

"Prospective supplier" is removed and definitions for "Provider" and "Supplier" are revised to read as follows:

§ 498.2 Definitions.

As used in this part—

Provider means a hospital, skilled nursing facility (SNF), comprehensive outpatient rehabilitation facility (CORF), home health agency (HHA), or hospice, that has in effect an agreement to participate in Medicare; or a clinic, rehabilitation agency, or public health agency that has in effect a similar agreement but only to furnish outpatient physical therapy, occupational therapy, or outpatient speech pathology services, or a community mental health center (CMHC) that has in effect a similar agreement but only to provide partial hospitalization services, and *prospective provider* means any of the listed entities that seeks to participate in Medicare as a provider.

Supplier means an independent laboratory, supplier of portable X-ray services, rural health clinic (RHC), Federally qualified health center (FQHC), ambulatory surgical center (ASC), organ procurement organization (OPO), or end-stage renal disease (ESRD) treatment facility that is approved by HCFA as meeting the conditions for coverage of its services, and *prospective supplier* means any of the listed entities that seeks to be approved for coverage of its services under Medicare. (However, for purposes of the sanctions and penalties that may be imposed by the OIG, the term *supplier* has the meaning specified in § 1001.2 of this title.)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 15, 1993.

Bruce C. Vladeck,
Administrator, Health Care Financing Administration.

Approved: October 26, 1993.

Donna E. Shalala,
Secretary.
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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. PS-113; Amendment 192-71, 195-49]

RIN 2137-AB44

Operation and Maintenance Procedures for Pipelines

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

ACTION: Final rule.

SUMMARY: This final rule establishes procedures to be followed in the operation and maintenance (O&M) of gas pipeline facilities. This action amends current standards by requiring regulated gas pipeline operators to include detailed procedures regarding normal and abnormal operation, maintenance and emergency-response activities in their O&M manual. Furthermore, operators are required to review and update their O&M manual each calendar year. Finally, this final rule requires that regulated gas and hazardous liquid pipeline operators prepare and follow procedures to safeguard personnel from the hazards associated with the unsafe accumulation of vapor or gas in excavated trenches.

EFFECTIVE DATES: This final rule takes effect February 11, 1995. However, §§ 192.605(b)(9) and 195.402(c)(14) become effective March 14, 1994.

FOR FURTHER INFORMATION CONTACT: Jack Willock, (202) 366-2392, concerning the contents of this final rule, or the Dockets Unit, (202) 366-4453, regarding copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

The Research and Special Programs Administration (RSPA) issued a Notice of Proposed Rulemaking (NPRM) on November 6, 1989 (54 FR 46685) inviting comment on proposed amendments to Part 192. The amendments were intended to clarify and delineate gas pipeline operation and maintenance (O&M) procedures, thereby reducing the likelihood of failures and providing a better basis for personnel training.

The rulemaking was prompted by a RSPA Task Force investigation of four incidents by a major transmission company in a two year period. The incidents caused 10 deaths, 36 injuries and significant property damage. The Task Force examined the company's

O&M procedures, and those of five others, all operating in Kentucky where three of the four incidents occurred. It concluded that RSPA should revise § 192.605; Essentials of operating and maintenance plan, to provide more guidance for operators in O&M procedures (similar to § 192.615 regarding emergency plans, and § 195.402 regarding liquid pipeline procedural manuals). The NPRM also proposed new requirements under Parts 192 and 195 relating to the safety of personnel in trenches.

Comment Summary

RSPA received 56 comments on the notice from one city, four states, one Federal agency, five industry associations, and 45 gas transmission and distribution companies. The government affiliated commenters generally agreed with the proposed rules. The industry associations and companies supplied both general and specific comments against portions of the rulemaking. Since issuance of the NPRM, industry opposition to portions of the rule has significantly decreased. Many regulated entities have unilaterally moved to adopt similar O&M procedures in anticipation of this final rule. A topic by topic discussion of the substantive comments and RSPA responses to those comments follows.

Comments on Parallel Regulations:

Four industry associations and 16 pipeline operators argued against RSPA's goal to make the regulations governing gas and liquid O&M procedures parallel each other. Several stated that significant differences exist in the operating characteristics and physical properties of natural gas and hazardous liquids that affect the potential public safety risk posed by a pipeline leak. Those opposing the rule pointed to the physical property difference between gas and liquids, and noted that liquids tend to "spread out" and pollute the environment while gases tend to vent harmlessly into the atmosphere. They said a natural gas leak would affect the immediate vicinity of the pipeline while a hazardous liquid leak could spread over wide areas and cause considerable environmental damage.

Response: RSPA believes that parallelism should be maintained between the O&M procedure requirements of Parts 192 and 195. The existence of two separate sets of regulations is an acknowledgment of the distinctions between gas and liquid pipelines. However, RSPA believes that the O&M similarities vastly outnumber the differences, and that compliance, particularly for operators who have both

liquid and gas pipelines, is enhanced by making the two regulations reasonably similar while recognizing the technical distinctions between gas and liquid pipelines. RSPA agrees with the commenters that liquids have the potential to cause widespread environmental damage by pollution, but also believes that, under appropriate conditions, natural gas leaks and explosions may have far reaching effects on property and life.

Comments on General Provisions. (Proposed § 192.603(b)): RSPA received comments from 2 operators objecting to proposed § 192.603(b) which requires operators to keep records necessary to administer the procedures established under § 192.605.

Response: Proposed § 192.603(b) is merely a restatement of a portion of existing § 192.603(b). Section 192.603(b) is adopted as proposed.

Comments on O&M Manuals (Proposed § 192.605(a)): Two industry associations and 15 operators recommended that RSPA not specify those written procedures that operators must keep in their O&M manual. Companies currently have Operation and Maintenance Manuals, Emergency Manuals, Plumber Manuals, Leak Control Manuals, Corrosion Manuals and other manuals containing information vital to pipeline operation. Operators have, throughout the years, prepared manuals for their systems documenting procedures appropriate for the specific needs of that system. They stated that a requirement to combine these documents into a single volume would create an oversized, impractical and unwieldy manual.

One respondent stated that requiring all companies to prepare procedures for each of the requirements of subparts L and M would be wasteful since many procedures in these subparts only apply to certain operators.

One company objected to the requirement proposed in § 192.605(a) that the manual be prepared before initial operation of a pipeline system. It cited, among other things, that contract terms might be breached, and that the financial health of both small producers and pipeline companies could be jeopardized.

Response: RSPA did not intend the proposed O&M manual to be an unwieldy single volume, or binder. Although, as proposed, the final rule requires each operator to incorporate its O&M procedures for each pipeline system into a single manual, this manual may be a comprehensive set of cross-referenced volumes set up according to functional subjects. Operators are expected to maintain a

complete set of the volumes of the comprehensive reference manual at one location. Copies of parts of the manual, containing the information pertinent to particular functions or facilities in a system, must also be kept wherever needed for field operations. We propose to consolidate and reorganize relevant procedures, existing in most cases, into a comprehensive reference for use by operating personnel.

RSPA requires operators to prepare O&M procedures only for those pipeline facilities within their system. For example, it would not be necessary to prepare compressor startup procedures if the company has no compressors. The procedures should be clear, straightforward and applicable to the company's system.

RSPA strongly believes that a manual should be prepared prior to commencing initial operation of a pipeline. Under normal circumstances, long lead times are required for a company to obtain regulatory approval to construct and commence operating a pipeline. This should allow operators sufficient time to prepare the required documents in anticipation of pipeline startup. The operation of a pipeline without O&M procedures would be unsafe, both for those operating the pipeline and for the public.

Some operators stated concern that they would be required to maintain a manual for each of the many pipelines that they operate. One manual is sufficient as long as all of an operator's system is addressed. Section 192.605(a) is adopted as revised.

Comments on Standards: Six pipeline operators expressed concern about what they regard as a trend toward specification standards rather than performance standards. They contend that a change to specification standards to facilitate enforcement of the regulations would be more than offset by a reduction in flexibility of the operator to operate its system, and could consequently reduce pipeline safety.

Response: The proposed rule was not written in specification, or how-to-do-it fashion. Rather, the proposed rule used performance language which would require that gas pipeline operators maintain O&M procedures on specific topics. We are providing a list of required items that must be included, but operators can determine how best to do so for their particular system, so long as it provides for safe maintenance and operations.

Written procedures on those specific topics are essential to safe operation and maintenance of a pipeline. Procedures of a general nature provide little guidance when needed. When used

properly by trained personnel, the specific procedures should have a positive effect on pipeline safety. This rulemaking is based on the existing standard, which is not sufficiently detailed to assure that prompt and appropriate actions are taken by operators when necessary. The proposed standards are specific, and this specificity provides the operator with more reliable procedures to follow when conducting operations and maintenance, and in situations where an abnormal situation or emergency occurs.

Comments on Applicability to Distribution Pipelines: Six distribution companies argued that accidents which occur on transmission lines do not create a need for changes at the distribution level, where the risks are different. They said rules applying to a single cross country transmission pipeline do not necessarily apply to complex distribution systems, and that distribution systems should be excluded from this rulemaking.

Response: RSPA believes that all gas operators regulated by Part 192 should be subject to rules designed to provide safety for gas pipelines through written operating, maintenance and emergency procedures, supplemented by appropriate personnel training. Both transmission and distribution systems transport the same hazardous substance, flammable gas. Distribution systems operate in highly populated areas, at times performing with operating pressures equalling those of transmission lines, thereby bringing corresponding risks to the public. Accordingly, distribution systems are not excluded from this rulemaking. However, the final rule sets down different requirements for transmission and distribution lines so that only relevant procedures are prescribed.

Comments on Corrosion Control (Proposed §§ 192.453 and 192.605(b)(2)): Two pipeline industry associations and 7 pipeline operators stated that there is no benefit to including the details of designing and installing cathodic protection systems in an O&M manual.

Response: Pipeline corrosion control is a pipeline maintenance function. As a maintenance function, design of corrosion control systems is appropriate for inclusion in an O&M manual. Operators currently are required to keep these procedures under § 192.453. The final rule requires that these procedures be consolidated with other procedures involving O&M functions in a single manual. Sections 192.453 and 192.605(b)(2) are adopted as proposed.

Comments on Construction Records, Maps, and Operating History (Proposed

§ 192.605(b)(3)): One industry association and 11 gas pipeline operators objected to proposed § 192.605(b)(3) which would require operators to make construction records, maps, and operating history available to appropriate O&M personnel. They find no benefit in changing the rule, as the information is already available to operating personnel.

Response: RSPA believes that it is essential for operators to have established, written procedures to insure that their employees have information (maps and operating history records) necessary for them to conduct safe operations. As an example, personnel conducting pipeline operations need direct access to maps, construction records and operating history records without delay when emergencies arise. The rule will have little effect on most companies, because they currently supply their employees with such records, or have procedures in place to make the records available. The language of § 192.605(b)(3) is adopted as proposed.

Comments on Gathering Data and Reporting Incidents (Proposed § 192.605(b)(4)): RSPA proposed under § 192.605(b)(4) that operators prepare procedures for gathering data needed to report incidents under 49 CFR part 191 in a timely and effective manner. Two industry associations and 10 gas companies stated that requirements for gathering information and reporting natural gas incidents are contained in 49 CFR part 191 and that proposed § 192.605(b)(4) is redundant.

Response: The proposed rule and part 191 are not redundant because part 191 does not currently require operators to prepare and follow written procedures for collecting data to be submitted in part 191 reports. The requirement is adopted as proposed.

Comments on Immediate Response Areas (Proposed §§ 192.605(b)(5) and (6)): Comments were received from one state regulatory agency, three industry associations, and 17 gas companies regarding the proposal to require operators to identify areas requiring immediate response if a failure or malfunction occurs. Immediate response could prevent serious consequences or hazards in case a facility fails or malfunctions. Except for two gas companies who suggested revisions and clarification, all those commenting opposed the proposed rules.

The state agency and several companies argued that the class location system of part 192 (which classifies pipelines by population density) is far superior to the immediate response concept of part 195 for recognizing and

reacting to potential hazards along the pipeline route. They contend that because the class location system requires the operator to follow more stringent safety practices in higher risk areas, the potential hazards along a line are reduced by such practices as lower pipe stress levels, more frequent patrols, closer sectionalizing valve spacing, and more frequent leak surveys.

Most of the companies said that any failure or malfunction in their system required immediate response since the severity of an incident is not known until an investigation is made by trained employees. For these companies, a change in the rules is unnecessary. Further, they felt the proposed rules may be counterproductive since they imply that nonlisted locations may not need careful monitoring.

Response: A gas pipeline's class location is Class 1, 2, 3, or 4 depending on the population density in a class location unit, which is an area one mile long by 220 yards (1/8 mile) on either side of the line (§ 192.5). The stress level rules (§§ 192.111 and 192.611), the sectionalizing block valve rule (§ 192.179), the patrolling rule (§ 192.705), and the leakage survey rule (§ 192.706) each require companies to take more stringent precautions as class location, or population density increases. Pipelines in densely populated areas must be operated at lower hoop stress, patrols must be more frequent, sectionalizing block valves must be more densely spaced, and leak surveys must be taken more frequently in order to provide more protection for the public. The class location system requires companies to identify areas where more people are at risk if an incident occurs.

The immediate response identification concept is unnecessary and inappropriate for gas pipelines, since higher risk areas are already identified by existing class location requirements. Also, gas distribution companies are located in developed areas and it would be difficult to identify locations not requiring immediate response.

Accordingly, based on the comments received, and the reasoning stated above, proposed §§ 192.605(b) (5) and (6) are removed from this rulemaking.

Comments on Starting and Shutting Down Pipelines, Compressor Stations, and Compressors (Proposed §§ 192.605(b) (7), (8), and (9)): RSPA received 17 comments on proposed §§ 192.605(b) (7), (8), and (9) which would require that operators have written procedures relative to the startup and shutdown of pipelines and compressor stations and maintenance of

compressor stations. All who commented on the proposals, including a state agency, opposed or recommended revision of the proposed rules. Several operators objected to proposed § 192.605(b)(7) because existing regulations, §§ 192.195, 192.199, 192.201, 192.731, 192.739, and 192.743, require that overpressure protection equipment be installed and working properly. These standards prevent the maximum allowable operating pressure (MAOP) from being exceeded due to pressure control failure, or during startup operations.

Five of those commenting suggested that distribution systems are not started up or shut down in the manner they inferred from the proposal since many systems do not have compressor stations. Others commented that proposed §§ 192.605(b)(7) and 192.605(b)(9) are virtually the same since starting up and shutting down a pipeline is synonymous with starting up and shutting down compressor units. Several contended that procedures for operating compressors should be posted at the unit, and do not belong in a manual. Others stated that the rulemaking should be limited to transmission systems, and not apply to distribution systems.

Response: RSPA believes that specific written procedures are essential for the safe operation of a system as complex as a gas pipeline. This view was addressed previously in the discussion on Standards. The existing regulations, §§ 192.195, 192.199, 192.201, 192.731, 192.739, and 192.743, are safety standards related to the design and maintenance of relief devices to prevent overpressuring of gas pipelines. Proposed §§ 192.605(b) (7), (8), and (9) would require written procedures to follow when operating these devices.

RSPA understands that some distribution systems do not have compressors. If a system does not have compressors, it does not need compressor start up and shut down procedures.

Also, we agree with the commenters who stated that specific procedures for operating individual compressors should be posted at the engine control panel for each unit. RSPA understands that operating procedures vary from compressor to compressor, depending upon the type and model of compressor. Therefore, the final rule requires that the manual contain specific procedures regarding safety and operation that are applicable to the compressor being used. Proposed §§ 192.605(b) (8) and (9) are merely recodification of existing §§ 192.733 and 192.729, respectively. Proposed §§ 192.605(b) (7), (8) and (9)

are adopted as final §§ 192.605(b) (5), (6) and (7), respectively.

Comments on Review of Operator Personnel (Proposed § 192.605(b)(10)): Three industry associations and 16 gas pipeline operators disagreed with proposed § 192.605(b)(10). In this section, RSPA proposed that gas operators establish procedures to review periodically the work personnel do under normal O&M procedures to see if those procedures are effective, and to correct those procedures found deficient. Six of those commenting recommended that this proposed rule be removed since training and qualification of personnel is the topic of another rulemaking (Pipeline Operator Qualifications; 52 FR 9189, March 23, 1987). Five commenters stated that O&M manuals are a reference for trained employees and should not be used as a training manual, which should be more detailed and job specific. Four commenters stated that "periodically" is vague and needs further clarification.

Response: Like existing § 195.402(c)(13), RSPA intended that gas operators periodically review their O&M procedures and correct any deficiencies found in those procedures. The O&M manual prescribes actions that trained employees must follow to do specific tasks. In many cases a manual must describe those actions in detail to assure that personnel perform functions completely and correctly. Personnel are trained and tested to carry out the procedures which the manual prescribes.

RSPA did not intend this provision to further compel correction of deficiencies in the knowledge and skills of personnel to carry out the procedures. That requirement will be included in a separate regulation (See Pipeline Operator Qualifications; 52 FR 9189, March 23, 1987). No commenter disagreed with the fundamental purpose of the proposal.

The regulation requires periodic review to allow operators flexibility in setting the intervals between reviews of their O&M procedures. As circumstances and job functions vary among operators, so would the frequency at which procedures are reviewed. RSPA requires that each operator's O&M procedures specify the time between reviews or the circumstances that dictate a review in implementing proposed § 192.605(b)(10). Section 192.605(b)(10) has been rewritten to reflect these concerns and has been adopted as final § 192.605(b)(8).

Comments on Operating Pressures for Class Location (Proposed § 192.605(b)(11)): In the NPRM, RSPA

proposed to transfer the existing § 192.605(e) to this section. Existing § 192.605(e) requires gas operators to establish procedures for periodic inspections of operating pressures to see that they conform to class locations. Nine gas companies objected to proposed § 192.605(b)(11), stating that it is redundant or unnecessary.

Response: Commenters correctly pointed out that proposed § 192.605(b)(11) would duplicate proposed § 192.605(b)(1) and existing §§ 192.609, 192.611 and 192.613. Each of these sections requires operators to take some form of action to conform their pipeline operations to the proper class location. Accordingly, proposed § 192.605(b)(11) has not been adopted.

Comments on Personnel Safety in Trenches (Proposed § 192.605(b)(12) and 195.402(b)(14)): Three industry associations and 20 gas operators recommended revision of proposed §§ 192.605(b)(12) and 195.402(b)(14). RSPA proposed that operators have written procedures for using precautions, and equipment to protect personnel, in excavated trenches from hazardous accumulations of vapor or gas. Most of the commenters stated that the proposed standard is too specific, and should be rewritten in general performance language covering excavation as well as other O&M safety tasks.

Most of the commenters expressed concern that RSPA and Occupational Safety and Health Administration (OSHA) rules will overlap and that they will be required to comply with duplicate regulatory requirements.

Response: Expansion and rewriting of the rule in general performance language to extend to O&M safety related tasks other than safety during excavation would exceed the scope of the proposal. The proposal was limited to protecting personnel in trenches from hazardous vapors or gas. Proposed §§ 192.605(b)(12) and 195.402(b)(14) are adopted as final §§ 192.605(b)(9) and 195.402(c)(14), respectively.

With regard to the potential overlap with OSHA rules, Section 4(b)(1) of the OSHA Act prohibits OSHA from exercising authority over working conditions when another agency exercises authority through regulation.

Comments on Testing of Pipe-Type and Bottle-Type Holders (Proposed § 192.605(b)(13) (i), (ii), and (iii)): There were no substantive comments concerning proposed §§ 192.605(b)(13) (i), (ii), or (iii) and these standards are adopted as §§ 192.605(b)(10)(i), (ii), and (iii), respectively.

Comments on Abnormal Operation (Proposed § 192.605(c)): Two industry

associations and 18 companies commented on proposed § 192.605(c) which sets forth items to be included in procedures for handling abnormal operations on gas transmission lines. All those commenting recommended that RSPA withdraw or revise the proposed rule. The most common reason given for changing the rule is that the proposed requirements duplicate existing § 192.615, Emergency Plans. The commenters said they interpret any abnormal condition as an emergency until the condition is resolved or eliminated. One state, Massachusetts, said that §§ 192.605(a) and 192.605(c) should not be restricted to transmission lines but should apply to distribution lines as well.

Four of the commenters objected to usage of "operating design limits" when the term has not been defined. They questioned if "operating design limits" is the same as or different from MAOP, which is defined in the regulations and understood in the gas pipeline industry.

Response: The proposed rule does not duplicate § 192.615. Abnormal conditions and emergency conditions are not equivalent. Abnormal conditions occur when operating design limits have been exceeded due to a pressure, flow rate, or temperature change outside the limits of normal conditions. As an example, for pressure surges, an abnormal condition would exist in a pipeline when pressure exceeds the MAOP but is within the differential allowed to activate pressure relieving and limiting equipment (see § 192.201). Abnormal conditions are less severe, but could escalate to emergency conditions if not promptly corrected. Abnormal conditions do not pose as immediate a threat to life or property as do emergency conditions. Any transmission line operator that chooses to treat abnormal conditions as emergency conditions still must comply with § 192.605(c).

Distribution system operators are not required to prepare a manual for abnormal conditions because they normally operate distribution pipelines at lower pressures than transmission pipelines. Also, due to the dangers involved in operating in populated areas, most unusual operating conditions would be considered by the distribution system operator to be an emergency until the condition is resolved or corrected.

Threatening events such as the presence of gas in a building, a fire near a pipeline, or an explosion near a pipeline constitute emergency conditions. Sections 192.605(c)(1) (i) through (v) are adopted as proposed.

Comments on Checking Variations from Normal Operation after Abnormal Operation has ended (Proposed § 192.605(c)(2)): There were no substantive comments regarding proposed § 192.605(c)(2) and this section is adopted as proposed.

Comments on Responsible Operator Personnel (Proposed § 192.605(c)(3)): Two operators stated that the meaning of "responsible operator personnel" in proposed § 192.605(c)(3) is unclear and should be clarified or changed.

Response: When considering "responsible operator personnel," responsible means a person the company expects to be answerable or accountable for O&M of the pipeline. Responsible and accountable are synonymous for purposes of this rule. Because RSPA has had the opportunity to clarify our intent in the preamble to this final rule, proposed § 192.605(c)(3) is adopted as proposed.

Comments on Periodic Review of Personnel Response to Abnormal Operations (Proposed § 192.605(c)(4)): Five operators opposed or recommended revision of proposed § 192.605(c)(4), which proposed periodic review of responses by personnel to abnormal operations in order to determine the effectiveness of procedures for handling abnormal operations. In lieu of the proposed periodic review, the commenters instead recommended review of each abnormal operation and taking appropriate action when deficiencies are found.

Response: RSPA encourages operators to correct deficiencies in procedures when recognized. The company should not wait for a periodic review to correct such deficiencies. However, RSPA did not propose to require operators to review each response to an abnormal operation. This would be unnecessarily more stringent than the proposed rule. For this reason, the final rule retains the term periodic. Final § 192.605(c)(4) is adopted as proposed.

Comments on Safety-Related Condition Reports (Proposed § 192.605(d)): RSPA received no substantive comments regarding proposed § 192.605(d) and this section is retained as proposed.

Comments on Surveillance, Emergency Response, and Accident Investigation (Proposed § 192.605(e)): Six of the seven operators commenting opposed proposed § 192.605(e) which would require procedures required by other sections in Part 192 concerning surveillance, emergency response, and accident investigation to be included in the O&M manual. They argued that the emergency plan should be separate from

the O&M manual since emergency procedures differ from normal operations. One company stated that its emergency plan is "kept in a separate, readily identifiable binder and all appropriate foremen, supervisors and managers who would respond to an emergency have personal copies which are kept in their offices, homes and company vehicles. O&M manuals are normally available only at work locations where employees are present 40 hours a week."

Response: RSPA believes that the procedures discussing surveillance, emergency response and accident investigation should be part of an O&M manual. When part 192 requires procedures for these subjects, it is easier to find and review them when they are located together at one place. The cross-referencing described previously would allow an operator to distribute separate volumes describing emergency procedures as needed. Nevertheless, the emergency procedures also must be included in the O&M manual. The final rule is adopted as proposed.

Comments on Redesignation, Amendment, Leakage Surveys, Abandonment or Deactivation of Facilities, and Removals: (Proposed changes to §§ 192.615, 192.706, 192.723, 192.727, 192.729, 192.733 and 192.737): There were no substantive comments concerning proposed changes to §§ 192.615, 192.706, 192.723, 192.727, 192.729, 192.733 and 192.737 and these changes are adopted as proposed.

RSPA Comment on Effective Date: RSPA believes that most operators will be able to assemble the cross-referenced manual promptly. However, others may require additional time to assemble the information and procedures required in this rulemaking. RSPA, therefore, is allowing a one-year period to complete the manual. However, §§ 192.605(b)(9) and 195.402(c)(14) become effective 30 days after publication in the Federal Register since most operators already have the procedures and equipment necessary to comply with the rule.

Advisory Committee Reviews

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended (Pub. L. 97-468, January 14, 1983), each contain similar requirements that proposed amendments to a safety standard established under the statute be submitted to a 15-member advisory committee for consideration.

The Technical Pipeline Safety Standards Committee, comprised of members knowledgeable about

transportation of gas by pipeline, discussed and approved the gas rule changes by an 8 to 3 margin at a meeting held September 13, 1988. In like manner, the Technical Hazardous Liquid Pipeline Safety Standards Committee, on September 14, 1989, approved the hazardous liquid rule change, 8 to 2. No changes were recommended by either committee.

Rulemaking Analyses

E.O. 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was subject to review by the Office of Management and Budget. The rule is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034) because of the significant public and congressional interest following four pipeline failures in a two year period which caused 10 deaths, 26 injuries and significant property damage.

Regulatory Flexibility Act

Based on the comments received, I certify under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605; September 19, 1980) that this rule will not have a significant economic impact on a substantial number of small entities.

E.O. 12612

We have analyzed this final rule under the criteria of Executive Order 12612 (52 FR 41685, October 30, 1987). Four states, Connecticut, Massachusetts, Missouri and Nevada responded to the NPRM. All supported the rulemaking. However, Connecticut expressed concern that the rulemaking intended to limit the authority of the state agency to require an operator to amend its plans and procedures as necessary to provide a reasonable level of safety. RSPA had no such intention. The authority of a state to require an operator to amend its safety plans and procedures is not diminished by this rulemaking. Accordingly, RSPA finds that this final rule does not warrant preparation of a Federalism Assessment.

Paperwork Reduction Act

The information and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. Chapter 35 under OMB Nos: 2137-0047 and 2137-0049.

Administration: Research and Special Programs Administration; Title:

Operation and Maintenance Procedures for Pipelines; Need for Information; Provides guidance for safety of personnel while operating and maintaining pipelines; Proposed Use of Information: Assists pipeline operator employees in the operation and maintenance of pipelines; Frequency: Requires operator to review and update procedures each calendar year; Burden estimate: 240,000 hours in first year, small requirement in succeeding years dependent on need to update; Respondents: 54,300 operators including master meter operators; Forms: none; Average Burden Hours per Respondent: 4.4.

RSPA received several comments on paperwork. A few commenters asserted that it is unnecessary to promulgate parallel rules applicable to gas and liquid operations because the physical properties of the products differ. However, RSPA believes that the O&M similarities vastly outnumber the differences and that compliance is enhanced by making the two regulations reasonably similar while recognizing the technical distinctions between gas and liquid pipelines. Furthermore, other commenters said paperwork should be better managed. RSPA agrees and allows operators to keep O&M procedures in paper or electronic files depending on the needs of the operator. The ultimate need to keep the paperwork is to require companies to maintain a sufficient amount of reliable information to reduce the likelihood of failures and casualties.

List of Subjects

49 CFR Part 192

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, parts 192 and 195 are amended to read as follows:

PART 192—[AMENDED]

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

Authority: 49 App. U.S.C. 1672 and 1804; and 49 CFR 1.53.

2. Section 192.453 is revised to read as follows:

§ 192.453 General.

The corrosion control procedures required by § 192.605(b)(2), including those for the design, installation, operation, and maintenance of cathodic

protection systems, must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods.

3. Section 192.603(b) is revised to read as follows:

§ 192.603 General provisions.

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

4. Section 192.605 is revised to read as follows:

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

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) *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 operations:

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

(2) Controlling corrosion in accordance with the operations and maintenance requirements of subpart I of this part.

(3) Making construction records, maps, and operating history available to appropriate operating personnel.

(4) Gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.

(5) Starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this part, plus the build-up allowed for operation of pressure-limiting and control devices.

(6) Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

(7) Starting, operating and shutting down gas compressor units.

(8) Periodically reviewing the work done by operator personnel to

determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

(9) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.

(10) Systematic and routine testing and inspection of pipe-type or bottle-type holders including—

(i) Provision for detecting external corrosion before the strength of the container has been impaired;

(ii) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and

(iii) Periodic inspection and testing of pressure limiting equipment to determine that it is in safe operating condition and has adequate capacity.

(c) *Abnormal operation.* For transmission lines, 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; and

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

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

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

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

(d) *Safety-related condition reports.* The manual required by paragraph (a) of this section must include instructions enabling personnel who perform

operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 191.23 of this subchapter.

(e) *Surveillance, emergency response, and accident investigation.* The procedures required by §§ 192.613(a), 192.615, and 192.617 must be included in the manual required by paragraph (a) of this section.

§ 192.616 [Redesignated from § 192.615(d)]

5. Section 192.615(d) is redesignated as § 192.616 Public education and the paragraph designation is removed.

§ 192.706 [Amended]

6. In § 192.706, paragraph (a) is removed, the introductory text of paragraph (b) is redesignated as the introductory text of the section, and paragraphs (b)(1) and (b)(2) are redesignated paragraphs (a) and (b), respectively.

7. In § 192.723, the section heading and paragraph (a) are revised to read as follows:

§ 192.723 Distribution systems: Leakage surveys.

(a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.

8. In § 192.727, the section heading and paragraph (a) are revised to read as follows:

§ 192.727 Abandonment or deactivation of facilities.

(a) Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section.

§ 192.729 [Removed]

9. Section 192.729 is removed.

§ 192.733 [Removed]

10. Section 192.733 is removed.

§ 192.737 [Removed]

11. Section 192.737 is removed.

PART 195—[AMENDED]

The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; 49 CFR 1.53.

12. In § 195.402, a new paragraph (c)(14) is added to read as follows:

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

(c) * * *

(14) Taking adequate precautions in excavated trenches to protect personnel

from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.

* * * * *
Issued in Washington, DC on February 4, 1994.

Rose A. McMurray,
Acting Administrator Research and Special Programs Administration.

[FR Doc. 94-3186 Filed 2-10-94; 8:45 am]
BILLING CODE 4910-60-P

Federal Railroad Administration

49 CFR Part 207

[FRA Docket No. RPO-1; Notice No. 2]

RIN 2130-AA69

Railroad Police Officers

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is establishing a rule to implement section 1704 of the Crime Control Act of 1990, which authorizes a railroad employee who is commissioned as a railroad police officer by any state to enforce, in accordance with DOT regulations, the laws of any state in which the railroad police officer's employer owns property for the purpose of protecting railroad property, personnel, passengers, and cargo.

EFFECTIVE DATES: The rule becomes effective March 14, 1994.

ADDRESSES: Any petition for reconsideration should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Gareth W. Rosenau, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590 (202-366-9416).

SUPPLEMENTARY INFORMATION:

I. Background

Since 1855, railroads have employed railroad police officers to protect railroad property, personnel, passengers, and cargo. Today, there are approximately 3,000 railroad police officers throughout the United States, the majority of whom are commissioned by a state to perform the duties of a peace officer. Each state has its own set of rules governing railroad police officer conduct. Currently, railroad police officers may not enforce the laws of any state where they are not commissioned.

Railroad police officers provide protection against vandalism, trespassing, railroad property and cargo theft, sabotage, terrorism, and burglaries of company property. They also respond to emergencies involving fires, derailments, and railroad accidents and incidents. They are armed and authorized to make apprehensions and arrests.

Railroad police officers sometimes travel with cargo from the place of origin to final destination, even if this involves accompanying a train into states where the officers are not commissioned. A railroad generally has commissioned railroad police officers in each state where it conducts business and owns property; however, these commissioned railroad police officers may at times be unavailable when an accident or incident occurs. Under these circumstances, railroad police officers who are not commissioned in that state must resort to a citizen's arrest or wait until a commissioned railroad police officer or a state or local police officer having appropriate authority arrives. Property damage or personal injuries may occur during the interim.

On October 27, 1990, Congress addressed these concerns by enacting section 1704 of the Crime Control Act of 1990, Public Law 101-647 (45 U.S.C. 446) which provides:

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

- (1) The employees, passengers, or patrons of the rail carrier;
- (2) The property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;
- (3) Property moving in interstate or foreign commerce in the possession of the rail carrier; and
- (4) Personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

In response, the Secretary has delegated authority to the Federal Railroad Administrator to promulgate appropriate regulations.

On June 18, 1993, FRA published a notice of Proposed Rulemaking (58 FR 33593), proposing to amend title 49 of the Code of Federal Regulations by adding new part 207—Railroad Police Officers. The part would establish procedures for designation and commissioning of railroad police officers and notification to state