

location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 27, 1983.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 83-14999 Filed 6-3-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdt. Nos. 192-44 and 195-27; Docket No. PS-69]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipeline; Line Marking at Navigable Waterways

AGENCY: Materials Transportation
Bureau (MTB), RSPA, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations that require pipeline operators to place and maintain line markers at locations where gas and hazardous liquid pipelines cross navigable waterways. The current regulations are considered costly and unnecessary for safety in light of requirements and practices of the U.S. Army Corps of Engineers and voluntary practices of the pipeline industry.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. L. M. Furrow, (202) 426-2392, regarding the content of this notice, or the Dockets Branch, (202) 426-3148, regarding copies of this notice or other information in the dockets.

SUPPLEMENTARY INFORMATION:

Background

Line markers (or signs) historically have been installed by gas and hazardous liquid pipeline companies at navigable waterway crossings to warn vessel pilots of the presence of underwater pipelines. The objective of this practice is to reduce the possibility that underwater pipelines will be damaged by activities such as anchoring, dredging, pile driving, spud mooring, or by collision at the shoreline. A version of this voluntary practice became mandatory for hazardous liquid

pipelines when § 195.410, Line markers, was adopted in 1970 (34 FR 15473). Later, the standards in § 192.707 for marking gas pipelines were amended in 1975 (40 FR 13502) to, among other things, establish specific, detailed requirements for marking mains and transmission lines at navigable waterway crossings.

Although the term "navigable waterway" is not defined in either the gas or liquid regulations, MTB has interpreted it in a manner consistent with the U.S. Coast Guard's application of the term. This application has been recently expanded, however, by statutes and court decisions to include waters where there is little or no likelihood that marine activities will damage pipelines. For instance, markers would not be very useful for protecting crossings of minor streams that, although "navigable," have no vessel traffic and no likelihood of being dredged.

Another problem with both the gas and liquid line marking regulations is the difficulty and impracticality of installing warning signs at the shore that are large enough to be seen from passing vessels. Usually as waterways increase in size, so must the signs to provide adequate notice. At some point, aesthetic objections occur.

Review

These problems caused MTB to include §§ 192.707 and 195.410 in its program for reviewing existing regulations, with a view toward revoking or revising those regulations that are not achieving their intended purpose. MTB's review concluded, preliminarily, that despite their longstanding usage, there was no empirical evidence to demonstrate the effectiveness of line markers in reducing the potential for accidents at navigable waterway crossings. It was also obvious that marker benefits, if any, would not likely be available at night or in fog, or far from shore where markers of moderate size could not be seen.

Another finding was that the consequences of accidents that have occurred have not been severe in terms of deaths and injuries. From 1970 through 1979, there were 40 accidents reported on gas pipeline crossings caused by marine activities, resulting in no deaths and four injuries. Between 1968 and 1977, there were only 16 marine-activity related accidents on liquid pipelines, and no deaths or injuries were reported.

Finally, even in the absence of a complete cost study, information supplied by the Tennessee Gas Pipeline Company and East Tennessee Natural Gas showed that compliance with the

existing requirements for water crossings that might be classed as navigable is very costly for the industry.

To complete its review of the regulations that require placement of line markers at navigable waterway crossings, MTB issued an Advance Notice of Proposed Rulemaking (ANPRM) on June 17, 1981 [46 FR 32287; June 22, 1981], inviting comments on the problem of interference with underwater pipeline crossings, the benefits of installing line markers at these crossings, and the size and costs of markers to be used.

The ANPRM set forth five alternative courses of action to deal with the line marker problem. Of these, Alternatives 2 and 4 received the most favorable responses. These alternatives were as follows:

Alternative 2. "Require line markers only at crossings of rivers or other bodies of water which carry potentially damaging vessels or where channel dredging and commercial dredging [such as oyster shell dredging] is commonly performed, but place a reasonable limit on the size of signs."

Alternative 4. "Revoke the present requirements for line markers at navigable waterways. In this case, safety would be regulated by other existing Department of Transportation requirements, such as depth of burial, by "one-call" damage prevention programs, or by Coast Guard and Corps of Engineer requirements. . . ."

Notice of Proposed Rulemaking

After considering the comments on the ANPRM, MTB issued a Notice of Proposed Rulemaking concerning line markers at navigable waterways [48 FR 2987; January 24, 1983]. In this notice, MTB gave its reasons for rejecting Alternative 2 and proposing to adopt Alternative 4. The reasons in regard to Alternative 2 were as follows:

MTB is not persuaded by the respondents who favored Alternative 2 that there should be a Federal pipeline safety requirement for placement of line markers at particular waterways. The waters to which the respondents would apply such a requirement, ones where damage to pipelines is most likely to occur, are the same ones they stated they would continue to mark in the absence of any Federal pipeline safety requirement. Indeed, the Regulatory Evaluation indicates that in high traffic locations, it is cost beneficial to install line markers, giving credence to the industry comments that line markers will be voluntarily installed where appropriate. MTB does not believe that it should require by regulation that which industry largely does on its own initiative, particularly when the failure to act voluntarily would not measurably threaten public safety.

Another consideration regarding Alternative 2 is that the Corps of Engineers and the Coast Guard also have regulations which affect the safety of pipelines crossing navigable waterways.

The Corps of Engineers and National Ocean Survey of the Department of Commerce produce charts for purposes of navigation on U.S. waterways. Submarine cables and pipelines are shown on these charts, based on information furnished by the Corps as set forth in 33 CFR 209.310 and 209.325 (g), (h), and (i). Also, information about pipelines which affect navigation is published in Notices to Mariners, a Coast Guard and Department of Commerce publication, and in the U.S. Coast Pilot Monthly, another government sponsored publication, both of which are available to mariners. The U.S. Coast Guard requires vessels of 1,600 gross tons and up operating on the navigable waters of the U.S. to carry current government charts, coast pilots, and Notices to Mariners (33 CFR 164.33). Thus, information about pipeline crossings that could affect navigation is available on charts and publications to pilots of all vessels, and required to be kept on vessels with sufficient capacity to damage pipelines.

Moreover, the Corps of Engineers has authority under Sec. 10 of the River and Harbor Act of 1899 to regulate and grant permits for pipeline crossings of navigable waters of the United States and for dredging of other construction activities that might interfere with such crossings. The regulations which apply to the issuance of permits are in 33 CFR Parts 320 through 330.

The Corps of Engineers' policies for review of applications for Department of Army permits include a public interest review (33 CFR 320.4). All factors which may be relevant to a proposed crossing are considered, among which are navigation, safety, and in general, the needs and welfare of the people. Comments on the ANPRM from the Corps stated that the need for line markers is also part of this review. No permit is granted unless its issuance is found to be in the public interest.

Thus, the Corps not only furnishes information about pipeline crossings that is used by mariners, but also conducts a case-by-case review of the safety of pipeline crossings of navigable waters, including the need for line markers. Furthermore, after a crossing is constructed, the Corps' permitting program in regard to dredging and marine construction activities serves to protect the crossing against damage. It follows, therefore, that the present requirements of §§ 192.707 and 195.410 for marking navigable waterway crossings are to a large extent unnecessary in light of the Corps of Engineers' practices.

The reasons for selecting Alternative 4 were as follows:

After reviewing all the comments and considering other information available, MTB does not believe that its current requirements for placing line markers at navigable waterway crossings are justified. In short, MTB believes that because of their location, there is little risk of damage to underwater pipelines, and most of the incidents to underwater pipelines that do occur expose

very few members of the general public to danger. Moreover, there is insufficient evidence to show that line markers have had any effect in preventing damage to underwater pipelines and such quantitative information appears unobtainable.

A major factor related to the lack of need for Federal regulations is MTB's belief, as supported by the comments, that most operators will voluntarily install and maintain line markers at crossings where they consider line markers to be helpful. Clearly, it is unnecessary for MTB to require by Federal regulations what industry can and will do in the absence of Federal regulations.

Another very important consideration involves the requirements and practices of the Corps of Engineers regarding issuing permits for pipeline crossings, dredging, and other construction activities in navigable waterways and the information provided mariners about pipeline crossings. The Corps' permitting and informational programs protect the public not only in regard to hazards to navigation, but also against risks posed by interference with underwater pipelines by vessels, dredging, or other water-use activity.

Discussion of Comments

There were 34 persons who submitted comments on the Notice of Proposed Rulemaking. They included public utility companies, gas and liquid transmission companies, State agencies, industry trade associations, a maritime association, and Federal agencies.

Twenty-five of these commenters supported the proposed rulemaking categorically. Of this group, some acknowledged they previously were proponents of Alternative 2, but were persuaded by the notice that Alternative 4 is a better choice.

Both §§ 192.707 and 195.410 provide, in general performance terms, that line markers must be installed where necessary to identify the location of a pipeline. To assure that this general provision could not be construed to apply to navigable waterway crossings, MTB proposed to amend paragraph (b) of each rule to add "navigable waterways" to the list of situations in which markers are not required. A few commenters pointed out, however, that use of the term "navigable waterways" without a definition would be confusing because the exclusion would not apply to all waterways. Inasmuch as the rationale for not requiring markers at navigable waterways applies equally, or even more so, to waterways that are not navigable, there is no valid reason why the regulations should imply that some nonnavigable waterway crossings should be marked. Therefore, in the final rules, the words "navigable waterways" are deleted from paragraph (b), but replaced by the words "waterways and other bodies of water". Hence, no one

may infer that markers are required at any waterway or other body of water.

Four commenters opposed the proposal to revoke the current regulations: the U.S. Coast Guard, the National Transportation Safety Board, the New York State Public Service Commission, and the West Gulf Maritime Association. They argued in favor of Alternative 2, which was to require markers at waterways with potentially damaging vessel traffic. Some of the supporting statements advanced were that in emergencies pilots would not have time to consult charts before dropping anchor, and it is unrealistic to assume that the voluntary placement of signs would provide satisfactory protection. The U.S. Coast Guard said that pipeline markers are more effective than charts. The National Transportation Safety Board added that waterway markers have the benefit of warning shoreside excavators of the presence of buried pipelines. Yet, none of these commenters submitted any hard data regarding the benefits of existing line markers at navigable waterway crossings. For example, even though the proposal did not rest on the assumption that pilots would consult charts instead of line markers during an emergency, no information was presented to show how markers have helped to prevent accidents in an emergency. Since the benefits of waterway markers remain a matter of conjecture, and the historical practices of industry and the Corps of Engineers appear to provide sufficient safeguards against vessel damage and dredging, the primary threats to underwater pipelines, MTB's line marking regulations on the subject cannot be justified. The general linemarking requirements will continue to protect against shoreside excavation activities that do not affect waterways but might interfere with a buried pipeline. Also, "one call" damage prevention programs (e.g., § 192.614) will protect against damage from onshore excavation activities.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 USC 1673(b)), requires that each proposed amendment to a safety standard established under that statute be submitted to a 15-member advisory committee for its consideration. The committee, composed of persons knowledgeable about the transportation of gas, considered the proposed amendment to § 192.707 at a meeting in Washington, D.C., on November 16 and 17, 1982.

In its report, dated January 14, 1983 (a copy of which is in the docket), the committee found the proposed amendment, as set forth in a draft of the Notice of Proposed Rulemaking, to be technically feasible, reasonable, and practical provided (1) the words "or at crossings of" in the proposed paragraph (b)(1) were deleted, and (2) the heading of paragraph (d) was changed to read "Marker." The second of these recommended revisions was included in substance in the published Notice of Proposed Rulemaking. The first was not adopted, however, in either the notice or this final rule because MTB does not concur with the committee's rationale for the change. The committee thought the express exclusion of waterway crossings from the marker regulations (by adding "or at crossings of" to the existing paragraph (b)) would serve to deter voluntary installation of markers, and also, not permit use of the general duty provision in paragraph (a) (discussed above) as a shield against persons who might object to the voluntary installation of waterway markers on aesthetic grounds. As discussed above, MTB has left the exclusion in the final rule to avoid any implication that the general duty provision requires waterway markers in some locations and to avoid the associated interpretive difficulties. Pipeline companies have historically installed markers at waterway crossings. MTB doubts, based on the comments of operators in the record, that a clear Federal statement that markers are no longer mandatory in these locations will cause companies to change their long-standing policies. As to the protection a Federal rule might give companies against opponents of waterway markers, providing such defenses is certainly not an authorized purpose of rulemaking when a rule cannot otherwise be justified. In addition, MTB believes that most objections to signs in the past have arisen because of the oversized signs companies have had to erect to comply with § 192.707 at wide navigable waterways. A more judicious approach to choosing sign sizes should result in few, if any, objections in the future.

Likewise, Section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC 2003(b)) requires that the proposed amendment to § 195.410 be submitted for consideration by a 15-member advisory committee composed of persons knowledgeable about the transportation of hazardous liquids. The committee considered the proposed amendment at a meeting in Washington, D.C., on December 7-8, 1982. In its

report, dated March 9, 1983 (a copy of which is in the docket), the committee found the proposed amendment, as set forth in a draft of the Notice of Proposed Rulemaking, to be technically feasible, acceptable, and reasonable.

Classification

This final rule is not a "major rule" under Executive Order 12291. The Order defines a "major rule" as one which would have an annual effect on the economy of \$100 million or more, a major increase in costs, or a significant adverse effect on the economy. As shown by the Regulatory Evaluation for this proceeding, this final rule does not have such an impact. This final rule also is not a "significant" rule as defined by the Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 USC 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations and governmental bodies. I certify that the final rule will not have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects.

List of Subjects

49 CFR Part 192

Pipeline safety.

49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

Therefore, for reasons set out in the preamble, MTB amends 49 CFR Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. Section 192.707 is amended by revising paragraphs (a) and (b) and the introductory text of paragraph (d) to read as follows, and by removing paragraphs (e) and (f):

§ 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 and railroad; and

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

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

(1) Located offshore or at crossings of or under waterways and other bodies of water; or

(2) In Class 3 or Class 4 locations—

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

(ii) Where a damage prevention program is in effect under § 192.614.

* * * * *

(d) *Marker warning.* The following must be written legibly on a background of sharply contrasting color on each line marker:

* * * * *

(49 U.S.C. 1672; 49 CFR 1.53 and Appendix A of Part 1)

PART 195—[AMENDED]

2. Section 195.410 is amended by revising the introductory text of paragraphs (a) and paragraph (a)(2) and (b) to read as follows, by removing paragraph (c), and by redesignating paragraph (d) as paragraph (c):

§ 195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

* * * * *

(2) The marker must state at least the following: "Warning" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline" (in lettering at least 1 inch high with an approximate stroke of one-quarter inch on a background of sharply contrasting color), the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

(b) Line markers are not required for buried pipelines located—

(1) Offshore or at crossings of or under waterways and other bodies of water; or

(2) In heavily developed urban areas such as downtown business centers where—

(i) The placement of markers is impracticable and would not serve the purpose for which markers are intended; and

(ii) The local government maintains current substructure records.

* * * * *

(49 U.S.C. 2002; 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on May 27, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-14868 Filed 6-3-83; 8:45 am]

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-14; Notice 7; Docket No. 71-18; Notice 12]

Safety Standards for New Pneumatic Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendment.

SUMMARY: In this agency's safety standards applicable to new pneumatic tires for use on motor vehicles, there are listings of standardization organizations whose publications of specifications are accepted under the standards as means for determining appropriate rim sizes on which to mount the tires during testing, and for providing other technical data. This agency has received two petitions requesting changes to these listings. The Society of Motor Manufacturers & Traders Ltd. (SMMT) stated that they no longer set or maintain standards for new tires, and that those functions are now handled for the group by the British Standards Institution, a group already listed in both new tire standards. SMMT requested that their name be deleted from the list of standardization organizations in the new tire standards. Japan Automobile Tire Manufacturers' Association, Inc. (JATMA) asked that the name of the Japanese group currently listed in the standard for new tires for use on motor vehicles other than passenger cars be deleted, because that group does not issue specific tire standards. JATMA, which does issue such standards, asked that its name be added to the list of standardization organizations. This notice makes the changes requested by these petitions. Additionally, this notice corrects an error in the name of the German standardization organization in the passenger car tire standard.

DATE: This amendment is effective June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: Section S4.4.1(b) of Standard No. 109, *New Pneumatic Tires—Passenger Cars* (49 CFR 571.109), and section S5.1(b) of Standard No. 119, *New Pneumatic Tires for Motor Vehicles Other Than Passenger Cars* (49 CFR 571.119), both contain listings of the various standardization organizations. A standardization organization is a voluntary association composed of representatives of each of the member tire companies. The purpose of a standardization organization is to establish and promulgate engineering standards for tires, rims, and their allied parts. NHTSA relies on the standardization organizations to list the acceptable rim sizes for each tire size and for certain technical information regarding the tire sizes.

Two petitions recently submitted to the agency indicate that these listings of standardization organizations need to be updated in order to reflect the current status of standardization activities. In the first petition, SMMT stated that it no longer performs any of the tasks associated with standardization organizations, and that those activities are now performed for SMMT by the British Standards Institution, a group already listed in both standards. Accordingly, SMMT requested that its name be deleted from the list of standardization organizations.

In the second petition, JATMA noted that the group currently listed in Standard No. 119 as the Japanese standardization organization is Japanese Industrial Standards. JATMA noted that that organization is an organization for all Japanese industries, not just the Japanese tire industry, and does not currently perform the functions associated with a standardization organization. JATMA does perform those functions, and is so recognized in Standard No. 109, which no longer lists Japanese Industrial Standards. JATMA requested that Standard No. 119's list of standardization organizations be amended to correspond to the listing in Standard No. 109 with regard to the Japanese standardization organization.

Both of these petitions are granted. Additionally, the agency erroneously listed the German standardization organization as the Deutsches Institut für Norming in its response to the

petitions for reconsideration of the final rule deleting the tire tables from Standard No. 109 (47 FR 36180; August 19, 1982). The correct name for that organization, and the name which has been used in all previous agency rulemaking notices referring to that standardization organization, is Deutsche Industrie Norm. The correct name is substituted in Standard No. 109 by this amendment.

These changes represent only technical corrections to the agency's listing of recognized standardization organizations. They impose no obligations on any party, but only accommodate the wishes of the listed organizations or correct an error by this agency. Accordingly, the agency finds for good cause that notice and opportunity for comment are unnecessary, and these changes are effective as soon as this notice is published.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, section S4.4.1(b) of 49 CFR 571.109 and section S5.1(b) of 49 CFR 571.119 are revised to read as follows:

§§ 571.109 and 571.119 [Amended]

* * * * *

(b) Contained in publications, current at the date of manufacture of the tire or any later date, of at least one of the following organizations:

- The Tire and Rim Association
- The European Tyre and Rim Technical Organisation
- Japan Automobile Tire Manufacturers' Association, Inc.
- Deutsche Industrie Norm
- British Standards Institution
- Scandinavian Tire and Rim Organization

* * * * *

(Secs. 102, 119, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1422); delegation of authority at 49 CFR 1.50)

Issued on May 27, 1983.

Diane K. Steed,
Acting Administrator.

[FR Doc. 83-15031 Filed 6-3-83; 8:45 am]

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