

performance of the project; an organization chart of the segment of offeror's organization which will be directly assigned to the project, listing names and job categories;

(v) description and location of the company-owned research test and production equipment and facilities which will be available for use on the project; separate list of any additional facilities or equipment required in the performance of the work; separate list of existing Government facilities available to the contractor and required for use on the project;

(vi) hourly time estimates (without pricing information) by labor class for each phase or segment of the project; extent to which these estimates are based on the use of employees presently on the offeror's payrolls who will be available for the work as required; indication of number and types of personnel necessary to be hired and arrangements made to obtain them; and

(vii) for negotiated procurements conducted under Source Evaluation Board procedures where detailed program or project support plans will be required as part of the offeror's proposal, and when such plans are not considered to be important discriminators in the evaluation process but only provide technical or management support to the primary product or service being offered, the requirements for these plans shall be described in separate appendices to the Statement of Work. As part of their original proposal, offerors will be required to submit an estimate of the cost and work force to perform major tasks under each requirement separately identified, and a summary of the major task elements to perform each requirement. Offerors will also be required to indicate that they understand that a detailed program or project support plan will be ultimately required if they are selected for negotiations, and that such plans will be negotiated into the proposed contract prior to award.

(2) Business Management Proposal.

(i) organization proposed for carrying out the project, including organization charts showing interrelationship of business management, technical management and subcontract management; indication of all levels of operation and management, from lower levels through intermediate management to top level management;

(ii) resume of experience of all key personnel who will conduct the managerial affairs of the project;

(iii) contractual procedures proposed for the project to effect administrative

and engineering changes, describing differences from existing procedures;

(iv) extent to which offeror has invested corporate funds in research and development work in the project area or directly related areas and plans for future expenditures for such work; extent, if any, to which offeror is willing to participate in the cost of the project (see 3.405-3);

(v) statement as to capacity at which company-owned research test, and production equipment and facilities required in the performance of the work are currently working; extent to which such facilities and equipment could handle the additional workload imposed by this project; cost of any additional facilities or equipment required in the performance of the work with information as to whether such additional facilities or equipment will be contractor-furnished or Government-furnished; statement of value of existing Government facilities available to offeror and required for use on the project, showing the Government agencies and facilities contracts involved;

(vi) statement of past performance and experience including:

(A) list of Government contracts in excess of \$1,000,000 received in past three years or currently in negotiation involving mainly research and development work, showing each contract number, Government agency placing the contract, type of contract, and brief description of the work;

(B) for each cost-type contract, specify amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee;

(C) for each contract, give record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays; and

(D) identify and explain any terminations for default or Government convenience;

(vii) balance sheet for offeror's last fiscal year, accompanied by profit and loss statement;

(viii) detailed cost or price proposal, furnished as a separate, detachable element of the business management proposal; and

(ix) in soliciting proposals for support services requiring price quotations for a cost reimbursement type contract the request for proposals should set forth available data respecting the quantity and quality of supplies and services required. These data should be set forth in terms of work hours of identifiable categories of labor, including experience and related qualifications, and in terms

of quantities of supplies, all exclusive of costs. To be responsive, an offeror must submit a detailed cost or price proposal based on the effort described or estimated in the request for proposals. If the offeror feels that the work can be accomplished more efficiently with organizational plans, staffing, management or equipment other than those indicated in the request for proposal, he may also submit an alternate proposal, supported by a detailed cost or price proposal.

(d) *Source Evaluation Board RFP's.* Requests for proposals, which are subject to the review and approval of a Source Evaluation Board, should be developed in accordance with the above paragraphs and the requirements of paragraph 403 of the NASA Source Evaluation Board Manual (NHB 5103.6A).

(e) *Acquisition of Major Systems.* Requests for alternative system design concept proposals leading to the acquisition of a major system subject to the policies and procedures prescribed in NMI 7100.14A shall clearly express mission need, schedule, cost, capability objectives, and operating constraints applicable to the particular program. The request for proposals should be prepared so that offerors are free to propose their own technical approach, main design features, subsystems, and alternatives to schedule, cost, and capability goals. Use of Government specifications and standards should be restricted.

[FR Doc. 79-21820 Filed 7-13-79; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Part 195

[Amdt. 195-15; Docket PS-51]

Transportation of Liquids by Pipeline; Procedures for Operations, Maintenance, and Emergencies

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This final rule establishes precise and comprehensive requirements for written procedures to be prepared and followed by operators of hazardous liquid pipelines for conducting pipeline operations and maintenance, and for handling emergencies.

DATE: Effective date of this final rule is July 15, 1980.

FOR FURTHER INFORMATION CONTACT:
Frank Robinson, 202-426-0135.

SUPPLEMENTARY INFORMATION: Failure analyses and accident investigations by MTB and recommendations by the NTSB (P-79-9, P-78-10, P-74-53, 54, 56, 58, P-73-30, 49, P-72-3) indicate that in many cases pipeline carriers transporting hazardous liquids do not have adequate procedures for handling normal operations and maintenance, abnormal operations, and emergencies. The lack of procedures to assure appropriate and timely action has contributed to the occurrence of failures and to the damage resulting from failures.

Carriers who have established and who have implemented adequate written operating, maintenance, and emergency procedures together with appropriate personnel training have safety records which demonstrate that this approach is effective in minimizing the potential for hazardous incidents. In view of the enhanced safety resulting from adequate written procedures to control operations, maintenance, and emergencies, MTB reviewed the requirement in § 195.402 to establish and maintain such procedures. Section 195.402 for procedures was found inadequate because it does not clearly set forth in sufficient detail those items which the procedures must include to achieve adequate safety. As a result, a notice of proposed rulemaking (NPRM) was published in the Federal Register (43 FR 35513, August 10, 1978) providing detailed justification for the NPRM and proposing to establish the essentials that these procedures must include as well as requirements for communications, personnel training, and public education concerning the hazards involved.

Thirty-one commenters responded to the NPRM. Only one commenter agreed with all provisions of the notice. The other commenters recommended changes to one or more of the individual paragraphs in the notice. Substantive comments, responses to substantive comments, and the development of the final rules follow:

Definition of Highly Volatile Liquid

The NPRM proposed a definition of the term "highly volatile liquid (HVL)" for use in conjunction with the proposed procedures. Certain special procedures were proposed for pipelines transporting HVLs because such commodities usually pose a greater hazard than other liquid commodities in the event of a spill.

The proposed definition of an HVL was a liquid which has an absolute vapor pressure of 100 kPa (14.5 psia) or more at 37.8° C (100° F). The intent was

to describe those commodities which would form a vapor cloud when released to the atmosphere.

One commenter objected to the addition of the new term "highly volatile liquid" questioning whether a new term, not generally used by the industry, is appropriate. Another commenter recommended that established definitions in Part 173, § 173.300, be utilized for highly volatile liquids.

The MTB believes a new term to define highly volatile liquids is necessary in order that certain rules can be promulgated that apply only to these commodities. MTB further believes there is no commonly used term to describe these commodities. Additionally, there is no term in Part 173 that adequately describes highly volatile liquids. Section 173.300 gives three definitions of a compressed gas. Of these definitions, the one that most adequately describes some HVLs is the one which reads " * * * any liquid flammable material having a vapor pressure exceeding 40 psi absolute at 100° F * * * ." Although this definition would serve to describe flammable HVLs such as LPG, it excludes other HVLs such as anhydrous ammonia which are not flammable. Hence, a new term describing an HVL is appropriate.

One commenter recommended a nontechnical description as well as a technical definition be included in the final rule. Although the commenter did not recommend the specific wording for a nontechnical description of an HVL, a nontechnical description is given in the final rule as an aid in understanding how an HVL differs from other commodities.

Two commenters recommended that liquefied natural gas (LNG) be specifically excluded in the definition arguing that the proposed definition would erroneously include LNG. MTB does not agree that the proposed definition of an HVL includes LNG because LNG is not a liquid at 100° F and, hence, cannot have a vapor pressure at that temperature.

Nine commenters recommended that a highly volatile liquid be defined as those liquids with an absolute vapor pressure of 40 psi or more at 100° F arguing that (1) the proposed rule defining an HVL as a liquid with a vapor pressure of 14.5 psia or more at 100° F would erroneously include some commodities which do not form vapor clouds such as some crude oils, (2) increasing the vapor pressure in the definition to 40 psia or more, would exclude such crude oils, and (3) increasing the vapor pressure to 40 psia or more at 100° F would make

the definition numerically consistent with § 173.300.

The MTB agrees that the proposed definition of an HVL would erroneously include some crude oils. The MTB further agrees that increasing the vapor pressure in the definition to 40 psia would appropriately exclude such crude oil, but yet include those commodities which are intended to be covered, such as LPG and anhydrous ammonia.

In view of the foregoing, the definition of an HVL in the final rule has been changed from the definition in the proposed rule. The final definition of HVL is "a commodity 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)."

General Requirements

Two commenters noted that the reference to "paragraph (a)" in the redesignated general requirements of § 195.401(a) should be changed to § 195.402(a) for consistency. This correction is made in the final rule.

Several commenters misunderstood the scope of the notice believing that it applied only to pipelines carrying HVL. The proposed regulations and final regulations apply to all liquid commodity pipelines operated by carriers engaged in interstate or foreign commerce with special provisions for HVL pipelines.

Procedural Manual for Operation, Maintenance, and Emergencies

One commenter on proposed § 195.402(a) recommended that keeping procedures in a manual form be made optional, arguing that implementing written procedures would be unduly burdensome and costly. Another commenter made the same argument for offshore pipelines. One commenter argued that although carriers now have written procedures, putting these procedures into a manual would serve no useful purpose other than to comply with the proposed rulemaking. The MTB disagrees with these views. The existing § 195.402 requires written procedures for operation and maintenance. Consequently, there should be little, if any, added cost to put these procedures into a manual. Further, it is difficult to ascertain how the procedures could be utilized or evaluated effectively without being in such form. As a result, the proposed requirement for maintaining a current written manual of procedures for each pipeline system has been retained in § 195.402(a) of the final rules.

Most commenters agreed with the proposed requirement to have a written

procedures manual. However, 10 commenters recommended that the proposed requirement to file a copy of the procedures manual with the Secretary be deleted. They argued that (1) a review of the manual by persons not familiar with the specific pipeline would be meaningless, and (2) submitting the manual and all the changes to the manual would be burdensome.

The MTB finds repugnant the assertion that a pipeline carrier's operation, maintenance, and emergency procedures should not be subject to review by persons not intimately familiar with the specific pipeline (i.e., persons not in the employ of the carrier). Carriers are not above public accountability for what they do or don't do toward reducing the potential for accidents and the damage that accidents produce. However, because the MTB also has its concerns with carriers submitting all manuals and changes for review, those requirements were deleted in the final rule. Instead, it is MTB's intention to have its Regional pipeline inspectors, during regular inspection visits, review carriers' manuals against the specific requirements of this new rule.

Section 195.402(a) of the final rule specifies an annual review of the manual by the carrier and appropriate changes made as necessary to insure that the manual is effective. The MTB believes this review and update of the manual will insure that the manual is complete and current. The final rule specifies that the manual shall be kept at locations where operations and maintenance activities are conducted. The intent is to keep the manuals at locations where they will be immediately available to operating personnel and to MTB inspection personnel for review during their periodic inspections.

Two commenters recommended that the time for compliance with the requirement to have a procedures manual be within 1 year of the effective date of the regulation or within 3 months after a carrier begins initial operations. While MTB agrees that adequate time is necessary to prepare the manual, MTB believes that pipelines should not begin operations without written procedures because accidents are likely to occur during initial operations. Accordingly, the MTB has made this final rule effective July 15, 1980. This gives sufficient time to prepare the procedures manual for pipeline systems in operation on that date. For pipeline systems that begin initial operations after July 15, 1980, § 195.402(a) makes

clear that the procedures manuals must be completed before operations commence. There were no substantive comments regarding § 195.402(b), and it is adopted as proposed.

Three commenters recommended that the proposed § 195.402(c)(1) concerning the availability of records and maps be deleted arguing that it merely repeats the requirements of existing § 195.404. However, such commenters were mistaken because § 195.404 requires the retention of certain data, while the proposed § 195.402(c)(1) provides for the use of such data where necessary for safe operations and maintenance activities. Therefore, § 195.402(c)(1) is adopted as proposed.

There were no substantive comments concerning § 195.402(c) (2) and (3), and these paragraphs are adopted as proposed.

One commenter to § 195.402(c)(4) which required that the carrier identify possible hazards argued that this paragraph could be interpreted to require each piece of equipment to be reexamined and its reliability certified. The MTB recognizes that statistical reliabilities and confidence levels are not available for most pipeline equipment and it is not the intent of this paragraph to require such sophistication. Another commenter recommended that this paragraph be deleted entirely arguing that the proposed paragraph would require a carrier to predict where a pipeline would fail. Such is not the intent. Rather, the intent of proposed § 195.402(c)(4) is to require a carrier to analyze its system and its practices with the records available and its knowledge of potential hazards, and to identify those facilities that would cause hazards to the public and to the system itself if failure did occur. Because MTB believes that the language of the proposed requirement is consistent with that intent § 195.402(c)(4), as proposed, has been incorporated in the final rule.

There were no substantive comments concerning § 195.402(c)(5), (6), and (7), and these paragraphs are adopted as proposed.

Regarding proposed § 195.402(c)(8) and (9), six commenters recommended that these two paragraphs be deleted or substantially rewritten arguing that the proposed wording has included language for specific design requirements which should be addressed in the design section of the regulations rather than the operations sections. The MTB agrees that it may be necessary for a carrier to install telemetry equipment to meet the intent of § 195.402(c)(8) and (9). The intent is to

require monitoring of pipeline operational data from attended locations so that abnormalities can be detected quickly and proper procedures instigated. However, the means by which a carrier monitors operational data is not related to the design of its pipeline system. A carrier may choose to telemeter data from several locations to one central attended location to meet these requirements. Alternatively, personnel at the various locations may monitor the data directly. As a consequence, these two paragraphs have been adopted as proposed as operational requirements.

There were no substantive comments regarding § 195.402(c)(10). This paragraph is adopted as proposed.

One commenter questioned whether a carrier would have the means or authority to minimize the likelihood of accidental ignition of vapors near pipeline facilities, but off the pipeline right-of-way as required by § 195.402(c)(11). The MTB believes that the carrier might not have direct authority in all cases, but that he has access to those who do have such authority and can effect changes required to assure safety. This paragraph has been retained as proposed.

There were no substantive comments concerning § 195.402(c)(12), (13), and (14), and these paragraphs are adopted as proposed.

Two commenters noted that the proposed § 195.402(d) concerning procedures for abnormal operations would require carriers to develop procedures to respond to many normal actions. They argued that the advanced technology of pipeline control systems will actuate a valve or a safety device as part of its normal functions. These commenters recommend that this paragraph be rewritten to apply to conditions outside of normal design limits. In view of this argument, § 195.402(d) has been rewritten to apply to those abnormal situations where operating design limits have been exceeded.

Other substantive comments concerning the requirements of § 195.402(d) are fully responded to by the revision of § 195.402(d) above.

One commenter objected to the proposed § 195.402(e)(2) which includes "release of commodity from a pipeline facility" as an emergency situation requiring emergency response. It was argued that a "release of commodity" is an occurrence that by design exists often as part of normal operating and maintenance practices. Recognizing that planned releases of commodity are part

of normal operation and maintenance, the proposed § 195.402(e)(2) has been reworded in the final rule to include "accidental release of commodity from a pipeline facility" as one of the situations requiring emergency procedures.

One commenter recommended that the proposed § 195.402(e)(3) be changed to read "making personnel, equipment, instruments, tools, and materials available promptly as needed at the scene of the emergency." Since it appears that the proposed § 195.402(e)(3) could be interpreted to mean that personnel, equipment, etc., must be kept standing by at all possible scenes of emergencies, the recommended wording by the commenter is adopted in the final rule for clarification.

Two commenters recommended that the phrase "including possible intentional ignition in the case of flammable HVL" be deleted from the proposed § 195.402(e)(5) concerning procedures for controlling released commodities. One commenter stated that he had studied the use of intentional ignition as a means of controlling a release but had been unable to develop a safe procedure. The other commenter stated that any mention of intentional ignition must be accompanied by safeguards and warnings concerning its use. The MTB recognizes the potential hazards in the use of intentional ignition. The MTB also recognizes that it is used in some cases albeit with the utmost care and caution. It is for these very reasons that MTB proposed to require that intentional ignition be addressed in the procedures manual. Although the proposed rule leaves the use of intentional ignition to the discretion of the carrier, MTB believes that an adequate procedure by necessity will incorporate safeguards and warnings that should be in place if the carrier opts to use this method to control accidental releases.

Two commenters recommended that the phrase "by evacuating residents" concerning minimizing public exposure to hazards in proposed § 195.402(e)(6) be changed to "assisting with the evacuation of residents" arguing that the carrier does not have the authority to evacuate residents. Recognizing that the carriers are not legally authorized to evacuate residents in case of an emergency, the recommended wording "by assisting with evacuation of residents" has been adopted in the final rule. For the same reason, the proposed wording "halting traffic on roads and railroads" in the proposed § 195.402(e)(6) has been changed to

"assisting with halting traffic on roads and railroads" in the final rule.

One commenter recommended that the proposed § 195.402(e)(7) include a statement that the individuals with jurisdiction or control of the land on which the pipeline is located be notified of any abnormalities or emergency conditions. This recommendation was not adopted in the final rule because MTB believes that (1) during an emergency, time is of the essence and a requirement to notify landowners would consume valuable time of the carriers' key personnel, (2) landowners may not be the ones most directly endangered by the hazard, and (3) landowners are not usually prepared to assist with controlling a hazard. Consequently, the wording proposed in the notice has been retained. This is not to say that notification of landowners should be discouraged or prohibited because there may well be instances where such practice is advisable and should be done under § 195.402(e)(6) as part of the public notice.

Two commenters recommended that the proposed § 195.402(e)(8) be amended to require the determination of safe areas rather than hazardous areas in the case of an HVL spill, arguing that it would be more practical to determine safe areas. The intent of the proposed regulation was a requirement to determine as far as practicable, the extent of a vapor cloud and how it might be moving or expanding so that the hazard might be assessed and what protective measures must be taken. The proposed wording conveys this intent more clearly than the recommended wording, hence the proposed wording is retained in the final rule.

There were no substantive comments regarding § 195.402(e)(9), and this paragraph is adopted as proposed.

One commenter recommended that proposed § 195.403 be amended to require carriers to provide training to State firefighting personnel regarding proper procedures for responding to HVL releases. While this recommendation was not adopted in the final rule, procedural manual requirements for handling emergencies require carriers to undertake emergency preplanning with fire, police, and the appropriate public officials (§ 195.402(e)(7)). Preplanning can and, particularly where small community fire services are involved, should include training assistance. Such training is available from several sources such as the National Fire Protection Association (NFPA) who recently developed, under contract to MTB, a training course titled

"Handling Pipeline Transportation Emergencies."

One commenter recommended that the proposed § 195.403(a)(2) be deleted arguing that training all operating and maintenance employees to know all the hazards of all commodities transported would confuse the employees and reduce the likelihood of obtaining the proper responses to an emergency. The MTB does not believe that the range of commodities transported and the associated hazards of those commodities are so large as to confuse operation and maintenance personnel. Knowledge of the characteristics and hazards of the commodities with which the operation and maintenance personnel are involved is essential to any well developed procedures for operations, maintenance, and emergencies. Therefore, this proposal has been retained.

One commenter to § 195.403(a)(3) recommended that the wording "predict the consequences of facility malfunctions or failures and commodity spills" be deleted arguing that it is unnecessary that the operating and maintenance employees be able to predict such consequences. The commenters argue that knowing only that certain situations are emergencies and to take corrective action is adequate to assure safety. The MTB disagrees. The MTB believes employees must recognize the consequences that can result from an emergency in order to take timely and appropriate action. Consequently, the proposed wording of § 195.403(a)(3) is retained in the final rule.

One commenter recommended that reference to a simulated pipeline emergency be deleted from § 195.403(a)(5) arguing that the methods of training should be at the discretion of the carrier. The MTB believes the wording of the paragraph which calls for simulated emergencies "where feasible" leaves sufficient discretion to the carrier and has retained the proposed wording in the final rule. Simulated emergency conditions are a proven and valuable emergency training technique. Pipeline carriers are to be encouraged to join in their use.

There were no substantive comments concerning proposed § 195.403(a)(1), (4), or (6). There are no changes to these paragraphs in the final rule.

Seven commenters recommended that the training review interval in § 195.403(b) be changed from 6 months to 1 year, arguing that (1) the 6-month interval would be burdensome and (2) the 6-month interval is more often than necessary to meet training objectives.

The commenters further argued that a yearly review interval is adequate to meet training objectives and adequate to assure safety. As a result of the commenters' arguments, the review interval has been changed to 1 year in the final rule.

There were no substantive comments regarding § 195.403(b) (1) and (2). These paragraphs are adopted as proposed.

One commenter recommended that the requirement in proposed § 195.403(c) to train supervisors and verify that training be deleted arguing that (1) the need to train supervisors is self-enforcing (MTB interpreted this to mean that supervisors must first be trained and they in turn, will train lower echelon employees), and (2) verification would be burdensome in that it would add an unnecessary layer of paperwork. The MTB believes that supervisor training and verification of that training is essential because supervisors generally make many of the critical decisions in an emergency. The proposed requirements have been retained in the final rule because MTB believes the benefits derived from such requirements would be significantly greater than the burden of the necessary paperwork.

Concerning the communications requirements of proposed § 195.408, two commenters recommended that this paragraph apply only to pipelines transporting HVL, while another commenter recommended that offshore pipelines be excluded. A further commenter questioned the need for such communications for chlorine pipelines. MTB believes that communications adequate to assure safety are essential for all hazardous liquid pipelines, regardless of the location or commodity transported. Hence, the proposed wording of § 195.408 has been retained in the final rule.

Two commenters noted that "insuring communications with fire, police, and other appropriate public officials during emergency conditions * * *" as required in § 195.408(b)(4) might not be possible because carriers commonly lease communications lines and have little control over these facilities. The commenters recommended "providing communications with * * *" as a better choice of language because emergency communications can be provided to serve during these incidents, whereas normal communications cannot be insured. In view of this argument, proposed § 195.408(b)(4) was changed accordingly in the final rule.

There were no substantive comments regarding § 195.408(a) or § 195.408(b)(1),

(2), and (3), and these paragraphs are adopted as proposed.

Eight commenters recommended deletion of the requirements in proposed § 195.440 to inform persons who live or work within 220 yards of an HVL pipeline and within 1 mile if located downhill from an HVL pipeline about the particular hazards of the commodities transported. These commenters argued that (1) compliance with this requirement sets forth an impossible task with which no carrier can comply. Any attempt at compliance would require hiring thousands of people to notify millions of people daily, many of whom are transient, about the hazards of HVL; (2) even if such a task could be accomplished, ignition of vapor clouds would not necessarily be prevented; and (3) many false alarms would be created (i.e., ordinary ground fog might be reported frequently as a vapor cloud) making response to actual emergencies more difficult. Most of these same commenters agree that the first two sentences of the proposed § 195.440 set forth the requirements for an effective public education program.

In view of the difficulty in attempting to comply with this requirement and the uncertainty of the benefits if compliance could be obtained, the requirement to inform persons who live or work within 220 yards, or 1 mile downhill from an HVL pipeline has been deleted in the final rule. MTB believes that the remainder of the proposed § 195.440 requiring the carrier to conduct an educational program to enable the public, appropriate government organizations, and persons engaged in excavation-related activities to recognize an emergency and report it to the carrier, fire, police, or other appropriate public officials when taken together with the emergency procedural requirement for preplanning with local officials will achieve substantially the same desired results.

One commenter recommended that provision be made in proposed § 195.440 to allow several carriers operating pipelines in the same area to consolidate their public education programs into one program so that the public could be instructed to report any pipeline emergency to a single agency. The MTB believes the proposed § 195.440 does not prohibit carriers from consolidating their public education programs; on the contrary, this practice is encouraged.

The notice of proposed rulemaking stated that upon adoption of the final rule, existing references to liquefied petroleum gas and liquefied gases would be deleted and the new term "highly

volatile liquid" would be substituted in Part 195. This has been done in the final rule by amending §§ 195.50(c), 195.424(b), 195.424(b)(1), 195.424(b)(2), 195.424(c), 195.428(a), and 195.428(b). However, this substitution was not made in § 195.6 because the intent in § 195.6 is to exclude from notification requirements only liquefied petroleum gas rather than all highly volatile liquids. Similarly, this substitution was not made in § 195.306(b) wherein "liquid petroleum that does not vaporize rapidly" may be used as a test medium. Conceivably, § 195.306(b) could be read to include all products other than a highly volatile liquid. * * * Such is not the case. Section 195.306(b) shall continue to allow products such as diesel fuel that do not vaporize rapidly to be used in some instances as a test medium.

In view of the foregoing, Part 195 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By adding a new definition to § 195.2 to read as follows:

§ 195.2 Definitions.

"Highly volatile liquid" or "HVL" means a commodity 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).

2. By adding a new § 195.401 to read as follows:

§ 195.401 General requirements.

(a) No carrier 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 paragraph 195.402(a) of this section.

(b) Whenever a carrier 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 carrier may not operate the affected part of the system until it has corrected the unsafe condition.

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

3. By revising § 195.402 to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each carrier 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 annually 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.

(b) *Amendments.* If the Secretary finds that a carrier'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 carrier 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 carrier 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 carrier 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 on the basis of design, construction, leak history, and other relevant data, which pipeline facilities, operating conditions, installation techniques, and maintenance methods would cause hazards to the safety of the public or system integrity in the event of a malfunction or failure.

(5) Analyzing pipeline accidents to determine their causes (in cooperation with the Secretary when appropriate).

(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 commodity in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.

(8) 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) Detecting abnormal operating conditions at points of receipt and delivery of the commodity and at facilities identified under paragraph (c)(4) of this section by monitoring pressure, temperature, flow, or other appropriate operational data and transmitting this 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 liquid pipeline emergency and acquaint the officials with the carrier's ability in responding to a liquid pipeline emergency and means of communication.

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

(14) Any other items reasonably considered necessary for the safe operation and maintenance of the system.

(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, including pressure and flow rates at outlet and inlet facilities and 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 carrier personnel when notice of an abnormal operation is received.

(5) Periodically reviewing the response of carrier 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 carrier or notice to fire, police, or other appropriate public officials and communicating this information to appropriate carrier 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 pipeline facility accidental release of commodity 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 material that is released from any section of a pipeline system in the event of a failure.

(5) Control of released commodity 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 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.

4. By adding a new § 195.403 to read as follows:

§ 195.403 Training.

(a) Each carrier 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 commodities 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 commodity spills, and to take appropriate corrective action;

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

(5) Learn the proper use of firefighting 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 of not more than 1 year each carrier shall:

(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 carrier 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.

5. By revising § 195.408 to read as follows:

§ 195.408 Communications.

(a) Each carrier 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 carrier 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.

6. By adding a new § 195.440 to read as follows:

§ 195.440 Public education.

Each carrier shall establish a continuing educational program to enable the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a liquid pipeline emergency and to report it to the carrier 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 carriers' operating areas.

7. By making the changes listed below:

§ 195.50 [Amended]

By deleting the words "liquefied petroleum gas or other liquefied gas" in § 195.50(c) and inserting the words "highly volatile liquids" in lieu thereof.

§§ 195.424 and 195.428 [Amended]

By striking the words "liquefied gases" wherever they appear in §§ 195.424 (b) and (c) and 195.428(a) and inserting in each instance the words "highly volatile liquids" in lieu thereof.

§ 195.428 [Amended]

By deleting the words "liquefied gas" in § 195.428(b) and inserting the words "highly volatile liquids" in lieu thereof.

Subpart F—[Amended]

8. And by amending the table of sections for Subpart F—Operation and Maintenance, to include the following new or revised section headings:

Sec.

195.401 General requirements.
195.402 Procedural manual for operations, maintenance, and emergencies.
195.403 Training.

* * * * *

195.440 Public education.

(18 U.S.C. 831-835, 49 U.S.C. 1655, 49 CFR 1.53(b), App. A of Part 1.)

The MTB has determined that the proposals in this notice if implemented would not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C., on July 6, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-21610 Filed 7-13-79; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 35)]

Summary Grant Procedures (Finance)

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: These rules revise the procedure under which motor finance applications subject to 49 U.S.C. 11343 and 11344, and applications directly related to such motor finance applications (i.e.: related gateway elimination, conversion or securities applications under 49 U.S.C. 10922 or 11301) are to be processed. They provide that upon the filing of a complete and proper application by motor carriers seeking authority to purchase, control, lease, or merge their operating rights or properties, the application will be

reviewed initially to ensure that a prima facie case has been demonstrated. The application will then be published in the Federal Register as a decision-notice granting the authority requested if the application is unopposed. This revision would expedite Commission authorization to operate and to consummate the transaction.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: These rules are an outgrowth of our concern about spending an inordinate amount of time and resources considering motor finance proceedings which do not have significant public interest consequences. See the proposed policy statement in Ex Parte No. MC-121, *Policy Statement on Motor Carrier Regulation*, 43 FR 56978 (December 5, 1978). This applies most strikingly where applications are complete and properly filed and are unopposed.

In Ex Parte No. 55 (Sub-No. 25), *Revision of Application Procedures*, 42 FR 62486-62489 (1977), we issued new rules designed to expedite the handling of unopposed applications for operating authority. Under these rules, an application is submitted and reviewed. If the application is complete and properly filed (making out a prima facie case), it is published in the Federal Register in the form of a decision. The decision becomes effective if no valid protest is filed. We are here applying the same procedures to motor carrier finance transactions that have been applied to applications for operating authority. Since the present finance application forms require the complete submission of information we need to decide a case, no change is being made in Forms OP-F-44, OP-F-45, and OP-F-200.

In the one comment filed in response to the proposed rules, Schneider Transport, Inc., is concerned that directly related proceedings (Such as gateway elimination applications) which are opposed (while the finance application is unopposed) might receive summary grant treatment. This result is not intended. Applications which are protested will be processed under present procedures. Only those which are unopposed will receive summary grant processing.

Many statements made in the final decision in Ex Parte No. 55 (Sub-No. 25) apply equally here. For instance: these rules are not intended to govern application proceedings which ultimately are opposed nor do they mitigate the quantum of proof required

to make threshold determinations; consequently the overall percentage of unopposed proceedings decided on their merit will remain unaffected by these rules. In addition, specially trained personnel will be used initially to review each application to insure that it is complete and properly filed (and substantively acceptable). The rules will not elongate Federal Register notices of application filings nor will they increase the opportunity to file frivolous protests.

The Rules

Under these procedures, authorization of the proposed transaction, if unopposed, will be accomplished in a two-step process, as follows:

(1) After an application is filed at the Commission, qualified personnel will review it for completeness, accuracy, and legal sufficiency, and refer it through an appropriate decisionmaker to the Federal Register as a short-form decision-notice. This decision-notice will include: (a) A general preliminary finding that, except for applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or divisions of operating rights), which impediments will be duly noted in the Federal Register publication,¹ applicant has demonstrated, in accordance with the applicable provisions of the Act, that the proposed transaction should be authorized, and (b) a statement that in the absence of opposition at the end of the protest period or, if thereafter (until either a subsequent decision under the modified procedure is rendered in a proceeding which is opposed or 30 days after referral to oral hearing²) the application becomes unopposed, the transaction will be authorized upon such terms and conditions as the Commission may impose.

(2) A notice of the effectiveness of the decision-notice, embracing a directive to comply with the requirements of the applicable provisions of the Act prior to and after consummation of the transaction, upon such terms and conditions as the Commission may impose, will be issued and served upon the parties of record in each application proceeding which, at the expiration of

¹ Unopposed application proceedings involving statutory or regulatory impediments to authorization of a proposed transaction will be referred to a decisionmaker for a determination on the existing record or for a determination that the existing record be supplemented to permit an informed decision with respect to these issues.

² These procedures will apply to cases assigned to oral hearing if they become unopposed after the service date of a notice that the case has been assigned for oral hearing.

the protest period is, or thereafter becomes, unopposed.

All application proceedings in which protests have been filed and not withdrawn at the expiration of the protest period will either be designated for handling under the modified procedure or assigned for oral hearing. Protests, therefore, will serve to stay the effectiveness of the Federal Register decision-notice until either (1) such protests are withdrawn, or (2) an appropriate decisionmaker renders a decision based upon the complete record in the opposed application proceeding.

The decision-notices will take the following form:

Interstate Commerce Commission Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344 (formerly Section 5(2) of the Interstate Commerce Act).

The applications are governed by Special Rule 240 of the Commission's *Rules of Practice* (49 CFR 1100.240). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 204(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving problems (e.g., jurisdictional problems, unresolved fitness

questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, and 11349, with the applicable provisions of 49 U.S.C. 10922 and 10923 and with the commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests filed within 30 days of this publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated:

By the Commission, Review Board Number 5, Members.

Federal Register Summary

Our rules at 49 CFR 1100.240(b) already require applicants in motor finance transactions to prepare the Federal Register caption summary of the authority sought. Those rules do not require that applicants also include within the body of the summary their respective motor carrier identification numbers. We require this information within the body of the Federal Register caption summary to enable us to more expeditiously process motor finance applications. Consequently, a minor revision to our rules at 49 CFR 1100.240(b) will be necessary to require applicants to indicate *all* of their basic MC identification numbers under which they are capable of performing interstate operations.

Conclusions

We believe that the procedural revisions adopted in this document are consistent with the applicable provisions of the Interstate Commerce Act, as revised, the Administrative Procedure Act, and with the principles of procedural due process and that they will be of substantial benefit to applicants, the public, and the Commission. This new procedure will result in a threshold finding at a considerably earlier stage of the proceeding than at present and will free staff to concentrate their efforts on more substantial matters. Any problems which implementation of these rules may present in the future will be dealt with pragmatically. Persons filing directly related applications are encouraged, as much as possible, to file these applications along with the motor finance application to which they are directly related. This will result in uniform processing, and efficient publication and consolidation.

These rules do not constitute a major Federal action significantly affecting the quality of the human environment nor do they qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

These rules are issued under the authority at 49 U.S.C. 10321 and 5 U.S.C. 553

Dated: July 5, 1979.

By the Commission: Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.

Secretary

§ 1100.240 [Amended].

Accordingly, 49 CFR 1100.240 (b)(3) will be modified to read as follows:

* * * * *

(b) * * * *

(3) The summary will state whether an application has or has not been filed for temporary authority under 49 U.S.C. 11349 and shall further specifically list all of the applicants' motor carrier identification numbers.

Further, 49 CFR 1100.240(e) will be revised by adding a new subparagraph (4) to read as follows:

* * * * *

(e) * * * *

(4) Applications, notice of which are published in the Federal Register as decision-notices, in which no valid protests are filed within 30 days after publication in the Federal Register, and which are not assigned for oral hearing, will be determined on the basis of the information submitted by applicants.

[FR Doc. 79-21998 Filed 7-13-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF ENERGY

10 CFR Part 490

[Docket No. CAS-RM-79-109]

Emergency Building Temperature Restrictions

AGENCY: Department of Energy.

ACTION: Notice of Effective Date of Final Regulations.

SUMMARY: This notice states that the President has proclaimed July 16, 1979, as the effective date of "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions". The Department of Energy's final regulations implementing the Plan (44 FR 39354, July 5, 1979) are effective on July 16, 1979, the effective date of the Plan.

FOR FURTHER INFORMATION CONTACT:

Henry G. Bartholomew, Office of Conservation and Solar Applications, Department of Energy, 1000 Independence Avenue, S.W., Room GE-004A, Washington, D.C. 20585 (800) 424-9122 (202) 252-4950.

Mary Doyle, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585. (202) 376-4100.

SUPPLEMENTARY INFORMATION: The President has invoked "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions" (the Plan) by transmitting to Congress on July 10, 1979, a Presidential Proclamation, published in the Federal Register, Thursday, July 12, 1979, at 44 FR 40629, stating that the Plan's effectiveness is required by a severe energy supply interruption and declaring July 16, 1979 as the effective date of the Plan.

The Department of Energy has published final regulations implementing the Plan (44 FR 39354, July 5, 1979). Notice is hereby given that the final regulations are effective on July 16, 1979, the effective date of the Plan.

Issued in Washington, D.C. July 13, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-22111 Filed 7-13-79; 11:50 am]

BILLING CODE 6450-01-M