

PI-82-0102

February 1, 1980

Mr. Duane M. Swinton
Witherspoon, Kelley, Davenport & Toole
Attorneys & Counselors
11th Floor Old National Bank Building
Spokane, Washington 99201

Dear Mr. Swinton:

This letter is in reply to your letter dated August 2, 1979, requesting an interpretation of Sections 195.248 and 195.410.

The enclosed pipeline safety regulatory interpretation gives the information you requested. Although we find that the sign markings are not in compliance with Section 195.410, another office within the Materials Transportation Bureau, the Office of Operations and Enforcement, is responsible for enforcing the regulations and any enforcement action that might be taken will come from that office.

Sincerely,
SIGNED
Cesar De Leon
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
MATERIALS TRANSPORTATION BUREAU

PIPELINE SAFETY REGULATORY INTERPRETATION

Note: A pipeline safety regulatory interpretation applies a particular rule to a particular set of facts and circumstances, and, as such, may be relied upon only by those persons to whom the interpretation is specifically addressed.

SECTION: §195.248 and 195.410

SUBJECT: Cover over buried pipeline and wording of pipeline marker.

FACTS: As given in letter dated August 2, 1979, from Witherspoon Kelley, Davenport & Toole.

"The Chevron Pipeline Company constructed a pipeline in 1950. The line was buried at an unknown depth in loose soil subject to drifting and blowing. At the time of construction, the land was owned by the U.S. Government. The land is currently owned by a private individual who purchased the land in 1964. The pipeline runs parallel to a railroad track and under an unimproved limited access road which is used occasionally by the landowner for access to his field, by the railroad company, and by fishermen for access to a nearby river."

"Recently, a construction company attempted to grade the road to gain better access to a house being constructed on adjacent property. The driver of the construction company's road grader walked along the road and saw the marker of Chevron Pipeline Company."

"The sign was approximately 8 1/2 inches high by 13 1/2 inches long and consisted of words in blue letters with an orange background. The words 'Notice Petroleum Pipelines' were on the sign in all capital letters one inch high. Below the words 'Notice Petroleum Pipelines' were the words 'Before Digging in this Vicinity call collect Chevron Pipeline Company 801-359-3098, Salt Lake City, Utah' in letters approximately 1/2 inch high."

"The driver of the grader did not call the number as instructed on the sign. Had he called the dispatcher in Salt Lake City, the dispatcher would have notified the area supervisor who is then instructed to send Chevron personnel to the location where the construction is to occur to locate the lines for digging. Because the dispatcher was not called, the line was ruptured by the road grader, resulting in extensive damage to the neighboring farm and loss of Chevron fuel product. Following the accident, it was determined that the road grader had removed approximately one to two feet of soil from above the ruptured pipeline before striking it."

Question: Is the cover over the buried line in compliance with 195.248 and is the wording on the pipeline marker in compliance with 195.410? Are these the first Federal regulations adopted concerning these matters?

Interpretation: Compliance with 195.248 is not required because this section applies only to pipelines constructed after October 4, 1969, whereas the pipeline was constructed in 1950. The sign markings do not contain the word "Warning" and are, therefore not in compliance with 195.410. These are the first Federal regulations adopted concerning these matters.

SIGNED
Cesar De Leon
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

January 23 1970

Mr. William V. Bud Porter
President
The Porter Company
New Braunfels, Texas 78130

Dear Mr. Porter:

This is in answer to your letter of December 15, 1969, requesting clarification of Section 195.410 of the Department of Transportation's Hazardous Materials Regulations. Specifically, your question involved markers at navigable waterway crossings and whether on such markers all lettering must be 12 inches high with a stroke of approximately 1 3/4 inches or just the lettering in the words "Do Not Anchor or Dredge."

Markers located at navigable waterway crossings must contain all of the information required on other markers, and in addition, must contain the words "Do Not Anchor or Dredge." The intent of Section 195.410 is that just the words "Do Not Anchor or Dredge" be of lettering not less than 12 inches high with an approximate stroke of 1 3/4 inches. All other lettering required by Section 195.410 on markers at navigable watering crossings including the name of the carrier and telephone number must be at least 1 inch high with an approximate stroke of 1/4 inch

Sincerely
Joseph C. Caldwell
Deputy Director
Mine of Pipeline Safety

Mr. Clint McClure, Project Manager
Resource Sciences Center
6600 S. Yale Avenue
Tulsa, Oklahoma 74136

Dear Mr. McClure:

This letter is in response to your inquiry dated August 7, 1978, regarding interpretation of the term "navigable waterway" as it appears in Section (a) (2) of paragraph 195.410.

Navigable waters or waterways include those waterways which have h6ett designated as being navigable by Part 2 of Title 33 of the Code of Federal Regulations.

The term "navigable waters of the United States" is defined in Subpart 2.10-5 of 33 CFR where it states that.

". . . navigable waters of the United States shall be construed to mean those waters of the United States, including the territorial seas adjacent thereto, the general character of which is navigable and which either by themselves or by uniting with other waters, form a continuous waterway on which boats or vessels may navigate or travel between two or more States, or to or from foreign nations . . ."

If we can be any further assistance, please advise.

Sincerely,
Cesar De Leon
Associate Director for
Pipeline Safety Regulations
Materials Transportation Bureau

June 20, 1978

Mr. G. V. Rohleder
Mid-America Pipeline System
1800 South Baltimore Avenue
Tulsa, Oklahoma 74119

Dear Mr. Rohleder:

This is in further response to your letter of November 28, 1977, requesting a waiver of compliance with the requirements of 49 CFR 195.410, regarding line markers for four river crossing. (Docket No.,78-1).

We have reviewed your request in light of the Section 195.410 requirements governing markers at river crossings. Section 195.410 (a) (1) requires that markers be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known. That section does not specifically require that a carrier install line markers at navigable or other waterway crossings. If markers are necessary at the four river crossings in order that the location of the pipeline is accurately known, then a waiver of the requirements of Section 195.410(a) (2) would be required for not installing "Do Not Anchorage or Dredge" signs at these streams.

Since your waiver request may be unnecessary, we will withhold action on your request pending your advising us if such a request is necessary.

Sincerely,

SIGNED

Cesar De Leon
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

October 7, 1974

Mr. Clarence J. Yablonski
Director of Safety
Sun Pipe Line Company
General Washington Building
216 Goddard Boulevard
King of Prussia, PA 19406

Dear Mr. Yablonski:

This responds to your letter of June 21, 1974, concerning the practice of marking pipelines installed in a common trench. You state that four pipelines (both liquid and gas pipelines) are in the trench which varies in width from 6 to 10 feet. Currently, markers are installed at each edge of the trench so that a pipeline is no more than 5 feet away from a marker. You ask whether this practice complies with 49 CFR 195.410.

Section 195.410(a) requires carriers to place and maintain line markers "over each" buried liquid line at certain locations. From the information you have provided, it is unclear whether a marker is "over each" liquid line. The only pipelines which would be marked as required are the ones at each side of the trench, but you do not state whether these lines carry liquid or gas. Any liquid line which lies in between the pipelines at each side of the trench does not have a marker over it, and consequently, is not marked in accordance with section 195.410(a).

Moreover, neither the existing nor the proposed line marking, signs display the word "petroleum" or name the commodity transported, as required by §195.410(a)(2).

With respect to the gas pipelines in the trench, placement of the markers as you have described is in accordance with 49 CFR 192.707, presuming the gas pipelines are transmission lines. You should note, however, that this rule is the subject of a notice of proposed rulemaking published in the Federal Register on May 25, 1972, a copy of which is enclosed. As a result of this proceeding, we expect to revise section 192.707 in the near future. If a final rule is adopted as proposed, a line marker would be required over each gas main or transmission line, similarly as required for liquid lines. Also, the words "Warning Gas Pipeline" would be required on each line marking sign. This latter proposed requirement should be of concern to you because neither your current signs nor the signs you intend to purchase bear the word "gas."

We appreciate your concern for pipeline safety.

Sincerely,
SIGNED
Joseph C. Caldwell
Director
Office of Pipeline Safety

January 10, 1973

M. W. A. Elliott
Senior Vice President
Williams Brothers Pipeline Company
P.O. Drawer 3448
Tulsa, Oklahoma 74101

Dear Mk. Elliott:

This refers to your correspondence dated December 4, 1972, concerning pipeline markers at the residence of Stephen P. and Evelyn V. Stimac.

With exceptions not here pertinent, Section 195.410(a) specifically provides that a marker shall be placed ". . . over each buried line. . ." Therefore, you are correct in your interpretation. When we stated in our previous letter that the Federal regulations on line markers afford necessary flexibility to the carrier in his method of compliance, we had reference to such things as vertical positioning, overall size, or height of markers which are not wavered by the regulations. We were not suggesting that you develop a marking policy that did not comply with Section 195.410. The safety objective will not be met if you are allowed to mark multiple lines with only one line marker. Therefore, we do not agree that using a single marker over multiple lines in residential areas such as the Stimacs' is an acceptable solution.

In our previous letter we referenced the API publication for marking liquid pipelines. In this publication API recognized that different type markers could be used and suggested some alternatives for the operators' consideration.

Please review your policy for marking pipelines in residential areas. We suggest that you consider developing a marking policy that would be more satisfactory to the property owners and still comply with Section 195.410.

If we may be of any further assistance to you in this matter, please advise.

Sincerely,
SIGNED
Joseph C. Caldwell
Director
Office of Pipeline Safety

Santa Fe industries, Inc.
224 S. Michigan Ave
Chicago, Illinois 60604

May 11, 1982

Mr. Melvin A. Judah
Acting Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau
United States Department of Transportation
400 Seventh Street, N.W.
Washington, D.C. 20590

Dear Mr. Judah:

Thank you for the copies of the six interpretations previously made of 49 CFR 195.410, sent to me under date of May 6, 1982.

In order to assist us in reviewing these interpretations, may we please ask for copies of the letters to which those interpretations are responsive, in particular the letter dated August 2, 1979, from Mr. Duane M. Swinton; the letter dated January 23, 1980, from Mr. William V. Bud Porter; the letter dated August 7, 1978, from Mr. Clint McClure; the letter dated November 28, 1977, from Mr. G. V. Rohleder; the letter dated June 21, 1974, from Mr. Clarence J. Yablonski; and the letter dated December 4, 1972, from Mr. W. A. Elliott.

We are interested in obtaining a description of the specific fact situation underlying each interpretation. To that end, then, we would have no objection to your deleting from those letters any information which does not pertain to the fact situation under review, Again, thank you very much.

Sincerely,
Kurt E. Vragel, Jr.
Assistant General Attorney

May 6, 1982

Mr. Kurt E. Vragel, Jr.
Assistant General Attorney
Santa Fe Industries, Inc.
224 S. Michigan Avenue
Chicago, Illinois 60604

Dear Mr. Vragel:

In response to your letter of April 7, 1982, I have enclosed copies of six interpretations previously made of 49 CFR 195.410.

Sincerely,
SIGNED
Melvin A. Judah
Acting Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

Santa Fe Industries, Inc.
224 S. Michigan Ave.
Chicago, Illinois 60604

April 7, 1982

Mr. Judah
Office of Pipeline Safety Regulation
Room 8423
Department of Transportation
Nassif Building
400 - 7th Street, S.W.
Washington, D.C. 20590

Dear Mr. Judah:

Would you please send me copies of all interpretations, made by the Department of Transportation, of the pipeline marking section of the hazardous liquids pipeline transportation safety regulations, 49 C.F.R. 195.410. We will pay any costs involved; please advise me by telephone at 312/347-3119 of any such costs. Thank you very much.

Sincerely,
Kurt E. Vragel, Jr.
Assistant General Attorney