

Regulatory Position on Thirteen OQ Implementation Issues May 6, 2003

Note, the issues listed below appear in the “impact bins” developed at the San Antonio public meeting. The issue statements are those developed and presented by OPS in San Antonio. The numbers of the issues as presented by industry at the subsequent Public Meeting in Houston on 02/25/03 are shown in parentheses. Where there are differences in the way the issues were stated in San Antonio and in Houston (see the first “High Impact Issue” below), the issues as stated in Houston are shown in italics.

High Impact Issues

Scope of OQ Inspections (Industry Issue 6): Should inspections go beyond evaluation of compliance with prescriptive requirements of the Rule?

Industry Restatement: Inspection of the Approaches through which the Operator Expects to Achieve Improvement.

Summary

This issue has been addressed through restructuring of the protocols and by adding a Statement on the cover of the protocols that describes (a) the new structure, and (b) how the restructured protocols are to be used. The Statement is presented below for information.

Statement on the Role of Protocols

“The attached protocols have been written to assist federal and state pipeline inspectors who are evaluating operator’s OQ programs. The protocols are not intended as enforcement instruments or to provide inspectors with additional enforcement authority, but rather are intended to provide inspectors with a template that they can use in the course of their inspections to ensure that operators comply with all elements of the OQ rule. The objective of the protocols is to ensure that the prescriptive requirements of the rule have been followed by operators. This objective will be accomplished by rigorously inspecting each operator’s records to ensure that all persons performing covered tasks on pipeline facilities are properly qualified and that sufficient documentation is maintained for these individuals. Proper recordkeeping is a key component of the OQ rule. It is therefore important that inspectors be able to verify that records are maintained for all individuals performing covered tasks.

“The OQ inspection form is organized around nine elements, including one for field verification. Each element has one or more associated protocol. Each protocol consists of 4 boxes: (1) a protocol number accompanied by the protocol subject or topic; (2) a protocol question(s) (sometimes followed by AVerify@statements); (3) guidance topics; and (4) the relevant rule language. The protocol topics have been structured into AProtocol Question(s)” to guide inspectors through the OQ inspection process. Each protocol question is followed by AGuidance Topics.@ The guidance topics list

characteristics that the regulator would typically expect to find in an effective OQ Program, and that are consistent with the intent of the regulatory language that accompanies each protocol. Some, all, or none of these characteristics may be appropriate depending on factors unique to each operator's OQ Program and pipeline assets. Operators should be prepared to demonstrate that their programs address each of these characteristics or to describe how their program will be effective in their absence.

“Many of the protocol questions are followed by AVerify@statements. These statements have been included because they can be directly traced to specific rule language. Therefore, compliance with each “verify” statement should be confirmed. Many “verify” statements (and protocol questions) are followed by a parenthetical statement that indicates that the statement or question is either Aenforceable@or Anon-enforceable@. If the “verify” statement or protocol question is listed as non-enforceable, the statement or question is not enforceable under the rule, but is nonetheless an important consideration for the operator. Finally, should the inspection process reveal violations of prescriptive requirements of the rule, regulators will take appropriate enforcement actions. Should deficiencies be identified in how operators address program characteristics, inspectors will seek evidence of violations related to these deficiencies. Significant inquiries seeking further information related to program characteristics will be communicated to the operator as an integral part of the inspection process.”

Restated Issue

The restated issue (*Inspection of the Approaches through which the Operator Expects to Achieve Improvement*) will be addressed through operator processes designed to evaluate the effectiveness of their own OQ Programs. Program Performance and Improvement are addressed in protocol Question 6.01, which is non-enforceable.

- Some form of program evaluation should be implemented by all operators, not just those wishing to extend their reevaluation intervals beyond established conservative limits.
- OPS believes that there is value in some forms of periodic monitoring by all operators of the performance of covered tasks by qualified individuals.

Evaluation of KSAs (Industry Issue 10): Should evaluation leading to qualification consider knowledge, skills and ability (KSA)?

Summary

Evaluation of knowledge, skills and ability (KSA) in the qualification process is treated in Protocol 2.02. Guidance on the correspondence between covered tasks and KSA evaluations will be developed either as supplementary guidance or treated explicitly in the proposed National Consensus Standard. In the interim, operators are expected to be able to describe and support the selection of evaluation process(es) used to qualify people for performing each covered task.

- A qualified individual performing a covered task may be required to possess one or all of the following: knowledge, skill and ability (KSA);
- Operators should identify for each covered task which of the evaluation methods - KSAs need to be evaluated during the qualification process.
- The required KSAs should be verified by one or more evaluation designed for that purpose;
- An evaluation method can be designed to evaluate more than one of the KSAs, provided that sufficient structure, including documentation, is present to assure its effectiveness;
- “Ability” is understood to be broader than simply “physical capability”, and includes such attributes as mechanical ability; “ability” will be treated more thoroughly in the proposed National Consensus Standard;

Re-evaluation Intervals (Industry Issue 4): How should re-evaluation intervals be supported and justified?

Summary

Reevaluation intervals are addressed in Protocol questions 1.01 and 5.02. Methods to assemble data on task performance considering the impact of factors such as reevaluation intervals are needed and should ultimately be captured in the proposed National Consensus Standard.

- Ideally, reevaluation intervals should be justified based on documented experience in the performance of O&M tasks in the pipeline or related industries;
- An interim justification could be the practice of other regulatory agencies on reevaluation intervals and their justification;
- Conditions will likely exist implying the need to vary the reevaluation intervals by task, considering factors such as complexity, criticality and frequency of performance of the task;
- Ultimately, experience gained through the implementation of OQ in the pipeline industry should be used to support definition of appropriate (conservative) reevaluation intervals;
- Such methods may also be used by operators that wish to justify reevaluation intervals longer than those supported by “typical” industry experience;
- Methods for program evaluation and related measures of performance will be considered in the proposed National Consensus Standard.

Maintenance versus New Construction (Industry Issue 1): How should operators distinguish between maintenance and new construction in defining covered tasks?

Summary

Development of covered task lists is considered in Protocols 1.05 (through needed definitions) and 2.01. Each operator must develop an auditable process, including needed definitions, describing how it differentiates between maintenance and new construction in determining which tasks must be performed by qualified people. Regulators will employ field verifications to ensure that covered tasks are performed by qualified people consistent with the provisions of each operator's program. Activities not yet requiring qualified people and considered important to pipeline safety and integrity will be addressed in the proposed National Consensus Standard.

- The OQ Rules cover O&M activities, therefore, the dividing line between maintenance and new construction needs to be established;
- Tasks involving replacement of existing equipment (e.g., replacement of a length of corroded pipe) necessary to make the system function as designed and safe to operate are covered.

Treatment of Emergency Response (Industry Issue 2): Does the rule cover emergency response tasks, if so, what are its bounds?

Summary

This issue will be addressed in inspections in conjunction with Protocol Question 2.01. The subject of how best to assure persons responding to emergencies are appropriately qualified will be addressed in the proposed National Consensus Standard.

- In an emergency, qualified persons should be used to perform tasks that normally must be performed by a qualified person,
- Professional emergency responders, such as fire fighters, need not be qualified by the operator to perform their jobs;
- It may be necessary to use non-qualified people who are near at hand to take actions to terminate an emergency condition, thereby to protect life and property;
- Operators should identify people whose normal job responsibilities place them in a position where they may need to respond to an emergency condition, and qualify these people in how to terminate anticipated emergency conditions (e.g., meter readers may encounter gas leaks and should be qualified to take appropriate action);
- Individuals who may be called upon to perform covered tasks during a protracted emergency (e.g., restoration of service following a weather-related outage by individuals supplied through a mutual aid agreement) should also be qualified.

Medium Impact Issues

Additional Covered Tasks (Industry Issue 3): Is pipeline excavation a covered task?

Summary

This issue will be addressed in conjunction with Protocol Question 2.01. The focus of inspection questions will be on how operators assure themselves that people involved in pipeline excavation are qualified to perform their duties.

- The focus of operators in qualifying individuals involved in pipeline excavation tasks should be on damage prevention (e.g., locating and marking lines), and on the role (and need for qualification) of “swampers” or “spotters” in preventing damage.
- Backhoe operators working on operator-defined excavation should be qualified by evaluation of their knowledge of special protective measures needed when excavating a pipeline.

Extent of Documentation (Industry Issue 11): What OQ records must be developed and maintained by operators?

Summary

There are numerous places in the protocols where the need for documentation supporting demonstration of compliance with provisions of the Rules is evident. Regulators will expect necessary documentation to be available or accessible as appropriate at operator headquarters and in the field.

- Operator documentation must demonstrate compliance with the OQ Rule, and, therefore, must go beyond the four records identified in the rule;
- Reference to the documentation needed to comply with provisions of the Rule should be included in the Operator’s OQ Program;

Abnormal Operating Conditions (Industry Issue 8): Should the list of AOCs include both generic and task-specific AOCs, and should it be dynamic?

Summary

Abnormal Operating Conditions (AOCs) are addressed in Protocol question 4.02.

- The listing of AOCs used in qualifying people to perform covered tasks should dynamically reflect current knowledge on AOCs that may be encountered in performing covered tasks;
- Both generic AOCs (i.e., those that may reasonably be encountered during performance of a covered task) and task-specific AOCs (i.e., those that may result from performance of the covered task) should be used by operators in evaluating and qualifying individuals;
- A process to ensure consistency in the development of AOCs should be included as part of the planned National Consensus Standard.

Treatment of Training (Industry Issue 5): Should training practices be evaluated during OQ inspections?

Summary

Training is addressed in the non-enforceable Protocol question 1.04. More expansive treatment of the role of training in ensuring people performing tasks that may impact safety or integrity of the pipeline should be described in the planned National Consensus Standard.

- While it is not explicitly required by the Rule, training is fundamental to implementing many steps in the OQ Rule.
- OPS believes that training is sufficiently important that we must gather information to evaluate its role in current operator OQ programs;
- The role of training in OQ should be described in the planned National Consensus Standard.

Low Impact Issues

Criteria for Small Operators (Industry Issue 13): Will small operator OQ Programs be evaluated against the same criteria as are large operator programs?

Summary

Regulators will use the same protocols to guide inspections of all operators against OQ requirements. Guidance for small operators being developed jointly by industry and the regulatory community will be useful in describing how OQ requirements can be addressed by small operators and confirmed by inspectors. This guidance will be completed by late December, 2003.

Direction and Observation of Non-Qualified People (Industry Issue 7): Is guidance needed to support supervisors in determining how many non-qualified people can be directed and observed by one qualified person?

Summary

This issue is addressed in Protocol question 3.02. Further guidance is currently under development. This issue should be considered in development of the proposed National Consensus Standard.

- OPS expects industry input on the listing of covered tasks that may not be performed by non-qualified individuals by 06/30/03;
- Further, OPS expects industry input on guidance and criteria for establishing the appropriate span of control for tasks based on their complexity and related level of risk by 06/30/03;
- OPS supports this development and will utilize the list and guidance/criteria when they are available.

- If job performance under realistic conditions is a critical ingredient in OJT for high risk (complexity and criticality) tasks, then one-on-one oversight of performance is needed.

Noteworthy Practices (Industry Issue 12): Should regulators play a role in the identification and communication of “Noteworthy Practices”?

Summary

Recognition and communication of noteworthy practices should support improvement of efficiency and effectiveness of processes used to satisfy requirements of the OQ Rule. OPS expects to participate in a voluntary process run by the industry associations or other entity to identify, document and communicate noteworthy practices. The organizational home(s) and related processes for assembly, evaluation and communication of Noteworthy Practices will be defined by the end of September, 2003.

Persons contributing to an Incident or Accident (Industry Issue 9): Should operators have documented means to identify a covered task whose performance may have contributed to an incident/accident along with people who performed these tasks?

Summary

This issue is addressed in Protocol question 5.01. Operators with effective root cause analysis practices can apply these practices to identify contributing factors involving performance of a covered task when the time between performance of the task and the incident or accident is short. The issue is more difficult to address when the time between the performance of a task and a possibly related incident or accident is very long, and individuals who may have performed the task have subsequently been reevaluated on the task. The issue needs to be addressed further in the development of the proposed National Consensus Standard

- OPS believes that appropriate evaluation of incidents or accidents not only must identify the person(s) whose performance of a covered task contributed to the incident or accident, but also perhaps more importantly should identify and address the reason(s) for the failure. (Potential reasons may include ineffective training, weak procedures, lack of supervision or appropriate monitoring by management, inappropriate reevaluation process or interval, or ineffective correction of weak performance by the qualified person);
- OPS supports the position that, for covered tasks performed much before an incident or accident, operators must first determine the reason for the failure (see above). The operator should then determine whether actions taken in the interim have addressed the reason for the failure. Finally, depending on the identified reason for the failure and action taken in the interim to address that reason, the operator may choose to implement corrective action, up to and including disqualification, for all individuals performing a covered task *based on the level of documentation maintained* (by individual, by crew, by region, by company),

rather than to attempt to identify the individual responsible for performance of a covered task at some time in the distant past.