

1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(g) "Vessel of the United States" means a vessel—

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

**§ 4.40-10 Preliminary fact-finding by the Coast Guard.**

(a) The Coast Guard conducts the preliminary fact-finding of marine casualties.

(b) The Commandant determines from the preliminary fact-finding whether—

(1) The casualty is a major marine casualty; or

(2) The casualty involves public and non-public vessels.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) (1) or (2) of this section.

**§ 4.40-15 Marine casualty inquiry by the Board.**

The Board may conduct an inquiry under the Act for any major marine casualty or any casualty involving public and non-public vessels under the Board's rules of practice for surface transportation accident hearings in 49 CFR Part 845.

**§ 4.40-20 Cause or probable cause determinations from Board inquiry.**

After an inquiry conducted by the Board under § 4.40-15, the Board determines cause or probable cause and issues a report of that determination.

**§ 4.40-25 Coast Guard marine casualty inquiry for the Board.**

(a) If the Board does not conduct an inquiry under § 4.40-15 and if requested by the Board, the Coast Guard may conduct an inquiry under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board requests the Coast Guard to conduct an inquiry under paragraph (a) within 48 hours of receiving notice under § 4.40-10(c).

(c) The Coast Guard advises the Board within 24 hours of receipt of a request under paragraph (b) whether the Coast Guard will conduct an inquiry under the Act.

**§ 4.40-30 Procedures for Coast Guard inquiry.**

(a) The Coast Guard conducts an inquiry under § 4.40-25 using the procedures in 46 CFR 4.01-1 through 4.23-1.

(b) The presiding Coast Guard officer for an inquiry conducted under 46 CFR Subpart 4.07 or 4.09 has the following powers:

(1) To open, continue, or adjourn the inquiry.

(2) To issue subpoenas.

(3) To call witnesses and administer oaths.

(4) To determine the admissibility of and to receive evidence and to regulate the course of the hearing.

(5) To rule on procedural requests and similar matters.

(6) To take any other action necessary for the orderly conduct of the inquiry.

(c) The Board may designate a person or persons to participate in every phase of an inquiry, including on scene investigation, that is conducted under the procedures in 46 CFR Subpart 4.07 or 4.09.

(d) Consistent with paragraph (b), the person or persons designated by the Board under paragraph (c) may:

(1) Make recommendations about the scope of the inquiry.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(e) The Commandant reports to the Board the facts, conditions, and circumstances of a major marine casualty determined under an inquiry under paragraph (a).

(f) The Board, under the Act, determines cause or probable cause of a major marine casualty using the report of the Commandant under paragraph (d), and any additional evidence the Board may acquire under its own authority.

(g) An inquiry under this section is both an inquiry under the Act and under R.S. 4450 (46 U.S.C. 239) and the record of an inquiry under this section is also the report of the facts for:

(1) A report of investigation under 46 CFR 4.07-10; or

(2) A record of proceedings under 46 CFR 4.09-20.

**§ 4.40-35 Records of the Coast Guard and the Board.**

(a) Records of the Coast Guard made under § 4.40-30 are available to the public under 49 CFR Part 7.

(b) Records of determinations of cause or probable cause made by the Board under §§ 4.40-20 and 4.40-30 are available to the public under 49 CFR Part 801.

(5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 239, 375, 416, 49 U.S.C. 1655(b) (1), 1903(a) (1) (E); 49 CFR 1.46(b).)

Dated: December 23, 1976.

O. W. SILER,  
Admiral, U.S. Coast  
Guard Commandant.

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**Office of Pipeline Safety Operations  
[49 CFR Parts 192 and 195]**

[Docket No. OPSO-39, Notice 76-3]

**PIPELINE OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Advance Notice of Proposed Rulemaking**

The materials Transportation Bureau (MTB) is considering the issuance of additional standards governing occupational safety and health for the protection of employees engaged in the construction, operation, and maintenance of pipeline facilities used in the transportation of hazardous materials in or affecting interstate or foreign commerce. The impact of facility design on employee protection will be considered in the issuance of any

such standards. This advance notice of proposed rulemaking provides the general public an opportunity for early participation in the rulemaking process.

Parts 192 and 195 now provide occupational safety and health protection in some areas, but the coverage is not complete. The anticipated standards would apply to working conditions and work places for pipeline system employees who are directly involved in the physical transportation or storage of hazardous gas and liquid materials. For example, this includes such areas and facilities as compressor and pump stations, pipe and appurtenances along the right of way, meter stations, storage facilities, and LNG plants. It would not include buildings which are not directly used in the physical transportation or storage of a hazardous material.

MTB is exploring different approaches it can take to define those areas where MTB standards apply, so that employers and employees of the pipeline industry will better understand the respective responsibilities of MTB and the Occupational Safety and Health Administration (OSHA) respecting employee safety and health. The application of MTB standards could be defined to apply either geographically, functionally, or operationally. The perimeter of MTB coverage could also be identified by utilizing classifications of facilities and equipment. MTB invites comments on this matter.

MTB also invites public comment on the following matters of concern:

1. Identification of occupational safety and health areas that are not covered by MTB's existing regulations.
2. Identification of areas where MTB's existing regulations are not adequate for occupational safety and health, and
3. Discussion of means to correct these deficiencies.

Specific advice and recommendations are requested to identify:

1. Standards adopted by the OSHA which may have significant application to working conditions on pipelines;
2. OSHA standards which should be adopted by MTB without change;
3. OSHA standards which should be revised in whole or in part before their adoption by MTB for the pipeline industry;
4. OSHA standards which should not be adopted by MTB for the pipeline industry;
5. Occupational safety or health standards not adopted by OSHA and not presently included under Parts 192 and 195 which may be necessary or appropriate for the pipeline industry;
6. Serious occupational safety and health problems existing in the pipeline industry; and
7. Priorities MTB should adopt in the promulgation of pipeline occupational and health standards.

Further, MTB is seeking public comment and suggestions as to the appropriate format by which additional standards for occupational safety and health protection could be incorporated into the Code of Federal Regulations. One alternative is to amend as necessary existing sections of Parts 192 and 195 of Title 49 CFR or add new sections to include

standards relating to occupational safety and health. Another alternative would be to assign a new part in Title 49 CFR to contain occupational safety and health standards exclusively. Another consideration in the format is whether there should be a distinct division between employee occupational safety and employee occupational health or whether the safety and health of the employee should be treated as a single concept.

MTB policy is to seek information from all knowledgeable sources so that regulations will be founded on a broad base of facts. This policy gives everyone—industry, other Federal and State agencies, and the general public—an opportunity to participate in the identification and definition of occupational safety and health problems unique to pipelines, the development and evaluation of alternative solutions for those problems, and the choice of the proper solution for each problem. An advance notice of proposed rulemaking, inviting public participation early in the rule-making process, is an application of that policy.

MTB invites interested persons to participate in the development of additional standards by submitting in writing, by April 1, 1977, such information and comments as they may desire. Comments received after that date will be considered so far as practicable. Communications should identify the docket and notice numbers (Docket No. OPSO-39, Notice 76-3) and be submitted in triplicate to the Acting Director, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590. All comments received will be available for inspection and copying in Docket Room 6500.

Again, this notice is a request for information, not a proposal to amend the regulations. After analyzing the response to this notice, MTB may issue another notice (or notices), proposing specific amendments to Title 49 CFR. Interested persons will then have an opportunity to comment on the specific proposals.

(Sec. 3 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1672); sec. 105 of the Hazardous Materials Transportation Act (49 USC 1804); sec. 834, Title 18, United States Code, sec. 6(e)(4) of the Department of Transportation Act (49 USC 1655(e)(4)); § 1.53 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.53), and the redelegation of authority to the Director, Office of Pipeline Safety Operations, set forth in Appendix A to Part 102 of the regulations of the Office of the Director, Materials Transportation Bureau (49 CFR Part 102).)

Issued in Washington, D.C. on December 22, 1976.

CESAR DELEON,  
Acting Director, Office of Pipeline Safety Operations.

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## National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1-5; Notice 23]

### BRAKE HOSES

#### Modification of Labeling Requirements

This notice proposes amendments of Standard No. 106-74, *Brake Hoses*, that would modify the requirement to label brake hose assemblies, the definition of "permanently attached end fitting", and the test temperature for brake fluid compatibility testing of hydraulic brake hose, and would also eliminate one requirement for certain coiled tubing and one requirement for hydraulic brake hose used with "keyed" end fittings.

*Brake hose assembly labeling.* Standard No. 106-74 (49 CFR 571.106-74) requires the manufacturer of a brake hose assembly, except a vehicle manufacturer who assembles and installs it in a vehicle manufactured by him, to affix a band to his product. The band must be labeled with the date of assembly, a designation identifying him as the assembler, and symbol "DOT" as a certification that the assembly meets all applicable safety standards. Since the inception of the requirement, manufacturers have asked for elimination of the requirement, arguing that the costs of banding are not justified by the benefit that results from being able to identify the hose assembler in the event a safety-related defect or a noncompliance necessitates recall. Some manufacturers have recommended stamping of the end fitting in place of the band in cases where the end fitting is attached by crimping or swaging.

The NHTSA has weighed the usefulness of the assembly labeling requirement in the light of defect and noncompliance experience since implementation of Standard No. 106-74. The agency proposed and subsequently made final an amendment of the definition of "brake hose assembly" that had the effect of eliminating this labeling requirement in the case of assemblies made in the field from all new components for repair service (41 FR 28505, July 12, 1976). The agency found that the burden of affixing a band and certifying compliance with the requirements of the standard was not commensurate with the relatively small number of assemblies prepared by such manufacturers.

In response to several petitions, the agency has reevaluated the effectiveness of the requirement in the case of manufacturers and distributors that manufacture brake hose assemblies for purposes other than repair. The data demonstrates that the majority of assembly failures are the result of improper installation or damage in service, not the result of the original assembly operation.

In recent practice, identification by production lot number rather than the

date of assembly has been utilized for safety-related defect recalls. Also, the lower-than-projected rate of failure supports a less expensive method of manufacturer identification, where achievable. Finally, alternative means exist to fulfill the certification responsibility represented by the existing requirement for the "DOT" symbol on the band. With these factors in mind, the agency granted petitions for elimination of the banding requirement.

A reasonable alternative for assembler identification that entails modest cost is the stamping of the assembler's designation on end fittings which are crimped or swaged to the hose in a permanent operation. As proposed in this notice, this method of identification would be limited to assemblies involving crimped or swaged fittings, because of the greater expense and potential for confusion in identification that would exist when used with renewable or reusable fittings. This identification method is proposed along with a provision that makes continued use of banding permissible so that existing supplies of banding materials may be depleted. The requirement for assembly date would be eliminated to conform the banding requirement to the stamping option.

*Brake fluid compatibility test temperature.* The American Society for Testing and Materials (ASTM) petitioned for a minor change in the test temperature used to evaluate the brake fluid compatibility of hydraulic brake hose (S5.3.9 of the standard). As part of the requirement, brake hose is filled with brake fluid and subjected to a temperature to 200°F. for a period of 70 hours. The ASTM requested a small increase in the temperature to 212°F. so that it would be compatible with the equivalent 100° Celsius value that has been proposed for adoption as a standard test temperature by the International Standards Organization (ISO).

The NHTSA concluded that the small increase in test temperature would not significantly affect the stringency of the test requirement and therefore granted the ASTM petition. The change is proposed in this rulemaking, and comments are solicited on whether the agency's tentative conclusion is justified.

*Coiled nylon tubing.* Standard No. 106-74 recognizes the distinctive construction of the coiled nylon tubing that is used in air brake lines between truck tractors and trailers, by excluding it from two requirements of the standard (S7.3.10 and S7.3.11) if it complies with Bureau of Motor Carrier safety regulations. Parker-Hannifin Corporation suggested in a letter to the NHTSA that a third requirement of the standard (S7.3.6's limitation on elongation or shrinking of air brake hose length) is also inappropriate for coiled tubing because the coiled construction makes the absolute length of the tubing non-critical. The agency agrees that the problems of fatigue through expansion and