



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

SEP 27 2016

Mr. J. Douglas Lindsay
Principal Engineer
Petersen Engineering
8902 Vincennes Circle, Suite F
Indianapolis, IN 46268

Dear Mr. Lindsay:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated November 23, 2015, you requested an interpretation of 49 CFR Part 195.204. You asked how the requirements of § 195.204 apply to contractor services and employees who work on an installation of a new interstate hazardous liquid pipeline or pipeline system for a pipeline operator.

You ask: (1) if the term "operator personnel" refers only to pipeline operator's personnel or its contractors' personnel; (2) if the installation inspection provision only applies to on-site installation work or if it applies also to off-site installation work; (3) if an operator is allowed to assign or contract an installation contractor or a fabricator to provide personnel and other specialized inspection and testing resources, and what PHMSA expects of the operator for installation inspection of pipe, valves and other materials and equipment that will be produced or already have been produced ("in-stock"); (4) if § 195.204 is limited to the immediate pipe and pipeline systems or if it extends to other construction scope, installations and inspections and testing; and (5) what prima facie evidence and records will be satisfactory to PHMSA to demonstrate compliance with § 195.204.

With regard to your first question (1), the operator is responsible for safe operation of its pipeline(s). *Operator* is defined in § 195.2 as "a person who owns or operates pipeline facilities." *Person* is defined in this section as "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." Therefore, the term "operator personnel" refers to both the operator's and its contractor's employees. Furthermore, any work done on behalf of the operator must comply with applicable federal pipeline safety regulations.

With regard to your second question (2), *pipeline or pipeline system* is defined in § 195.2 to mean "all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks." Whether

the construction is onsite or offsite, § 195.204 is a construction requirement and, therefore, all offsite work on shop-fabricated assemblies and breakout tanks must be compliant with applicable federal pipeline safety regulations before installed into the pipeline system. Also, all pipeline and pipeline components must be visually inspected before they are installed in the pipeline system (§ 195.206).

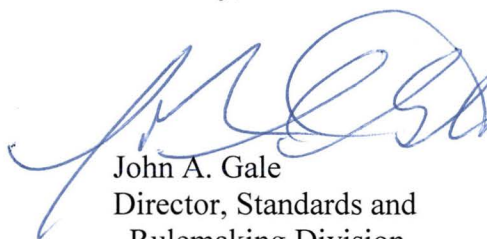
With regard to your third question (3), please refer to our responses to your first and second questions. That is, whether the construction is onsite or offsite, it is still the operator's responsibility to comply with the federal pipeline safety regulations. The operator may use contract personnel or its personnel for these inspections as long as those personnel are not inspecting their own work.

With regard to your fourth question (4), the § 195.204 requirements are to ensure the installation of pipe or pipeline systems in accordance with the requirements of Subpart D – Construction. As we previously mentioned, the term *pipeline or pipeline system* is defined in § 195.2 as all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation. The term *pipeline facility* is also defined in § 195.2 as “new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.” Therefore, this section's requirements include all construction, installations, inspections, and testing that may affect all parts of a pipeline facility.

With regard to your last question (5), an operator must maintain the records necessary to demonstrate compliance with the applicable regulations including required inspections or training and qualifications.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Standards and
Rulemaking Division

November 23, 2015

Mr. John A. Gale
Director, Office of Standards and Rulemaking
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SW (East Building)
Washington, DC 20590

RE: Request for Interpretation
§195.204 – Inspection - General

Dear Mr. Gale:

Guidance is appreciated on how the construction inspection regulation, as provided by §195.204, may be involved for an installation of a new interstate, hazardous liquid pipeline or pipeline system for a new operator or an existing operator that employs contract services, general contractors or fabricators to supply inspection.

Operator Personnel

As written, the regulation only governs “operator personnel” regarding training, qualifications, inspections and tasks. Does the term “operator personnel” refer only to personnel under the control or employment by the operator and not to personnel that may be employed or under hire by construction contractors or fabricators?

Installation Inspection

The regulation addresses only installation inspection.

1. Does the installation inspection provision only apply to on-site installation or does it apply also to off-site installation work for shop-fabricated assemblies (e.g., metering and delivery stations) and breakout tanks (e. g, API 12F for shop assembled tanks)?
2. What is expected of the operator for installation inspection of pipe, valves and other materials and equipment that will be produced or already has been produced (“in-stock”)?

Contractual Inspection Limitations

Is an operator allowed to assign or contract an installation contractor or a fabricator to provide personnel and other specialized inspection and testing resources including specialized, “third-party” inspection (e.g., NDE), pressure testing, and ILI and caliper tool

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services that are not directly involved with the installation? Operators may not have sufficient direct employees and resources to conduct or manage all phases of construction inspection and must contract that work directly or through a general or installing contractor or fabricator or such inspections can be more efficiently managed logistically by a contractor or fabricator.

Extent

This section is located under Subpart D of Part 195. Sections 195.200 and 202 specify the respective scope and compliance with specifications and standards for this Subpart. Is §195.204 limited to the immediate pipe and pipeline systems or does it extend to other construction scope, installations and inspections and testing to include pipeline facility electrical and control systems and wiring, foundations, computational pipeline systems, cathodic protection, SCADA and control room systems, and ancillary equipment, and painting as may be governed by other subparts?

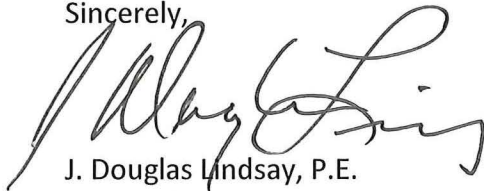
Prima Facie Evidence

What *prima facie* evidence and records will be satisfactory to PHMSA to demonstrate compliance with §195.204?

I do agree that appropriate inspections are an important means to ensure the safety, integrity and productive operations of pipelines.

An expeditious, but thorough, response is greatly appreciated. If there any questions, - please feel free to contact me at your earliest convenience. I may be contacted at dlindsay@pei-engineering.com or (317) 217-1701, ext. 115 to facilitate discussions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Douglas Lindsay', is written over the typed name.

J. Douglas Lindsay, P.E.
Principal Engineer