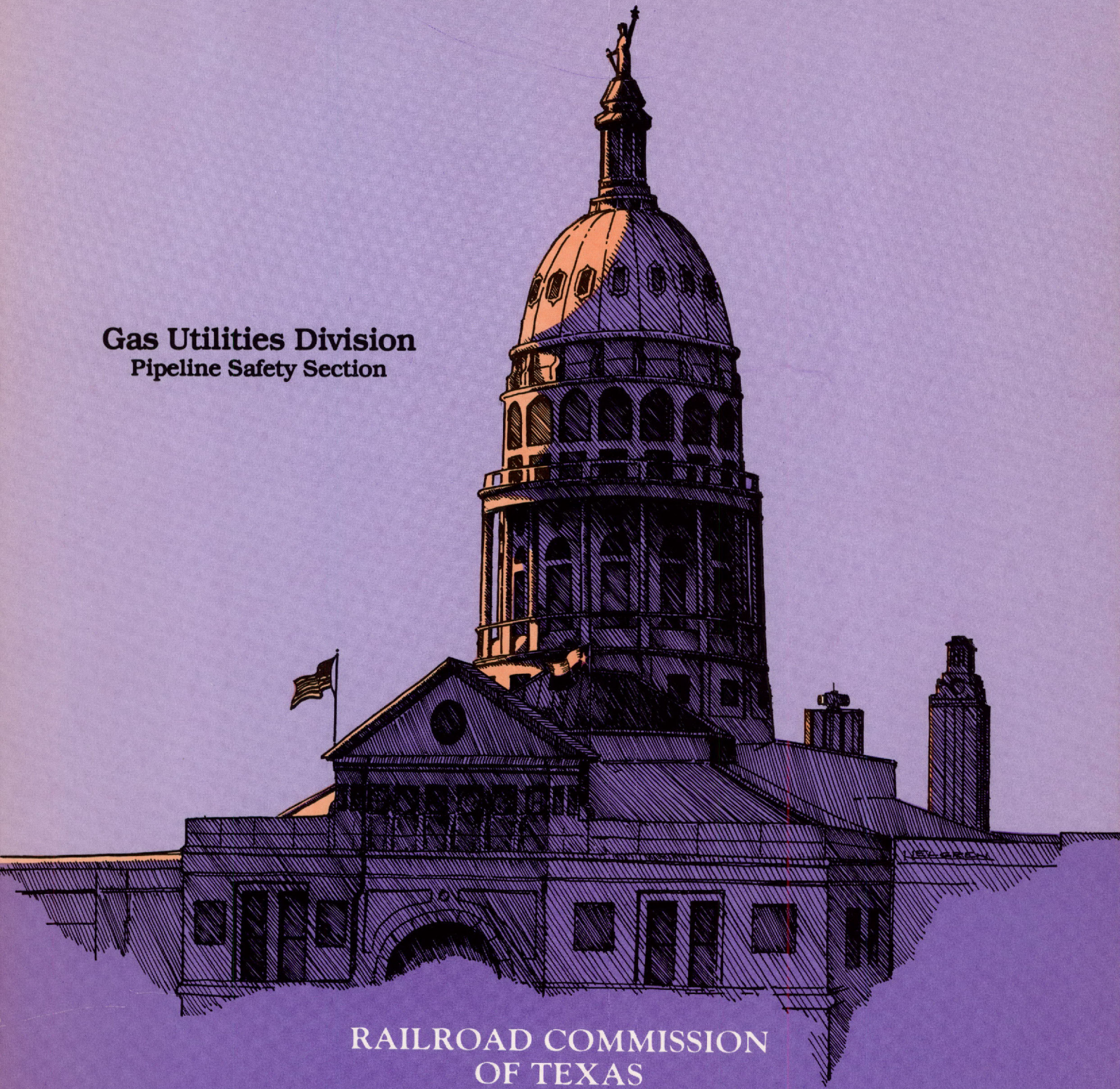


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1986

Hazardous Liquids Pipeline Safety Rules

Gas Utilities Division
Pipeline Safety Section



RAILROAD COMMISSION
OF TEXAS

James E. (Jim) Nugent, Chairman
Mack Wallace, Commissioner
Clark Jobe, Commissioner

Hazardous Liquids Pipeline Safety Rules

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(512) 447-2171

(Refer to Section III of this publication)

Includes Revisions
through September 16, 1985

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Introduction

This publication is a compilation of the state and federal rules, regulations and laws which were enacted to govern the transportation of hazardous liquids by pipeline in Texas. Publications *italicized* in the following text are included in this book.

The Pipeline Safety Act of 1979 amends the *Natural Gas Pipeline Safety Act of 1968*. It was enacted under Public Law 96-129 (5.41); November 30, 1968. **Title II** of this Act establishes the federal regulations governing safety standards for the transportation of hazardous liquids and are set out in **Title 49** of the *Code of Federal Regulations part 195 (49 CFR 195)*. These are minimum standards that must be followed nationwide.

The Texas Natural Resources Code Annotated; Chapter 117 (Vernon Supplement 1985) provides for state adoption of these standards and promulgation of additional standards compatible with **49 CFR 195**. These additional standards are known as **16 T.A.C. §7.61 -§7.68** and were adopted by the Railroad Commission of Texas on September 16, 1985, and became effective October 8, 1985.

These additional standards require **telephonic notification of reportable accidents** to the Commission, submission of **written accident reports on DOT Forms**, filing of Inspection and Maintenance Plans, filing of a Commission generated annual report form and filing of preconstruction reports.

Included in this publication are the Emergency 24 hour telephone numbers, and accident reporting forms. The Annual Report Forms are not available at this time.

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**49 CFR 195 Regulations
for Transportation of Hazardous Liquids
Subpart A—General**

§195.0 SCOPE.

This part prescribes safety standards and accident reporting requirements for pipeline facilities used in the transportation of hazardous liquids.

§195.1 APPLICABILITY.

(a) Except as provided in paragraph (b) of this section, this part applies to pipeline facilities and the transportation of hazardous liquids associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf.

[50 FR 15895, April 23, 1985]

(b) This part does not apply to—

(1) Transportation of a hazardous liquid that is transported in a gaseous state;

(2) Transportation of a hazardous liquid through a pipeline by gravity;

(3) Transportation of a hazardous liquid through pipelines that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe;

(4) Transportation of a hazardous liquid in those parts of an onshore pipeline system that are located in rural areas between a production facility and an operator trunkline reception point;

[50 FR 15895, April 23, 1985]

(5) Transportation of a hazardous liquid 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 further downstream;

(6) Transportation of a hazardous liquid through onshore production, (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities;

[50 FR 15895, April 23, 1985]

(7) Transportation of a hazardous liquid by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between such modes of transportation.

(c) **(REMOVED)**

[50 FR 34470, Aug. 26, 1985]

§195.2 DEFINITIONS.

As used in this part—

“Barrel” means a unit of measurement equal to 42 U.S. standard gallons.

“Breakout tank” means a tank used to (a) relieve surges in a hazardous liquid pipeline system or (b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.

“Component” means any part of a pipeline which may be subjected to pump pressure including, but not limited to, pipe, valves, elbows, tees, flanges, and closures.

“Hazardous liquid” means petroleum, petroleum products, or anhydrous ammonia.

“Highly volatile liquid” or “HVL” means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40 psia) at 37.8° C (100° F).

"Interstate pipeline" means a pipeline or that part of pipeline that is used in the transportation of hazardous liquids in interstate or foreign commerce.

[50 FR 15895, April 23, 1985]

"Intrastate pipeline" means a pipeline or that part of a pipeline to which this part applies that is not an interstate pipeline. [50 FR 15895, April 23, 1985]; [50 FR 38659, September 24, 1985]

"Line section" means a continuous run of pipe between adjacent pressure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station and a block valve, or between adjacent block valves.

"Nominal wall thickness" means the wall thickness listed in the pipe specifications.

"Offshore" means 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.

"Operator" means a person who owns or operates pipeline facilities.

"Person" means any individual firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Pipe" or "line pipe" means a tube, usually cylindrical, through which a hazardous liquid flows from one point to another.

"Pipeline" or "pipeline system" means all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations

and fabricated assemblies therein, and breakout tanks.

"Pipeline facility" means new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of hazardous liquids.

"Secretary" means the Secretary of Transportation or any person to whom he has delegated authority in the matter concerned.

"Specified minimum yield strength" means the minimum yield strength, expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

"Stress level" means the level of tangential or hoop stress, usually expressed as a percentage of specified minimum yield strength.

"Surge pressure" means pressure produced by a change in velocity of the moving stream that results from shutting down a pump station or pumping unit, closure of a valve, or any other blockage of the moving stream.

§195.3 MATTER INCORPORATED BY REFERENCE.

(a) There are incorporated by reference in this part all materials referred to in this part. Those materials are hereby made a part of this regulation. Applicable editions are listed in paragraph (c) of this section in parentheses following the title of the referenced material. Earlier editions listed in previous editions of this section may be used for components manufactured, designed, or installed in accordance with those earlier editions at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier listed editions.

(b) All incorporated materials are available for inspection in the Materials Transportation Bureau, Washington, D.C., and at the Office of the Federal

Register, 1100 L Street, N.W., Washington, D.C. These materials have been approved for incorporation by reference by the Director of the Federal Register. In addition, materials incorporated by reference are available as follows:

(1) American Petroleum Institute (API), 2101 L Street, N.W., Washington, D.C. 20037, or 211 North Eray, Suite 1700, Dallas, Texas 75201.

(2) The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

(3) Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 5203 Leesburg Pike, Suite 502, Falls Church, Va. 22041.

(4) American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018.

(5) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa. 19103.

(c) The full title for the publications incorporated by reference in this part are as follows:

(1) American Petroleum Institute:

(i) API Specification 6D "API Specification for Pipeline Valves," which may be obtained from the Dallas office (1977).

(ii) API Specification 1104 "Standard for Welding Pipe Lines and Related Facilities" (1980).

(iii) API Specification 5L "API Specification for Line Pipe" (1980).

(iv) API Specification 5LS "API Specification for Spiral-Weld Line Pipe" (1980).

(v) API Specification 5LX

"API Specification for High-Test Line Pipe" (1980).

(2) American Society of Mechanical Engineers:

(i) ASME Boiler and Pressure Vessel Code, Section VIII, "Pressure Vessels Division 1" (1977).

(ii) ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications" (1977).

(3) Manufacturers Standardization Society of the Valve and Fitting Industry:

MSS SP-75, Specification for High-Test Wrought Weldings Fittings (1976).

(4) American National Standards Institute:

(i) ANSI B16.9 "Factory Made Wrought Steel Butt-Welding Fittings" (1978).

(ii) ANSI B31.4 "Liquid Petroleum Transportation Piping Systems" (1979).

(5) American Society for Testing and Materials:

(i) ASTM Specification A53 "Standard Specification for Welded and Seamless Steel Pipe" (1979).

(ii) ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (1979b).

(iii) ASTM Specification A134 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Plate Pipe, Size 16 in. and Over" (1974).

(iv) ASTM Specification A135 "Standard Specification for Electric-Resistance Welded Steel Pipe" (1979).

(v) ASTM Specification A139 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe, Sizes 4 inch and over" (1974).

(vi) ASTM Specification A671 "Electric-Fusion-Welded Steel Pipe For Atmospheric and Lower Temperatures" (1977).

(vii) ASTM Specification A672 "Electric-Fusion-Welded Steel Pipe For High Pressure Service at Moderate Temperatures" (1979).

(viii) ASTM Specification A691 "Carbon and Alloy Steel Pipe Electric-Fusion-Welded For High Pressure Service At High Temperatures" (1979).

(ix) ASTM Specification A211 "Standard Specification for Spiral-Welded Steel or Iron Pipe" (1975).

(x) ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (1979).

(xi) ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for High Pressure Transmission Systems" (1979).

[49 FR 36860, September 20, 1984, effective October 22, 1984]

§195.4 COMPATIBILITY NECESSARY FOR TRANSPORTATION OF HAZARDOUS LIQUIDS.

No person may transport any hazardous liquid unless the hazardous liquid is chemically compatible with both the pipeline, including all components, and any other commodity that it may come into contact with while in the pipeline.

§195.5 CONVERSION TO SERVICE SUBJECT TO THIS PART.

(a) A steel pipeline previously used in service not subject to this part qualifies for use under this part if the operator prepares and follows a written procedure to accomplish the following:

(1) The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in a satisfactory condition for safe operation.

(2) The pipeline right-of-way, all aboveground segments of the pipeline, and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline.

(3) All known unsafe defects and conditions must be corrected in accordance with this part.

(4) The pipeline must be tested in accordance with the Subpart E of this part to substantiate the maximum allowable operating pressure permitted by §195.406.

(b) A pipeline which qualifies for use under this section need not comply with the corrosion control requirements of this part until 12 months after it is placed in service, notwithstanding any earlier deadlines for compliance. In addition to the requirements of Subpart F of this part, the corrosion control requirements of Subpart D apply to each pipeline which substantially meets those requirements before it is placed in service or which is a segment that is replaced, relocated, or substantially altered.

(c) Each operator must keep for the life of the pipeline a record of the investigations, tests, repairs, replacements, and

alterations made under the requirements of paragraph (a) of this section.

§195.6 [Reserved]

§195.8 TRANSPORTATION OF HAZARDOUS LIQUIDS IN PIPELINES CONSTRUCTED WITH OTHER THAN STEEL PIPE.

No person may transport any hazardous liquid through a pipe that is constructed after October 1, 1970, of material other than steel unless the person has notified the Secretary in writing at least 90 days before the transportation is to begin. The notice must state the chemical name, common name, properties, and characteristics of the hazardous liquid to be transported and the material used in construction of the pipeline. If the Secretary determines that the transportation of the hazardous liquid in the manner proposed would be unduly hazardous, he will, within 90 days after receipt of the notice order the person that gave the notice, in writing, not to transport the hazardous liquid in the proposed manner until further notice.

§195.10 RESPONSIBILITY OF OPERATOR FOR COMPLIANCE WITH THIS PART.

An operator may make arrangements with another person for the performance of any action required by this part. However, the operator is not thereby relieved from the responsibility for compliance with any requirement of this part.

Subpart B—Accident Reporting

§195.50 SCOPE.

This subpart prescribes rules governing the reporting of any failure in a pipeline system subject to this part in which there is a release of the hazardous liquid transported resulting in any of the following:

(a) Explosion or fire not intentionally set

by the operator.

(b) Loss of 50 or more barrels of liquid.

(c) Escape to the atmosphere of more than five barrels a day of highly volatile liquids.

(d) Death of any person.

(e) Bodily harm to any person resulting in one or more of the following:

(1) Loss of consciousness.

(2) Necessity to carry the person from the scene.

(3) Necessity for medical treatment.

(4) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.

(f) Estimated property damage to the property of the operator or others, or both, exceeding \$5,000.

§195.52 TELEPHONIC NOTICE OF CERTAIN ACCIDENTS.

(a) At the earliest practicable moment following discovery of a release of the hazardous liquid transported resulting in an event described in §195.50, the operator of the system shall give notice, in accordance with paragraph (b) of this section, of any failure that—

(1) Caused a death or a personal injury requiring hospitalization;

(2) Resulted in either a fire or explosion not intentionally set by the operator;

(3) Caused estimated damage to the property of the operator or others, or both, exceeding \$5,000;

(4) Resulted in pollution of any stream, river, lake, reservoir, or other similar body of water that violated applicable water quality standards, caused a discoloration of the surface of the water or adjoining shoreline,

or deposited a sludge or emulsion beneath the surface of the water or upon adjoining shorelines; or

(5) In the judgment of the operator was significant even though it did not meet the criteria of any other paragraph of this section.

(b) Reports made under paragraph (a) of this section are made by telephone to 800-424-8802 (in Washington, D.C., 426-2675) and must include the following information:

(1) Name and address of the operator.

(2) Name and telephone number of the reporter.

(3) The location of the failure.

(4) The time of the failure.

(5) The fatalities and personal injuries, if any.

(6) All other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages.

§195.54 ACCIDENT REPORTING.

Each operator that experiences an accident that is required to be reported under this subpart shall, as soon as practicable but not later than 30 days after discovery of the accident, prepare and file an accident report, on DOT Form 7000-1 or a facsimile, with the Information Systems Manager, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. The operator shall file two copies of each report and shall retain one copy at its principal place of business.

However, reports for intrastate pipelines subject to the jurisdiction of a State agency pursuant to certification under §205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2004) may be submitted in duplicate to that State

agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Systems Manager.

[50 FR 34470, August 26, 1985 effective October 21, 1985]

§195.56 INSTRUCTIONS FOR PREPARING DOT FORM 7000-1.

[deleted FR 34470 August 26, 1985, effective October 21, 1985]

§195.58 CHANGES IN OR ADDITIONS TO ACCIDENT REPORT.

Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1 it shall file a supplemental report within 30 days with the Information Systems Manager, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

However, reports for intrastate pipelines subject to the jurisdiction of a State agency pursuant to certification under §205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2004) may be submitted in duplicate to that State agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Systems Manager.

[50 FR 34470, August 26, 1985 effective October 21, 1985]

§195.60 OPERATOR ASSISTANCE IN INVESTIGATION.

If the Department of Transportation investigates an accident, the operator involved shall make available to the representative of the Department all records and information that in any way pertain to the accident, and shall afford all reasonable

assistance in the investigation of the accident.

§195.62 SUPPLIES OF ACCIDENT REPORT DOT FORM 7000-1.

Each operator shall maintain an adequate supply of forms that are a facsimile of DOT Form 7000-1 to enable it to promptly report accidents. The Department will, upon request, furnish specimen copies of the form. Requests should be addressed to the Information Systems Manager, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

§195.63 OMB CONTROL NUMBER ASSIGNED TO INFORMATION COLLECTION.

The control number assigned by the Office of Management and Budget to the hazardous liquid pipeline information collection requirements of this part pursuant to the Paperwork Reduction Act of 1980 is 2137-0047.

[50 FR 34470, Aug. 26, 1985]

Subpart C—Design Requirements

§195.100 SCOPE.

This subpart prescribes minimum design requirements for new pipeline systems constructed with steel pipe and for relocating, replacing, or otherwise changing existing systems constructed with steel pipe. However, it does not apply to the movement of line pipe covered by §195.424.

§195.101 QUALIFYING METALLIC COMPONENTS OTHER THAN PIPE

[48 FR 30637, July 5, 1983, effective Aug. 4, 1983]

Notwithstanding any requirement of the subpart which incorporates by reference an edition of a document listed in §195.3, a metallic component other than pipe manufactured with any other edition of that document is qualified for use if—

(a) It can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and

(b) The edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in §195.3:

- (1) Pressure testing;
- (2) Materials; and
- (3) Pressure and temperature ratings.

§195.102 DESIGN TEMPERATURE.

Materials for components of the system must be chosen for the temperature environment in which the components will be used so that the pipeline will maintain its structural integrity.

§195.104 VARIATIONS IN PRESSURE.

If, within a pipeline system, two or more components are to be connected at a place where one will operate at a higher pressure than another, the system must be designed so that any component operating at the lower pressure will not be overstressed.

§195.106 INTERNAL DESIGN PRESSURE.

(a) Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P = Internal design pressure in pounds per square inch gauge.

S = Yield strength in pounds per square inch determined in accordance with paragraph (b) of this section.

t = Nominal wall thickness of the pipe in inches. If this is unknown, it is

determined in accordance with paragraph (c) of this section.

D = Nominal outside diameter of the pipe in inches.

E = Seam joint factor determined in accordance with paragraph (e) of this section.

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 subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 900° F (482° C) for any period of time or over 600° F (316° C) for more than 1 hour.

[49 FR 7567, March 1, 1984, effective April 2, 1984]

(b) The yield strength to be used in determining internal design pressure under paragraph (a) of this section is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength is determined by performing all of the tensile tests of either API Standard 5L, 5LS, or 5LX on randomly selected test specimens with the following number of tests:

Pipe size	Number of tests
Less than 6 inches in outside diameter.	One test for each 200 lengths.
6 inches through 12 3/4 inches in outside diameter.	one test for each 100 lengths.
Larger than 12 3/4 inches in outside diameter	One test for each 50 lengths.

If the average yield-tensile ratio exceeds 0.85, the yield strength of the pipe is taken as 24,000 p.s.i. If the average yield-tensile ratio is 0.85 or less the yield strength of the pipe is taken as the lower of the

following:

(1) Eighty percent of the average yield strength determined by the tensile tests.

(2) The lowest yield strength determined by the tensile tests.

(c) If the nominal wall thickness to be used in determining internal design pressure under paragraph (a) of this section is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size, and thickness, only 10 individual lengths or 5 percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 20 inches in outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 20 inches or more in outside diameter.

(d) The minimum wall thickness of the pipe may not be less than 87.5 percent of the value used for nominal wall thickness in determining the internal design pressure under paragraph (a) of this section. In addition, the anticipated external loads and external pressures that are concurrent with internal pressure must be considered in accordance with §§195.108 and 195.110 and, after determining the internal design pressure, the nominal wall thickness must be increased as necessary to compensate for these concurrent loads and pressures.

(e) The seam joint factor used in paragraph (a) of this section is determined in accordance with the following table:

Specification	Pipe Class	Seam Joint Factor
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A 106	Seamless	1.00
ASTM A 134	Electric fusion arc welded	0.80
ASTM A 135	Electric resistance welded	1.00
ASTM A 139	Electric fusion welded	0.80
ASTM A 211	Spiral welded pipe	0.80
ASTM A 333	Seamless	1.00
	Welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric-fusion-welded	1.00
ASTM A 672	Electric-fusion-welded	1.00
ASTM A 691	Electric-fusion-welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
API 5LX	Furnace butt welded	0.60
	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
API 5LS	Submerged arc welded	1.00
	Electric resistance welded	1.00
	Submerged arc welded	1.00

The seam joint factor for pipe which is not covered by this paragraph must be approved by the Secretary.

§195.108 EXTERNAL PRESSURE.

Any external pressure that will be exerted on the pipe must be provided for in designing a pipeline system.

§195.110 EXTERNAL LOADS.

(a) Anticipated external loads (e.g., earthquakes, vibration, thermal expansion, and contraction must be provided for in designing a pipeline system. In providing for expansion and flexibility, Section 419 of ANSI B31.4 must be followed.

(b) The pipe and other components must be supported in such a way that the support does not cause excess localized stresses. In designing attachments to pipe, the added stress to the wall of the pipe must be computed and compensated for.

§195.112 NEW PIPE.

Any new pipe installed in a pipeline

system must comply with the following:

(a) The pipe must be made of steel of the carbon, low alloy-high strength, or alloy type that is able to withstand the internal pressures and external loads and pressures anticipated for the pipeline system.

(b) The pipe must be made in accordance with a written pipe specification that sets forth the chemical requirements for the pipe steel and mechanical tests for the pipe to provide pipe suitable for the use intended.

(c) Each length of pipe with an outside diameter of 4 inches or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed.

§195.114 USED PIPE.

Any used pipe installed in a pipeline system must comply with §195.112(a) and (b) and the following:

(a) The pipe must be of a known specification and the seam joint factor must be determined in accordance with §195.106(e). If the specified minimum yield strength or the wall thickness is not known, it is determined in accordance with §195.106(b) or (c) as appropriate.

(b) There may not be any—

(1) Buckles;

(2) Cracks, grooves, gouges, dents or other surface defects that exceed the maximum depth of such a defect permitted by the specification to which the pipe was manufactured; or

(3) Corroded areas where the remaining wall thickness is less than the minimum thickness required by the tolerances in the specification to which the pipe was manufactured.

However, pipe that does not meet the requirements of paragraph (b)(3) of this section may be used if the operating pressure is reduced to be commensurate with the remaining wall thickness.

§195.116 VALVES.

Each valve installed in a pipeline system must comply with the following:

(a) The valve must be of a sound engineering design.

(b) Materials subject to the internal pressure of the pipeline system, including welded and flanged ends, must be compatible with the pipe or fittings to which the valve is attached.

(c) Each part of the valve that will be in contact with the hazardous liquid stream must be made of materials that are compatible with each hazardous liquid that it is anticipated will flow through the pipeline system.

(d) Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 5 of API Standard 6D.

(e) Each valve other than a check valve must be equipped with a means for clearly indicating the position of the valve (open, closed, etc.).

(f) Each valve must be marked on the body or the nameplate, with at least the following:

(1) Manufacturer's name or trademark.

(2) Class designation or the maximum working pressure to which the valve may be subjected;

(3) Body material designation (the end connection material, if more than one type is used).

(4) Nominal valve size.

§195.118 FITTINGS.

(a) Butt-welding type fittings must meet the marking, end preparation, and the bursting strength requirements of ANSI B16.9 or MSS Standard Practice SP-75.

(b) There may not be any buckles, dents, cracks, gouges, or other defects in the fitting that might reduce the strength of the fitting.

(c) The fitting must be suitable for the intended service and be at least as strong as the pipe and other fittings in the pipeline system to which it is attached.

§195.120 CHANGES IN DIRECTION: PROVISION FOR INTERNAL PASSAGE.

Each component of a main line system, other than manifolds, that change direction within the pipeline system must have a radius of turn that readily allows the passage of pipeline scrapers, spheres, and internal inspection equipment.

§195.122 FABRICATED BRANCH CONNECTIONS.

Each pipeline system must be designed so that the addition of any fabricated branch connections will not reduce the strength of the pipeline system.

§195.124 CLOSURES.

Each closure to be installed in a pipeline system must comply with the ASME Boiler and Pressure Vessel Code, Section VIII, Pressure Vessels, Division 1, and must have pressure and temperature ratings at least equal to those of the pipe to which the closure is attached.

§195.126 FLANGE CONNECTION.

Each component of a flange connection must be compatible with each other component and the connection as a unit must be suitable for the service in which it is to be used.

§195.128 STATION PIPING.

Any pipe to be installed in a station that is subject to system pressure must meet the applicable requirements of this subpart.

§195.130 FABRICATED ASSEMBLIES.

Each fabricated assembly to be installed in a pipeline system must meet the applicable requirements of this subpart.

§195.132 ABOVE GROUND BREAKOUT TANKS.

Each above ground breakout tank must be designed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

Subpart D—Construction

§195.200 SCOPE.

This subpart prescribes minimum requirements for constructing new pipeline systems with steel pipe, and for relocating, replacing, or otherwise changing existing pipeline systems that are constructed with steel pipe. However, this subpart does not apply to the movement of pipe covered by §195.424.

§195.202 COMPLIANCE WITH SPECIFICATIONS OR STANDARDS.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

§195.204 INSPECTION—GENERAL.

Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this subpart. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction he is to inspect.

§195.206 MATERIAL INSPECTION.

No pipe or other component may be installed in a pipeline system unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

§195.208 WELDING OF SUPPORTS AND BRACES.

Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i.g.

§195.210 PIPELINE LOCATION.

(a) Pipeline right-of-way must be selected to avoid, as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly.

(b) No pipeline may be located within 50 feet of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches of cover in addition to that prescribed in §195.248.

§195.212 BENDING OF PIPE.

(a) Pipe must not have a wrinkle bend.

(b) Each field bend must comply with the following:

(1) A bend must not impair the serviceability of the pipe.

(2) Each bend must have a smooth contour and be free from buckling, cracks, or any other mechanical damage.

(3) On pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless—

(i) The bend is made with an internal bending mandrel; or

(ii) The pipe is 12 inches or less in outside diameter or has

a diameter to wall thickness ratio less than 70.

(c) Each circumferential weld which is located where the stress during bending causes a permanent deformation in the pipe must be nondestructively tested either before or after the bending process.

§195.214 WELDING: GENERAL

(a) Welding must be performed in compliance with this section and §§195.216 through 195.234.

(b) Welding must be performed in accordance with established written welding procedures that have been tested to assure that they will produce sound, ductile welds that comply with requirements of this subpart. Detailed records of these tests must be kept by the operator involved.

§195.216 WELDING: MITER JOINTS.

A miter joint is not permitted (not including deflections up to 3 degrees that are caused by misalignment).

§195.220 (REMOVED)

[47 FR 55396, Dec. 9, 1982.]

§195.222 WELDERS: TESTING.

Each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code, except that a welder qualified under an earlier edition than listed in §195.3 may weld but may not requalify under that earlier edition.

[49 FR 36860, September 20, 1984, effective October 22, 1984]

§195.224 WELDING: WEATHER.

Welding must be protected from weather conditions that would impair the quality of the completed weld.

§195.226 WELDING: ARC BURNS.

(a) Each arc burn must be repaired.

(b) An arc burn may be repaired by completely removing the notch by grinding, if the grinding does not reduce the remaining wall thickness to less than the minimum thickness required by the tolerances in the specification to which the pipe is manufactured. If a notch is not repairable by grinding, a cylinder of the pipe containing the entire notch must be removed.

(c) A ground may not be welded to the pipe or fitting that is being welded.

§195.228 WELDS AND WELDING INSPECTION: STANDARDS OF ACCEPTABILITY.

(a) Each weld and welding must be inspected to insure compliance with the requirements of this subpart. Visual inspection must be supplemented by non-destructive testing.

(b) The acceptability of a weld is determined according to the standards in section 6 of API Standard 1104.

§195.230 WELDS: REPAIR OR REMOVAL OF DEFECTS.

[48 FR 48669, Oct. 20, 1983, effective Nov. 21, 1983]

(a) Each weld that is unacceptable under §195.228 must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures

that have been qualified under §195.214. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

§195.232. (REMOVED)

[48 FR 48674, October 20, 1983]

§195.234 **WELDS: NONDESTRUCTIVE TESTING AND RETENTION OF TESTING RECORDS.**

(a) A weld may be nondestructively tested by any process that will clearly indicate any defects that may affect the integrity of the weld.

(b) Any nondestructive testing of welds must be performed—

(1) In accordance with a written set of procedures for nondestructive testing; and

(2) With personnel that have been trained in the established procedures and in the use of the equipment employed in the testing.

(c) Procedures for the proper interpretation of each weld inspection must be established to ensure the acceptability of the weld under §195.228.

(d) During construction, at least 10 percent of the girth welds made by each welder during each welding day must be nondestructively tested over the entire circumference of the weld.

(e) 100 percent of each day's girth welds installed in the following locations must be nondestructively tested 100 percent unless impracticable, in which case at least 90 percent must be tested. Nondestructive testing must be impracticable for each girth weld not tested:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area;

(2) Within railroad or public road rights-of-way;

(3) At overhead road crossings and within tunnels;

(4) Within the limits of any incorporated subdivision of a state government; and

(5) Within populated areas, including but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

(f) When installing used pipe, 100 percent of the old girth welds must be nondestructively tested.

(g) At pipeline tie-ins 100 percent of the girth welds must be nondestructively tested.

[50 FR 37191, Sept. 12, 1985 effective October 21, 1985]

§195.236 **EXTERNAL CORROSION PROTECTION.**

Each component in the pipeline system must be provided with protection against external corrosion.

§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;

(2) Has sufficient adhesion to the metal surface to prevent underfilm migration of moisture;

(3) Is sufficiently ductile to resist cracking;

(4) Has enough strength to resist damage due to handling and soil stress; and

(5) Supports any supplemental cathodic protection.

In addition, if an insulating-type coating is used it must have low moisture absorption and provide high electrical resistance.

(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.

§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.

(b) A cathodic protection system must be installed not later than 1 year after completing the construction.

§195.244 TEST LEADS.

(a) Except for offshore pipelines, electrical test leads used for corrosion control or electrolysis testing must be installed at intervals frequent enough to obtain electrical measurements indicating the adequacy of the cathodic protection.

(b) Test leads must be installed as follows:

(1) Enough looping or slack must be provided to prevent test leads from being unduly stressed or broken during backfilling.

(2) Each lead must be attached to the pipe so as to prevent stress concentration on the pipe.

(3) Each lead installed in a conduit must be suitably insulated from the conduit.

§195.246 INSTALLATION OF PIPE IN A DITCH.

(a) All pipe installed in a ditch must be installed in a manner that minimizes the introduction of secondary stresses and the possibility of damage to the pipe.

(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.

§195.248 COVER OVER BURIED PIPELINE.

(a) Unless specifically exempted in this subpart, all pipe must be buried so that it is buried 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	36	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	36	36
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 areas	30	18

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

(b) Less cover than the minimum required by paragraph (a) of this section and section 195.210 may be used if—

(1) It is impracticable to comply with the minimum cover requirements; and

(2) Additional protection is provided that is equivalent to the minimum required cover.

§195.250 CLEARANCE BETWEEN PIPE AND UNDERGROUND STRUCTURES.

Any pipe installed underground must have at least 12 inches of clearance between the outside of the pipe and the extremity of any other underground structure, except that for drainage tile the minimum clearance may be less than 12 inches but not less than 2 inches. However, where 12 inches of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control.

§195.252 BACKFILLING.

Backfilling must be performed in a manner that protects any pipe coating and provides firm support for the pipe.

§195.254 ABOVE GROUND COMPONENTS.

(a) Any component may be installed above ground in the following situations, if the other applicable requirements of this part are complied with:

- (1) Overhead crossings of highways, railroads, or a body of water.
- (2) Spans over ditches and gullies.
- (3) Scraper traps or block valves.
- (4) Areas under the direct control of the operator.
- (5) In any area inaccessible to the public.

(b) Each component covered by this section must be protected from the forces exerted by the anticipated loads.

§195.256 CROSSING OF RAILROADS AND HIGHWAYS.

The pipe at each railroad or highway

crossing must be installed so as to adequately withstand the dynamic forces exerted by anticipated traffic loads.

§195.258 VALVES: GENERAL.

(a) Each valve must be installed in a location that is accessible to authorized employees and that is protected from damage or tampering.

(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.

§195.260 VALVES: LOCATION.

A valve must be installed at each of the following locations:

(a) On the suction end and the discharge end of a pump station in a manner that permits isolation of the pump station equipment in the event of an emergency.

(b) On each line entering or leaving a breakout storage tank area in a manner that permits isolation of the tank area from other facilities.

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

(d) On each lateral takeoff from a trunk line in a manner that permits shutting off the lateral without interrupting the flow in the trunk line.

(e) On each side of a water crossing that is more than 100 feet wide from high-water mark to high-water mark unless the Secretary finds in a particular case that valves are not justified.

(f) On each side of a reservoir holding water for human consumption.

§195.262 PUMPING EQUIPMENT.

(a) Adequate ventilation must be provi-

ded in pump station buildings to prevent the accumulation of hazardous vapors. Warning devices must be installed to warn of the presence of hazardous vapors in the pumping station building.

(b) The following must be provided in each pump station:

(1) Safety devices that prevent overpressuring of pumping equipment, including the auxiliary pumping equipment within the pumping station.

(2) A device for the emergency shutdown of each pumping station.

(3) If power is necessary to actuate the safety devices, an auxiliary power supply.

(c) Each safety device must be tested under conditions approximating actual operations and found to function properly before the pumping station may be used.

(d) Except for offshore pipelines pumping equipment may not be installed—

(1) On any property that will not be under the control of the operator; or

(2) Less than 50 feet from the boundary of the station.

(e) Adequate fire protection must be installed at each pump station. If the fire protection system installed requires the use of pumps, motive power must be provided for those pumps that is separate from the power that operates the station.

§195.264 ABOVE GROUND BREAKOUT TANKS.

For above ground breakout tanks—

(a) A means must be provided for containing hazardous liquids in the event of spillage or tank failure.

(b) Tank areas must be adequately protected against unauthorized entry.

(c) Normal and emergency relief venting must be provided for each tank.

§195.266 CONSTRUCTION RECORDS.

A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility:

(a) The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.

(b) The amount, location, and cover of each size of pipe installed.

(c) The location of each crossing of another pipeline.

(d) The location of each buried utility crossing.

(e) The location of each overhead crossing.

(f) The location of each valve and corrosion test station.

[50 FR 34470 August 26, 1985, effective October 21, 1985]

Subpart E—Hydrostatic Testing

§195.300 SCOPE.

This subpart prescribes minimum requirements for hydrostatic testing of the following. It does not apply to movement of pipe covered by §195.424.

(a) Newly constructed steel pipeline systems;

(b) Existing steel pipeline systems that are relocated, replaced, or otherwise changed;

(c) Onshore steel interstate pipelines constructed before January 8, 1971, that transport highly volatile liquids; and

(d) Onshore steel intrastate pipelines constructed before October 21, 1985, that transport highly volatile liquids.

[50 FR 15895, April 23, 1985]

§195.302 GENERAL REQUIREMENTS.

(a) Each new pipeline system, each pipeline system in which pipe has been relocated or replaced, or that part of a pipeline system that has been relocated or replaced, must be hydrostatically tested in accordance with this subpart without leakage.

(b) No person may transport a highly volatile liquid in an onshore steel interstate pipeline constructed before January 8, 1971, or an onshore steel intrastate pipeline constructed before October 21, 1985, unless the pipeline has been hydrostatically tested in accordance with this subpart or, except for pipelines subject to §195.5, its maximum operating pressure is established under §195.406(a)(5). Dates to comply with this requirement are:

(1) For onshore steel interstate pipelines in highly volatile liquid service before September 8, 1980-

(i) Planning and scheduling of hydrostatic testing or actual reduction in maximum operating pressure to meet §195.406(a)(5) must be completed before Sept. 15, 1981; and

(ii) Hydrostatic testing must be completed before Sept. 15, 1985, with at least 50 percent of the testing completed before Sept. 15, 1983.

(2) For onshore steel intrastate pipelines in highly volatile liquid service before April 23, 1985-

(i) Planning and scheduling of hydrostatic testing or actual reduction in maximum operating pressure to meet §195.406(a)(5) must be completed before April 23, 1986; and

(ii) Hydrostatic testing must be completed before April 23, 1990, with at least 50 percent of the testing completed before April 23, 1988.

[50 FR 15895, April 23, 1985]

(c) The test pressure for each hydrostatic test conducted under this section must be maintained throughout the part of the system being tested for at least 4 continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and, in the case of a pipeline that is not visually inspected for leakage during test, for at least an additional 4 continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

§195.304 TESTING OF COMPONENTS.

(a) Each hydrostatic test under §195.302 must test all pipe and attached fittings, including components, unless otherwise permitted by paragraph (b) of this section.

(b) A component that is the only item being replaced or added to the pipeline system need not be hydrostatically tested under paragraph (a) of this section if the manufacturer certifies that either—

(1) The component was hydrostatically tested at the factory; or

(2) The component was manufactured under a quality control system that ensures each component is at least equal in strength to a prototype that was hydrostatically tested at the factory.

§195.306 TEST MEDIUM.

(a) Except as provided in paragraph (b) of this section, water must be used as the test medium.

(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;

(2) Each building within 300 feet of the test section is unoccupied while the test pressure is equal to or

greater than a pressure which produces a hoop stress of 50 percent of specified minimum yield strength;

(3) The test section is kept under surveillance by regular patrols during the test; and

(4) Continuous communication is maintained along entire test section.

§195.308 TESTING OF TIE-INS.

Pipe associated with tie-ins must be hydrostatically tested, either with the section to be tied in or separately.

§195.310 RECORDS.

(a) A record must be made of each hydrostatic test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.

(b) The record required by paragraph (a) of this section must include:

- (1) The pressure recording charts;
- (2) Test instrument calibration data;
- (3) The name of the operator, the name of the person responsible for making the test, and the name of the test company used, if any;
- (4) The date and time of the test;
- (5) The minimum test pressure;
- (6) The test medium;
- (7) A description of the facility tested and the test apparatus;
- (8) An explanation of any pressure discontinuities, including test failures, that appear on the pressure recording charts; and

(9) Where elevation differences in the section under test exceed 100 feet, a profile of the pipeline that shows the elevation and test sites over the entire length of the test section.

[50 FR 34470 August 26, 1985, effective October 21, 1985]

Subpart F—Operation and Maintenance

§195.400 SCOPE.

This subpart prescribes minimum requirements for operating and maintaining pipeline systems constructed with steel pipe.

§195.401 GENERAL REQUIREMENTS.

(a) No operator may operate or maintain its pipeline systems at a level of safety lower than that required by this subpart and the procedures it is required to establish under §195.402(a) of this subpart.

(b) Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it shall correct it within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

(c) Except as provided in §195.5, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this part:

- (1) An interstate pipeline on which construction was begun after March 31, 1970.
- (2) An interstate offshore pipeline located between a production facility and an operator's trunkline reception point on which construction was begun after July 31, 1977.
- (3) An intrastate pipeline on which construction was begun after October 20, 1985.

[50 FR 15895, April 23, 1985; 50 FR 39008, September 26, 1985]

§195.402 PROCEDURAL MANUAL FOR OPERATIONS, MAINTENANCE, AND EMERGENCIES.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

[47 FR 46850, Oct 21, 1982, effective Nov. 22, 1982]

(b) Amendments. If the Secretary finds that an operator's procedures are inadequate to assure safe operation of the system or to minimize hazards in an emergency, the Secretary may, after issuing a notice of amendment and providing an opportunity for an informal hearing, require the operator to amend the procedures. In determining the adequacy of the procedures, the Secretary considers pipeline safety data, the feasibility of the procedures, and whether the procedures are appropriate for the pipeline system involved. Each notice of amendment shall allow the operator at least 15 days after receipt of such notice to submit written comments or request an informal hearing. After considering all material presented, the Secretary shall notify the operator of the required amendment or withdraw the notice proposing the amendment.

(c) Maintenance and Normal Operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) Making construction records, maps, and operating history available as necessary for safe operation and maintenance.

(2) Gathering of data needed for reporting accidents under Subpart B of this part in a timely and effective manner.

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart.

(4) Determining which pipeline facilities are located in areas that would require an immediate response by the operator to prevent hazards to the public if the facilities failed or malfunctioned.

(5) Analyzing pipeline accidents to determine their causes.

(6) Minimizing the potential for hazards identified under paragraph (c)(4) of this section and the possibility of recurrence of accidents analyzed under paragraph (c)(5) of this section.

(7) Starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by §195.406, consider the hazardous liquid in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.

(8) In the case of a pipeline that is not equipped to fail safe, monitoring from an attended location pipeline pressure during startup until steady state pressure and flow conditions are reached and during shut-in to assure operation within limits prescribed by §195.406.

(9) In the case of facilities not equipped to fail safe that are identified under §195.402(c)(4) or that control receipt and delivery of

the hazardous liquid, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location.

(10) Abandoning pipeline facilities, including safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place to minimize safety and environmental hazards.

(11) Minimizing the likelihood of accidental ignition of vapors in areas near facilities identified under paragraph (c)(4) of this section where the potential exists for the presence of flammable liquids or gases.

(12) Establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid pipeline emergency and acquaint the official with the operator's ability in responding to a hazardous liquid pipeline emergency and means of communication.

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

(d) Abnormal Operation. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) Responding to, investigating, and correcting the cause of:

(i) Unintended closure of valves or shutdowns;

(ii) Increase or decrease in

pressure or flow rate outside normal operating limits;

(iii) Loss of communications;

(iv) Operation of any safety device;

(v) Any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.

(2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.

(3) Correcting variations from normal operation of pressure and flow equipment and controls.

(4) Notifying responsible operator personnel when notice of an abnormal operation is received.

(5) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

(e) Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs:

(1) Receiving, identifying, and classifying notices of events which need immediate response by the operator or notice to fire, police, or other appropriate public officials and communicating this information to appropriate operator personnel for corrective action.

(2) Prompt and effective response to a notice of each type emergency, including fire or explosion occurring near or directly involving a pipe-

line facility, accidental release of a hazardous liquid from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities.

(3) Having personnel, equipment, instruments, tools, and material available as needed at the scene of an emergency.

(4) Taking necessary action, such as emergency shutdown, or pressure reduction, to minimize the volume of hazardous liquid that is released from any section of a pipeline system in the event of a failure.

(5) Control of released hazardous liquid at an accident scene to minimize the hazard, including possible intentional ignition in the cases of flammable highly volatile liquid.

(6) Minimization of public exposure to injury and probability of accidental ignition by assisting with evacuation of residents and assisting with halting traffic on roads and railroads in the affected area, or taking other appropriate action.

(7) Notifying fire, police, and other appropriate public officials of hazardous liquid pipeline emergencies and coordinating with them preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline system transporting a highly volatile liquid.

(8) In the case of failure of a pipeline system transporting a highly volatile liquid, use of appropriate instruments to assess the extent and coverage of the vapor cloud and determine the hazardous areas.

(9) Providing for a post accident review of employee activities to determine whether the procedures were effective in each emergency

and taking corrective action where deficiencies are found.

§195.403 TRAINING.

(a) Each operator shall establish and conduct a continuing training program to instruct operating and maintenance personnel to:

(1) Carry out the operating and maintenance, and emergency procedures established under §195.402 that relate to their assignments;

(2) Know the characteristics and hazards of the hazardous liquids transported, including, in the case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

(3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquid spills, and to take appropriate corrective action;

(4) Take steps necessary to control any accidental release of hazardous liquid and to minimize the potential for fire, explosion, toxicity, or environmental damage;

(5) Learn the proper use of fire-fighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition; and

(6) In the case of maintenance personnel, to safely repair facilities using appropriate special precautions, such as isolation and purging, when highly volatile liquids are involved.

(b) At intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

[47 FR 46850, October 21, 1982, effective November 22, 1982]

(1) Review with personnel their performance in meeting the objectives of the training program set forth in paragraph (a) of this section; and

(2) Make appropriate changes to the training program as necessary to insure that it is effective.

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the procedures established under §195.402 for which they are responsible to insure compliance.

§195.404 MAPS AND RECORDS.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) Location and identification of the following pipeline facilities:

(i) Breakout tanks;

(ii) Pump stations;

(iii) Scraper and sphere facilities;

(iv) Pipeline valves;

(v) Cathodically protected facilities;

(vi) Facilities to which §195.402(c)(9) applies;

(vii) Rights-of-way; and

(viii) Safety devices to which §195.428 applies.

(2) All crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines.

(3) The maximum operating pressure of each pipeline.

(4) The diameter, grade, type, and nominal wall thickness of all pipe.

(b) Each operator shall maintain for at

least 3 years daily operating records that indicate:

(1) The discharge pressures at each pump station; and

(2) Any emergency or abnormal operation to which the procedures under §195.402 apply.

(c) Each operator shall maintain the following records for the periods specified:

(1) The date, location, and description of each repair made to pipe shall be maintained for the useful life of the pipe.

(2) The date, location, and description of each repair made to parts of the pipeline system other than pipe shall be maintained for at least one year.

(3) A record of each inspection and test required by this subpart shall be maintained for at least two years or until the next inspection or test is performed, whichever is longer.

[50 FR 34470, August 26, 1985, effective October 21, 1985]

§195.406 MAXIMUM OPERATING PRESSURE.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(1) The internal design pressure of the pipe determined in accordance with §195.106.

(2) The design pressure of any other component of the pipeline.

(3) Eighty percent of the test pressure for any part of the pipeline which has been hydrostatically tested under Subpart E of this part.

(4) Eighty percent of the factory test pressure or of the prototype test

pressure for any individually installed component which is excepted from testing under §195.304.

(5) In the case of onshore HVL interstate pipelines constructed before January 8, 1971, or onshore HVL intrastate pipelines constructed before October 21, 1985, that have not been tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted. (See §195.302(b) for compliance schedules for HVL interstate pipelines in service before September 8, 1980, and for HVL intrastate pipelines in service before April 23, 1985.)

[50 FR 15895, April 23, 1985; 50 FR 38659, September 24, 1985]

(b) No operator may permit the pressure in a pipeline during surges or other variations conditions from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

§195.408 COMMUNICATIONS.

(a) Each operator must have a communication system to provide for the transmission of information needed for the safe operation of its pipeline system.

(b) The communication system required by paragraph (a) of this section must, as a minimum, include means for:

(1) Monitoring operational data as required by §195.402(c)(9);

(2) Receiving notices from operator personnel, the public, and public authorities of abnormal or emergency conditions and sending this information to appropriate personnel or government agencies for corrective action;

(3) Conducting two-way vocal communication between a control center and the scene of abnormal operations and emergencies; and

(4) Providing communication with fire, police, and other appropriate public officials during emergency conditions, including a natural disaster.

§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 line in accordance with the following:

(1) Markers must 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.

(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.

(c) Each operator shall provide line marking at locations where the line is above ground in areas that are accessible to the public.

[48 FR 25206, June 6, 1983, effective July 6, 1983]

§195.412 INSPECTION OF RIGHTS-OF-WAY AND CROSSINGS UNDER NAVIGABLE WATERS.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way.

(b) Except for offshore pipelines, each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.

[47 FR 46850, Oct. 21, 1982, effective Nov. 22, 1982]

§195.414 CATHODIC PROTECTION.

(a) No operator may operate an interstate pipeline after March 31, 1973, or an intrastate pipeline after October 19, 1988, that has an effective external surface coating material, unless that pipeline is cathodically protected. This paragraph does not apply to breakout tank areas and buried pumping station piping. For the purposes of this subpart, a pipeline does not have an effective external coating and shall be considered bare, if its cathodic

protection current requirements are substantially the same as if it were bare.

(b) Each operator shall electrically inspect each bare interstate pipeline before April 1, 1975, and each bare intrastate pipeline before October 20, 1990, to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where active corrosion is found, the operator shall provide cathodic protection. §195.416 (f) and (g) apply to all corroded pipe that is found.

(c) Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on interstate pipelines before April 1, 1973, and on intrastate pipeline before October 20, 1988, as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

[50 FR 15895, April 23, 1985; 50 FR 38659, September 24, 1985]

§195.416 EXTERNAL CORROSION CONTROL.

(a) Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, conduct tests on each underground facility in its pipeline systems that is under cathodic protection to determine whether the protection is adequate.

Each operator shall maintain the test leads required for cathodic protection in such a condition that electrical measurements can be obtained to ensure adequate protection.

(c) Each operator shall, at intervals not exceeding 2 1/2 months, but at least six times each calendar year, inspect each of its cathodic protection rectifiers.

(d) Each operator shall, at intervals not exceeding 5 years, electrically inspect the bare pipe in its pipeline system that is not cathodically protected and must study

leak records for that pipe to determine if additional protection is needed.

(e) Whenever any buried pipe is exposed for any reason, the operator shall examine the pipe for evidence of external corrosion. If the operator finds that there is active corrosion, that the surface of the pipe is generally pitted, or that corrosion has caused a leak, it shall investigate further to determine the extent of the corrosion.

(f) Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must either be replaced with coated pipe that meets the requirements of this part or, if the area is small, must be repaired. However, the operator need not replace generally corroded pipe if the operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness.

(g) If localized corrosion pitting is found to exist to a degree where leakage might result, the pipe must be replaced or repaired, or the operating pressure must be reduced commensurate with the strength of the pipe based on the actual remaining wall thickness in the pits.

(h) Each operator shall clean, coat with material suitable for the prevention of atmospheric corrosion, and maintain this protection for, each component in its pipeline system that is exposed to the atmosphere.

[49 FR 36384, September 17, 1984, effective October 17, 1984]

§195.418 INTERNAL CORROSION CONTROL.

(a) No operator may transport any hazardous liquid that would corrode the pipe or other components of its pipeline system, unless it has investigated the corrosive effect of the hazardous liquid on the system and has taken adequate steps to mitigate corrosion.

(b) If corrosion inhibitors are used to mitigate internal corrosion the operator shall use inhibitors in sufficient quantity to protect the entire part of the system that the inhibitors are designed to protect and shall also use coupons or other monitoring equipment to determine their effectiveness.

(c) The operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, examine coupons or other types of monitoring equipment to determine the effectiveness of the inhibitors or the extent of any corrosion.

(d) Whenever any pipe is removed from the pipeline for any reason, the operator must inspect the internal surface for evidence of corrosion. If the pipe is generally corroded such that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances, the operator shall investigate adjacent pipe to determine the extent of the corrosion. The corroded pipe must be replaced with pipe that meets the requirements of this part or, based on the actual remaining wall thickness, the operating pressure must be reduced to be commensurate with the limits on operating pressure specified in this subpart.

[47 FR 46850, Oct. 21, 1982, effective Nov. 22, 1982]

§195.420 VALVE MAINTENANCE.

(a) Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.

(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

[47 FR 46850, Oct. 21, 1982, effective Nov. 22, 1982]

(c) Each operator shall provide protec-

tion for each valve from unauthorized operation and from vandalism.

§195.422 PIPELINE REPAIRS.

(a) Each operator shall, in repairing its pipeline systems, ensure that the repairs are made in a safe manner and are made so as to prevent damage to persons or property.

(b) No operator may use any pipe, valve, or fitting, for replacement in repairing pipeline facilities, unless it is designed and constructed as required by this part.

§195.424 PIPE MOVEMENT.

(a) No operator may move any line pipe, unless the pressure in the line section involved is reduced to not more than 50 percent of the maximum operating pressure.

(b) No operator may move any pipeline containing highly volatile liquids where materials in the line section involved are joined by welding unless—

(1) Movement when the pipeline does not contain highly volatile liquids is impractical;

(2) The procedures of the operator under §195.402 contain precautions to protect the public against the hazard in moving pipelines containing highly volatile liquids, including the use of warnings, where necessary, to evacuate the area close to the pipeline; and

(3) The pressure in that line section is reduced to the lower of the following:

(i) Fifty percent or less of the maximum operating pressure; or

(ii) The lowest practical level that will maintain the highly volatile liquid in a liquid state with continuous flow, but not less than 50 p.s.i.g. above the

vapor pressure of the commodity.

(c) No operator may move any pipeline containing highly volatile liquids where materials in the line section involved are not joined by welding unless—

(1) The operator complies with paragraphs (b)(1) and (2) of this section; and

(2) That line section is isolated to prevent the flow of highly volatile liquid.

[46 FR 38922, July 30, 1981]

§195.426 SCRAPER AND SPHERE FACILITIES.

No operator may use a launcher or receiver that is not equipped with a relief device capable of safely relieving pressure in the barrel before insertion or removal of scrapers or spheres. The operator must use a suitable device to indicate that pressure has been relieved in the barrel or must provide a means to prevent insertion or removal of scrapers or spheres if pressure has not been relieved in the barrel.

§195.428 OVERPRESSURE SAFETY DEVICES.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 1/2 months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

(b) In the case of relief valves on pressure breakout tanks containing highly volatile

liquids, each operator shall test each valve at intervals not exceeding 5 years.

[47 FR 46850, Oct. 21, 1982, effective Nov. 22, 1982]

§195.430 FIREFIGHTING EQUIPMENT.

Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be—

(a) In proper operating condition at all times;

(b) Plainly marked so that its identity as firefighting equipment is clear; and

(c) Located so that it is easily accessible during a fire.

§195.432 BREAKOUT TANKS.

Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each breakout tank (including atmospheric and pressure tanks).

[47 FR 46850, Oct. 21, 1982, effective November 22, 1982]

§195.434 SIGNS.

Each operator shall maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator

and an emergency telephone number to contact.

§195.436 SECURITY OF FACILITIES.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

§195.438 SMOKING OR OPEN FLAMES.

Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

§195.440 PUBLIC EDUCATION.

Each operator shall establish a continuing educational program to enable the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a hazardous liquid pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

APPENDIX A—DELINEATION BETWEEN FEDERAL AND STATE JURISDICTION—
STATEMENT OF AGENCY POLICY AND INTERPRETATION.

In 1979, Congress enacted comprehensive safety legislation governing the transportation of hazardous liquids by pipeline, the Hazardous Liquids Pipeline Safety Act of 1979, 49 U.S.C. 2001 et seq. (HLPESA). The HLPESA expanded the existing statutory authority for safety regulation, which was limited to transportation by common carriers in interstate and foreign commerce, to transportation through facilities used in or affecting interstate or foreign commerce. It also added civil penalty, compliance order, and injunctive enforcement authorities to the existing criminal sanctions. Modeled largely on the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1671 et seq. (NGPSA), the HLPESA provides for a national hazardous liquid pipeline safety program with nationally uniform minimal standards and with enforcement administered through a Federal-State partnership. The HLPESA leaves to exclusive Federal regulation and enforcement the "interstate pipeline facilities," those used for the pipeline transportation of hazardous liquids in interstate or foreign commerce. For the remainder of the pipeline facilities, denominated "intrastate pipeline facilities," the HLPESA provides that the same Federal regulation and enforcement will apply unless a State certifies that it will assume those responsibilities. A certified State must adopt the same minimal standards but may adopt additional more stringent standards so long as they are compatible. Therefore, in States which participate in the hazardous liquid pipeline safety program through certification, it is necessary to distinguish the interstate from the intrastate pipeline facilities.

In deciding that an administratively practical approach was necessary in distinguishing between interstate and intrastate liquid pipeline facilities and in determining how best to accomplish this, DOT has logically examined the approach used in the NGPSA. The NGPSA defines

the interstate gas pipeline facilities subject to exclusive Federal jurisdiction as those subject to the economic regulatory jurisdiction of the Federal Energy Regulatory Commission (FERC). Experience has proven this approach practical. Unlike the NGPSA however, the HLPESA has no specific reference to FERC jurisdiction, but instead defines interstate liquid pipeline facilities by the more commonly used means of specifying the end points of the transportation involved. For example, the economic regulatory jurisdiction of FERC over the transportation of both gas and liquids by pipeline is defined in much the same way. In implementing the HLPESA, DOT has sought a practicable means of distinguishing between interstate and intrastate pipeline facilities that provide the requisite degree of certainty to Federal and State enforcement personnel and to the regulated entities. DOT intends that this statement of agency policy and interpretation provide that certainty.

In 1981, DOT decided that the inventory of liquid pipeline facilities identified as subject to the jurisdiction of FERC approximates the HLPESA category of "interstate pipeline facilities." Administrative use of the FERC inventory has the added benefit of avoiding the creation of a separate Federal scheme for determination of jurisdiction over the same regulated entities. DOT recognizes that the FERC inventory is only an approximation and may not be totally satisfactory without some modification. The difficulties stem from some significant differences in the economic regulation of liquid and of natural gas pipelines. There is an affirmative assertion of jurisdiction by FERC over natural gas pipelines through the issuance of certificates of public convenience and necessity prior to commencing operations. With liquid pipelines, there is only a rebuttable presumption of jurisdiction created by the filing of pipeline operators of tariffs (or concurrences) for movement

of liquids through existing facilities. Although FERC does police the filings for such matters as compliance with the general duties of common carriers, the question of jurisdiction is normally only aired upon complaint. While any person, including State or Federal agencies, can avail themselves of the FERC forum by use of the complaint process, that process has only been rarely used to review jurisdictional matters (probably because of the infrequency of real disputes on the issues). Where the issue has arisen, the reviewing body has noted the need to examine various criteria primarily of an economic nature. DOT believes that, in most cases, the formal FERC forum can better receive and evaluate the type of information that is needed to make decisions of this nature than can DOT.

In delineating which liquid pipeline facilities are interstate pipeline facilities within the meaning of the HLPSCA, DOT will generally rely on the FERC filings; that is, if there is a tariff or concurrence filed with FERC governing the transportation of hazardous liquids over a pipeline facility or if there is a tariff or concurrence filed with obligation to file tariffs obtained from FERC, then DOT will, as a general rule, consider the facility to be an interstate pipeline facility within the meaning of the HLPSCA. The types of situations in which DOT will ignore the existence or non-existence of a filing with FERC will be limited to those cases in which it appears obvious that a complaint filed with FERC would be successful or in which blind reliance on a FERC filing would result in a situation clearly not intended by the HLPSCA such as a pipeline facility not being subject to either State or Federal safety regulation. DOT anticipates that the situations in which there is any question about the validity of the FERC filings as a ready reference will be few and that the actual variations from reliance on those filings will be rare. The following examples indicate the types of facilities which DOT believes are interstate pipeline facilities subject to the HLPSCA despite the

lack of a filing with FERC and the types of facilities over which DOT will generally defer to the jurisdiction of a certifying state despite the existence of a filing with FERC.

Example 1. Pipeline company P operates a pipeline from "Point A" located in State X to "Point B" (also in X). The physical facilities never cross a state line and do not connect with any other pipeline which does cross a state line. Pipeline company P also operates another pipeline between "Point C" in State X and "Point D" in an adjoining State Y. Pipeline company P files a tariff with FERC for transportation from "Point A" to "Point B" as well as for transportation from "Point C" to "Point D". DOT will ignore filing for the line from "Point A" to "Point B" and consider the line to be intrastate.

Example 2. Same as in example 1 except that P does not file any tariffs with FERC. DOT will assume jurisdiction of the line between "Point C" and "Point D."

Example 3. Same as in example 1 except that P files its tariff for the line between "Point C" and "Point D" not only with FERC but also with State X. DOT will rely on the FERC filing as indication of interstate commerce.

Example 4. Same as in example 1 except that the pipeline from "Point A" to "Point B" (in State X) connects with a pipeline operated by another company transports liquid between "Point B" (in State X) and "Point D" (in State Y). DOT will rely on the FERC filing as indication of interstate commerce.

Example 5. Same as in example 1 except that the line between "Point C" and "Point D" has a lateral line connected to it. The lateral is located entirely with State X. DOT will rely on the existence or non-existence of a FERC filing covering transportation over that lateral as determinative of interstate commerce.

Example 6. Same as in example 1 except that the certified agency in State

X has brought an enforcement action (under the pipeline safety laws) against P because of its operation of the line between "Point A" and "Point B." P has successfully defended against the action on jurisdictional grounds. DOT will assume jurisdiction if necessary to avoid the anomaly of a pipeline subject to neither State nor Federal safety enforcement. DOT's assertion of jurisdiction in such a case would be based on the gap in the state's enforcement authority rather than a DOT decision that the pipeline is an interstate pipeline facility.

Example 7. Pipeline Company P operates a pipeline that originates on the Outer Continental Shelf. P does not file any tariff for that line with FERC. DOT will consider the pipeline to be an interstate pipeline facility.

Example 8. Pipeline Company P is constructing a pipeline from "Point C" (in State X) to "Point D" (in State Y). DOT will consider the pipeline to be an interstate pipeline facility.

Example 9. Pipeline company P is constructing a pipeline from "Point C" to "Point E" (both in State X) but intends to

file tariffs with FERC in the transportation of hazardous liquid in interstate commerce. Assuming there is some connection to an interstate pipeline facility, DOT will consider this line to be an interstate pipeline facility.

Example 10. Pipeline Company P has operated a pipeline subject to FERC economic regulation. Solely because of some statutory economic deregulation, that pipeline is no longer regulated by FERC. DOT will continue to consider that pipeline to be an interstate pipeline facility.

As seen from the examples, the types of situations in which DOT will not defer to the FERC regulatory scheme are generally clear-cut cases. For the remainder of the situations where variation from the FERC scheme would require DOT to replicate the forum already provided by FERC and to consider economic factors better left to that agency. DOT will decline to vary its reliance on the FERC filings unless, of course, not doing so would result in situations clearly not intended by the HLPSA.

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

Hazardous Liquids Pipeline Safety Rules

§7.61. DEFINITIONS

The following words and terms, when used in §§7.61-7.68 of this title (relating to Substantive Rules), shall have the following meanings, unless the context clearly indicates otherwise:

Commission—The Railroad Commission of Texas.

Gathering line—An intrastate pipeline facility that transports hazardous liquids from a production facility or storage area to a trunkline reception point or storage facility (tank farm) for further transportation by trunkline.

Hazardous Liquid—Petroleum or any petroleum product, and any substance or material which is in liquid state, excluding liquefied natural gas, when transported by pipeline facilities and which has been determined by the United States secretary of transportation to pose an unreasonable risk to life or property when transported by pipeline facilities.

Intrastate pipeline facilities—Pipeline facilities located within the State of Texas which are not used for the transportation of hazardous liquids in interstate or foreign commerce.

Non-rural location—An area extending 220 yards on either side of the centerline of any continuous one-mile length of pipeline which contains: (A) ten or more buildings used for human occupancy, or (B) any building or outside area used for commercial or industrial purposes or for schools, churches, or other public assembly and which is occupied by 20 or more people during normal use. The non-rural location extends 220 yards on either side of the building(s) or outside area(s).

Operator—A person who owns or operates on his own behalf, or is an agent designated by the owner to operate intrastate pipeline facilities.

Person—Any individual, firm, joint

venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, including any trustee, receiver, assignee, or personal representative thereof.

Pipeline facilities—New and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids.

Pipeline safety section—The Pipeline Safety Section of the Gas Utilities Division, Railroad Commission of Texas.

Production facilities—Any equipment or facilities used in the production, extraction, recovery, lifting, stabilization, separation, treating, storage, or measurement of a hazardous liquid subject to these rules, after the completion of the well. A well is considered completed when the well has been properly equipped so that the well can flow by opening a valve and swabbing in, if necessary, or by the starting of an artificial lift system. Such equipment and facilities may include, but are not limited to pumping equipment, saltwater disposal equipment, flow lines, separators, storage tanks, and treating equipment.

Rural location—Any area which is not included within the definition of "Non-rural location."

Transportation of hazardous liquids—The movement of hazardous liquids by pipeline, or their storage incidental to movement, except that it does not include any such movement through: gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

Trunkline reception point—The point or location where hazardous liquids subject to these rules are delivered to a cross country trunkline for transportation to a more distant location. The hazardous

liquids may originate from a gathering line or lines, or from a production facility.

**§7.62. SAFETY REGULATIONS
ADOPTED.**

The Commission adopts by specific reference the provisions (except as modified herein or hereafter) established by the United States secretary of transportation under the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129), and set forth in the Code of Federal Regulations, Title 49, Part 195, with amendments effective through September 16, 1985. Nothing in this rule shall prevent the Commission, after notice and hearing, from prescribing more stringent standards in individual situations. Any documents or parts of documents incorporated by reference into these rules shall be part of these rules as if set out in full.

§7.63. JURISDICTION

The Commission has authority to exercise jurisdiction over the intrastate pipeline transportation of hazardous liquids and over all intrastate pipeline facilities as provided in the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129), and the Texas Natural Resources Code, §117.011.

§7.64. RETROACTIVITY.

Nothing in §§7.61-7.68 of this title (relating to Substantive Rules) shall be applied retroactively to existing intrastate pipeline facilities concerning design, fabrication, or installation, but all intrastate pipeline facilities shall be subject to the other safety requirements of these rules.

**§7.65. REQUIRED RECORDS AND
REPORTING.**

(a) Accident reporting. In the event of any failure or accident involving an intrastate pipeline facility from which any hazardous liquid is released, if the failure or accident is required to be reported by the Code of Federal Regulations, Title 49,

Part 195, or if the failure or accident results in the release of hazardous liquid into any river, lake or stream in Texas, and is required to be reported pursuant to §3.20 (a) & (b) of this title (relating to Notification of Fire, Breaks, Leaks, or Blow-Outs) or §3.66(19) of this title (relating to Pipeline Tariffs), the operator shall report to the Commission as follows:

(1) Incidents involving crude oil. In the event of an incident involving crude oil, the operator shall:

(A) Notify, by telephone, the Oil and Gas Division of the Commission at the earliest practicable moment following discovery of the incident; and

(B) Within 30 days of discovery of the incident, submit a completed Form H-8 (available from the Commission) to the Oil and Gas Division of the Commission. In situations specified in the Code of Federal Regulations, Title 49, Part 195, the operator also must file duplicate copies of the required Department of Transportation form with the Pipeline Safety Section.

(2) Hazardous liquids other than crude oil. For incidents involving hazardous liquids other than crude oil, the operator shall:

(A) Notify the Pipeline Safety Section of such incident by telephone at the earliest practicable moment following discovery; and

(B) Within 30 days of discovery of the incident, file in duplicate with the Pipeline Safety Section a written report using the appropriate Department of Transportation form (as required by the Code of Federal Regulations, Title 49, Part 195) or a facsimile.

(b) Annual report. Each operator shall file with the Commission an annual report listing line sizes and lengths, hazardous liquids being transported, and accident/failure data. The report must be filed with the Commission on or before February 15 following the calendar year reported. An operator need only file additions or changes made to a pipeline system(s) following the first year filing. Reporting forms may be obtained from the Pipeline Safety Section.

(c) New construction report. Each operator shall file with the Commission, at least 30 days prior to commencement of construction, the proposed location, path, size and type of pipe to be used, intended use, design pressure, and length of the proposed line.

(d) Operations and maintenance procedure manual. Each operator shall prepare a manual outlining normal operating, maintenance and emergency procedures for the facility as required by the Code of Federal Regulation, Title 49, Part 195, or §7.65(a) of this title (relating to Substantive Rules), and shall file a copy of said manual with the Director of the Pipeline Safety Section for review. Copies of changes or additions to the manual shall be filed for review at least 20 days prior to the date on which they are scheduled to become effective.

(e) Records. Each operator shall maintain and have available for inspection the same documents and records required of interstate operators by the Code of Federal Regulations, Title 49, Part 195, and such additional records as the Commission from time to time may require. These documents and records shall be retained for the period established for interstate operators by the Code of Federal Regulations, Title 49, Part 195, or for a period of not less than five years if no such federal requirement has been established. These records shall include, but not be limited to, the following:

(1) Records of all design and

installation of new and used pipe, including design pressure calculations, pipeline specifications, specified minimum yield strength and wall thickness calculations, each valve, fitting, fabricated branch connection, closure, flange connection, station piping, fabricated assembly, and aboveground break-out tank.

(2) Records of all pipeline construction, procedures, training, and inspection pertaining to welding, nondestructive testing, and cathodic protection.

(3) Records of all hydrostatic testing performed on all pipeline segments, components, and tie-ins.

(4) Records involved in the performance of the procedures outlined in the Operations and Maintenance Procedure Manual.

§7.66. INTRASTATE PIPELINE FACILITY CONSTRUCTION.

Pipelines must be constructed of steel pipe and placed in accordance with the requirements of the Code of Federal Regulations, Title 49, Part 195, except that pipelines other than steel may be granted special exceptions by following the filing procedures outlined in the Code of Federal Regulations, Title 49, Part 195, and submitting them to the Commission for approval.

§7.67 CORROSION CONTROL REQUIREMENTS.

The following requirements are applicable to the installation and construction of new pipeline metallic systems, the relocation or replacement of existing facilities, and the operation and maintenance of steel pipelines. These requirements shall become mandatory one year following the effective date of these Hazardous Liquids Pipeline Safety Rules.

(1) Atmospheric corrosion con-

trol. Each aboveground pipeline or portion of pipeline exposed to the atmosphere must be cleaned and coated or jacketed with material suitable for the prevention of atmospheric corrosion. For onshore pipelines, the intervals between inspections shall not exceed five years; for offshore pipelines, re-evaluations are required at least once each calendar year, with intervals not to exceed 15 months.

(2) Coatings. All coated pipe used for the transport of hazardous liquids shall be electrically inspected prior to placement, using coating deficiency (holiday) detectors to check for any faults not observable by visual examination. The holiday detector shall be operated in accordance with manufacturer's instructions and at a voltage level appropriate for the electrical characteristics of the pipeline system being tested.

(3) Installation. Joints, fitting, and tie-ins shall be coated with material(s) compatible with the coating(s) on the pipe.

(4) Cathodic protection test stations. Each cathodically protected pipeline must have test stations or other electrical measurement contact points sufficient to determine the adequacy of cathodic protection. These locations shall include, but are not limited to, pipe casing installations and/or foreign metallic structure crossings. Test stations (electrode locations) used when taking pipe-to-soil readings for determining cathodic protection shall be selected to give representative pipe-to-soil readings. Readings taken at test stations (electrode locations) over or near one or more anodes shall not, by themselves, be considered representative.

(A) All test lead wire attachments and bared test lead

wires shall be coated with an electrically insulating material. Where the pipe is coated, the insulation of the test lead wire material should be compatible with the pipe coating and wire insulation.

(B) Cathodic protection systems must meet or exceed the minimum criteria set forth in "Criteria For Cathodic Protection" of the most current edition of the National Association of Corrosion Engineers (NACE) Standard RP-01-69.

(5) Monitoring and inspection.

(A) Each cathodic protection rectifier or impressed current power source must be inspected at least six times each calendar year, with intervals not to exceed 2 1/2 months, to ensure that it is operating properly.

(B) Each reverse current switch, diode, and interference bond whose failure would jeopardize structure protection must be checked electrically for proper performance six times each calendar year, with intervals not to exceed 2 1/2 months. Each remaining interference bond must be checked at least once each calendar year, with intervals not to exceed 15 months.

(C) Each operator shall utilize right-of-way inspections to determine areas where interfering currents are suspected. In the course of these inspections, personnel should be alert for electrical or physical conditions which could indicate interference from a neighboring source. Whenever suspected areas are identified,

the operator must conduct appropriate electrical tests within six months to determine the extent of interference and take appropriate action.

(6) Remedial action. Each operator shall take prompt remedial action to correct any deficiencies observed during monitoring.

§7.68. ENFORCEMENT.

Following reasonable notice, the Pipeline Safety Section may inspect the books and records of each operator at any reasonable time to ensure compliance with the provisions of these Hazardous Liquids Pipeline Safety Rules.

(1) Each operator or its officers, employees or representatives shall make readily available to the authorized representative of the Pipeline Safety Section all files, records and other documents required to be maintained by these Hazardous Liquids Pipeline Safety Rules and/or the Code of Federal Regulations, Title 49, Part 195, in addition to other documents which reasonably

may be required to determine compliance with the provisions of these Hazardous Liquids Pipeline Safety Rules or aid in the investigation of any accident or incident involving hazardous liquids.

(2) The plant, property and facilities of each operator shall be made readily accessible to the authorized representative of the Pipeline Safety Section in the administration and enforcement of these Hazardous Liquids Pipeline Safety Rules as well as the investigation of violations, alleged violations, accidents or incidents involving intrastate pipeline facilities.

(3) Each operator shall provide such additional reports, data and/or information as the Commission may from time to time reasonably require in the administration and enforcement of the provisions of these Hazardous Liquids Pipeline Safety Rules or in the investigation of any accident, violation or alleged violation of these Hazardous Liquids Pipeline Safety Rules.

**Pipeline Safety Notice
Hazardous Liquid Pipeline
Facilities**

I. 24 HOUR EMERGENCY ACCIDENT/INCIDENT REPORTING REQUIREMENTS:

Telephonic notice is required of certain accidents. In the event of a reportable accident as defined in 49 CFR 195.52 and 16 T.A.C. §7.65 upon an intrastate hazardous liquid pipeline operators facilities;

IF INCIDENT INVOLVES CRUDE OIL;

Notify the Oil & Gas Division's nearest district office telephonically by the numbers listed below:

District 1 & 2	(512) 227-1313	San Antonio
District 3	(713) 460-0631	Houston
District 4	(512) 242-3113	Corpus Christi
District 5 & 6	(214) 984-3026	Kilgore
District 7B	(915) 677-3545	Abilene
District 7C	(915) 653-6776	San Angelo
District 8	(915) 684-5581	Midland
District 8A	(806) 744-6944	Lubbock
District 9	(817) 723-2153	Wichita Falls
District 10	(806) 665-1653	Pampa

IF INCIDENT INVOLVES OTHER THAN CRUDE OIL;

Notify the Gas Utilities Division at (512) 447-2171

II. The Written Report Forms with instructions required to be filed on certain accidents/incidents in accordance with 49 CFR 195.54 and 16 T.A.C. §7.65 are on the following pages [DOT Form 7000-1 (4-85) and Railroad Commission Form H-8].

III. OTHER PERTINENT INFORMATION PERTAINING TO ACCIDENT/INCIDENT REPORTING:

A. An operator must still report telephonically to Washington D.C. (800) 424-8802 on accident/incidents that are also reportable to the DOT under the requirement of 49 CFR 195.54.

B. However, for written reports required on intrastate pipeline accidents/incidents the written reports though prepared on Department of Transportation Forms (DOT 7000-1) are to be filed in duplicate with the Pipeline Safety Section of the Texas Railroad Commission.

DEPARTMENT OF TRANSPORTATION
Liquid Pipeline Accident Report

Instructions: Submit in duplicate for each accident reportable under Code of Federal Regulations, Title 49, Part 195, Subpart B. If the space provided for any question is not adequate, attach an additional sheet. File both copies of this report within 30 days after discovery of the accident with the Information Systems Manager (DMT-63), Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. However, reports for intrastate pipelines subject to the jurisdiction of a State agency pursuant to certification under Section 205 of the Hazardous Liquid Pipelines Safety Act of 1979 may be submitted in duplicate to the State agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Systems Manager.

Please write or call the Information Systems Manager (202-472-1024) concerning questions about this report or these instructions, or to obtain copies of DOT Form 7000-1.

Each operator shall prepare each report of an accident on Form DOT 7000-1 or a facsimile as follows:

- (1) General. Each applicable item must be marked or filled in as fully and as accurately as information accessible to the operator at the time of filing the report will permit. More than one item may apply.
- (2) Part A. Enter the complete corporate name of the operator. Enter the address of the operator's principal place of business, including zip code.
- (3) Part B, Item 1. Enter the date the accident occurred or was discovered. If the accident was not discovered on the date it occurred, state this under Part K. Indicate whether the accident occurred on Federal lands. For purposes of this report "Federal lands" means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf.

Item 2. Enter the time the accident occurred according to a 24 hour clock (e.g., 1945). If the time of occurrence is not known, enter the time the accident was discovered and state this fact under Part K.
- (4) Part E. Give the number of deaths and injuries known at the time of filing this report even if they were previously reported telephonically to the Department of Transportation. If none, state none.
- (5) Part F. Indicate the total estimated property damage in present day costs including the cost of the commodity not recovered, damage to other parties, and cost of clean up. If none, state none.
- (6) Part G, Item 1. State the commonly used name of the commodity spilled such as #2 fuel oil, regular gasoline, propane, etc.

Item 2. Give the classification of the commodity spilled and if it is a petroleum product, indicate whether it is a highly volatile liquid (HVL) or non-HVL. "HVL" means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276kPa (40 psia) at 37.8°C (100°F). If the commodity spilled is not anhydrous ammonia, petroleum, or a petroleum product, it is not necessary to file this report.
- (7) Part K. Give an account of the accident sufficiently complete and detailed to convey an understanding of the cause of the accident. Continue on an extra sheet of paper if more space is needed.

INSTRUCTIONS: Answer sections H, I, or J only if it applies to the particular accident being reported.

PART H—OCCURRED IN LINE PIPE

- 1.) Nominal diameter (inches) _____ 2.) Wall thickness (inches) _____
- 3.) SMYS (psi) _____ 4.) Type of joint: welded flanged threaded coupled other
- 5.) Pipe was Below ground Above ground
- 6.) Maximum operating pressure (psig) _____
7. Pressure at time and location of accident (psig) _____
- 8.) Had there been a pressure test on system?
 yes no
- 9.) Duration of test (hrs) _____
- 10.) Maximum test pressure (psig) _____
- 11.) Date of latest test _____

PART I—CAUSED BY CORROSION

1. Location of corrosion
 internal external
2. Facility coated?
 yes no
3. Facility under cathodic protection?
 yes no
4. Type of corrosion
 galvanic other (Specify) _____

PART J—CAUSED BY OUTSIDE FORCE

1. Damage by operator or its contractor
 Damage by others
 Damage by natural forces
 Landslide
 Subsidence
 Washout
 Frostheave
 Earthquake
 Ship anchor
 Mudslide
 Fishing Operations
Other _____
2. Was a damage prevention program in effect
 yes no
3. If yes, was the program
 "one-call" other _____
4. Did excavator call?
 yes no
5. Was pipeline location temporarily marked for the excavator?
 yes no

PART K—ACCOUNT OF ACCIDENT

NAME AND TITLE OF OPERATOR OFFICIAL FILING THIS REPORT.

Telephone no. (Including area code)

Date

**RAILROAD COMMISSION OF TEXAS
OIL AND GAS DIVISION**

Form H-8
(Eff. 6-4-70)

CRUDE OIL, GAS WELL LIQUIDS, OR ASSOCIATED PRODUCTS LOSS REPORT

1. Field Name (as per current proration schedule, including reservoir, if applicable)		2. RRC District	
3. Company		Check appropriate block(s): <input type="checkbox"/> Producer <input type="checkbox"/> Transporter <input type="checkbox"/> Other _____	4. County
5. Lease Name(s) and RRC Lease Number(s) (if applicable)			
6. Location where Liquid Hydrocarbon (crude oil, gas well liquids, or associated products) Loss Occurred (Section, Block, & Survey)			
7. Description of Facility from which Liquid Hydrocarbon Loss Occurred			
8. Name of Landowner where Liquid Hydrocarbon Loss Occurred		9. Type of Liquid Hydrocarbon Loss <input type="checkbox"/> Crude Oil <input type="checkbox"/> Gas Well Liquid <input type="checkbox"/> Other _____	
10. Date Liquid Hydrocarbon Loss Occurred		11. Date Liquid Hydrocarbon Loss Reported to RRC District Office by Telephone or Telegraph	
12. Total Barrels of Liquid Hydrocarbon Lost in Leak or Spill	13. Total Barrels of Liquid Hydrocarbon Recovered	14. Barrels of Liquid Hydrocarbon Unrecovered (Net Loss)	
15. Did Liquid Hydrocarbon Loss Affect Inland or Coastal Water? (If yes, explain.)			
16. Cause of Liquid Hydrocarbon Loss (Explain.) (If additional space is required, attach page (s).)			
17. Remedial Measures Taken and How Successful (Explain.)			
18. Remarks			
I declare under penalties prescribed in Article 6036c, R. C. S., that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge.			
Date _____		Signature _____	
Company _____		Name of Person (type or print) _____	
Street Address or P.O. Box _____		Title of Person _____	
City, State _____ Zip Code _____		Telephone: _____ Area Code _____ Number _____	

(COMPANY MUST COMPLY WITH THE INSTRUCTIONS ON REVERSE SIDE HEREOF.) (OVER)

- INSTRUCTIONS -

1. File the original and one copy of this form in the Railroad Commission District Office.
2. Immediate notification shall be given first by telephone or telegraph to the Commission District Office of a fire, leak, spill, or break in facilities causing a loss of more than five (5) barrels of crude oil, gas well liquids, or associated products and then followed by the filing of this form when appropriate measures have been taken.
3. This form complies with Statewide Rules 20 and 71 which require notification to the Commission of all fires, leaks, spills, or breaks of facilities which cause a loss of more than five (5) barrels of crude oil, gas well liquids, or associated products.
4. This form is for the emergency written notification of all fires, leaks, spills, or breaks in facilities causing a loss of more than five (5) barrels and is not a substitute for the monthly loss report required of common carrier pipelines by Statewide Rule 71.
5. The use of liquid hydrocarbon in this form refers to crude oil, gas well liquids, or associated products.

HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979

(49 U.S.C. 2001 et. sec., PL 96-129, Approved November 30, 1979;
Amended by PL 97-468, January 14, 1983; PL 98-464, October 11, 1984)

[*Editor's Note:* The Hazardous Liquid Pipeline Safety Act of 1979 is Title II of The Pipeline Safety Act of 1979, PL 96-129, which was approved November 30, 1979. Title I of this Act makes amendments to the Natural Gas Pipeline Safety Act of 1968.]

SHORT TITLE

Sec. 201. This title may be cited as the "Hazardous Liquid Pipeline Safety Act of 1979."

DEFINITIONS

Sec. 202. As used in this title—

(1) "person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(2) "hazardous liquid" means—

(A) petroleum or any petroleum product, and

(B) any substance or material which is in liquid state (excluding liquefied natural gas) when transported by pipeline facilities and which, as determined by the Secretary, may pose an unreasonable risk to life or property when transported by pipeline facilities;

(3) "transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce; except that it shall not include any such movement through gathering lines in rural location or onshore production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any

of such facilities;

(4) "pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids but "rights-of-way" as used in this title does not authorize the Secretary to prescribe the location or the routing of any pipeline facility;

(5) "interstate pipeline facilities" means the pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

(6) "intrastate pipeline facilities" means pipeline facilities which are not interstate pipeline facilities;

(7) "interstate or foreign commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof.

(8) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(9) "municipality" means a city, county, or other political subdivision of a State;

(10) "national organization of State commissions" means the national organization of the State commissions referred to in subchapter III of chapter 103 of title 49, United States Code; and

(11) "Secretary" means the Secretary of Transportation.

REGULATIONS GOVERNING HAZARDOUS-LIQUID PIPELINE FACILITIES

Sec. 203. (a) The Secretary shall, by regulation, establish minimum Federal safety standards for the transportation of hazardous liquids and pipeline facilities. The standards shall apply to each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities. The standards shall be practicable and designed to meet the need for safe transportation of hazardous liquids.

(b) In prescribing standards under this section, the Secretary shall consider—

(1) relevant available pipeline data;

(2) whether the standards are appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of any proposed standards;

(4) the extent to which the standards will contribute to public safety.

(c) Standards under this section may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Any standard issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standard is adopted.

(d) Any State agency may adopt additional or more stringent safety standards for intrastate pipeline facilities and the transportation of hazardous liquids associated with such facilities, if such standards are compatible with the Federal

standards issued under this title. No state agency may adopt or continue in force any safety standards applicable to interstate pipeline facilities or the transportation of hazardous liquids associated with such facilities.

(e) The Secretary may provide that the Federal minimum safety standards established under this section include a requirement that any operator of pipeline facilities—

(1) participate in any public safety program—

(A) which provides for notice to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility;

(B) which requires such operators to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

(C) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards to that operator's pipeline facilities created by such demolition, excavation, tunneling, or construction; or

(2) establish and carry out a damage prevention program which provides services to the public with respect to that operator's pipeline facilities which are comparable to those which would be available to the public under a program described in paragraph (1).

(f) Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the

Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the regulation establishing or amending such standard.

(g) The provisions of subchapter II of chapter 5 of title 5 of the United States Code shall apply to all actions establishing, amending, revoking, or directing or waiving compliance with, any standard established under this Act. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(h) Upon application by any person engaged in the transportation of hazardous liquids or the operation of pipeline facilities, the Secretary may, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this title, if he determines that a waiver of compliance with such standard is not inconsistent with pipeline safety. The Secretary shall state his reasons for any such waiver. A state agency, with respect to which there is in effect a certification pursuant to section 205(a) or an agreement pursuant to section 205(b), may waive compliance with a safety standard in the same manner and to the same extent as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary

shall determine finally whether the requested waiver may be granted.

TECHNICAL HAZARDOUS-LIQUID PIPELINE SAFETY STANDARDS COMMITTEE

Sec. 204. (a) Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish a Technical Hazardous-Liquid Pipeline Safety Standards Committee and appoint the initial members of the Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of hazardous liquids or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of the transportation of hazardous liquids and of pipeline facilities or technically qualified by training, experience, or knowledge in one or more fields of engineering applied in the transportation of hazardous liquids or the operation of pipeline facilities to evaluate pipeline safety standards, as follows:

(1) five members shall be selected from governmental agencies, including State and Federal Governments, two of whom, after consultation with representatives of the national organization of State commissions, shall be State commissioners;

(2) four members shall be selected from the hazardous liquids industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of pipeline facilities; and

(3) six members shall be selected from the general public.

(b) After the Committee has been established and its members appointed, the Secretary shall submit to the Committee any proposed standard under this title, or

any proposed amendment to a standard under this title, for its consideration. Within 90 days after receipt by the Committee of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of such standard or amendment. The Secretary may prescribe a final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has reported on such standard or amendment. Each report by the Committee, including any minority views, shall be published by the Secretary and, if timely made, form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of hazardous liquids to the Secretary for his consideration. The Committee shall meet with the Secretary (or his designee) not less frequently than twice each calendar year. All proceedings of the Committee shall be recorded and the record of each proceeding shall be available for public inspection.

[Sec. 204(b) amended by PL 97-468, January 14, 1983]

(c) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary at not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service em-

ployed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United State for any purpose.

STATE CERTIFICATIONS AND AGREEMENTS

Sec. 205 (a) Except for section 215 and except as otherwise provided in this section, the authority of the Secretary under this Act to prescribe safety standards and enforce compliance with such standards shall not apply to intrastate pipeline facilities or the transportation of hazardous liquids associated with those facilities, when the safety standards and practices applicable to same are regulated by a State agency which submits to the Secretary an annual certification that such State agency—

(1) has regulatory jurisdiction over the safety standards and practices of intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities;

(2) has adopted, as of the date of the certification, each federal safety standard established under this title which is applicable to intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities or, with respect to each such Federal safety standard established within 120 days before the date of certification, is taking steps pursuant to State law to adopt such standard;

(3) is enforcing each such standard;

(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of demolition, excavation, tunneling, or construction activity; and

(5) has the authority to require record maintenance, reporting, and

inspection substantially the same as are provided under section 211 and the filing for approval of plans of inspection and maintenance described in section 210 and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 208 [other than subsection (a)(2) thereof] and 209.

Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding 12 months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding \$5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency) and any other accident which the State agency considers significant, together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding 12 months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time.

(b) With respect to any intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities for which the Secretary does not receive an annual certification under subsection (a), the Secretary may, by agreement with a State agency authorize such agency to assume responsibility for, and carry out

on behalf of the Secretary as it relates to those facilities or associated transportation, the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards; and

(2) establish procedures for approval of plans for inspection and maintenance substantially the same as are required under section 210.

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) The Secretary may conduct whatever monitoring may be necessary of any State program established by certification or agreement under this section to assure that such programs are being carried out in compliance with such certification or agreement. State agencies shall cooperate fully in any monitoring of their programs under this subsection.

(d) (1) Except as otherwise provided in this section, if an application submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities of a State agency reasonably required during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate pipeline facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification

under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate pipeline facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for hazardous liquid pipeline safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding the date of enactment of this section.

(2) Funds authorized to be appropriated by section 214 of this title shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(e) A certification which is in effect under subsection (a) shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities pursuant to this title after the date of such certification. The provisions of this title shall apply to any such new or amended federal safety standard until the State agency has adopted such standard

and has submitted an appropriate certification in accordance with provisions of subsection (a).

(f) If after receipt of annual certification under subsection (a), the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

(g) Any agreement under subsection (b) may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provisions of such agreement. Such finding and termination shall be published in the Federal Register and shall become effective no sooner than 15 days after the date of publication.

JUDICIAL REVIEW

Sec. 206. (a) Any person who is or will be adversely affected or aggrieved by any regulation issued under this title or any order issued relating to an application for waiver under section 203(h) may at any time prior to the 90th day after such regulation or order is issued file a petition for judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

[Sec. 206(a) amended by PL 97-468, January 14, 1983]

(b) Upon the filing of the petition referred to in subsection (a), the court shall

have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(c) The judgement of the court affirming or setting aside, in whole or in part, any such regulation or order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(d) Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office.

(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

COMPLIANCE

Sec. 207. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall—

(1) at all times after the date any applicable safety standard established under this title takes effect comply with the requirements of such standard;

(2) establish and maintain a plan of inspection and maintenance required by section 210 and comply with such plan; and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 211.

(b)(1) The Secretary may issue orders directing compliance with this Act or any regulation issued under this Act. Any such order shall clearly set forth the particular actions required of the person

to whom the order is issued.

(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce any such order by appropriate means.

(c) Nothing in this title shall affect the common law or statutory liability of any person.

PENALTIES

Sec. 208. (a)(1) Any person who is determined by the Secretary to have violated any provisions of section 207(a) or any regulation or order issued under this title, including any order issued under section 207(b) or 209(b), shall be liable to the United States for a civil penalty of not more than \$1,000 for each violation for each day that violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

(2) The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

(b) A civil penalty assessed under subsection (a) may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, it may be compromised by the Secretary. The amount of the penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums

owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c)(1) Any person who willfully and knowingly violates section 207(a) or a regulation or order issued under this title, including any order issued under section 207(b) or 209(b), shall, upon conviction, be subject, for each offense, to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

(2) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate pipeline facility shall, upon conviction, be subject, for each offense, to a fine of not more than \$25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Nothing in this title shall be construed to authorize the imposition of penalties for the violation of any regulation and the violation of any order under section 207(b) or 209(b) if both violations are based on the same act.

SPECIFIC RELIEF

Sec. 209. (a)(1) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress or restrain a violation by any person of a provision of this title or a regulation issued under this title. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunction relief, interim equitable relief, and punitive damages.

(2) In any proceeding for criminal contempt for a violation of a mandatory or prohibitive injunction issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court or,

upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require, the person operating the facility to take necessary corrective action. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

(A) if under the facts and circumstances he determines the particular facility is hazardous to life or property, or

(B) if the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

(3) In making a determination under paragraph (2), the Secretary shall consider, if relevant—

(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and

the method of its manufacture, construction, or assembly;

(B) the nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(C) the aspects of the areas in which the pipeline facility is located, in particular the climate and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

(D) any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board under other provisions of law; and

(E) such other factors as the Secretary may consider appropriate.

(4) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce orders issued under this subsection by appropriate means.

(5) The Secretary may waive the requirements for notice and hearing under this subsection and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance of an order.

INSPECTION AND MAINTENANCE

Sec. 210. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall prepare, maintain at such office or offices of that person as the Secretary determines appropriate, and carry out a current written plan for inspection and maintenance of each facility used in that transportation and owned or operated by that person in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 205 of this title is in effect, by the appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to the provisions of this title to file such plans for approval. A plan required by this subsection shall be practicable and designed to meet the need for pipeline safety and shall be made available to the Secretary or appropriate State agency upon request pursuant to section 211.

(b) If the Secretary or appropriate State agency finds that a plan required under this section is inadequate to achieve safe operations of pipeline facilities, the Secretary or appropriate State agency shall, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the Secretary or appropriate State agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

(c)(1) The Secretary shall study the

feasibility of and costs connected with requiring various methods of testing and inspecting hazardous liquid pipeline facilities subject to the provisions of this title. In carrying out such study, the Secretary shall evaluate any new technologies available for monitoring, from the outside or the inside, the condition of such facilities.

(2) The Secretary shall make recommendations, based on the study undertaken under this subsection and on consultations between the Secretary and the Technical Hazardous-Liquids Pipeline Safety Standards Committee established under section 204 of this title, as to the frequency and type of testing and inspection of pipeline facilities which should be required, taking into account—

(A) the location of the pipeline facilities;

(B) the type, age, manufacturer, method of construction, and condition of the pipeline facilities;

(C) the nature of the materials transported through the pipeline facilities, the sequence in which such materials are transported, and the pressure at which they are transported;

(D) the climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas;

(E) the frequency of leaks, if any;

(F) the costs of the various

available methods; and

(G) any other factors the Secretary determines to be relevant to the safety of the pipeline facilities.

(3) The Secretary shall submit to the Congress a report detailing the results of the study undertaken under this subsection and setting forth the recommendations made under paragraph (2) no later than one year after the date of enactment of this subsection.

[Sec. 210(c) added by PL98-464, October 11, 1984]

POWERS AND DUTIES OF THE SECRETARY

Sec. 211. (a) The Secretary may, to the extent necessary to carry out his responsibilities under this title, conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct, directly or, by contract, or otherwise, research, testing, development, demonstration, and training activities; however, before the Secretary may exercise authority under this section to require testing of portions of pipeline facilities subject to the provisions of this title which have been involved in or affected by an accident, he shall make every effort to negotiate a mutually acceptable plan with the owner of such facilities and, where appropriate, the National Transportation Safety Board for performing such testing. In conducting training activities for State or local government personnel in the enforcement of regulations issued under this Act, the Secretary may not assess any charge or fee in the nature of tuition.

[Sec. 211(a) amended by PL-98-464, October 11, 1984]

(b) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities

shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require, and shall submit such reports and shall make such records and information available as the Secretary may request, to enable him to determine whether such person has acted or is acting in compliance with this title and the standards or orders issued under this title.

(c) Officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the person in charge, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with this title and the standards or orders issued under this title.

(d) Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) which information contains or relates to a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under

this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

PIPELINE SAFETY COORDINATION AND COOPERATION

Sec. 212. (a) Upon request, the Secretary shall furnish to the Federal Energy Regulatory Commission or any appropriate State agency, with respect to matters under their jurisdiction, any information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of hazardous liquids or the operation of pipeline facilities.

(b) The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards relating to hazardous liquids, and (2) methods for inspecting and testing to determine compliance with Federal safety standards relating to hazardous liquids.

(c) The Secretary is authorized to consult with, and make recommendations to, other Federal departments and agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this title and to improve State and local pipeline safety programs relating to hazardous liquids.

ANNUAL REPORT

Sec. 213. (a) The Secretary shall prepare and submit to the Congress on April 15 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the leak repairs, accidents, and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board;

(2) a list of federal hazardous liquid pipeline safety standards established or in effect in such year with identification of standards newly established during such year;

(3) a summary of the reasons for each waiver granted under section 203(h) during such year;

(4) an evaluation of the degree of observance of applicable safety standards for the transportation of hazardous liquids an pipeline facilities including a list of enforcement actions, and compromises of alleged violations by location and company name;

(5) a summary of outstanding problems confronting the administration of this title in order of priority;

(6) an analysis and evaluation of research activities, including the policy implications thereof, completed as a result of Government and private sponsorship and technological progress for safety achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under the title;

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certification filed by State agencies (including municipalities) under section 205(a) which were in effect

during the preceding calendar year, and

(B) certifications filed under section 205(a) which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies (including municipalities) under section 205(b) which were in effect during the preceding calendar year, and

(B) agreements entered into under section 205(b) which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination; and

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification or agreement is in effect under section 205, together with the number of such pipeline inspectors (and their qualifications) which the Secretary recommends for that State.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of hazardous liquid pipeline safety programs.

(c) The Secretary is authorized to submit one annual report in satisfaction of the report requirements of this section and of section 16 of the Natural Gas Pipeline Safety Act of 1968.

[Sec. 213(a) amended by PL 98-464, October 11, 1984]

APPROPRIATIONS AUTHORIZED

Sec. 214. (a) For the purpose of carrying out the provisions of this title (other than provisions for which funds are authorized to be appropriated under subsection (b), there are authorized to be appropriated—

(1) \$1,800,000, for the fiscal year ending September 30, 1980;

(2) \$2,100,000, for the fiscal year ending September 30, 1981; and

(3) \$900,000, for the fiscal year ending September 30, 1985

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 205 of this title, there are authorized to be appropriated—

(1) \$500,000, for the fiscal year ending September 30, 1980;

(2) \$535,000, for the fiscal year ending September 30, 1981; and

(3) \$500,000, for the fiscal year ending September 30, 1985.

[Sec. 214 amended by PL-98-464, October 11, 1984]

CITIZENS CIVIL ACTION

Sec. 215. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this title or of any order or regulation issued under this title. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced

under subsection (a) with respect to any alleged violation of this title or any order or regulation issued under this title—

(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 205(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) In any action under subsection (a), the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this title or any order or regulation under this title or to seek any other relief.

(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing

advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provisions of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this title or of any order or regulation under this title only to the extent that such standard or practice is not more stringent than the comparable Federal safety standard.

CONFORMING AMENDMENTS

Sec. 216. (a) Section 112(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1811 (c)) is amended by striking out "Chapter 39 of Title 18, United States Code" and inserting in lieu thereof "Hazardous Liquid Pipeline Safety Act of 1979."

(b) Sections 831 through 835 of chapter 39 of title 18, United States Code, are repealed.

EFFECTIVE DATE

Sec. 217. The provisions of this title shall take effect on the date of enactment.

SAVINGS PROVISIONS

Sec. 218. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective under the provisions of chapter 39 of title 18, United States Code repealed by this title and which are in effect at the time this title takes effect, shall continue in effect as though issued, made, granted, or allowed to become effective under the authority of this title, according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) Suits, actions, or other proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public safety otherwise requires.

TEX. NAT. RES. CODE ANN.
CHAPTER 117 (VERNON SUPP 1986)
HAZARDOUS LIQUID PIPELINE
TRANSPORTATION INDUSTRY (NEW)

Subchapter A. General Provisions

§117.001. DEFINITIONS

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas
- (2) "Hazardous liquid" means:
 - (A) petroleum or any petroleum product; and
 - (B) any substance or material which is in liquid state, excluding liquefied natural gas, when transported by pipeline facilities and which has been determined by the United States Secretary of Transportation to pose an unreasonable risk to life or property when transported by pipeline facilities.
- (3) "Transportation of hazardous

liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to movement, except that it does not include any such movement through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(4) "Pipeline facilities" includes new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

[Sections 117.002 to 117.010 reserved for expansion]

Subchapter B. Jurisdiction, Powers, and Duties

§117.011. JURISDICTION

The commission has jurisdiction over all pipeline transportation of hazardous liquids and over all hazardous liquid pipeline facilities as provided in the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L. No. 96-129). 1

§117.012. RULES AND STANDARDS

(a) The commission shall adopt rules that include safety standards for and practices applicable to the intrastate transportation of hazardous liquids by pipeline and intrastate hazardous liquid pipeline facilities.

(b) Rules that adopt safety standards do not apply to movement of hazardous liquids through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

(c) The safety standards adopted by the commission in its rules must be compatible with those standards established by the United States secretary of transportation under the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L. No. 96-129).¹

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

¹49 U.S.C.A. § 2001 et. seq.

§117.013. RECORDS AND REPORTS

(a) Each owner or operator of a pipeline engaged in the transportation of hazardous liquids within this state shall maintain records, make reports, and provide any information the commission may require under the jurisdiction granted by the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L. No. 96-129)¹ and this chapter.

(b) The Commission, by rule, shall designate the records that are required to be maintained and the reports that are to be filed by the owner or operator and shall provide forms for reports if necessary.

(c) The commission may require the owners or operators of hazardous liquid pipeline facilities to prepare and make available for inspection by its employees or agents or file for approval a procedural manual for each such facility in accordance with the requirements of Title 49, Part 195.402, Code of Federal Regulations.

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, §1, eff. Aug. 29, 1983

§117.014. INSPECTION AND EXAMINATION OF RECORDS AND PROPERTY

(a) The commission and its employees and designated agents may enter property

on which is located pipeline facilities or any other property relating to the transportation of hazardous liquids by pipeline and may inspect and examine the records and property to the extent relevant to determine if a person is acting in compliance with this chapter and rules adopted by the commission under this chapter.

(b) Before the commission or its employees or designated agents enter property for the purposes of this section, the person requesting entry must present proper credentials to the person in charge at the property.

(c) Entry, examination, and inspection under this section may be made only at reasonable times and in a reasonable manner.

Added by Acts 1983, 68th leg., p. 4914, ch. 873, §1, eff. Aug. 29, 1983

§117.015. COMPLIANCE WITH FEDERAL LAW

The commission shall make reports and certifications to the United States Department of Transportation and shall take any other actions necessary to comply with the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L. No. 96-129).¹

Added by Acts 1983, 68th Leg., p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

¹49 U.S.C.A. §1 2001 et seq.

[Sections 117.016 to 117.050 reserved for expansion]

Subchapter C. Enforcement

§117.051. CIVIL PENALTY

A person who violates this chapter or a rule adopted by the commission under this chapter is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, provided that the maximum civil penalty that may be assessed for any related series of violations may not exceed \$200,000.

Added by Acts 1983, 68th Leg. p. 4914, ch.

873, §1, eff. Aug. 29, 1983.

§117.052. ENFORCEMENT BY COMMISSION AND ATTORNEY GENERAL

(a) If it appears that a rule of the commission has been or is being violated, the commission may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or for the assessment and recovery of a civil penalty under Section

117.051 of this code, or for both the injunctive relief and the civil penalty.

(b) On application for injunctive relief and a finding that a person has violated or is violating this chapter or a rule of the commission adopted under this chapter, the district court shall grant the injunctive relief if the facts so warrant.

(c) At the request of the commission, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief to recover the civil penalty, or for both injunctive relief and the civil penalty.

Added by Acts 1983, 68th Leg. p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

§117.054. CRIMINAL PENALTY FOR INJURING OR DESTROYING PIPELINE FACILITIES.

(a) A person who intentionally injures or destroys or attempts to injure or destroy any pipeline facility in this state commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than five years, or both such fine and imprisonment.

Added by Acts 1983, 68th Leg. p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

§117.054. CRIMINAL PENALTY FOR INJURING OR DESTROYING PIPELINE FACILITIES.

(a) A person who intentionally injures or destroys or attempts to injure or destroy any pipeline facility in this state commits an offense.

(b) An offense under this section is punishable by a fine of not more than \$25,000, confinement in the Texas Department of Corrections for a term of not more than 15 years, or both such fine and imprisonment.

Added by Acts 1983, 68th Leg. p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

[Sections 117.055 to 117.100 reserved for expansion]

Subchapter D. Miscellaneous Provisions

§117.101. LIMITATIONS ON POWERS OF CITIES

(a) This chapter may not be construed to reduce, limit, or impair the authority provided by law to any city.

(b) Except as provided by Subsection (c) of this section, a city may not adopt or enforce an ordinance that establishes safety standards or practices applicable to the pipeline transportation of hazardous

liquids or hazardous liquid pipeline facilities that are subject to regulation by federal or state law.

(c) A city may adopt ordinances that establish conditions for installing or relocating pipelines over, under, along, or across public streets and alleys within the boundaries of the city.

Added by Acts 1983, 68th Leg. p. 4914, ch. 873, §1, eff. Aug. 29, 1983.

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