

PI-04-0102

U.S. Department of Transportation  
Research and Special Programs Administration  
400 Seventh St., S.W.  
Washington, D.C. 20590

March 24, 2004

Mr. G.C. Morris  
Utilities Engineer—Gas  
Vermont Department of Public Service  
State Office Building, Drawer 20  
112 State Street  
Montpelier, VT 05620-2601

Dear Mr. Morris:

This is in response to your e-mail of February 25, 2004, in which you request an interpretation of the provisions of the Federal gas pipeline safety regulations at 49 CFR 192.614, which exclude operators of certain small gas systems from requirements for a written damage prevention program.

Section 192.614(a) states that "[e]xcept as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities." Paragraph (d) notes that a damage prevention program is not required for offshore pipelines and pipelines where physical access is controlled by the operator.

Section 192.614(e) excludes certain small pipelines from some of the damage prevention program requirements. Section 192.614(e)(1) excludes pipelines operated by persons other than municipalities (including master meter systems) whose primary activity does not include the transportation of gas from the requirement to maintain a written damage prevention program. And, § 192.614(e)(2) excludes these pipelines from the requirements at §§ 192.614(c)(1) and (c)(2) to maintain a list of persons normally engaged in excavation near the pipeline and to notify persons near the pipeline of the damage prevention program.

It is important to note that master meter systems and other pipelines operated by persons whose primary activity is not the transportation of gas are only excluded from the requirement to have a written program in compliance with § 192.614(a). They are NOT excluded from requirements to provide temporary marking of buried pipelines in the area of excavation (§ 192.614(c)(5)), to provide for actual notification of persons planning excavations of the temporary marking scheme (§ 192.614(c)(4)), and to provide for inspection of pipelines near excavations to verify integrity (§ 192.614(c)(6)).

In addition, a gas operator is not excluded from the requirement to have a written damage prevention program merely because they are owned by a larger company whose primary business is not the transportation of gas. The pipeline safety regulations apply to the operator of the gas system. Section 192.614(e) (a) is clearly intended to apply to persons operating gas systems as a minor part of their business. This interpretation of the regulations cannot be altered by general language that may be contained in guidelines and other publications, including *the Training Guide for Operators of Small LP Gas Systems*, *The Training Guide for Operators of Small LP Gas Systems*, which was sponsored in part by the U.S. Department of Transportation.

If you have any further questions about the pipeline safety regulations, please contact me at (202) 366-4565.

Sincerely,  
Richard D. Huriaux, P.E.

Manager Regulations  
Office of Pipeline Safety

Huriaux, Richard

From: Huriaux, Richard  
Sent: Wednesday, February 25, 2004 3:54 PM  
To: 'Morris, GC'  
Subject: RE: code interpretation

I received your e-mail and will treat it as a request for an official INTERPRETATION. No promises, but I will try to have something back to you by the end of next week...

#####  
/ Richard D. Huriaux. P.E.  
/ Manager, Regulations  
/ US DOT / Office of Pipeline Safety  
/ 400 7th Street, SW, Room 7128  
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-----Original Message-----

From: Morris, GC (<mailto:GC.Morris@state.vt.us>) Sent: Wednesday, February 25, 2004 12:03 PM  
To: Huriaux, Richard  
Subject: code interpretation

Good afternoon Richard,

Thank you for discussing CFR Title 49, Part 192, earlier this month. As you know, my questions regarded §192.614, Damage Prevention Program, and the parties required to comply with it.

Paragraphs (a), (d) and (e) of this section exclude operators of certain small gas systems from some requirements, including a written program to prevent damage to that pipeline from excavation activities. Of particular concern is the wording "primary activity" in paragraph (e).

(e) Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

- (1) The requirement of paragraph (a) of this section that the damage prevention program be written;
- and
- (2) The requirements of paragraphs (c)(1) and (c)(2) of this section.

During our conversation, you advised me that §192.617(e) addresses the exclusion of non- gas companies (such as real estate companies and school campuses). Additionally, the code applies to the company operating the gas system. Ownership of the operating company and what that corporation, or group, does for business is not of concern.

Would you please produce a written interpretation regarding this issue and forward it to me at your earliest convenience? Our department would like to be able to utilize the interpretation in future cases, involving jurisdictional system operators who do not acknowledge responsibility because the system is small or the organization considers gas operation to be a minor part of their business.

Thanks again for your attention to this matter.

Sincerely,  
GC Morris  
Utilities Engineer – Gas  
Vermont Dept. of Public Service  
112 State St  
Montpelier, VT 05620-2601