

§ 207.590 Black Rock Canal and Lock at Buffalo, N.Y.; use, administration and navigation.

(1) Radio Control of vessel movement in Black Rock Canal

(2) * * *

(3) The Black Rock Lock radio communication equipment operates on VHF(FM) frequencies as follows: VHF—156.8 Mcs—Channel 16—Safety and Calling, VHF—156.7 Mcs—Channel 14—Working; VHF—156.6 Mcs—Channel 12—Working. A listening watch is maintained on VHF Channel 16.

(4) * * *

(i) Vessels desiring to enter the Black Rock Canal from either the Buffalo Outer Harbor or the Buffalo River shall call the Black Rock Lock on VHF Channel 16 or by land telephone approximately 15 minutes before the estimated time of arrival at Buffalo Harbor Traffic Lighted Bell Buoy 1 located at latitude N. 42°50.1' and longitude W. 78°55.4'. Information to be furnished the Black Rock Lock Operator should include the name of the vessel, position, destination, length, draft (forward and aft) and the type of cargo. A second call shall be made to the lock when the vessel is abreast of the Buffalo Harbor Light on the southerly end of the detached West Breakwater. Information furnished the vessel by the Lock Operator will assure the vessel operator of the proper time to enter the Black Rock Canal with a view to safety and minimum delay.

(ii) Vessels desiring to enter the Black Rock Canal from either the Buffalo Outer Harbor or the Buffalo River shall call the Black Rock Lock on VHF Channel 16 or by land telephone to 876-5454 immediately before departing a dock and again when abreast of the North Breakwater South End Light on the southerly end of the North Breakwater.

(iii) In any radio communication from a vessel to the Black Rock Lock, the VHF(FM) frequencies will be utilized.

(m) Black Rock Lock: All vessels and boats desiring to use the lock shall signal by two long and two short whistle blasts.

(1) * * *

(2) * * *

(3) Commercial vessels will receive preference in passage through the locks. Small vessels such as row, sail, and motor boats, bent on pleasure only, will be passed through the lock in company with commercial vessels when small vessels can be safely accommodated or in the absence of commercial vessels may be passed through the lock individually or together in one lockage on the hour if northbound, and on the half hour if southbound. However, commercial vessels will receive preference which could delay the passage of pleasure craft. Pleasure craft will not be permitted to pass through the lock with vessels carrying inflammable cargo. Vessels and other large boats when in the lock shall fasten one head line and one spring line to the

snubbing posts on the lock walls, and the lines shall not be cast off until the signal is given by the lockmaster for the boats to leave the lock.

[FR Doc.76-23452 Filed 8-11-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Public Land Order 5598; I-017301]

IDAHO

Powersite Restoration No. 653; Partial Revocation of Powersite Reserves Nos. 207, 214, 259, and 461

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847; 43 U.S.C. 141 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and the determination of the Federal Power Commission in DA-599-Idaho issued July 30, 1971, it is ordered as follows:

1. The Executive Orders of October 14 and 19, 1911, April 16, 1912, and October 27, 1914, creating Powersite Reserves numbered 207, 214, 259, and 461, respectively, are hereby revoked so far as they affect the following described lands:

BOISE MERIDIAN

POWERSITE RESERVE NO. 207

T. 12 N., R. 3 E.,
Sec. 35, lot 8.
T. 13 N., R. 4 E.,
Sec. 6, lot 13;
Sec. 8, lots 3 and 6;
Sec. 17, island (unsurveyed) and lot 10;
Sec. 20, lot 11;
Sec. 29, lots 2, 5, 10;
Sec. 30, lots 7, 9, 11;
Sec. 31, island (unsurveyed).
Containing 361.75 acres in Valley County.

POWERSITE RESERVE NO. 214

T. 11 N., R. 3 E.,
Sec. 23, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 34, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
Containing 20 acres in Valley County.

POWERSITE RESERVE NO. 259

T. 7 N., R. 1 E.,
Sec. 13, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 120 acres in Gem County.

POWERSITE RESERVE NO. 461

T. 7 N., R. 1 W.,
Sec. 24, lot 6.
Containing 39.99 acres in Gem County.

The areas described in paragraph 1 aggregate 601.74 acres of which 430.45 acres, plus the two unsurveyed islands, are public lands. The 310.45 acres of public land restored from Powersite Reserve No. 207 lie in parcels along the North Fork Payette River, two to seven miles south of Cascade, Idaho, in Valley County. Vegetation generally is lodgepole pine, willows, and native forage grasses. The 120-acre parcel restored from Powersite Reserve No. 259 is located two miles northeast of Montour, Idaho. State Highway 52 passes between the Payette River and the tract. Topography is steep. Sagebrush, rabbitbrush, medusahead rye, and cheatgrass are the vegetation. The lands

described in Powersite Reserve Nos. 214, 461, and lot 8 sec. 35, T. 12 N., R. 3 E.; lot 2 sec. 29, T. 13 N., R. 4 E., in Powersite Reserve No. 207 are patented. The patented lands aggregate 171.29 acres.

2. At 10 a.m. on September 11, 1976, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 11, 1976, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws and to location under the general mining laws.

The State of Idaho has waived its preference rights under the Federal Power Act, 41 Stat. 1075, as amended, 16 U.S.C. 818.

Inquiries concerning the lands should be addressed to Chief, Division of Technical Services, Bureau of Land Management, Boise, Idaho 83724.

JACK O. HORTON,

Assistant Secretary of the Interior.

AUGUST 6, 1976.

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Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Amdt. No. 195-11; Docket No. OFSO-35]

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Offshore Pipeline Facilities

This amendment modifies many of the design, construction, testing, operation, and maintenance regulations in Part 195 as they relate to the offshore transportation by pipeline in interstate or foreign commerce of hazardous materials, petroleum, or petroleum products. The amendment also enlarges the scope of Part 195 by deleting the exemption in § 195.1(b) (4) for rural gathering lines located offshore.

The purpose of the amendment is to more clearly delineate the applicability of Part 195 to offshore liquid pipelines and to better assure the safe operation of those pipelines. In accordance with section 8(a) of the Deepwater Port Act of 1974 (33 USC 1507(a)), the offshore pipelines subject to the regulations in Part 195 and this amendment include the pipeline facilities which are part of a deepwater port.

Most of the amendments pertain to steel pipelines, which are the ones commonly used offshore. Part 195 does not provide general safety requirements for the transportation of commodities in pipelines made from materials other than steel. As provided by § 195.8, any transportation by pipeline made from material other than steel is regulated for safety on an individual basis.

This amendment does not change the accident report requirements of Subpart B, which apply to both offshore and onshore transportation by pipeline.

On September 17, 1975, the Materials Transportation Bureau (MTB) proposed to make this amendment by issuing Notice 75-4 (40 FR 43740, Sept. 23, 1975). Interested persons were invited to submit written comments by October 20, 1975. However, acting on a request by the American Petroleum Institute (API), by Notice 75-4A (40 FR 48940, Oct. 20, 1975) MTB extended the deadline for written comments to December 1, 1975, and scheduled a public hearing on the matter in Washington, D.C., on November 17, 1975. The extension allowed all interested persons additional time to study the benefits and problems connected with the proposed rule changes.

The comments received in writing and at the public hearing have been fully considered by MTB. A discussion of the significant comments and their disposition in developing the final rules is set forth hereinafter in the order that the amendments were proposed in the Notice. Some of the proposed amendments have not been adopted as final. Those which have, are adopted under the same section numbers used in the Notice. Editorial modifications in the final rules which do not alter the substance of the proposed amendments are not discussed.

RETROACTIVITY

A few commenters were concerned about the expense and ecological damage that would result if the proposed amendments to the construction requirements for offshore pipelines were applied to pipelines laid before the final rules become effective. One commenter even suggested that a "grandfather" clause should be added to exempt existing pipelines from the proposed burial requirements.

These comments indicate an apparent misunderstanding of the intended applicability of the proposed amendments. Notice 75-4 proposed to amend existing safety standards, and the proposals should have been interpreted within the framework of those standards. Part 195 now provides in §§ 195.100, 195.200, and 195.300 that requirements for design, construction, and testing of pipelines only apply to new pipelines or to pipelines which are replaced, relocated, or otherwise changed. Notice 75-4 did not propose that these general rules be modified so as to retroactively apply any of the proposed amendments affecting the design, construction, or testing of offshore pipelines.

In addition, although the commenters did not estimate how many existing pipelines would be nonconforming if the proposed amendments were applied retroactively, MTB does not believe that the various hazards against which the amendments were intended to protect warrant retroactive application of the final rules. In the absence of a compelling reason to the contrary, MTB believes that the development of a new safety

standard does not make existing facilities unsafe which do not meet the new standard. Nevertheless, should MTB learn of safety problems with existing offshore liquid pipelines due to inadequate design, construction, or testing, it will either deal with the pipelines involved on an individual basis or issue another general notice of proposed rule-making regarding those problems which can be solved through the regulatory process.

Section 195.1 Scope. The existing Paragraph (b) (4) of this section excludes from the coverage of Part 195, except for Subpart B—Accident Reporting, pipelines operated by a carrier for the transportation of petroleum in rural areas between a production facility and the carrier's trunk line reception point. These pipelines are commonly referred to as "gathering lines." MTB proposed in Notice 75-4 that § 195.1(b) (4) be amended so as to subject gathering lines located offshore to the design, construction, testing, operation, and maintenance rules in Part 195, in addition to the presently applicable reporting requirements. This proposed extension of Part 195 was made because of safety considerations relevant to gathering lines carrying petroleum offshore and because of the Congressional mandate expressed in section 21(a) of the Deepwater Port Act of 1974 (33 USC 1520(a)) that oil pipelines on the Outer Continental Shelf be regulated for safety purposes.

Responding to the public invitation to comment in Notice 75-4, the U.S. Environmental Protection Agency expressed support for the proposed extension of jurisdiction because of its pollution prevention benefits.

An adverse reaction was expressed, however, by several commenters from the offshore petroleum industry. These commenters argued that the precise effect of the proposed regulation of offshore gathering lines could not be evaluated because Part 195 does not clearly state the meaning of the term "gathering line." Similarly, it was argued that since the term "production facility" in § 195.1(b) (4) is not defined, the beginning of a gathering line is unclear, and thus the proposed extension of jurisdiction could be interpreted to cover production oriented facilities, such as flow lines.

MTB believes that the difficulty expressed by these commenters arises because of their view that offshore pipelines which carry hydrocarbons between a well and any initial processing equipment are commonly associated with the industry of producing petroleum rather than with the industry of transporting petroleum to refineries or markets. Also, these pipelines are known both as "flow lines" and "gathering lines" and are regulated for safety and other purposes by the U.S. Department of the Interior (DOI).

This indistinctness between production and transportation is of slight significance, however, in view of the recently completed Memorandum of Understanding (MOU) between the Department of

Transportation (DOT) and DOI regarding the regulation of offshore pipelines. Under the MOU, which was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23746), DOT exercises exclusive responsibility for the safety regulation of oil and gas offshore pipelines downstream to the shore from the outlet flange of each facility where hydrocarbons are produced, or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. Also, DOT regulation includes subsequent online transmission equipment but not any subsequent production equipment. DOI regulates the pipelines upstream from these locations. As shown in item 1 below, § 195.1 is amended to include this provision of the MOU and indicate the limits of the jurisdiction of Part 195 over offshore pipelines.

MTB recognizes that the MOU does not completely resolve the confusion regarding the meaning of the term "gathering line." However, the purpose of Notice 75-4 as it relates to offshore gathering lines was to extend the scope of Part 195 to cover all offshore transportation of petroleum by pipeline in interstate or foreign commerce within the jurisdiction of DOT under 18 U.S.C. 831-835. Therefore, to the extent that gathering lines between the aforementioned outlet flanges and a trunkline are subject to that jurisdiction, their inclusion within the scope of Part 195 is consistent with the purpose of the rulemaking proposal.

The industry commenters also speculated that the cost of compliance would far exceed the safety benefits to be gained because there have not been any deaths or injuries attributable to offshore gathering lines. The commenters did not submit any cost or benefit data, though, to support their charge, pleading lack of sufficient time to make the necessary studies. MTB believes to the contrary that the cost of compliance should not be high because the standards in Part 195 do not largely differ from the industry standards and practices to which offshore gathering lines are designed, constructed, operated, and maintained. These industry standards and practices are by and large based on the B31.4 Code "Liquid Petroleum Transportation Piping Systems," published by the American National Standards Institute, the 1966 edition of which served as a basis for Part 195. Also, since the design and construction requirements in Part 195 are not to be applied retroactively to existing pipelines, the costs which some commenters projected in this area will not exist. Further, as indicated by one commenter at the public hearing, the total cost of compliance must take into account the likely savings in operating costs and insurance rates due to the reduced potential for accidents.

As for benefits, MTB does not agree with the argument that the absence of deaths and injuries means there would be no benefit from safety regulation. If the argument were valid, a gathering line which is patently unsafe by any stand-

ard would present no safety problem because, fortuitously, deaths or injuries have not yet occurred. One commenter stated at the public hearing that "Offshore construction requires the highest degree of technology to cope with forces and phenomena encountered. It also requires the very best equipment available. * * * Given this situation for pipeline transportation offshore, it is reasonable to conclude that offshore gathering lines located downstream from the aforementioned outlet flanges are so similar to offshore trunk lines, which are currently subject to the safety requirements of Part 195, that there is a comparable need for regulation. Clearly, the record does not contain technical justification for an opposite view. Rather, it appears that the many factors which can cause the failure of an offshore trunk line and resulting consequences can also cause gathering lines to fail.

Section 195.2 Definitions. Since the issuance of Part 195 (34 FR 15473, Oct. 4, 1969), the term "offshore" has been defined in this section as "beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters."

MTB proposed in Notice 75-4 to broaden this definition to include "lands beneath inland navigable waters" as that term is defined in the Submerged Lands Act (43 U.S.C. 1331). One reason for the proposal was to ensure that pipelines in many inland bodies of water, like Chesapeake Bay, meet the same requirements as pipelines within the area now defined as "offshore" because of alleged similarities of operating conditions.

Proposing to broaden the existing definition of "offshore" had the simultaneous effect of proposing that all proposed and existing regulations in Part 195 written in terms of "offshore" apply to pipelines crossing inland navigable waters (except where otherwise specifically provided). MTB considered this result in formulating the various proposed substantive amendments in Notice 75-4 regarding "offshore" pipelines. In addition, interested persons were asked to comment on whether any of the proposed amendments should be modified in view of their intended applicability to inland navigable waters.

Commenters were unanimously opposed to the proposal, generally stating that few, if any, inland waters present the same safety problems as open seas regarding the design construction, operation, and maintenance of pipeline facilities. The commenters pointed out that different construction techniques are used for river and bay crossings than for pipelines within the area now defined as "offshore." For instance, at inland water crossings, commenters stated that during construction pipe is usually connected onshore and then pulled into a prepared ditch. Also, even when inland water crossings are laid from a barge, commenters noted that unlike open sea conditions, the water is usually not as

deep, and, consequently, the location of the pipeline can be ascertained from the surface or divers can work with comparative ease. Commenters further stated that the stresses imposed by pipe laying operations are less, overburden and dynamic loads are seldom significant design considerations, and inland water crossings can be inspected more easily.

One commenter expressed concern that for pipelines crossing inland waters, imposing design requirements not essential for safety would be wasteful of natural resources and energy due to the additional materials required and fuel needed to manufacture, construct, and operate the pipelines. The commenter, however, did not estimate the quantity of additional materials and fuel that would be required if the proposed definition of "offshore" were adopted.

Furthermore, commenters were concerned that designating "lands beneath inland navigable waters" as "offshore" would be confusing in light of the present understanding of the term "offshore." In addition, because dry washes in the West, accretion, and filled areas are "lands beneath inland navigable waters" as defined in the Submerged Lands Act, subjecting pipelines in those areas to "offshore" safety requirements would be onerous.

Clearly, the comments did not support the establishment of a broader definition of "offshore," even to the extent of including within the existing definition large inland bodies of water. In view of these comments, the proposed definition is not adopted because of the apparent confusion and uncertainty which would result in the industry from applying "offshore" requirements to pipelines in inland water areas and because the record shows that operating conditions in inland water areas are not generally similar to open sea operating conditions as asserted in the notice. This decision does not mean, however, that the various substantive amendments proposed in Notice 75-4 for "offshore" pipelines are likewise not adopted as they relate to pipelines crossing inland navigable waters. Some of the proposed amendments have been so adopted, others have not. The decision on whether or not each proposed amendment written in terms of "offshore" should be adopted for either open sea or inland navigable waters, or both, is based on the merits of the proposal, as discussed hereinafter.

Section 195.106. Notice 75-4 proposed that a design factor of 0.50 or less be used in the design formula for pipelines on an offshore platform and within 300 feet therefrom. If the proposed design factor were used instead of 0.72 as now required, any new, replaced, or relocated pipe which is installed would have a lower operating stress level. The comments indicate that for pipe risers on platforms, it is industry practice to use a design factor of 0.60, and that for underwater pipelines the existing 0.72 is used. A few commenters questioned the need for a more stringent design factor in terms of the expected costs and bene-

fits, especially for pipelines within 300 feet of a platform. Other commenters stated that the external force of water on pipelines provides additional safety. In view of these comments and the level of potential hazards involved, the final rule is changed to provide that a design factor of 0.60 must be used for pipelines on platforms, including risers. The existing factor of 0.72 is not changed as it applies to pipelines located within 300 feet of a platform because of the protection provided by water depth and because these pipelines are not subject to the same causes of excessive stresses as are pipelines on platforms.

MTB believes that pipelines on platforms which are being constructed in inland navigable waters have the same need for protection against increased stresses as pipelines on offshore platforms, due to the similarity of operating conditions which can cause excessive stress levels and the confinement of personnel. Therefore, the final rule provides that a design factor of 0.60 must be used for pipe, including risers, on platforms located in inland navigable waters as well as offshore.

Sections 195.230 and 195.232. The only change to these sections is that the term "lay barge" used in the Notice is replaced with the term "pipelay vessel." This change is made so that as adopted the proposed exception from the existing welding requirements for offshore pipelines is not restricted to pipelines being installed from a vessel called a "lay barge" but applies to pipelines installed from any similar type of marine craft designed to lay offshore pipelines. The change is consistent with the objective of the proposal which was to eliminate the hazard associated with the removal, rather than repair, of unacceptable welds on pipelines being installed under the operating and working conditions of a lay barge. In view of the comments which indicate that laying pipelines in inland waters from a pipelay vessel is not as hazardous as laying pipelines in open seas, the proposed amendments to §§ 195.230 and 195.232 have not been adopted as they relate to installation of pipelines in inland waters.

One commenter objected to the proposal to allow the repair of welds on pipe being installed from a lay barge, arguing that if unacceptable welds may not be repaired onshore, then offshore welds should likewise not be repaired. MTB does not agree with this comment because, as discussed in the Notice, many safety problems arise in connection with removal of welds from pipelines being installed offshore from a lay barge which do not occur onshore. These problems create potential hazards to both the pipeline and the installation personnel which, in the opinion of MTB, overcome the safety advantages from removing unacceptable welds.

Section 195.234. The existing paragraph (e) (1) of this section requires that 100 percent of the girth welds must be nondestructively tested in locations

where a loss of commodity might pollute a body of water. Notice 75-4 proposed to amend this rule to explicitly require that 100 percent of the girth welds be non-destructively tested on pipelines in offshore areas as well as in inland waters not encompassed by the proposed definition of "offshore." Commenters did not disagree with the desirability of 100 percent testing in these areas. They pointed out, however, that as far as an open sea environment is concerned, due to the peculiarities and unforeseeable working conditions which exist there, a requirement for 100 percent testing would be too stringent. MTB concurs with these commenters, and, accordingly, has changed the final rule to provide that in offshore situations where 100 percent testing is impracticable, only 90 percent of each day's welds need be nondestructively tested. The final rule is consistent with the nondestructive testing requirement of 49 CFR 192.243(d) (3) which applies to gas pipelines crossing navigable rivers.

The final rule continues to require the nondestructive testing of 100 percent of the girth welds on pipelines in or near any body of water which is not an "offshore" area, but where loss of commodity could reasonably be expected to pollute the body of water.

One commenter suggested that the final rule should identify those methods of nondestructive testing which will clearly indicate weld defects. Although this comment appears to be outside the scope of the Notice, MTB believes that the suggested amendment would unnecessarily restrict carriers in meeting the existing regulatory tests prescribed by § 195.228 for determining the acceptability of welds.

Sections 195.238 and 195.242. As proposed, these sections are amended to provide that submerged but unburied pipelines must comply with corrosion control requirements. All comments received on these sections favored the proposed amendments.

Section 195.246. Notice 75-4 proposed that a new paragraph (b) be added to this section requiring that offshore pipelines in water not more than 200 but at least 12 feet deep be installed so that the top of the pipeline is below the natural bottom. The proposal was intended to provide for protection of these offshore pipelines against possible interference by fishing trawlers, damage by hurricanes, and underwater currents. MTB recognized, however, that installation below the bottom might not be an appropriate safety measure in all cases, and thus included in the proposal a provision that pipelines need not be buried where they are otherwise appropriately protected or where unstable soil conditions would subject the pipelines to greater external forces when buried than when they are laid directly on the bottom.

Two commenters objected to the proposed burial requirement as rigid and arbitrary and not an appropriate general rule for all situations. MTB believes that this comment does not warrant changing the final rule, however, in view

of the flexibility which the proposed rule would provide by permitting carriers to use a means of protection other than burial. MTB does not believe that offshore pipelines should be permitted to be installed without any means of protection. The proposed requirement for burial below the bottom is, therefore, adopted as final, with exceptions as discussed below.

Another commenter criticized the proposed amendment because it would permit a carrier, at its discretion, not to bury a pipeline in areas of unstable soil. Without considering the merits of this comment, in the final rule MTB has deleted the proposed exception regarding unstable soil as unnecessary. It is unnecessary because the normal industry safety practice is to protect pipelines in areas of unstable soil by either burial or an appropriate alternate means. If an appropriate alternate means is used, the exception in the proposed amendment which was intended to allow the use of that means would apply.

Although Notice 75-4 provided an exception from the proposed burial requirement for pipelines which are "otherwise appropriately protected," MTB now believes the exception for alternative means of protection should be written in more precise terms to avoid confusion in understanding the requirement. Therefore, in the final rule, the exception is changed to apply to the types of protection which are normally used in the industry in lieu of burial—support on stanchions, anchors, and heavy concrete coating. MTB believes that a pipeline protected by any of these means would be "appropriately protected" as stated in the Notice. Also, under the final rule, a means of protection may be used other than the ones which are named if it provides a level of protection equivalent to those named. MTB anticipates that criteria governing the appropriate level of protection of offshore pipelines will be the subject of future rulemaking. MTB is now seeking additional information on the safety of offshore pipelines to serve as a basis for that criteria. If adopted, the criteria would eliminate the need to specify acceptable means of protection and allow more flexibility in providing that protection.

The amendment to § 195.246 does not apply to pipelines in inland navigable waters since the burial requirement contained in § 195.248 appears to provide sufficient protection for those pipelines.

Section 195.248. MTB proposed that this section be amended to require that pipelines installed offshore in water less than 12 feet deep be installed with at least 36 inches of cover, but that pipelines in a river, stream, harbor, or deepwater port safety zone must have at least 48 inches of cover regardless of water depth. The existing rule requires that crossings of bodies of water with at least 100 feet from high water mark to high water mark be installed with 48 inches of cover, except that 18 inches is permitted in rock excavation. In general, the comments to this section did not ob-

ject to the proposed amendment, and it is adopted as final, except as discussed below.

One commenter suggested that the final rule be changed to include an exception for situations where it is impractical to provide the requisite cover and to allow alternative means of protection, such as installation above the water on pilings. The substance of this comment was provided for in the proposal by an exception which would allow less cover where it is impracticable to comply with the minimum cover requirements. Also, § 195.254(a)(1) now permits overhead crossings of bodies of water. Nevertheless, in light of this comment, the final rule is changed to allow one half the minimum required cover in areas of rock excavation.

Another commenter suggested that the proposed 48 inches of cover for harbor areas may be insufficient to protect against heavy anchors. MTB agrees that 48 inches may not be enough in all cases, but as a minimum standard to be applied generally, it is acceptable. Presumably, if a carrier is faced with a safety problem involving heavy anchors, it will voluntarily provide more than the minimum amount of cover or additional protection. If a situation arises where lack of sufficient cover threatens life or property, MTB is empowered to require the carrier involved to remedy the situation even though the carrier is in compliance with § 195.248.

In the final rule, the proposed amendment that would have extended the existing 48-inch cover requirement to specifically identified inland waters is not adopted. In consideration of the comments concerning the proposed definition of "offshore" with respect to inland waters, MTB believes the wording of the existing requirement is sufficient to cover those inland water situations where 48 inches of cover is needed to protect against damage to the pipeline by environmental and other external causes. This decision does not apply to pipelines in deepwater port safety zones. The proposed 48-inch cover requirement is adopted for those pipelines as proposed.

One commenter suggested that § 195.248 be amended to require a minimum amount of cover over offshore pipelines in water more than 12 feet deep. Protection for these pipelines is provided by the amendment to § 195.246. Based on available information and in view of the existing industry installation practices, MTB believes that except in a deepwater port safety zone, it is not now necessary to regulate the cover over offshore pipelines in water at least 12 feet deep.

Section 195.258. Notice 75-4 proposed that a new paragraph (b) be established to require that submerged offshore valves be marked, or located by conventional survey techniques, to facilitate quick location when operation of the valve is necessary. Commenters did not object to the proposal to the extent that it would apply offshore, as the term "offshore" is now defined in Part 195. The comments which opposed applying the proposed requirement to submerged

valves in inland navigable waters were based on the general objection to applying "offshore" requirements to pipelines in inland waters rather than on the merits of the proposal. MTB believes that the proposed requirement is reasonable and because of operating circumstances, necessary for the safe operation of a submerged valve. Therefore, the final rule is adopted as proposed for submerged valves located offshore and in inland navigable waters.

Section 195.260. Notice 75-4 proposed that paragraph (c) be amended to require that valves be installed in offshore areas at locations that will minimize damage or pollution from an accidental discharge. Commenters did not object to the proposal to the extent that it would apply to pipelines in areas within the meaning of the existing definition of "offshore." As for inland water areas, upon reconsideration of the proposal, MTB believes that the requirement of § 195.260(c) for placement of valves is sufficient to protect against damage or pollution from a discharge in inland waters, and that no further valve placement requirement is necessary with respect to inland waters. As finally adopted, the proposed amendment only applies to pipelines in areas within the existing definition of "offshore."

Section 195.306. This section requires that water must be used as a test medium, except that liquid petroleum may be used under certain conditions. MTB proposed to amend paragraph (b) to prohibit the use of liquid petroleum as a test medium in offshore pipelines. The rationale for this proposal, as stated in the Notice, was alleged difficulties in locating and containing a discharge due to a testing failure on underwater pipelines. Commenters did not object to the proposed amendment to the extent that it would apply to pipelines in areas now defined as "offshore." As for pipelines in inland waters, MTB now believes, in light of the comments concerning the proposed new definition of "offshore," that the difficulties associated with a testing failure on pipelines in inland waters do not warrant prohibiting the use of liquid petroleum as a test medium for those pipelines. Therefore, as finally adopted, the proposed amendment only applies to pipelines in areas within the existing definition of "offshore."

One commenter suggested that permitting the use of air or natural gas as a test medium for offshore pipelines would save construction costs without any sacrifice in safety. MTB has not evaluated the merits of this suggestion since it is outside the scope of the proposed amendment to § 195.306. It will, however, be considered within the context of any future rulemaking action regarding the applicability to offshore pipelines of Subpart E—Hydrostatic Testing.

Section 195.410. Notice 75-4 proposed that a new paragraph (e) be added to this section to require that pipe risers on offshore platforms that are exposed to damage by marine traffic be marked

in accordance with proposed specifications. The comments received on this section opposed the proposed marking requirement. One comment stated that adequate protection is already provided by the Coast Guard's requirements for navigational aids on platforms which involve warning lights and fog signals (33 CFR Part 67). Also, objections were raised concerning the maintenance of signs and the difficulty of reading them from an approaching vessel. Finally, commenters emphasized that the relatively few serious incidents which have resulted from vessels contacting platforms did not involve pipe risers.

On the basis of these comments and other considerations, MTB now believes that additional information is needed to determine whether marking offshore pipe risers would be a significant safety benefit. Therefore, the proposed amendment is not adopted as a final rule. The issue may be reopened by a future notice of proposed rulemaking if warranted by the additional information which MTB is seeking on the safety of offshore pipelines.

Section 195.412. Paragraph (b) of this section presently requires carriers to inspect each crossing of a pipeline under a navigable waterway, except for offshore pipelines, every five years to determine the condition of the crossing. Because of the alleged difficulties in locating, repairing, and containing leaks from underwater pipelines, MTB proposed in Notice 75-4 that the required frequency of inspection be increased to every year and that the requirement be applied to all pipelines within the area covered by the proposed new definition of "offshore." MTB anticipated that if the proposal were adopted, conducting more frequent inspections would cause carriers to correct unsafe conditions in time to prevent an actual leak.

Two commenters opposed the proposed amendment, basically stating that an annual inspection of the thousands of inland crossings would be burdensome for the industry and unwarranted by the record of consequences of failures at water crossings. Further, these commenters questioned the practicability of more frequent underwater inspections of pipelines located seaward of the coastline. Other commenters were concerned that the proposed amendment did not provide details of the inspection. None of the commenters, however, indicated that the existing 5-year inspection requirement is adequate.

Based on its review of the comments to Notice 75-4, MTB now believes that information on the required frequency and nature of inspecting underwater pipelines is inconclusive. Pipeline safety problems are caused by the effects of both inland and offshore waters on pipelines and by underwater operating conditions. However, little, if any, substantive information was submitted in this proceeding from which MTB could determine the correlation between inspection frequency and correcting under-

water safety problems. As a consequence, MTB is seeking further information upon which a rational determination can be made about the required frequency of underwater inspections. Pending the availability of that information, MTB has decided that the existing requirement of § 195.412(b) should be retained. MTB anticipates that the matter will be addressed again in a future notice of proposed rulemaking.

One commenter suggested that for offshore pipelines, biweekly patrols by air or water craft be required to observe route conditions. In view of this comment, it should be noted that § 195.412(a) now requires each carrier to inspect the surface conditions of each pipeline right-of-way every two weeks. This requirement applies equally to offshore and onshore pipelines.

Section 195.416. MTB proposed that paragraph (a) of this section be amended to require that cathodically protected offshore pipelines be tested every 6 months to determine if the protection is adequate. The existing rule, which applies only to underground pipelines (either offshore or onshore), requires testing every 12 months. MTB anticipated that if the proposal were adopted, the likelihood of leaks developing due to faulty cathodic protection would be reduced. Moreover, additional testing appeared doubly justified because leaks occurring offshore are more difficult to locate, contain, and repair than onshore leaks.

All of the comments on this section opposed adoption of the proposed amendment. One commenter stated that it would be illogical to require more frequent testing of offshore pipelines than onshore pipelines because corrosion occurs more uniformly and is more predictable offshore. Other commenters argued that testing every 6 months would be impractical because of unforeseeable travel and weather problems, the need for additional personnel, and the difficulties associated with testing a cathodic protection system offshore. Still others argued that the 12-month period of testing is not inadequate.

MTB recognizes the many practical problems associated with the testing of cathodic protection on offshore pipelines. MTB also recognizes that, in general, corrosion occurs offshore at a more uniform rate than onshore because the offshore environment is constantly corrosive. However, MTB is not convinced that these factors overcome the apparent benefits from more frequent testing offshore.

In an offshore underwater environment the need for maintenance is not as observable as onshore. Damage to pipelines by anchor dragging, wave or current action, mud slides, or trawls may go undetected for longer periods of time than onshore. Would disruption of a cathodic protection system by an external cause which goes undetected for 12 months raise the potential for the occurrence of leaks to an unsafe level?

What would be the cumulative effect of accelerated corrosion due to a defective or disrupted system over successive 12-month periods?

On the other hand, can a uniform rate of corrosion be taken into account as a design factor so that offshore testing of cathodic protection may be performed less frequently than onshore?

MTB believes that the record does not provide satisfactory information on these questions. A final rule is, therefore, not adopted at this time. The proposal is withdrawn pending receipt of the additional information which MTB is seeking by study contract on the hazards and safety practices in an offshore environment. The study is needed to provide for more comprehensive regulation of the safety of offshore pipelines. If warranted by the additional information, MTB will issue a future notice of proposed rule-making on the frequency of testing issue.

In view of the comments which indicate that underwater leaks in inland waters do not present problems of the same magnitude as leaks in open seas and the impracticality of scheduling more frequent tests on underwater portions of an essentially onshore pipeline, MTB has decided that a more frequent testing requirement should not be adopted for pipelines crossing inland waters.

EFFECTIVE DATE

Notice 75-4 requested that interested persons comment on the amount of time that would be needed to comply with the amendments being proposed. The relatively few comments received on this question indicate that design and construction regulations which apply to new, replaced, or relocated pipelines require a longer lead time for compliance than regulations for operation or maintenance. One commenter suggested that as much as 2 years lead time be allowed for lines in the planning stage but not yet under construction. Taking these comments into account and the amount of time reasonably needed for compliance, MTB has decided that the final rules are to become effective November 1, 1976, except as follows:

1. Amendments to §§ 195.106, 195.246, 195.248, 195.258, and 195.260 do not become effective until August 1, 1977.

2. The cathodic protection requirements of § 195.414 do not apply to offshore pipelines located between a production facility and a carrier's trunkline reception point until August 1, 1977.

3. Offshore pipelines located between a production facility and a carrier's trunkline reception point which are constructed before August 1, 1977, need not comply with the design and construction requirements of Subparts C, D, and E of Part 195.

Provisions have been added to §§ 195.402(d) and 195.414 to provide for the extended effective dates regarding an offshore pipeline between a production facility and a trunkline.

In consideration of the foregoing, Part 195 of Title 49 of the Code of Federal Regulations is amended as set forth below:

1. In § 195.1, the word "and" is deleted from paragraph (b) (3), paragraph (b) (4) is amended to read as follows, and a new paragraph (b) (5) is added to read as follows:

§ 195.1 Scope.

(b) * * *

(4) Except for Subpart B of this part, transportation of petroleum in onshore pipelines in rural areas between a production facility and a carrier's trunkline reception point, and

(5) Transportation in offshore pipelines which are located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.

2. In § 195.106, paragraph (a) is amended as follows:

§ 195.106 Internal design pressure.

(a) * * *

F=A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been cold worked to meet the specified minimum yield strength and is subsequently heated, other than by welding to 600° F. or more.

3. Section 195.230 is amended to read as follows:

§ 195.230 Welds: Repair of defects.

(a) Except as provided in paragraph (b) of this section, a weld that is found unacceptable under § 195.228 may not be repaired unless—

(1) There are no cracks in the weld;

(2) The segment of the weld to be repaired was not previously repaired; and

(3) The weld is inspected after repair to assure its acceptability.

(b) In the case of offshore pipelines, a weld on a pipeline being installed from a pipelay vessel may be repaired if the repair is made in accordance with established written welding procedures that have been tested under § 195.214 to assure that they will produce sound ductile welds.

4. Section 195.232 is amended to read as follows:

§ 195.232 Welds: Removal of defects.

Except for offshore pipelines being installed from a pipelay vessel, a cylinder of the pipe containing the weld must be removed and the ends rebeveled whenever—

(a) The weld contains one or more cracks;

(b) The weld is not acceptable under § 195.228 and is not repaired; or

(c) The weld was repaired and the repair did not meet the requirements of § 195.228.

5. In § 195.234, paragraph (c) (1) is amended to read as follows:

§ 195.234 Welds: Nondestructive testing and retention of testing records.

(e) * * *

(1) At any onshore location where a loss of commodity 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.

6. In § 195.238, paragraphs (a) (1) and (b) are amended to read as follows:

§ 195.238 External coating.

(a) No pipeline system component may be buried or submerged unless that component has an external protective coating that—

(1) Is designed to mitigate corrosion of the buried or submerged component;

(b) All pipe coating must be inspected just prior to lowering the pipe into the ditch or submerging the pipe, and any damage discovered must be repaired.

7. In § 195.242, paragraph (a) is amended to read as follows:

§ 195.242 Cathodic protection system.

(a) A cathodic protection system must be installed for all buried or submerged facilities to mitigate corrosion that might result in structural failure. A test procedure must be developed to determine whether adequate cathodic protection has been achieved.

8. In § 195.246, the existing first paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 195.246 Installation of pipe in a ditch.

(a) * * *

(b) All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipeline is supported by stanchions, held in place by anchors or heavy concrete coating, or an equivalent level of protection is provided.

9. Section 195.248(a) is amended to read as follows:

§ 195.248 Cover over buried pipeline.

(a) Unless specifically exempted in this subpart, all pipe must be buried so that it is below the level of cultivation. Except as provided in paragraph (b) of this section, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table:

Location	Cover (Inches)	
	For normal excavation	For rock excavation ¹
Industrial, commercial, and residential areas	30	30
Crossings of inland bodies of water with a width of at least 100 ft from high water mark to high water mark	48	18
Drainage ditches at public roads and railroads	28	30
Deepwater port safety zone	48	24
Other offshore areas under water less than 12 ft deep as measured from the mean low tide	36	18
Any other area	30	18

¹ Rock excavation is any excavation that requires blasting or removal by equivalent means.

10. In § 195.258, the existing first paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 195.258 Valves: General.

(a) * * *

(b) Each submerged valve located offshore or in inland navigable waters must be marked, or located by conventional survey techniques, to facilitate quick location when operation of the valve is required.

11. Section 195.260(c) is amended to read as follows:

§ 195.260 Valves: Location.

(c) * * *

(c) On each mainline at locations along the pipeline system that will minimize damage or pollution from accidental liquid discharge, as appropriate for the terrain in open country, for offshore areas, or for populated areas.

12. Section 195.306(b) is amended to read as follows:

§ 195.306 Test medium.

(b) * * *

(b) Except for offshore pipelines, liquid petroleum that does not vaporize rapidly may be used as the test medium if—

(1) The entire pipeline section under test is outside of cities and other populated areas; and

(2) There are no persons, other than those conducting the test, within 1,000 feet of the test section.

13. Section 195.402(d) is amended to read as follows:

§ 195.402 General requirements.

(d) * * *

(d) No carrier may operate any part of a pipeline system upon which construction was begun after March 31, 1970, or in the case of offshore pipelines located between a production facility and a carrier's trunkline reception point, after July 31, 1977, unless it was designed and constructed as required by this part.

14. In § 195.414 a new paragraph (d) is added to read as follows:

§ 195.414 Cathodic protection.

(d) Notwithstanding the deadlines for compliance in paragraphs (a), (b), and (c) of this section, this section does not apply to offshore pipelines located between a production facility and a carrier's trunkline reception point until August 1, 1977.

(Sec. 6, Pub. L. 89-670, 80 Stat. 937, 49 USC 1655; 18 USC 831-835; 40 FR 43301, 49 CFR 1.53).

Issued in Washington, D.C. on August 9, 1976.

JAMES T. CURTIS, Jr.,

Director,

Materials Transportation Bureau.

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Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States and Alaska

The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

This final rulemaking notice is the seventh in a series of proposed and final rulemaking documents published during the annual regulatory process for establishing migratory game bird hunting seasons in the United States. It deals specifically with amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; for Canada goose hunting in Wisconsin; and for waterfowl, coots, snipe, and cranes in Alaska. The first notice in the series consisted of proposed rule making dealing with the establishment of open hunting seasons, daily bag and possession limits, and shooting hours for the 1976-77 season in the contiguous United States, Alaska, and Hawaii, and was published in the FEDERAL REGISTER on March 3, 1976 (41 FR 9177) with a comment period ending May 1, 1976. The second notice in the series consisted of proposed rulemaking dealing with the establishment of hunt-

ing seasons, daily bag and possession limits, and shooting hours for the 1976-77 season in Puerto Rico and the Virgin Islands, and was published in the FEDERAL REGISTER on May 12, 1976 (41 FR 19341) with a comment period ending June 26, 1976. The third notice in the series consisted of supplemental proposed rulemaking dealing with proposed early season frameworks and proposed Canada goose hunting regulations in Wisconsin, and was published in the FEDERAL REGISTER on July 2, 1976 (41 FR 27382), with a 15-day comment period ending July 17, 1976. The fourth notice in the series consisted of final frameworks for selecting open season dates for hunting migratory birds in Puerto Rico and the Virgin Islands during the 1976-77 season and was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29387). The fifth notice in the series consisted of final rulemaking amending Section 20.101 of 50 CFR Part 20 to reflect seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands for the 1976-77 season and was published in the FEDERAL REGISTER on July 22, 1976 (41 FR 30119). The sixth notice in the series consisted of final frameworks for selecting open season dates for hunting migratory birds in the contiguous United States and Alaska during the 1976-77 season and was published in the FEDERAL REGISTER on July 28, 1976 (41 FR 31383).

In this connection, the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241).

The Annual Regulations Conference for Migratory Shore and Upland Game Birds convened on June 22, 1976, in accordance with the notice published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20901). The purposes of this meeting were for the Committee to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe and discuss proposed hunting regulations for the 1976-77 hunting season. This meeting was open to the public and statements by interested persons were received and considered.

Compliance with Section 7 of the Endangered Species Act of 1973. Section 7 of this Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." Consequently, The Service reviewed all migratory bird regulations being contemplated this year and concluded that none of the proposals, if implemented, would jeopardize any population of birds designated as endangered or threatened under the Act. As in the past, hunting regulations this year are designed to remove or alleviate chances of conflict between seasons for migratory game birds and the protection of endangered or threatened species. Examples of such consideration include closures of desig-