

will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 17, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, objections, hearing requests, and judicial review are limited to the amended effective date. Procedures for filing objections to and requests for hearings on this amendment are described in the November 14, 1996, **Federal Register** document.

Dated: February 6, 1998.

Carol Browner,
Administrator.

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BILLING CODE: 6560-50-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 191, 192, 193, 195, and 199

[Docket No. RSPA-97-2251; Amdt Nos. 190-7; 191-13; 192-83; 193-15; 194-2; 195-61; 198-3; 199-17.]

RIN 2137-AD03

Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)

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

ACTION: Direct final rule.

SUMMARY: This final rule is part of an annual effort by OPS to improve safety by clarifying and updating the pipeline safety regulations. Revisions include updated references to voluntary specifications and standards incorporated by reference, and various clarifications and grammatical corrections. These updates reflect the most recent editions of each specification and standard incorporated by reference to enable pipeline operators to utilize current technology, materials, and practices. In addition, certain gender-specific terms have been replaced with gender-neutral terms. Consistent with the President's goals of regulatory reinvention and improvement of customer service, this final rule updates the pipeline safety

regulations for 1997, thereby reducing costs and enhancing economic growth.

EFFECTIVE DATES: This direct final rule takes effect May 4, 1998. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 4, 1998. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by March 19, 1998 the rule will become effective on the date specified. RSPA will issue a subsequent notice in the **Federal Register** by April 20, 1998 after the close of the comment period to confirm that fact and reiterate the effective date. If an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and RSPA would withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590-0001. Comments should identify the docket number (RSPA-97-2251). Persons should submit the original document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed, stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room Number 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366-0918, or by e-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this Notice; or the Dockets Unit, (202) 366-4453, for copies of this final rule or other material in the docket. Further information can be obtained by accessing OPS' Internet Home Page at: ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

In a March 1995 memorandum, President Clinton directed Federal regulatory agencies to, among other things, conduct a page-by-page review of all agency regulations, cutting or revising those that were obsolete, intrusive, or better handled by parties other than the Federal government (i.e.,

private business, State, or local government).

In response to the President's directive, RSPA issued a final rule on May 24, 1996 (61 FR 26121) that updated references to voluntary specifications and standards. This rulemaking is the second annual update of the pipeline safety regulations to reduce unnecessary burdens on the regulated community and to ensure that the pipeline safety regulations incorporate the most current technical standards and specifications.

Incorporation by Reference

RSPA is incorporating by reference all or portions of nine updated documents containing practices, codes, standards, and specifications developed and published by technical organizations, including the American Society of Mechanical Engineers, American Society for Testing and Materials, Manufacturers Standardization Society of the Valve and Fittings Industry, and National Fire Protection Association. The updated standards incorporate the latest technology and engineering practice. Adoption of these updated documents assures that pipeline operators will not be unnecessarily burdened with outdated materials, design, and construction requirements.

These documents can be obtained by contacting the following organizations:

1. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.
2. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.
3. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW, Vienna, VA 22180.
4. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

These documents are available for inspection at the following locations:

1. Office of Pipeline Safety, room 2335, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590.
2. Office of the **Federal Register**, 800 N. Capitol Street, NW, Suite 700, Washington, DC 20408.

Other revisions

Clarifications

This document amends the following pipeline safety regulations to clarify their meaning:

1. Section 192.16(b)(5) states that "The operator (if applicable), plumbers,

and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping." This final rule clarifies the reference by deleting the term "plumbers" and inserting the phrase "plumbing contractors".

2. Section 192.614(b)(5) requires operators to "Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins." This requirement can be confusing to the operator in terms of interpreting the meaning of "as far as practical." Therefore, this final rule amends this paragraph to require temporary marking of buried pipelines before excavation activities begin "except in emergency situations."

3. Section 195.56(a) describes safety-related condition reports "under § 191.55(a) . . .", which is inaccurate. Safety-related condition report requirements for Part 195 are contained in § 195.55(a). This final rule makes that clarification.

4. The last line of § 199.17(a) provides that "samples may be discarded following the end of the 365-period." This final rule clarifies that samples may be discarded following the end of the "365-day period." Also, this final rule revises the language containing the term "his representative," on line 8, to remove the specific reference to gender.

Grammatical Corrections

In various sections of the pipeline safety regulations, minor grammatical errors exist that need correction, and gender-specific language that need revision. The following are the grammatical corrections covered in this rulemaking:

1. § 190.7(a)—addition of a comma after the term "RSPA", on line 5, and revision of the language containing the term "him," on line 8, to remove the specific reference to gender.

2. § 190.203(a)—addition of a comma after the term "OPS", on line 3.

3. § 190.209—addition of a comma after the term "violation", on line 2.

4. § 192.107(b)(2)—addition of a comma after the term "section", on line 3.

5. § 193.2059(d)(1)(i)—deletion of the comma after the term "but" and the addition of a comma after the term "system" on line 8.

Updates

In § 191.21 of the pipeline safety regulations, an authorization date follows the Office of Management and Budget (OMB) Control Number. Although the OMB number is still current, this notice removes the

unnecessary authorization date. This section is amended to read as follows:

1. § 191.21—the chart provided in this section is amended to remove the reference to the March 31, 1986, as the final date of approval for this OMB Control Number. This number is still current and there is no date limiting its authority.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not reviewed by the Office of Management and Budget (OMB). The final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

The final rule has been analyzed with the principles and criteria in Executive Order 12612 ("Federalism") (52 FR 41685), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

Based on the facts available, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no new information collection requirements in this final rule.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects

49 CFR Part 190

Compliance, Pipeline safety, Reporting.

49 CFR Part 191

Annual reports, Incident reports, Pipeline safety.

49 CFR Part 192

Incorporation by reference, Natural gas, Pipeline safety.

49 CFR Part 193

Incorporation by reference, Liquefied natural gas (LNG), Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety.

49 CFR Part 199

Drug and alcohol testing, Pipeline safety.

In consideration of the foregoing, RSPA amends 49 CFR Parts 190, 191, 192, 193, 195, and 199 as follows:

PART 190—[AMENDED]

1. The authority citation for Part 190 continues to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 *et seq.*; and 49 CFR 1.53.

2. Paragraph (a) of § 190.7 is revised to read as follows:

§ 190.7 Subpoenas; witness fees.

(a) The Administrator, RSPA, the Chief Counsel, RSPA, or the official designated by the Administrator, RSPA, to preside over a hearing convened in accordance with this part, may sign and issue subpoenas individually on their own initiative or, upon request and adequate showing by any person participating in the proceeding that the information sought will materially advance the proceeding.

* * * * *

3. Paragraph (a) of § 190.203 is revised to read as follows:

§ 190.203 Inspections.

(a) Officers, employees, or agents authorized by the Associate Administrator for Pipeline Safety, RSPA, upon presenting appropriate credentials, 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 the compliance of such persons with the requirements of 49 U.S.C. 60101 *et seq.*, or regulations or orders issued thereunder.

* * * * *

4. The introductory text of § 190.209 is revised to read as follows:

§ 190.209 Response options.

Within 30 days of receipt of a notice of probable violation, the respondent shall respond to the Regional Director who issued the notice in the following way:

* * * * *

PART 191—[AMENDED]

1. The authority citation for Part 191 continues to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

§ 191.21 [Amended]

2. The heading of the chart in § 191.21 is amended to remove the phrase "APPROVED THROUGH MARCH 31, 1986."

PART 192—[AMENDED]

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

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

2. Paragraph (b)(5) of § 192.16 is revised to read as follows:

§ 192.16 Customer notification.

* * * * *

(b) * * *

(5) The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

* * * * *

3. Paragraph (b)(2) of § 192.107 is revised to read as follows:

§ 192.107 Yield strength (S) for steel pipe.

* * * * *

(b) * * *

(2) If the pipe is not tensile tested as provided in paragraph (b)(1) of this section, 24,000 p.s.i.

4. Paragraph (c)(5) of § 192.614 is revised to read as follows:

§ 192.614 Damage prevention program.

* * * * *

(c) * * *

(5) Provide for temporary marking of buried pipelines in the area of excavation activity before the activity begins, except in emergency situations.

* * * * *

5. Appendix A of part 192 is amended by revising paragraphs II. C (1), (2), (9) and (10), II. E (1) and II. F (1) to read as follows:

Appendix A To Part 192—Incorporated by Reference

II. Documents incorporated by reference. (Numbers in parentheses indicate applicable editions.)

* * * * *

C. * * *

(1) ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless" (A53-96).

(2) ASTM Designation A 106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-95).

* * * * *

(9) ASTM Designation D638 "Standard Test Method for Tensile Properties of Plastics" (D638-96).

(10) ASTM Designation D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings" (D2513-96a).

* * * * *

E. * * *

(1) MSS SP44-96 "Steel Pipe Line Flanges" (includes 1996 errata) (1996).

* * * * *

F. * * *

(1) NFPA 30 "Flammable and Combustible Liquids Code" (1996).

* * * * *

PART 193—[AMENDED]

1. The authority citation for Part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53

2. Paragraph (d)(1)(i) of § 193.2059 is revised to read as follows:

§ 193.2059 Flammable vapor-gas dispersion protection.

* * * * *

(d) * * *

(1) * * *

(i) The rate of vaporization is not less than the sum of flash vaporization and vaporization from boiling by heat transfer from contact surfaces during the time necessary for spill detection, instrument response, and automatic shutdown by the emergency shutdown system, but not less than 10 minutes, plus, in the case of impounding systems for LNG storage tanks with side or bottom penetrations, the time necessary for the liquid level in the tank to reach the level of the penetration or equilibrate with the liquid impounded assuming failure of the internal shutoff valve.

* * * * *

3. Appendix A to Part 193 is amended by revising paragraphs II.E(1), II.G(1), to read as follows:

Appendix A To Part 193—Incorporation By Reference

* * * * *

II. Documents Incorporated by Reference. (Numbers in Parentheses Indicate Applicable Editions.)

* * * * *

E. * * *

1. ASME/ANSI B31.3 "Process Piping" (1996)—Includes 1996 Addenda.

* * * * *

G. * * *

1. NFPA 30 "Flammable and Combustible Liquids Code" (1996)

* * * * *

PART 195—[AMENDED]

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Section 195.3 is amended by revising paragraph (c)(5) (i) and (ii) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(5) * * *

(i) ASTM Designation A 53 "Standard specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (A 53-96).

(ii) ASTM Designation: A 106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A 106-95).

* * * * *

3. Paragraph (a) of § 195.56 is revised to read as follows:

§ 195.56 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 195.55(a) must be filed (received by the Administrator) in writing within 5 working days (not including Saturdays, Sundays, or Federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by facsimile (fax), dial (202) 366-7128.

* * * * *

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 46 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Paragraph (a) of § 199.17 is revised to read as follows:

§ 199.17 Retention of samples and retesting.

(a) Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the Administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for

an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

* * * * *

Issued in Washington, DC on January 27, 1998.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 98-2898 Filed 2-13-98; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA-98-3345]

RIN 2127-AG06

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

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

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document amends Federal Motor Vehicle Safety Standard (FMVSS) No. 121, Air Brake Systems, to allow the alternate placement of the external antilock braking system (ABS) malfunction indicator lamp on trailers that have limited or non-existent structures to which the lamp and associated wiring can be attached. The purpose of the malfunction indicator lamp is to inform drivers, and maintenance and inspection personnel, of malfunctions in a trailer's ABS. The agency will permit the placement of the lamp on certain trailers (such as liquid tank, dry bulk, container chassis, and lowbed trailers) on the left side of the trailer near the red rear side marker lamp, or the front face of the left rear fender of trailers equipped with fenders. In addition, this document defines the methodology that is used to measure distances between the lamps (closest edge of the effective projected luminous lens area of each lamp). This rulemaking allows designers and manufacturers maximum design flexibility in the location of the malfunction indicator lamp while still ensuring that the lamp will serve its purpose.

DATES: *Effective Date:* The amendments in this final rule are effective March 1, 1998. Optional early compliance with

these changes is permitted beginning February 17, 1998.

Petitions for Reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than April 3, 1998.

ADDRESSES: Petitions for Reconsideration should be submitted to: U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph P. Scott, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 366-8525.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Petitions for Reconsideration
 - A. Intensity and Photometric Requirements
 - B. Location
 - i. Advocates location petition
 - ii. TTMA location petition
- III. NHTSA Decision
 - A. Intensity and Photometric Requirements
 - B. Location
- IV. Costs
- V. Regulatory Analysis and Notices

I. Background

On September 23, 1996, NHTSA published a final rule (Docket 92-29; Notice 11) amending Federal Motor Vehicle Safety Standard (FMVSS) No. 121, Air Brake Systems, to specify the location, labeling, color, activation protocol, and photometric intensity of antilock braking system (ABS) malfunction indicator lamps on the exterior of trailers and trailer convertor dollies. (61 FR 49691). The purpose of this malfunction indicator lamp is to inform drivers, and maintenance and inspection personnel, of malfunctions in a trailer's ABS.

New truck tractors are required to be equipped with ABS as of March 1, 1997, and new air-braked trailers and single-unit trucks will be required to be so equipped beginning March 1, 1998. These vehicles will also be required to be equipped with indicator lamps to alert their drivers of ABS malfunctions. Each truck, including a truck tractor, equipped to tow trailers will be required to be equipped with two in-cab warning lamps: one to indicate malfunctions in its own ABS, and another to indicate ABS malfunctions on units it tows. Trailers will be required to be equipped with an electrical circuit capable of signaling a trailer ABS malfunction to the cab of the towing unit.

NHTSA recognized that, during the initial transition period, there is a high likelihood that new ABS-equipped trailers will frequently be towed by

older, non-ABS-equipped tractors or trucks that will not have the capability to receive ABS malfunction signals transmitted from trailers. Accordingly, to provide the driver, maintenance, and Federal and State inspection personnel with the ability to determine a malfunction with the trailer ABS, the agency requires that trailers, including convertor dollies, also be equipped with a separate external ABS malfunction indicator. A final rule responding to petitions for reconsideration extended this requirement until March 1, 2009 (61 FR 5949, February 15, 1996). During this interim eleven-year period, external ABS malfunction indicator lamps must be installed on trailers. The agency reasoned that, after that time period, there would be sufficient new ABS-equipped truck tractors and towing trucks fitted with the in-cab trailer ABS malfunction warning indicator lamps to obviate the need for the separate trailer-mounted ABS malfunction warning lamp.

As stated in the September 23, 1996, **Federal Register** Notice, NHTSA decided to require that the external trailer ABS malfunction indicator lamp be located near the rear of the trailer. The agency believes that this lamp will be readily seen by the drivers using their rearview mirrors, and during walk-around inspections. The agency notes that this lamp will only activate in those situations when the trailer ABS has malfunctioned or during the check of lamp function whenever power is first applied to the ABS and the vehicle is stationary. The external trailer ABS malfunction indicator lamp must be located near the rear of the left side of a trailer when viewed from the rear of the trailer, no closer than 150 mm (5.9 inches) and not more than 600 mm (23.6 inches) from the red rear side marker lamp. The agency selected this range to ensure a standardized location of this lamp near the trailer rear, thereby facilitating its being viewed by drivers, while providing flexibility to trailer manufacturers. This requirement combined the suggestions of Midland-Grau, TTMA, ATA, and Grote concerning the specific location requirements for the trailer ABS malfunction indicator relative to the red rear side marker lamp. This decision reflects several considerations. In this standardized location, the lamp can be seen by drivers, as well as fleet maintenance and roadside inspection personnel, during pre-trip and post-trip inspections.

Also as stated in the September 23, 1996, **Federal Register** Notice, NHTSA decided—after reviewing the docket comments—to amend the standard