

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Campton, Channel 279A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 191, 192, 193, 195, 198, and 199

[Docket No. PS 145; Amdt Nos. 190-6; 191-10; 192-74; 193-10; 195-55; 198-2; 199-13]

RIN 2137-AC79

Pipeline Safety Program Procedures; Update and Corrections

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

ACTION: Final rule; correcting amendments.

SUMMARY: In response to the President's Regulatory Reinvention Initiative, this rulemaking updates and corrects pipeline safety program procedures by amending nomenclature, addresses, amendment summaries, typographical errors, and penalty amounts. These editorial amendments impose no new procedural requirements.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick at 202-366-5523 or online at herrickl@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

In a memorandum dated March 4, 1995, the President provided direction to the heads of Departments and Agencies on carrying out his regulatory reform initiative for reinventing the government. As part of this initiative, RSPA reviewed existing pipeline safety regulations and identified those that are outdated or in need of reform. RSPA

also conducted public outreach meetings to discuss the pipeline safety program. A theme of this process and an issue often raised during the course of the outreach meetings and other recent public contacts is the need to keep existing regulation updated. As a result, RSPA reviewed its pipeline safety program procedures, 49 CFR parts 190-199 and identified numerous instances in which these regulations were not up to date. These discrepancies include titles, addresses, amendment summaries, typographical errors and statutory citations. For example, references to the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act have been deleted and replaced with references to Public Law 103-272. Enacted on July 5, 1994, Public Law 103-272 revised, codified, and enacted the provisions of those Acts without substantive change as Chapter 601 of Title 49, United States Code. This amendment makes those corrections.

In addition, unnecessary gender specific terms have been changed to gender neutral terms and other minor corrections have been made. Since these amendments do not impose new requirements, notice and public procedure are unnecessary.

Rulemaking Analysis and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule does not require a Regulatory Impact Analysis, or a regulatory evaluation or an environmental assessment or impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 12612

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

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor corrections which will not impose any new requirements on persons subject to the

Pipeline Safety Regulations; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

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

Lists of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, Pipeline safety.

49 CFR Part 191

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Fire prevention, Pipeline safety, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 198

Grant programs, Formula, Pipeline safety.

49 CFR Part 199

Alcohol testing, Drug testing, Pipeline safety, Reporting and recordkeeping requirements.

Accordingly, 49 CFR parts 190, 191, 192, 193, 195, 198, and 199 are corrected by making the following amendments:

PART 190—[AMENDED]

1. The authority citation for part 190 is revised to read as follows:

Authority: 49 U.S.C. 5123, 60108, 60112, 60117, 60118, 60120, 60122, and 60123; and 49 CFR 1.53.

2. Section 190.1 is amended by revising paragraph (a) to read as follows:

§ 190.1 Purpose and scope.

(a) This part prescribes procedures used by the Research and Special Programs Administration in carrying out duties regarding pipeline safety under 49 U.S.C. 60101 *et seq.* (the pipeline safety laws) and 49 U.S.C. 5101 *et seq.* (the hazardous material transportation laws).

* * * * *

3. Section 190.3 is revised to read as follows:

§ 190.3 Definitions.

As used in this part:

Hearing means an informal conference or a proceeding for oral presentation. Unless otherwise specifically prescribed in this part, the use of "hearing" is not intended to require a hearing on the record in accordance with section 554 of title 5, U.S.C.

OPS means the Office of Pipeline Safety, which is part of the Research and Special Programs Administration, U.S. Department of Transportation.

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

Presiding Official means the person who conducts any hearing relating to civil penalty assessments, compliance orders or hazardous facility orders.

Regional Director means the head of any one of the Regional Offices of the Office of Pipeline Safety, or a designee appointed by the Regional Director. Regional Offices are located in Washington, DC (Eastern Region); Atlanta, Georgia (Southern Region); Kansas City, Missouri (Central Region); Houston, Texas (Southwest Region); and Lakewood, Colorado (Western Region).

Respondent means a person upon whom the OPS has served a notice of probable violation.

RSPA means the Research and Special Programs Administration of the United States Department of Transportation.

State means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

4. Section 190.7 is amended by revising paragraphs (d) and (i), introductory text, to read as follows:

§ 190.7 Subpoenas; witness fees.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (g) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at the person's office with the person in charge thereof, leaving them at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them

by registered or certified mail to the person at the last known address, or by any method whereby actual notice is given to the person and the fees are made available prior to the return date.

(i) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the official who issued the subpoena, or if the person is unavailable, to the Administrator, RSPA to quash or modify the subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The Administrator, RSPA, or this issuing official, as the case may be, may:

5. Section 190.9 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 190.9 Petitions for finding or approval.

(b) * * *
(1) * * *
(i) The State agency certified to participate under 49 U.S.C. 60105.

6. Section 190.201 is amended by revising paragraph (a) to read as follows:

§ 190.201 Purpose and scope.

(a) This subpart describes the enforcement authority and sanctions exercised by the Associate Administrator, OPS for achieving and maintaining pipeline safety. It also prescribes the procedures governing the exercise of that authority and the imposition of those sanctions.

7. Section 190.203 is amended by revising paragraphs (a), (b)(1), (b)(4), and (d) to read as follows:

§ 190.203 Inspections.

(a) Officers, employees, or agents authorized by the Associate Administrator, OPS 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.

(b) * * *
(1) Routine scheduling by the Regional Director of the Region in which the facility is located;

(4) Report from a State Agency participating in the Federal Program under 49 U.S.C. 60105;

(d) To the extent necessary to carry out the responsibilities under 49 U.S.C. 60101 *et seq.*, the Administrator, RSPA or the Associate Administrator, OPS may require testing of portions of pipeline facilities that have been involved in, or affected by, an accident. However, before exercising this authority, the Administrator, RSPA or the Associate Administrator, OPS shall make every effort to negotiate a mutually acceptable plan with the owner of those facilities and, where appropriate, the National Transportation Safety Board for performing the testing.

8. Section 190.205 is revised to read as follows:

§ 190.205 Warning letters.

Upon determining that a probable violation of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder has occurred, the Associate Administrator, OPS may issue a Warning Letter notifying the owner or operator of the probable violation and advising the operator to correct it or be subject to enforcement action under §§ 190.207 through 190.235.

9. Section 190.207 is amended by revising paragraphs (a) and (c) to read as follows:

§ 190.207 Notice of probable violation.

(a) Except as otherwise provided by this subpart, a Regional Director begins an enforcement proceeding by serving a notice of probable violation on a person charging that person with a probable violation of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder.

(c) The Associate Administrator, OPS may amend a notice of probable violation at any time prior to issuance of a final order under § 190.213. If an amendment includes any new material allegations of fact or proposes an increased civil penalty amount or new or additional remedial action under § 190.217, the respondent shall have the opportunity to respond under § 190.209.
10. Section 190.209 is amended by revising the introductory text and paragraphs (c) and (d) 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:

(c) An offer in compromise under paragraph (a) of this section is made by submitting a check or money order for the amount offered to the Regional Director who forwards the offer to the Associate Administrator, OPS for action. If the offer in compromise is accepted by the Associate Administrator, OPS the respondent is notified in writing that the acceptance is in full settlement of the civil penalty action. If an offer in compromise submitted under paragraph (a) of this section is rejected by the Associate Administrator, OPS it is returned to the respondent with written notification. Within 10 days of receipt of such notification, the respondent shall again respond to the Regional Director in one or more of the ways provided in paragraph (a) of this section.

(d) Failure of the respondent to respond in accordance with paragraph (a) of this section or, when applicable, paragraph (c) of this section, constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Associate Administrator, OPS, without further notice to the respondent, to find facts to be as alleged in the notice of probable violation and to issue a final order under § 190.213.

11. Section 190.211 is amended by revising paragraphs (a), (b), (d), and (j) to read as follows:

§ 190.211 Hearing.

(a) A request for a hearing provided for in this part must be accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations in the notice, the proposed corrective action (including a proposed amendment, a proposed compliance order, or a proposed hazardous facility order), or the proposed civil penalty amount. A respondent's failure to specify an issue may result in waiver of the respondent's right to raise that issue at the hearing. The respondent's request must also indicate whether or not the respondent will be represented by counsel at the hearing.

(b) In such circumstances as deemed appropriate by the Regional Director, and only if the respondent concurs, a telephone conference may be held in lieu of a hearing.

* * * * *

(d) The hearing is conducted informally without strict adherence to rules of evidence. The respondent may submit any relevant information and material and call witnesses on the respondent's behalf. The respondent may also examine the evidence and witnesses presented by the government.

No detailed record of a hearing is prepared.

* * * * *

(j) After submission of all materials during and after the hearing, the presiding official shall prepare a written recommendation as to final action in the case. This recommendation, along with any material submitted during and after the hearing, shall be included in the case file which is forwarded to the Associate Administrator, OPS for final administrative action.

12. Section 190.213 is amended by revising paragraph (a), (b)(4), (c), introductory text, and (e) to read as follows:

§ 190.213 Final order.

(a) After a hearing under § 190.211 or, if no hearing has been held, after expiration of the 30 day response period prescribed in § 190.209, the case file of an enforcement proceeding commenced under § 190.207 is forwarded to the Associate Administrator, OPS for issuance of a final order.

(b) * * *

(4) The Regional Director's evaluation of response material submitted by the respondent and recommendation for final action to be taken under this section; and

* * * * *

(c) Based on a review of a case file described in paragraph (b) of this section, the Associate Administrator, OPS shall issue a final order that includes—

* * * * *

(e) It is the policy of the Associate Administrator, OPS to issue a final order under this section within 45 days of receipt of the case file, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact and the date by which it is expected that action will be taken is issued to the respondent.

13. Sections 190.215 is revised to read as follows:

§ 190.215 Petitions for reconsideration.

(a) A respondent may petition the Associate Administrator, OPS for reconsideration of a final order issued under § 190.213. It is requested, but not required, that three copies be submitted. The petition must be received no later than 20 days after service of the final order upon the respondent. Petitions received after that time will not be considered. The petition must contain a brief statement of the complaint and an explanation as to why the effectiveness of the final order should be stayed.

(b) If the respondent requests the consideration of additional facts or arguments, the respondent must submit the reasons they were not presented prior to issuance of the final order.

(c) The Associate Administrator, OPS does not consider repetitious information, arguments, or petitions.

(d) Unless the Associate Administrator, OPS otherwise provides, the filing of a petition under this section does not stay the effectiveness of the final order.

(e) The Associate Administrator, OPS may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event the Associate Administrator, OPS reconsiders a final order, a final decision on reconsideration may be issued without further proceedings, or, in the alternative, additional information, data, and comment may be requested by the Associate Administrator, OPS as deemed appropriate.

(f) It is the policy of the Associate Administrator, OPS to issue notice of the action taken on a petition for reconsideration within 20 days after receipt of the petition, unless it is found impracticable to take action within that time. In cases where it is so found and delay beyond that period is expected to be substantial, notice of that fact and the date by which it is expected that action will be taken is issued to the respondent.

14. Section 190.217 is revised to read as follows:

§ 190.217 Compliance orders generally.

When the Associate Administrator, OPS has reason to believe that a person is engaging in conduct which involves a violation of the 49 U.S.C. 60101 *et seq.* or any regulation issued thereunder, and if the nature of the violation, and the public interest warrant, the Associate Administrator, OPS may conduct proceedings under §§ 190.207 through 190.213 of this part to determine the nature and extent of the violations and to issue an order directing compliance.

15. Section 190.219 is amended by revising paragraph (a) to read as follows:

§ 190.219 Consent order.

(a) At any time before the issuance of a compliance order under § 190.213 the Associate Administrator, OPS and the respondent may agree to dispose of the case by joint execution of a consent order. Upon such joint execution, the consent order shall be considered a final order under § 190.213.

* * * * *

16. Section 190.221 is revised to read as follows:

§ 190.221 Civil penalties generally.

When the Associate Administrator, OPS has reason to believe that a person has committed an act which is a violation of any provision of the 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder, proceedings under §§ 190.207 through 190.213 may be conducted to determine the nature and extent of the violations and to assess and, if appropriate, compromise a civil penalty.

16a. Section 190.223 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 190.223 Maximum penalties.

(a) Any person who is determined to have violated a provision of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder, is subject to a civil penalty not to exceed \$10,000 for each violation for each day the violation continues except that the maximum civil penalty may not exceed \$500,000 for any related series of violations.

(b) Any person who knowingly violates a regulation or order under this subchapter applicable to offshore gas gathering lines issued under the authority of 49 U.S.C. 5101 *et seq.* is liable for a civil penalty of not more than \$25,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense.

(c) Any person who is determined to have violated any standard or order under 49 U.S.C. 60103 shall be subject to a civil penalty of not to exceed \$50,000, which penalty shall be in addition to any other penalties to which such person may be subject under paragraph (a) of this section.

* * * * *

17. Section 190.225, the introductory text, is revised to read as follows:

§ 190.225 Assessment considerations.

The Associate Administrator, OPS assesses a civil penalty under this part only after considering:

* * * * *

18. Section 190.227 is amended by revising paragraphs (c) and (d) to read as follows:

§ 190.227 Payment of penalty.

* * * * *

(c) Within 20 days after the respondent's receipt of a final order assessing a civil penalty issued under § 190.213, the respondent may offer to compromise the assessed penalty by submitting, in the manner required by paragraph (a) of this section, payment in the amount offered. The Chief Counsel or designee may accept or reject the compromise offer on behalf of the

Associate Administrator, OPS. If it is accepted, the respondent is notified in writing that the acceptance is in full settlement of the civil penalty action. If the compromise offer is rejected it will be returned to the respondent with written notification. Within 20 days after the respondent's receipt of such notification, payment of the full amount of the civil penalty assessed in the final order becomes due. The provisions of paragraph (b) of this section regarding district court or Federal magistrate court action for penalty collection apply upon failure of the respondent to pay the assessed penalty within that time period.

(d) If the respondent elects to make an offer in compromise to a civil penalty proposed in a notice of probable violation issued under § 190.207, the respondent shall do so in accord with the procedures of § 190.209.

19. Section 190.229 is amended by revising paragraphs (a) through (d) to read as follows:

§ 190.229 Criminal penalties generally.

(a) Any person who willfully and knowingly violates a provision of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder shall upon conviction be subject for each offense to a fine of not more than \$25,000 and imprisonment for not more than five years, or both.

(b) Any person who willfully violates a regulation or order under this subchapter issued under the authority of 49 U.S.C. 5101 *et seq.* as applied to offshore gas gathering lines shall upon conviction be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

(c) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility or any interstate pipeline facility (as those terms are defined in 49 U.S.C. 60101 *et seq.*) shall, upon conviction, be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Any person who willfully and knowingly defaces, damages, removes, destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 *et seq.* or 49 U.S.C. 5101 *et seq.*, or any regulation or order issued thereunder shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 1 year, or both.

* * * * *

20. Section 190.231 is revised to read as follows:

§ 190.231 Referral for prosecution.

If an employee of the Research and Special Programs Administration becomes aware of any actual or possible activity subject to criminal penalties under § 190.229, the employee reports it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. The Chief Counsel refers the report to OPS for investigation. Upon completion of the investigation and if appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

21. Section 190.233 is amended by revising paragraphs (a), (b), (c)(2), (c)(4), (d), (e) introductory text, (e)(5), (g) and (h) to read as follows:

§ 190.233 Hazardous facility orders.

(a) Except as provided by paragraph (b) of this section, if the Associate Administrator, OPS finds, after reasonable notice and opportunity for hearing in accord with paragraph (c) of this section, and § 190.211(a), a particular pipeline facility to be hazardous to life or property, the Associate Administrator, OPS shall issue an order pursuant to this section requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(b) The Associate Administrator, OPS may waive the requirement for notice and hearing under paragraph (a) of this section before issuing an order pursuant to this section when the Associate Administrator, OPS determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Associate Administrator, OPS shall include in the order an opportunity for hearing as soon as practicable after issuance of the order. The provisions of paragraph (c)(2) of this section apply to an owner or operator's decision to exercise such an opportunity for hearing. The purpose of such a post-order hearing is for the Associate Administrator, OPS to determine whether the order should remain in effect or be rescinded or suspended in accord with paragraph (g) of this section.

(c) * * *

(2) An owner or operator elects to exercise his opportunity for a hearing under this section, by notifying the Associate Administrator, OPS of that election in writing within 10 days of service of the notice provided under paragraph (c)(1) of this section or, under

paragraph (b) of this section when applicable. Absence of such written notification waives an owner or operator's opportunity for a hearing and allows the Associate Administrator, OPS to proceed to issue a "hazardous facility order" in accordance with paragraphs (d) through (h) of this section.

* * * * *

(4) Within 48 hours after conclusion of a hearing under this section, the Presiding Official shall submit a recommendation to the Associate Administrator, OPS as to whether or not a "hazardous facility order" is required. Upon receipt of the recommendation, the Associate Administrator, OPS shall proceed in accordance with paragraphs (d) through (h) of this section. If the Associate Administrator, OPS finds the facility to be hazardous to life or property the Associate Administrator, OPS shall issue an order in accordance with this section. If the Associate Administrator, OPS does not find the facility to be hazardous to life or property, the Associate Administrator, OPS shall dismiss the allegations contained in the notice, and promptly notify the owner or operator in writing by service as prescribed in § 190.5.

(d) The Associate Administrator, OPS may find a pipeline facility to be hazardous under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator, OPS determines the particular facility is hazardous to life or property; or

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

(e) In making a determination under paragraph (d) of this section, the Associate Administrator, OPS shall consider, if relevant:

* * * * *

(5) Such other factors as the Associate Administrator, OPS may consider appropriate.

* * * * *

(g) The Associate Administrator, OPS shall rescind or suspend a hazardous facility order whenever the Associate Administrator, OPS determines that the facility is no longer hazardous to life or

property. When appropriate, however, such a rescission or suspension may be accompanied by a notice of probable violation issued under § 190.207.

(h) At any time after an order issued under this section has become effective, the Associate Administrator, OPS may request the Attorney General to bring an action for appropriate relief in accordance with § 190.235.

* * * * *

22. Section 190.235 is revised to read as follows:

§ 190.235 Injunctive action.

Whenever it appears to the Associate Administrator, OPS that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any provision of 49 U.S.C. 60101 *et seq.* or any regulations issued thereunder, the Administrator, RSPA, or the person to whom the authority has been delegated, may request the Attorney General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

23. Section 190.237 is amended by revising paragraph (a) to read as follows:

§ 190.237 Amendment of plans or procedures.

(a) A Regional Director begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195, and 199 of this subchapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 of this part and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Associate Administrator, OPS shall determine whether the plans or procedures are inadequate as alleged and order the required amendment if they are inadequate, or withdraw the notice if they are not. In determining the adequacy of an operator's plans or procedures, the Associate Administrator, OPS shall consider:

* * * * *

PART 191—[AMENDED]

1. The authority citation for part 191 is revised to read as follows:

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

2. Section 191.3 is amended by removing the definition of *Secretary*, and adding the definition of *Administrator* to read as follows:

§ 191.3 Definitions.

* * * * *

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

3. Section 191.19 is revised to read as follows:

§ 191.19 Report forms.

Copies of the prescribed report forms are available without charge upon request from the address given in § 191.7. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the Administrator.

4. Section 191.25 is amended by revising paragraph (a) to read as follows:

§ 191.25 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 191.23(a) must be filed (received by the Associate Administrator, OPS) in writing within five working days (not including Saturday, Sunday, 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. Reports may be transmitted by facsimile at (202) 366-7128.

* * * * *

PART 192—[AMENDED]

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

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

2. Section 192.11 is amended by revising paragraph (b)(2) to read as follows:

§ 192.11 Petroleum gas systems.

* * * * *

(b) * * *

(2) Below ground structures must have forced ventilation that will prevent any accumulation of gas.

* * * * *

3. Section 192.227 is amended by revising paragraph (b) introductory text, to read as follows:

§ 192.227 Qualification of welders.

* * * * *

(b) A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in section I of appendix C to this part. A welder who makes welded service line connections to mains must also perform an acceptable test weld under section II of appendix C to this part as part of the qualifying test. After initial qualification, a welder may not perform welding unless:

* * * * *

4. Section 192.361 is amended by revising paragraph (f)(1) to read as follows:

§ 192.361 Service lines: Installation

* * * * *

(f) * * *

(1) It must be encased in a gas tight conduit;

* * * * *

5. Section 192.367 is amended by revising paragraph (a) to read as follows:

§ 192.367 Service lines: General requirements for connections to main piping.

(a) *Location.* Each service line connection to a main must be located at the top of the main or, if that is not practical, at the side of the main, unless a suitable protective device is installed to minimize the possibility of dust and moisture being carried from the main into the service line.

* * * * *

6. Section 192.511 is amended by revising paragraph (a) to read as follows:

§ 192.511 Test requirements for service lines.

(a) Each segment of a service line (other than plastic) must be leak tested in accordance with this section before being placed in service. If feasible, the service line connection to the main must be included in the test; if not feasible, it must be given a leakage test at the operating pressure when placed in service.

* * * * *

7. Section 192.603 is amended by revising paragraph (c) to read as follows:

§ 192.603 General provisions.

* * * * *

(c) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws, (49 U.S.C. 60101 *et seq.*) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

9. Section 192.623, the heading, is revised to read as follows:

§ 192.623 Maximum and minimum allowable operating pressure; Low-pressure distribution systems.

* * * * *

PART 193—[AMENDED]

1. The authority citation for part 193 is revised to read as follows:

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

2. Section 193.2001 is amended by revising paragraph (a) to read as follows:

§ 193.2001 Scope of part.

(a) This part prescribes safety standards for LNG facilities used in the transportation of gas by pipeline that is subject to the pipeline safety laws (49

U.S.C. 60101 *et seq.*) and Part 192 of this chapter.

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3. Section 193.2007 is amended by revising the definition of Administrator and the definition of *g* to read as follows:

§ 193.2007 Definitions.

* * * * *

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

g means the standard acceleration of gravity of 9.806 meters per second² (32.17 feet per second²).

* * * * *

4. Section 193.2017 is amended by revising paragraph (a) to read as follows:

§ 193.2017 Plans and procedures.

(a) Each operator shall maintain at each LNG plant the plans and procedures required for that plant by this part. The plans and procedures must be available upon request for review and inspection by the Administrator or any State Agency that has submitted a current certification or agreement with respect to the plant under the pipeline safety laws (49 U.S.C. 60101 *et seq.*). In addition, each change to the plans or procedures must be available at the LNG plant for review and inspection within 20 days after the change is made.

* * * * *

5. Section 193.2321 is amended by revising paragraph (a) to read as follows:

§ 193.2321 Nondestructive tests.

(a) The following percentages of each day's circumferentially welded pipe joints for hazardous fluid piping, selected at random, must be nondestructively tested over the entire circumference to indicate any defects which could adversely affect the integrity of the weld or pipe:

Weld type	Cryogenic piping	Other	Test method
Butt welds more than 2 inches in nominal size	100	30	Radiographic or ultrasonic.
Butt welds 2 inches or less in nominal size	100	30	Radiographic, ultrasonic, liquid penetrant or magnetic particle.
Fillet and socket welds	100	30	Liquid penetrant or magnetic particle.

* * * * *

6. Section 193.2515 is amended by revising paragraph (c) to read as follows:

§ 193.2515 Investigation of failures.

* * * * *

(c) If the Administrator or relevant state agency under the pipeline safety laws (49 U.S.C. 60101 *et seq.*)

investigates an incident, the operator involved shall make available all relevant information and provide reasonable assistance in conducting the investigation. Unless necessary to

restore or maintain service, or for safety, no component involved in the incident may be moved from its location or otherwise altered until the investigation is complete or the investigating agency otherwise provides. Where components must be moved for operational or safety reasons, they must not be removed from the plant site and must be maintained intact to the extent practicable until the investigation is complete or the investigating agency otherwise provides.

PART 195—[AMENDED]

1. The authority citation for part 195 is revised to read as follows:

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

2. Section 195.58 is revised to read as follows:

§ 195.58 Address for written reports.

Each written report required by this subpart must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW., Washington DC 20590. However, accident reports for intrastate pipelines subject to the jurisdiction of a State agency pursuant to a certification under the pipeline safety laws (49 U.S.C. 60101 *et seq.*) may be submitted in duplicate to that State agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resources Manager. Safety-related condition reports required by § 195.55 for intrastate pipelines must be submitted concurrently to the State agency, and if that agency acts as an agent of the Secretary with respect to interstate pipelines, safety-related condition reports for these pipelines must be submitted concurrently to that agency.

§ 195.402 [Amended]

3. Section 195.402 is amended by revising paragraph (b) to read as follows:

(b) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 *et seq.*) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

PART 198—[AMENDED]

1. The authority citation for part 198 is revised to read as follows:

Authority: 49 U.S.C. 60105, 60106, 60114; and 49 CFR 1.53.

2. Section 198.3 is amended by revising the definition for *Underground pipeline facilities* to read as follows:

Underground pipeline facilities means buried pipeline facilities used in the transportation of gas or hazardous liquid subject to the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

3. Section 198.11 is revised to read as follows:

§ 198.11 Grant authority.

The pipeline safety laws (49 U.S.C. 60101 *et seq.*) authorize the Administrator to pay out funds appropriated or otherwise make available up to 50 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

4. Section 198.31 is revised to read as follows:

§ 198.31 Scope.

This subpart implements parts of the pipeline safety laws (49 U.S.C. 60101 *et seq.*), which direct the Secretary to require each State to adopt a one-call damage prevention program as a condition to receiving a full grant-in-aid for its pipeline safety compliance program.

5. Section 198.35 is revised to read as follows:

§ 198.35 Grants conditioned on adoption of one-call damage prevention program.

In allocating grants to State agencies under section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1674) and under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2004), the Secretary considers whether a State has adopted or is seeking to adopt a one-call damage prevention program in accordance with § 198.37. If a State has not adopted or is not seeking to adopt such program, the State agency may not receive the full reimbursement to which it would otherwise be entitled.

6. Section 198.37 is amended by revising paragraphs (e) and (h) to read as follows:

§ 198.37 State one-call damage prevention program.

(e) Except with respect to interstate transmission facilities as defined in the pipeline safety laws (49 U.S.C. 60101 *et seq.*), operators of underground pipeline facilities must be required to participate in the one-call notification systems that cover the areas of the State in which those pipeline facilities are located.

(h) Operators of underground pipeline facilities (other than operators of interstate transmission facilities as defined in the pipeline safety laws (49 U.S.C. 60101 *et seq.*), and interstate pipelines as defined in § 195.2 of this chapter), excavators and persons who operate one-call notification systems who violate the applicable requirements of this subpart must be subject to civil penalties and injunctive relief that are substantially the same as are provided under the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

PART 199—[AMENDED]

1. The authority citation for part 199 is revised to read as follows:

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

2. Section 199.3 is amended by revising the definition for *Administrator* and the definition for *State agency* to read as follows:

§ 199.3 Definitions.

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 *et seq.*)

3. Section 199.7 is amended by revising paragraph (b) to read as follows:

§ 199.7 Anti-drug plan.

(b) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 *et seq.*) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and

procedures as necessary to provide a reasonable level of safety.

§ 199.205 [Amended]

4. Section 199.205 is amended by revising the definition for State agency to read as follows:

* * * * *

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

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Issued in Washington, DC, on March 28, 1996.

Rose A. McMurray,

Acting Deputy Administrator, Research and Special Programs Administration.

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