, will not apply to those pipelines until October 21, 1985.

Classification

Since this final rule will have a positive effect on the economy of less that $100 million a year, will result in cost savings to consumers, industry, and government agencies, and no adverse impacts are anticipated, the final rule is not "major" under Executive Order 12291. Also, it is not "significant" under Department of Transportation procedures (44 FR 11034). MTB believes that the final rule will reduce the costs of nondestructive testing. However, these savings are not large enough to justify the preparation of a Regulatory Evaluation.

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

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety, Nondestructive testing, Girth welds, Welding.

In view of the above, MTB amends Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as set forth below and any authority citations following the sections in Part 192 are removed.

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A of Part 1.

2. In § 192.243, paragraphs (d) (3) and (4) are revised to read as follows:

§ 192.243 Nondestructive testing.

* * * * *

(d) * * *

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, offshore, and within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, 100 percent unless impracticable, in which case at least 90 percent. Nondestructive testing must be impracticable for each girth weld not tested.

(4) At pipeline tie-ins, 100 percent.

PART 195—[AMENDED]

3. The authority citation for Part 195 is revised to read as set forth below and any authority citations following the sections in Part 195 are removed:

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

4. In § 195.234 the title is revised, paragraph (e) is revised, and a new paragraph (g) added to read as follows:

§ 195.234 Welds: Nondestructive testing.

* * * * *

(e) 100 percent of each day's girth welds installed in the following locations must be nondestructively tested 100 percent unless impracticable, in which case at least 90 percent must be tested. Nondestructive testing must be impracticable for each girth weld not tested:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area;

(2) Within railroad or public road rights-of-way;

(3) At overhead road crossings and within tunnels;

(4) Within the limits of any incorporated subdivision of a State government; and

(5) Within populated areas, including, but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

* * * * *

(g) At pipeline tie-ins 100 percent of the girth welds must be nondestructively tested.

Issued in Washington, DC on September 6, 1985.

M. Cynthia Douglass,

Acting Director, Materials Transportation Bureau.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination To Remove Three Palau Birds From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service removes the Palau fantail flycatcher (*Rhipidura lepida*), the Palau ground-dove (*Gallicolumba canifrons*), and the Palua owl (*Pyrroglaux* (=*Otus*) *podargina*) from the protection of the Endangered Species Act of 1973, as amended. This action is being taken because these species are distributed throughout their former range at near original abundances and are faced with no foreseeable threat. They suffered reductions in populations in southern Palau during World War II, but they have increased in these areas since then.

DATES: The effective date of this rule is October 15, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.