

Effective date. These amendments are effective on May 12, 1975.

Dated: March 21, 1975.

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

[FR Doc.75-7985 Filed 3-26-75; 8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Docket No. OPS-18; Amdt. 192-20]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Line Markers for Mains and Transmission Lines

This amendment revises the existing requirement in § 192.707 for marking the location of gas transmission lines and establishes new marking requirements for gas distribution mains under that section. The purpose of this amendment is to alleviate a major cause of failures in gas pipelines—interference with pipelines by persons outside the gas pipeline industry conducting excavation-related activities. Installation of line markers in accordance with these revised requirements should increase the likelihood that outsiders will seek assistance in locating underground lines before excavating. Also the revised requirements should influence operators to encourage State or local governments to adopt programs for preventing interference with underground pipelines.

On May 19, 1972, the Director issued a notice of proposed rule making to amend § 192.707 (37 FR 10578; May 25, 1972) to specify locations for line markers and the information to be inscribed on them. Due to the large number of persons interested in the proceeding, the original deadline for submitting written information, views, or arguments was extended to August 17, 1972, (37 FR 13351; July 7, 1972). The comments received as a result of the notice have been fully considered by the Office of Pipeline Safety (OPS) in developing the final rule.

There were 126 persons who commented on the notice. A majority of the commenters recognize the need to reduce the number of pipeline failures due to interference by outsiders, but believe that the costs of implementing the proposed line marking program would far outweigh any benefits that might be obtained.

OPS believes that the final rule alleviates the objection to the proposal expressed by these commenters. Compliance with the revised line marking requirement will involve capital expenditure, but much less than would have been required by the proposed rule. Furthermore, the revised standard should benefit the public by reducing risk of harm, and benefit operators by reducing losses, claims for damage, and expense of service interruptions. Unfortunately, because

data is not available on the effectiveness of existing line markers in preventing damage to pipelines, the amount of future benefits from line marking under the revised rule cannot be determined with precision.

The final rule is modified to improve economic practicability in many respects. First, the proposed requirement that each marker be visible from preceding and following markers is deleted. Secondly, lead times for compliance are provided both for existing markers, as proposed, and for installing line markers not required by the existing rule. Lastly, markers are not required in Class 3 and Class 4 locations where operators are successful in encouraging State or local governments to enact programs for preventing damage to pipelines by outsiders, and where placement of markers is impractical.

A large number of commenters suggested that carrying out programs other than line marking would be much more effective in reducing the number of accidents caused by outsiders. Some of the suggested programs involve a "one call" system, a construction permit system, education, better communication between operators and outsiders, and legislation.

OPS agrees with these comments. Line marking is only a partial solution for the problem of pipeline failures caused by damage during excavation. Line marking, however, is an important step which operators can take as part of their responsibility to prevent that type of damage in the absence of a more effective program. Programs which are enforceable under law against outsiders and provide them with information as to the location of underground pipelines are probably the best means of reducing damage caused by outside parties. OPS has encouraged the development of one such program by drafting and distributing to State and local governments a model statute aimed at preventing excavation-type damage through a construction permit system. The promulgation of this amendment is in furtherance of this prior effort. The revised standard not only attacks the problem of interference with pipelines by outsiders directly through regulation of gas operators but also encourages the development of other damage prevention programs.

Several commenters remarked that statistics, reports, and experience show that: (1) Most incidents occur where pipelines are marked. (2) Outsiders fail to call or check with the operator as requested on markers. (3) Contractors have a careless attitude toward protecting underground lines. (4) A significant amount of damage occurs at new construction sites before markers are installed. On the basis of these factors, the commenters conclude that increasing the number of pipeline markers would not significantly reduce damage caused by outsiders.

OPS does not concur with this conclusion. While it is true that, for example, in the year 1972, approximately two-

thirds of reported leaks caused by outside parties on distribution lines occurred where pipelines were marked, the reports do not reflect the accuracy or adequacy of the markers involved. Operators use various kinds of permanent and temporary line markers. Data is not available on the effectiveness of these markers in properly warning outsiders of the presence of underground pipelines. Furthermore, the statistic is misleading because, due to a lack of pertinent data, it cannot be compared with the percentage of excavation-related activities conducted by outsiders near marked distribution lines. In the absence of either type of information, OPS believes it is reasonable to conclude that markers which are properly placed, maintained, and inscribed will alert outsiders to the presence of underground lines and thus reduce the potential for damage.

As for the failure of outsiders to notify operators before excavating, OPS expects that markers worded as required by the final rule will increase the likelihood that outsiders will seek assistance in determining the location of pipelines. More markers with uniform wording could also affect an outsider's attitude toward interference with pipelines during excavation activities. With respect to damage in areas undergoing new construction, the requirement to mark underground pipelines is binding on operators as soon as the lines are buried and in operation. The rule does not provide an exception for circumstances involving construction by outsiders. One method of compliance in this situation would be to install temporary markers until outside construction is complete. Then, the temporary markers could be removed and replaced by permanent ones.

Some commenters asked why the notice did not provide an exemption for offshore pipelines from the proposed line marking requirements. The existing requirement of § 192.707 for marking transmission lines applies to offshore as well as onshore pipelines. OPS is currently considering the need to amend the existing standards in Part 192 as they relate to the transportation of gas offshore. The desirability of marking offshore pipelines is an issue which was raised for public discussion in an OPS advance notice of proposed rule making on offshore pipeline facilities: Docket No. OPS-30, Notice No. 74-6 (39 FR 34568; September 26, 1974). As a result of that proceeding, OPS will publish a notice of its decision whether to propose an amendment to the line marking requirement with respect to offshore pipelines.

A number of changes have been made in the proposed rule on the basis of comments received. The major changes, as well as the response by OPS to comments which did not result in changes, are discussed below.

Paragraph (a), buried pipelines. The notice proposed that line markers be placed "over" each buried main and transmission line at certain locations. Many commenters noted that from a

compliance standpoint, line markers cannot always be placed directly "over" a pipeline. For example, in swamps and placed "over" each buried main and marshes and at navigable waterway crossings, line markers are often offset from a pipeline so the marker can be properly supported. OPS realizes this practice may be contrary to a notion held by some that a pipeline lies directly underneath a marker. Yet, it is consistent with the primary purpose of line markers to warn the public of the presence of a pipeline and to provide a telephone number to call for more specific information.

OPS agrees that requiring markers directly over a pipeline in all cases would be too restrictive. The final rule, therefore, prefaces the word "over" by the phrase "as close as practical." This change provides operators flexibility to offset markers a reasonable distance from a pipeline wherever necessary. For instance, offsetting may be necessary to obtain support for the marker, avoid an obstruction, or facilitate maintenance.

The proposed requirement that a marker be visible from the immediately preceding and following marker is not included in the final rule. This proposal was intended as an aid to outsiders in determining the route of a pipeline. Commenters remarked, however, that compliance could entail costly construction of towers or many additional markers at locations not otherwise warranted by safety considerations. Compliance could also spoil the natural beauty of many areas. The OPS believes that these adverse consequences would outweigh the possible advantages contemplated by the proposal. OPS believes that deleting the requirement from the final rule does not weaken the intention or effectiveness of the remaining provisions of paragraph (a).

After considering objections raised by a majority of the Technical Pipeline Safety Standards Committee (TPSSC), the proposal under § 192.707(a) (2) in the notice is not adopted. This proposal would have required line markers at fences and property boundaries. OPS now believes that placement of markers at these numerous locations would be costly and not yield a commensurate safety benefit.

Wording is added at the conclusion of § 192.707(a) to provide operators of existing buried mains or transmission lines approximately 3 years' lead time (until January 1, 1978) to comply with the new line marking requirements imposed by this amendment. The 3-year period was recommended by the TPSSC. The lead time does not apply to transmission lines under § 192.707(a) (2) because that section merely restates the existing requirement of § 192.707. This additional time beyond the general effective date for this amendment should be used by operators to prepare for compliance or, in accordance with § 192.707(b) (1) (ii), to seek enactment of alternative damage prevention programs at the State or local level.

Paragraph (b), exceptions for buried pipelines. The notice included exceptions from the proposed marking requirements for buried lines in heavily developed areas. These exceptions provided that line markers would not be required for transmission lines, where both placement is impracticable and the local government maintains current substructure records, and for distribution mains, where either criterion for exemption respecting transmission lines occurs. One reason for the exceptions was to give operators limited but necessary discretion as to placement of markers based on practicability. The primary purpose, however, was to influence operators to encourage local governments to establish construction permit systems in heavily developed areas related to currently maintained records of underground pipelines.

In the final rule, the proposed exceptions for marking buried pipelines are modified slightly. The exception for situations where placement is "impracticable" is changed to apply where placement is "impractical." Many commenters objected that since "impracticable" means impossible, the proposed exception would have extremely limited application.

Also, the proposed exceptions in heavily developed areas for situations where a local government maintains current substructure records are broadened under § 192.707(b) (1) to apply equally to mains and transmission lines in Class 3 or Class 4 locations "where a program for preventing interference with underground pipelines is established by law." The change from "heavily developed areas" to "Class 3 or Class 4 locations" is made for clarity. The exceptions apply in these locations because of the difficulty in placing markers there, the esthetic objections to markers in these areas, and because Class 3 and Class 4 areas have the greatest need for government enacted programs to prevent interference with underground pipelines.

In the final rule, a government enacted damage prevention program qualifies as an exemption under the new line marking requirement even though it is not related to government maintenance of underground substructure records. OPS agrees with commenters who pointed out that local governments may not wish to maintain these records and that operators are better able to keep current records of pipelines. Also, there are currently various types of damage prevention programs in effect. This change, therefore, adds flexibility to the final rule by exempting placement of markers, for example, where an operator participates in a government program by answering calls from contractors on the basis of the operator's own records. The broadened exemption also has the benefit of encouraging State controlled programs in Class 3 or Class 4 areas for prevention of damage to pipelines rather than just encouraging programs on a local level.

Many commenters and the TPSSC pointed out that most of the current

damage prevention programs are conducted by the operators themselves, although not under the auspices of a State or local government. They also pointed out the difficulty in obtaining timely governmental action on an operator-sponsored program as an alternative to line marking. As a result, these commenters and the TPSSC believe an operator-run program for prevention of excavation-type damage is just as satisfactory as one run by a State or local government. OPS does not entirely agree.

The primary objective of a damage-prevention program is to notify outside contractors preparing to excavate of the location of underground pipelines. Once a contractor is aware of the existence of a pipeline, the contractor must exercise care in excavating near the line. Although an operator-run program, which may include advertising, can be a vital part in preventing damage by outsiders, it would not provide as strong an incentive for outsiders to learn the precise locations of pipelines as would a program backed by government sanctions. This does not mean there is no room for operators in a government program. After all, operators are the ones most likely to have up-to-the-minute information on pipeline locations. Undoubtedly, a government-run program must heavily rely on operator cooperation.

A program under § 192.707(a) (2) may be as simple or as complex as a government considers necessary. In fact, a simple requirement that outsiders contact operators for information before excavating would suffice. Alternatively, an industry-run "one call" program backed by State or local law could be used. When operators are so notified before excavation, they should respond with assistance in locating underground lines in the area of excavation. OPS anticipates that criteria for programs serving as an alternative to line marking may be the subject of a future rule-making proceeding.

A further question arises that if an exception to line marking applies in Class 3 and Class 4 locations because of a government enacted program, should the same exception apply in Class 1 and Class 2 locations where a government program exists? The TPSSC recommended that the exemption apply regardless of location. OPS has not adopted the recommendation for two reasons. First, the risk of encountering underground utilities during excavation is less in rural locations than in more developed areas. As a consequence, outsiders in rural areas are probably less likely to anticipate the existence of underground utilities or to be aware of a government enacted program. Secondly, a government program in less developed areas might not apply to farming activities. Thus, in most of these cases, farmers would not be made aware of the location of underground pipelines in the absence of line markers.

Likewise, the TPSSC recommended that the exception to the line marking requirement for impractical situations be extended to apply in Class 1 and Class 2 locations. This recommendation was not

adopted because, as proposed, the exception is intended to facilitate placement of markers in heavily developed areas. OPS does not believe that rural areas need the same considerations.

OPS still recognizes the difficulties in installing line markers over gas mains in urbanized areas. Yet, in the absence of alternative programs established by a State or local government, OPS considers line marking the most effective means for protecting against interference with buried lines by outsiders.

In the final rule, one last change is made to the exceptions for buried pipelines. After considering comments made by the TPSSC, OPS adopted the exception that in the case of navigable waterway crossings, a line marker is not required within 100 feet of a line marker which is placed and maintained at that waterway in accordance with the requirements of § 192.707. This change alleviates the proliferation of signs which would otherwise result under § 192.707 where multiple pipelines cross a waterway in proximity.

Paragraph (c), pipelines aboveground. This paragraph is not changed, except editorially, from the way it was proposed in the notice.

Paragraph (d), markers other than at navigable waterways. This paragraph sets forth requirements for line markers which are not at navigable waterways. Each marker must have written on it the word "Warning," "Caution," or "Danger." The requirement is changed from the notice which proposed that only the word "Warning" be used. Many commenters objected that existing line markers which have words with a similar meaning would have to be changed unnecessarily. OPS agrees that the words "Caution" and "Danger" notify the public of the hazard involved as sufficiently as the word "Warning." Providing a selection of words allows an operator to choose the one traditionally used in certain areas.

The notice proposed certain minimum sizes for lettering the word "Warning" and, in the case of markers at navigable waterway crossings, the words "Do Not Anchor or Dredge." Commenters objected to this proposal because of the various sizes and types of markers in existence and the additional cost of compliance for relettering or installing new signs to accommodate the minimum letter sizes.

The size of lettering is only one factor among many determining visibility and legibility of words by a viewer. Another is the contrast of colors between the words and their background. OPS does not believe that safety and the intention of this proceeding necessitate a precise standard for all factors governing visibility or legibility of the inscription on markers. However, certain minimum requirements are necessary in the public interest to judge the quality of notice provided by a line marker, and to ensure a standard of maintenance. OPS recognizes, however, the difficulty in meeting a minimum letter requirement for markers in urban areas, as, for example, on paving inserts. In the final rule, there-

fore, the performance standard for color contrasts and, except for markers in urban areas, the proposed specification for letter sizes are adopted for line markers not at navigable waterways. Criteria for visibility and legibility applicable to markers at navigable waterways is discussed hereafter. The lead time for compliance of existing line markers permitted by paragraph (f) should alleviate some of the objections concerning cost of compliance.

Paragraph (e), markers at navigable waterways. In the final rule, a new paragraph (e) is added to provide more detailed requirements for line markers at navigable waterways. The United States Coast Guard is concerned that signs intended to warn mariners of pipeline crossings would not be readily recognized unless they conform to a standard system for providing navigational information. OPS agrees. Line markers at navigable waterways are primarily intended to warn vessel operators of a potential danger. Therefore, they should be constructed according to a format generally understood by mariners. One widely adopted format for aids to navigation is the Uniform State Waterway Marking System (USWMS). This system is set forth in 33 CFR Subpart 66.10.

In the final rule, § 192.707(e) is written to ensure that line markers at navigable waterways conform to the USWMS. Compliance with the revised standard should not be construed, however, to satisfy Federal statutes or regulations pertaining to the marking of pipelines which obstruct navigation. The intended effect of the OPS marking requirements is not to equal or supersede similar requirements of the U.S. Coast Guard or the U.S. Army Corps of Engineers, but to be compatible with them. Thus, where a marker is required at a navigable waterway by these agencies, a single sign which complies with § 192.707 can be used.

There are notable differences between markers required at navigable waterways and elsewhere. At waterways, markers must be rectangular white signs with an international orange border. All lettering on the sign must be black and in block style. The size of the sign and lettering on it are governed by a requirement that in overcast daylight the sign be visible, and prescribed writing be legible, from approaching or passing vessels that may damage or interfere with the pipeline. In planning aids to navigation, the Coast Guard uses a rule of thumb that the distance in feet at which a sign may be read is approximately 40 times the letter height in inches. This rule of thumb could be used in placing markers at navigable waterways under § 192.707(e).

In submitting material to the TPSSC for this proceeding, OPS proposed that a diamond shape outlined in international orange be centered on the rectangular signs at navigable waterway crossings. This proposal, which was in conformity with the USWMS, would have resulted in an unnecessary expense to operators. In this regard, the minority views of one member of the Committee, which ex-

plain the problem in greater detail, were adopted and are set forth below.

Paragraph (f), existing markers. The proposal provided a 3-year lead time for operators to bring their existing markers into compliance with the proposed inscription requirements. The lead time was considered necessary because of the various sizes and shapes of markers in use which might have to be replaced to accommodate the proposed inscription. The lead time would allow temporary use of these markers.

Many commenters pointed out that normal sign attrition is much longer than 3 years. Having to replace recently installed signs within 3 years would be an unnecessary cost burden ultimately met by the public. These commenters suggested a requirement that existing markers without proper inscriptions be replaced in a normal maintenance cycle. Since a "normal" maintenance cycle undoubtedly varies from operator to operator, OPS does not concur with this suggestion. However, in light of the comments and recommendations by the TPSSC, the final rule permits existing markers which meet the location requirements to be used until January 1, 1980.

Report of the Technical Pipeline Safety Standards Committee. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 was submitted to the Committee as Item 4 in a list of five proposed amendments. The Committee has made a favorable report which is set forth below. Also, the two Committee members who disagreed with the majority of the Committee on Item 4 submitted statements of their views which are set forth following the report.

JANUARY 17, 1976.

Memorandum to: The Secretary of Transportation. Attention: Joseph O. Caldwell, Director, Office of Pipeline Safety.
From: Secretary, Technical Pipeline Safety Standards Committee.
Subject: Proposed Changes to 49 CFR Part 192, Minimum Federal Safety Standards for Transportation of Natural and Other Gases by Pipeline.

The following letter and attachments represent an official report by the Technical Pipeline Safety Standards Committee concerning the Committee's action related to five proposed amendments to 49 CFR Part 192, Minimum Federal Safety Standards for Transportation of Natural and Other Gases by Pipeline.

The Committee reviewed the proposals of the Office of Pipeline Safety at a meeting, held in Washington, D.C., on October 30 and 31, 1974, and through an informal balloting procedure recommended certain modifications, some of which were acceptable to the Office of Pipeline Safety. A formal ballot, reflecting the suggested changes, was prepared and distributed to the Committee members, by the undersigned on December 5, 1974.

Formal ballots have been submitted by all fourteen members of the Committee. The

majority of the Committee approved all five items on the ballot as being technically feasible, reasonable, and practicable. Negative votes were cast by one member against Items 1, 2, and 3, by two members against Item 4 and by four members against Item 5. Another member, who had been unable to attend the meeting and participate in the discussions, abstained from voting.

Attachment A sets forth the minority opinions submitted in support of the negative votes on Items 4 and 5.

LOUIS W. MENDONSA.

DECEMBER 16, 1974.

Mr. LOUIS W. MENDONSA,
Federal Power Commission,
Washington, D.C.

DEAR Mr. MENDONSA: Attached is my executed letter ballot on five proposed amendments to 49 CFR Part 192 relative to the Agenda for the Technical Pipeline Safety Standards Committee meeting held on October 30-31, 1974.

I have voted affirmatively on Items 1, 2, and 3 and negatively on Items 4 and 5. My reasons for the negative votes are as follows:

Item 4. My objection is restricted to proposed § 192.707(d) (1) with the clause "except for markers in heavily developed urban areas." This clause leaves the size of the lettering of a marker in such areas completely unregulated in those areas most subject to pipeline damage with the greatest exposure to life and property.

Moreover, "heavily developed urban areas" was not defined. To many, including myself, it describes metropolitan areas of large cities. To others, and this was borne out at the meeting, it would include residential areas of high-priced homes.

Moreover, proposed § 192.707(b) (1), and possibly (b) (2), would probably result in no markers in such areas anyway.

Therefore, I see no need for the exception in § 192.707(d) (1).

Item 5. * * *

Sincerely,

W. L. WALLS,
Member, TPSSC.

REASONS FOR DISAPPROVAL OF ITEM 4; MARKING MAINS AND TRANSMISSION LINES GEORGE W. WHITE

My disapproval of Item 4 is centered on the required use of the diamond symbol in § 192.707(e) (1), which I believe to be inappropriate. This symbol is taken from the U.S. Coast Guard regulation on aids to navigation, 33 CFR 66.10—Uniform State Waterway Marking System, and is found in § 66.10-5(c) (1). In my opinion, this symbol, read in the context of § 66.10-1(a) and § 66.10-15(a) is to indicate "the presence of either natural or artificial obstructions or hazards" to navigation and the operator should not approach the marker in order to read any wording on it. I believe the square or rectangular symbol found in § 66.10-5(c) (4), which is for the purpose of providing "directions or information" is the appropriate symbol to use.

The additional advantage to using the square or rectangular symbol is that a majority of the thousands of existing navigable waterway crossing signs could remain in place, with minor modification, beyond the January 1, 1980, date. If the diamond symbol is adopted, all existing signs must be replaced with larger signs to provide room for the diamond. These existing markers are large, expensive, long-life signs, installed on piling, and, to the best of my knowledge, are

adequately performing their function of warning boat or dredge operators. There is no evidence that damage to pipelines crossing navigable waterways is a safety problem, therefore, the continued use of existing signs with an international orange border (rectangular or square), however modified to meet the proposed wording is practical and consistent with pipeline safety.

At the October 30-31, 1974, Technical Pipeline Safety Standards Committee Meeting the substance of the proposed § 192.707(e) was not discussed, but it was agreed that OPS would consider if the proposed requirements are compatible with the present U.S. Corps of Engineers requirements. All present pipeline crossing markers on navigable waterways were approved by the Corps and the use of the rectangular symbol is much more compatible with these signs than the diamond symbol.

Would you please reconsider the use of the diamond symbol and substitute for it a rectangle or square one with the lettering (as proposed) inside the square or rectangle. This could be issued as an amendment to the letter ballot and voted on again by the Committee.

The proposed § 192.707(e) could be modified as follows:

Markers at navigable waterways. Each line marker at a navigable waterway must have the following characteristics:

(1) A sign, rectangular or square in shape, with a narrow strip along each edge, colored international orange and the area between lettering on the sign and boundary strips colored white.

(2) Written on the sign in block style, black letters—

(i) The word "Warning," "Caution," or "Danger," followed by the words "Do Not Anchor or Dredge," and the words "Gas Pipeline Crossing"; and

(ii) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(3) In overcast daylight, the orange border is visible and the writing required by paragraph (e) (2) (i) of this section is legible, from approaching or passing vessels that may damage or interfere with the pipeline.

If the ballot is changed as I have suggested, I would approve of the entire Item 4.

Effective date. Section 3(e) of the Natural Gas Pipeline Safety Act of 1968 requires that standards and amendments thereto prescribed under the Act be effective 30 days after the date of issuance unless the Secretary determines good cause exists for an earlier or later effective date as a result of the period reasonably necessary for compliance. Accordingly, the revised § 192.707 will become effective 30 days after issuance. As provided in § 192.707(a), this effective date is not relevant, however, to existing buried mains and to existing buried transmission lines at public road, railroad, and navigable waterway crossings. As discussed hereinabove, in view of the period reasonably necessary to bring those existing buried pipelines into compliance with the revised requirements, § 192.707(a) does not become applicable to them until January 1, 1978.

In consideration of the foregoing, § 192.707 of Title 49 of the Code of Federal Regulations is revised to read as follows, effective April 21, 1975:

§ 192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line—

(1) At each crossing of a public road, railroad, and navigable waterway; and

(2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

However, until January 1, 1978, paragraphs (a) (1) and (a) (2) of this section do not apply to mains installed before April 21, 1975, and until January 1, 1978, paragraph (a) (1) of this section does not apply to transmission lines installed before April 21, 1975.

(b) Exceptions for buried pipelines. Line markers are not required for buried mains and transmission lines—

(1) In Class 3 or Class 4 locations—

(i) Where placement of a marker is impractical; or

(ii) Where a program for preventing interference with underground pipelines is established by law; or

(2) In the case of navigable waterway crossings, within 100 feet of a line marker placed and maintained at that waterway in accordance with this section.

(c) Pipelines aboveground. Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

(d) Markers other than at navigable waterways. The following must be written legibly on a background of sharply contrasting color on each line marker not placed at a navigable waterway:

(1) The word "Warning," "Caution," or "Danger," followed by the words "Gas Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least one inch high with one-quarter inch stroke.

(2) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(e) Markers at navigable waterways. Each line marker at a navigable waterway must have the following characteristics:

(1) A sign, rectangular in shape, with a narrow strip along each edge colored international orange and the area between lettering on the sign and boundary strips colored white.

(2) Written on the sign in block style, black letters—

(i) The word "Warning," "Caution," or "Danger," followed by the words "Do Not Anchor or Dredge" and the words "Gas Pipeline Crossing"; and

(ii) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

(3) In overcast daylight, the sign is visible and the writing required by paragraph (e) (2) (1) of this section is legible, from approaching or passing vessels that may damage or interfere with the pipeline.

(f) *Existing markers.* Line markers installed before April 21, 1975, which do not comply with paragraph (d) or (e) of this section may be used until January 1, 1980.

(Sec. 3, Natural Gas Pipeline Safety Act of 1968 (49 USC 1672); § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the re-delegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1))

Issued in Washington, D.C., on March 21, 1975.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.75-7917 Filed 3-26-75;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected Revised SO No. 1207]

PART 1033—CAR SERVICE

Lehigh Valley Railroad Company (Robert C. Haldeman, Trustee) Directed To Operate Certain Portions of Lehigh and New England Railway Company

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 17th day of March, 1975.

It appearing, That the Lehigh and New England Railway Company (LNE) has notified the Commission that, on or before January 24, 1975, it will be unable to transport the traffic offered it because its cash position makes continued operation impossible; and that, accordingly, the LNE has placed its embargo No. 1-75 against all traffic, effective January 7, 1975;

It further appearing, That the imminent cessation of all transportation services by the LNE constitutes an emergency situation such as that contemplated by section 1(16) (b) of the Interstate Commerce Act (49 U.S.C. 1(16)), as amended, by section 601(e) of the Regional Rail Reorganization Act of 1973 (P.L. 93-236); and that section authorizes the Commission under certain prescribed conditions, to direct a carrier or carriers by railroad to perform essential transportation services which another carrier is no longer able to perform;

It further appearing, That the legislative history to section 1(16) (b) indicates that its purpose is to assure the continuance of essential rail service for a period of sixty days, or in extraordinary circumstances for an extended period not to exceed 240 days, in the event that a railroad is required to cease operation under conditions described in the Act; and that such authority was in-

tended as an interim emergency measure and not as a permanent solution;

It further appearing, That in determining whether the LNE should be operated pursuant to the authority of section 1(16) (b) and in its planning therefore, the Commission, consistent with Congressional intent and the provisions of the Emergency Rail Services Act of 1970 (45 U.S.C. 661), has coordinated its activities with the Department of Transportation and has been in consultation with representatives of the United States Railway Association, among others;

It further appearing, That the Commission has determined that based upon the statute and the directives contained in the legislative history of section 1(16) (b) of the Act, the operation of the lines of the LNE is necessary and such operation is in the public interest; that the Commission considered many factors, including but not limited to: the transportation requirements of the patrons of the LNE, the economic impact of a discontinuance of service, the amount of originating and terminating traffic on individual lines, transportation requirements of connecting carriers, condition of track, alternative carriers and transportation modes, and net operating revenues attributable to individual lines; and that, the Commission should direct a carrier to operate over the lines of the LNE;

It further appearing, That the Lehigh Valley Railroad Company (Robert C. Haldeman, Trustee) (LV) should be directed to provide the services herein determined to be essential in the public interest, which were formerly performed by the LNE, because, among other things, the LV's proximity to the lines of the LNE, the volume of the traffic LNE interchanges with the LV, its familiarity with the operation of the LNE and its willingness and ability to perform the services required for shippers;

It further appearing, That the performance of the operations directed herein will not substantially impair the LV's ability adequately to serve its own patrons or to meet its outstanding common carrier obligations; that the performance of the directed operation should not violate the provisions of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421);

It further appearing, That in light of the emergency situation which would result from a cessation of all transportation service by the LNE, public notice and hearings are impractical and not required by the procedures set forth in section 1(15) of the Act; that the public interest requires the continuation of operation over certain lines of the LNE by the LV for a period of operation of 150¹ days as provided by section 1(16) (b) of the Act; and that good cause exists for making this order effective upon the date served;

It further appearing, That the LV is presently a railroad in reorganization under section 77 of the Bankruptcy Act

¹ Correction.

(11 U.S.C. 205) subject to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania; and that, accordingly, approval of said court may be necessary for the implementation of this order; and

It further appearing, and the Division so finds, that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969;

It further appearing, and the Division so finds, that cessation of service by the LNE would have serious economic consequences not only to the patrons of the LNE but also to the communities located within the area; and for good cause appearing therefore:

§ 1033.1207 Service Order No. 1207.

(a) *Lehigh Valley Railroad Company (Robert C. Haldeman, Trustee) Directed To Operate Certain Portions of Lehigh and New England Railway Company.* It is ordered, That the Lehigh Valley Railroad Company, debtor (Robert C. Haldeman, Trustee), be, and it is hereby directed to enter upon the railroad properties presently operated by the Lehigh and New England Railway Company, except the Tamaqua branch, extending between Tamaqua, Pennsylvania, and Hauto, Pennsylvania, and to operate such railroad and facilities subject to any necessary approval of the reorganization court of the United States District Court for the Eastern District of Pennsylvania, for the purpose of handling, routing, and moving the traffic of the Lehigh and New England Railway Company in accordance with the lawful instructions of shippers and consignees and in compliance with the rules and regulations of the Commission, and subject to the rates and charges prescribed in tariffs lawfully published and filed in accordance with law and applicable to freight traffic transported over the lines of the Lehigh and New England Railway Company; commence on or before 12:01 a.m., January 24, 1975, and shall continue for a period of 150 days, unless such period is reduced by order of the Commission or unless further extended by order of the Commission, for cause shown, for an additional designated period; and that a certified copy of the order of the court authorizing the Lehigh Valley Railroad Company, debtor, to perform the directed service pursuant to the order of the Commission shall be filed with this Commission, with appropriate reference to this proceeding;

(b) *It is further ordered,* That the Lehigh and New England Railway Company shall, on the date of service of this order inform all persons who were given notice of its embargo No. 1-75, that said embargo shall no longer be applicable to service over its lines;

(c) *It is further ordered,* That the Lehigh Valley Railroad Company, debtor, shall (1) collect all revenues attributable to the handling, routing, and movement of freight traffic including all agents' and conductors' accounts and all