

station's mandatory signal carriage eligibility if it demonstrates, using the methodology specified in § 76.5 of this part, that the station no longer meets the viewing standard.

Federal Communications Commission,
William J. Tricarico,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-84, Amdt. 192-56]

Transportation of Natural and Other Gas by Pipeline; Confirmation or Revision of Maximum Allowable Operating Pressure Near Certain Occupied Buildings and Outside Areas

AGENCY: Research and Special Program
Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the criteria used to classify pipelines located near certain buildings and outside areas that are occupied infrequently. The effect is to relieve the undue burdens imposed by the current rules when pipelines are near these buildings or areas. Considering the risk, an acceptable level of safety will still be provided by the revised criteria and applicable safety standards.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul J. Cory, (202) 366-4561 regarding the content of this amendment or Ms. Sandra Cureton, Dockets Unit, Office of Hazardous Materials (202) 366-5046 regarding copies of the amendment or other information in this docket.

SUPPLEMENTARY INFORMATION:

Background

Notice 1 of this proceeding (50 FR 36116, September 5, 1985) (ANPRM) explained that this rulemaking is a result of requests from five pipeline operators for waiver of § 192.611 as it pertains to pipelines that have been reclassified according to criteria under § 192.5(d)(2). Section 192.611 requires confirmation or revision of maximum allowable operating pressure (MAOP) in areas where there has been population growth as represented by an increase in class location under the criteria of § 192.5. The waiver requests involved

pipelines built to class location 1 standards which had undergone a class location jump from 1 to 3. This normally involves replacement of the line section, although reduction in operating pressure is also a permissible remedy.

The criteria of § 192.5(d)(2) are:

§ 192.5 Class locations.

(d) A Class 3 location is:

(2) An area where the pipeline lies within 100 yards of any of the following:

(i) A building that is occupied by 20 or more persons during normal use.

(ii) A small, well-defined outside area that is occupied by 20 or more persons during normal use, such as a playground, recreation area, outdoor theater, or other place of public assembly.

The waiver petitions cited the high costs of confirming or revising the MAOP for short segments of pipeline (approximately 600 feet each), the small number of occupants of the buildings or outside areas, and the infrequency of occupancy (such as once or twice a week) to argue that the required confirmation or revision in MAOP was not justified. The requests were not granted, however, because none of the operators demonstrated that public safety would not be adversely affected if the MAOP of the pipeline segment or segments involved were not confirmed or revised as required by § 192.611. Nevertheless, RSPA observed that § 192.5(d)(2) may be too conservative when compared to other class location criteria, and some softening of the criteria might be accomplished without a reduction in safety.

In the ANPRM RSPA requested comments on six alternative that were seen as possible courses of action, and asked eight questions relating to the application of § 192.611 under the class location 3 described in § 192.5(d)(2).

An analysis of available information and comments to the ANPRM was published in Notice 3 (NPRM) (51 FR 29504, August 18, 1986). In the NPRM, RSPA proposed to amend § 192.5(d)(2) by deleting the phrase "during normal use" for both buildings and outside areas that are occupied by 20 or more persons and by replacing the deleted phrase with "on at least 5 days a week during at least 26 weeks a year." This proposal was designed to quantify the risk exposure represented by § 192.5(d)(2), and to set the level of exposure high enough that occasional usages, such as 1-week county fairs or rural churches, would not, by themselves, trigger class 3 responses under Part 192, either under § 192.611 or other rules.

Discussion of Comments to the NPRM

Twenty nine commenters responded to the NPRM. Summarized comments and RSPA responses are:

Comment #1: Fourteen comments agreed with the wording proposed in the NPRM for § 192.5(d)(2).

RSPA Response: None.

Comment #2: Six comments agreed in principle with the proposal but pointed out that for clarity the regulations should state that neither the days nor the weeks have to run consecutively. They also said that a year should be any 12-month period beginning with the date of the first known occupancy by more than 20 or more persons.

RSPA Response: For the most part, RSPA agrees with these comments. Since the exposure is the same, the days and weeks do not have to run consecutively and a year need not be a calendar year. Appropriate changes have been made in the final rule to make this clear. Although RSPA also agrees that the 12-month period starts with the time that 20 or more people are known to have been in occupancy, it would not be reasonable to apply the criteria otherwise, and so we see no need to specify the beginning point of the 12-month period.

Comment #3: Four comments agreed with the proposal but recommended that "20 or more persons" be increased to some larger number of persons. One of these did not mention a number, however, the other two comments recommended changing 20 to 100 persons. One commenter suggested that we consider an additional class location 3 designation that would apply where pipelines lay within 100 yards of an area where 500 or more persons assemble at least 10 days per year.

RSPA Response: The idea of raising the number of persons from 20 to some greater number was discussed as an alternative in the ANPRM. Sixty-five percent of the comments to that notice did not believe it would alleviate the problem. It would also expose more people to risk. Therefore, RSPA did not propose to change the number in the NPRM. Rather, we proposed to quantify the frequency of use, or length of exposure of 20 or more persons to the pipeline, as the best way to resolve the problem of infrequent usage, while minimizing undesired effects on safety.

The comment regarding 500 or more persons for at least 10 days a year was not adopted because the high occupancy type of usage this commenter had in mind nevertheless falls in the realm of occasional exposure to risk to which the NPRM was directed. The overall

exposure of 500 people for 10 days probably would be no greater than that of a county fair. County fairs, which involve large congregations of people for about a week, were mentioned in the NPRM as a type of occasional usage that does not deserve the more stringent Class 3 treatment. No comments were voiced in opposition to excluding county fairs from Class 3 designations.

Comment #4: One commenter agreed with the proposal but recommended that the 26 weeks per year be changed to 13 weeks because most schools observe a variety of holidays that could result in their not having 26 weeks with 5 days per week.

RSPA Response: As a result of this comment on schools and comment #5, RSPA has reduced the occupancy period to 10 weeks, which appears sufficient to satisfy the need to protect schools as well as the objections discussed in comment #5.

Comment #5: Two commenters pointed out that 5 days per week and 26 weeks per year would exclude resort areas such as theme parks, summer camps, camp grounds, public swimming pools, etc.; that would be occupied in many areas from ¼ to ½ of the year.

RSPA Response: We agree that areas or buildings such as these that are normally occupied by a large number of persons during a few months of the year warrant additional consideration. Such facilities as theme parks, summer camps, camp grounds, and public swimming facilities, etc., in most areas of the U.S., are open by the last week in June or the first week of July and remain open at least until Labor Day. This is a period of 10 weeks and may be 11 weeks. They usually are open at least 5 days a week. A few summer camps may be in session for only eight or nine weeks. OPS intends to include these summer camps within the rules protection. We have drafted the rule in terms of 10 weeks, rather than 8 or 9 because we believe that these full-length summer camps usually will have 20 or more staff and/or other persons present in the weeks before and after the weeks when the camps are in session to prepare for or shut down the camp. The reduction from 26 to 10 weeks should not affect the objective of excluding occasionally used facilities since usually they are not in session 5 days a week or for 10 weeks. As a result of this comment and comment #4, the final rule reduces the number of weeks from 26 to 10.

Comment #6: One comment recommended that the present wording of § 192.5(d)(2) be retained, but that the requirement of § 192.611 to confirm or revise the MAOP be waived for such

Class 3 areas. Thus, the pressure would not have to be reduced or the pipe replaced, but all other monitoring and maintenance requirements applicable to that Class 3 location would remain.

RSPA Response: This also was one of the six alternatives mentioned in the ANPRM. Two thirds of the commentors to the ANPRM rejected the idea. RSPA did not propose it in the NPRM because of the uncertain effect on safety of excepting all § 192.5(d)(2) Class 3 locations from the requirements of § 192.611.

Comment #7: Three commenters recommended adopting the appropriate provisions from the American Society of Mechanical Engineers B31.8 Code—(1984a edition), a voluntary code of standards for gas piping systems.

RSPA Response: Although the B31.8 wording provides good guidelines for dealing with the subject conditions, this comment was not adopted because the vague B31.8 language would allow wide variations in the level of safety provided in similar locations and reduce the enforceability and effectiveness of the § 192.5(d)(2) criteria.

Comment #8: One commenter recommended no change in the present rule but a more liberal use of waivers based on the specifics of each case and the recommendations of the regulatory agency responsible for pipeline safety in the State involved.

RSPA Response: This concept was discussed in the NPRM in response to ANPRM alternate #1. It was rejected because the problem areas are too numerous to handle on a waiver, or case by case, basis.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), requires that each proposed amendment to a safety standard established under this statute be submitted to a 15-member advisory committee for its consideration. The Technical Pipeline Safety Standards Committee, composed of persons knowledgeable about transportation of gas by pipeline discussed the proposed rule at a meeting held June 10, 1986. The Committee unanimously voted that the proposal was technically feasible, reasonable and practicable. The Committee's official report for the meeting is in the docket.

Classification

This final rule is considered to be nonmajor under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule will

amount to about 24 million dollars average annual savings for the industry and consumers.

Since the impact of this final rule is expected to affect primarily operators of transmission pipelines, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Class location, Maximum allowable operating pressure.

In view of the foregoing RSPA amends 49 CFR Part 192 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A of Part 1.

2. In § 192.5 paragraph (d)(2) is revised to read as follows:

§ 192.5 Class locations.

* * * * *

(d) * * *

(2) An area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

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Issued in Washington, DC, on August 26, 1987.

M. Cynthia Douglass,
Administrator, Research and Special
Programs Administration.

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Federal Highway Administration

49 CFR Part 383

Commercial Driver's License Standards; Technical Correction

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule; technical correction.

SUMMARY: This document corrects a rule on commercial driver's license standards that appeared at page 20574 in the Federal Register of Monday, June 1, 1987 (52 FR 20574). This action is necessary to correct a typographical error in § 383.37, Employer responsibilities.

EFFECTIVE DATE: September 1, 1987.