

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of FIFRA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number (PP 7F3500, 8F3592, FAP 8H5650/P586). All written comments filed in response to this petition will be available to the Public Response Section, at the address given above from 9 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food/feed additive regulations or raising tolerance or food/feed additive regulation levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180, 185, and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 19, 1994.

Lois Rossi,
Acting Deputy Director, Registration Division,
Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346 and 371.

b. In § 180.449, by revising paragraph (a), to read as follows:

§ 180.449 Avermectin B₁ and its delta-8,9-isomer; tolerances for residues.

(a) Tolerances, to expire on April 30, 1996, are established for the combined residues of the insecticide avermectin B₁ and its delta-8,9-isomer (a mixture of avermectins containing > 80 percent avermectin B_{1a} (5-O-demethyl avermectin B_{1a}) and < 20 percent avermectin B_{1b} (5-O-demethyl-25-di (1-methylpropyl)-25-1 (1-methylethyl) avermectin A_{1a})) in or on the following commodities:

Commodity	Parts per million
Citrus, whole fruit	0.02
Cattle, meat	0.02
Cattle, mbyyp	0.02
Cottonseed	0.005
Milk	0.005

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PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. By revising § 185.300, to read as follows:

§ 185.300 Avermectin B₁ and its delta-8,9-isomer; tolerances for residues.

Tolerances to expire on April 30, 1996, are established for the combined residues of the insecticide avermectin B₁ and its delta 8,9-isomer (a mixture of avermectins containing ≥ 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than or equal to 20 percent avermectin B_{1b} (5-O-demethyl-25-di (1-methylpropyl) -25-(1-methylethyl) avermectin A_{1a})) in or on the following commodity:

Commodity	Parts per million
Citrus oil	0.10

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.300, by revising paragraph (a) to read as follows:

§ 186.300 Avermectin B₁ and its delta-8,9-isomer; tolerances for residues.

(a) Tolerances to expire on April 30, 1996, are established for the combined residues of the insecticide avermectin B₁ and its delta 8,9-isomer (a mixture of avermectins containing ≥ 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than or equal

to 20 percent avermectin B_{1b} (5-O-demethyl-25-di (1-methylpropyl) -25-(1-methylethyl) avermectin A_{1a})) in or on the following commodity:

Commodity	Parts per million
Dried citrus pulp	0.10

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. PS-94; Notice 2]

[RIN 2137-AB 38]

Qualification of Pipeline Personnel

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

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes qualification standards for personnel who perform, or directly supervise those persons performing, regulated operation, maintenance, and emergency-response functions. This action would amend current standards for training personnel performing operating or maintenance activities on hazardous liquid and carbon dioxide pipelines, and extend those standards to personnel performing similar functions on gas pipelines. This action is taken to ensure that pipeline personnel have the necessary knowledge and skills to competently perform these regulated functions. The intended effect of this proposed rulemaking is to improve pipeline safety by requiring operators to assure the competency of pipeline personnel through training, testing, and periodic refresher training.

DATES: Interested persons are invited to submit written comments in duplicate by October 3, 1994. Late filed comments will be considered to the extent practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESSES: Send comments to the Dockets Unit, Room 8421, Office of Pipeline Safety (OPS), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice

numbers stated in the heading of this notice. All comments and materials cited in this document will be available in the docket for inspection and copying in Room 8421 between 8:00 a.m. and 4:00 p.m. each working day. Non-Federal employee visitors are admitted to DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366-2036, regarding the subject matter of this notice, or Dockets Unit, (202) 366-5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background.

The pipeline safety regulations in 49 CFR Parts 192 and 195 cannot be fully effective in preventing and mitigating pipeline accidents unless personnel who perform regulated functions, or directly supervise persons performing regulated functions, understand the applicable regulations and have the knowledge and skills needed for competent performance. Therefore, requiring operators to ensure that such personnel are qualified to perform operating, maintenance, and emergency response functions is an essential step in making the pipeline safety regulations effective. Also, requiring operation, maintenance, and emergency-response personnel to be knowledgeable about safety-related elements, such as flammability, toxicity, potential ignition sources, and to be able to recognize and appropriately react to abnormal and emergency conditions should further minimize the causes and consequences of pipeline accidents.

In accidents clearly recognized as involving human error, circumstances often indicate that a deficiency in knowledge or skill, i.e. lack of qualification, has been a significant accident factor. However, the effects of personnel lacking qualifications are not always apparent. The effects may be too subtle to be recognized as an accident factor. For example, accidents that operators have attributed to equipment failure or corrosion may have actually been set in motion by poorly performed operation or maintenance procedures. In addition, the pipeline safety regulations require operators to report "incidents" (49 CFR 191.3) and "accidents" (49 CFR 195.50) only in instances meeting threshold requirements set out in those regulations. Thus, there may be many more accidents involving personnel lacking qualifications than commonly reported.

Recommendations by National Transportation Safety Board

In a letter to RSPA dated May 14, 1987, the National Transportation Safety Board (NTSB) stated that incorrect human performance has already caused, or contributed to the severity of, many pipeline accidents, and that most of the errors involved could be linked to inadequate training. NTSB identified 110 related Safety Recommendations it had issued from 1975 through 1986 based on pipeline accidents indicating that training of pipeline personnel needed improvement.

The following two accidents are among those cited by NTSB in its correspondence:

On July 12, 1983, natural gas escaping under 60 psig pressure from a crack in a substandard butt-fusion joint in a 2-inch plastic gas main entered an apartment building in Clear Lake, Iowa. It exploded and then burned. Two gas distribution company employees were injured, one apartment building was destroyed, and the adjacent apartment building was damaged heavily. Damage was estimated at more than \$1 million. Fortunately, none of the building residents were injured or killed. Company employees had been notified earlier about strong gas odors outside the apartments and were on site searching for the gas leak more than 2 hours before the explosion. They did not shut off the flow of gas to the leak and did not warn the residents to evacuate the apartment buildings before the explosion. NTSB recommended that the company train its employees, including supervisors, in procedures for responding to emergencies and protection of the public in areas exposed to leaking gas, and reinstruct its pipe fitters/operators in all elements of the procedures for fusion of plastic pipe.

On May 26, 1983, natural gas at 815 psig began to escape through a failed gasket in a compressor at a transmission company's field compressor plant near Bloomfield, New Mexico. The compressor station operator heard a loud noise, ran to the valve manifold outside the compressor building, and tried to shut off the gas supply to compressor No. 14. Another employee, who also heard the noise, ran into the compressor building and tried to shut down the compressor engine. Before either person succeeded, the escaping gas ignited, exploded, and burned. The two employees were burned severely, compressor No. 14 was destroyed, another compressor was damaged, the windows and doors of the compressor building were blown out, and other structural damage resulted. NTSB determined that the probable cause of the accident was the improper tightening of compressor head bolts, resulting in the rupture of a compressor head gasket and the escape and ignition of gas. Contributing to the accident was the operator's failure to assure that maintenance personnel were trained in proper bolt tightening procedures. Contributing to the extent of damage and to the duration of the emergency was the failure by plant personnel, due to inadequate

training in emergency procedures, to promptly relieve gas pressure in the piping by activating the blowdown system.

In a February 1987 report (NTSB/PAR-87/01) detailing two Texas Eastern Gas Pipeline Company accidents occurring in Kentucky in 1985 and 1986, NTSB determined that company employees who inspected corrosion damage had not been adequately trained to assess the effect of corrosion. It also determined that in the 1986 accident, supervisors had not been properly trained to cooperate with local officials during an emergency. In this report, NTSB recommended that RSPA:

Amend 49 CFR Parts 192 and 195 to require that operators of pipelines develop and conduct selection, training, and testing programs to annually qualify employees for correctly carrying out each assigned responsibility which is necessary for complying with 49 CFR Part 192 and 195 as appropriate (Safety Rec. No. P-87-2).

Additionally, in the May 14, 1987, letter from NTSB to RSPA identifying its 110 Safety Recommendations, NTSB urged OPS to require all pipeline operators, without regard to size or ownership of the pipeline, to develop, through job/task analyses, employee qualifications for all activities addressed by the pipeline safety standards.

More recently the NTSB released the following account of an accident in Chicago that was attributed to inadequately trained gas distribution personnel.

On January 17, 1992, employees of a natural gas utility were performing annual maintenance on a pressure regulator station that reduced high pressure upstream gas to the low pressure requirements of the downstream distribution system. During this routine procedure the pressure regulator is taken out of service and the normally closed by-pass valve is manually throttled to control gas flow to the low pressure distribution system. Workers operating the by-pass valve normally determine the need to increase or decrease the gas flow to the low pressure system by monitoring the liquid levels in manometers installed on that system. A manometer is a clear plastic U-tube used throughout the gas industry to measure pressure (pressure head) in mains and services. When used on low pressure systems the open ended U-tube commonly contains water. By observing the difference in height of the water columns, workers can readily determine the pressure in the connected gas piping. Although, the workers saw the water blow out of their manometers, at least twice, they waited for instructions from headquarters before shutting off the gas supply by closing the 4-inch by-pass valve. The resulting over pressure condition (as high as 10 psig) lasted about 45 minutes, during which gas in the downstream distribution system escaped through gas appliances into homes and other buildings

where it was ignited by unidentified sources. The resulting explosion and fires killed four people, injured four people and damaged 14 houses and three commercial buildings. While the NTSB concluded that there was insufficient evidence to determine which way the 4-inch by-pass valve was turned or if it had been blocked by debris that become dislodged, it said that the accident could have been prevented or its severity lessened if the onsite supervisor had closed the by-pass valve as soon as he realized that the low pressure system was over pressured. Two of the workmen testified that they knew from their training that when water blew out of their manometers, it was caused by excessive high pressure gas flowing through the by-pass valve. However, none of the crew acknowledged having been trained to respond to emergencies, including those involving overpressurization. NTSB found that the gas company's training manual did not detail how to recognize or respond to those abnormal situations employees are likely to encounter nor did it tell supervisors the extent of their authority or reference the company's emergency plan. Nonetheless, the NTSB found that the gas company's service department responded very well after the gas was shut off.

The NTSB also noted that such training deficiencies are not confined to Chicago, but are a nationwide problem. As a result of its investigation of this accident, NTSB reiterated its 1987 recommendation to RSPA that it require operators of pipelines to develop and conduct selection, training and testing programs to annually qualify employees for their safety-sensitive responsibilities under 49 CFR Parts 192 and 195.

Recommendation by DOT Inspector General

As the use of insufficiently qualified personnel by some operators has become known, several sources in addition to NTSB have recommended that DOT take action to regulate the qualifications of pipeline personnel. In December 1982, the DOT Inspector General (IG) recommended in a memorandum to the RSPA Administrator that RSPA require licensing or certification of managers/superintendents of gas distribution systems. The IG said:

State safety inspectors have indicated that operators of small municipal and privately owned gas distributors are frequently unaware of the federal safety standards or lack the know-how to implement them. Managers or superintendents of gas distribution systems should demonstrate a basic knowledge and understanding of federal safety standards before they are allowed to operate/manage the systems. Licensing or certification of natural gas distribution operators would improve compliance and enable State safety inspectors to provide greater coverage by reducing the amount of time expended in

explaining standards to operators. Many States already require the operators of other utility systems to be licensed.

Recommendations by Congress

The House Committee on Energy and Commerce in its November 17, 1987, report to accompany H.R. 2266, a bill to amend the Natural Gas Pipeline Safety Act of 1968 (NGPSA)¹ and the Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA)² stated that DOT "may establish criteria for a program of testing for pipeline operations employees and include licensing based on that testing if this is appropriate" (H.R. Rep. No. 445, Pt. 1, 100th Congress, 1st Session, 13). This bill culminated in the Pipeline Safety Reauthorization Act of 1988 (Pub. L. No. 100-561; October 31, 1988), which, in sections 101 and 201, gave DOT discretionary authority to require "that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions."

Recommendation by Minnesota Commission on Pipeline Safety

The need for qualification standards for pipeline personnel has also been recognized at the state level. Following the July 1986 failure of an 8-inch products pipeline in Minnesota that resulted in the deaths of two people and serious injury to another person, the Governor of Minnesota established the Minnesota Commission on Pipeline Safety. This commission examined the safety and reliability of pipelines operating in Minnesota. The commission's December 1986 report included a recommendation that the U.S. Department of Transportation study the need for additional registration, licensing, and certification requirements for pipeline design and construction personnel.

Recommendations by National Association of Pipeline Safety Representatives

An alternative approach to government licensing or certification of operators or operator personnel was recommended in 1986 by the National Association of Pipeline Safety Representatives (NAPSR), an association of state pipeline safety inspectors. In one of its annual resolutions (1986-9) submitted to the RSPA Administrator, NAPSR urged DOT "to initiate a rulemaking to establish regulations

which would require natural gas operator personnel qualification." NAPSR made this recommendation after determining that "it would be in the best interest of public safety, and as a general standard for the natural gas industry, that all natural gas system operations be under the direction of a person who is qualified by test, experience, and training in natural gas work." Again in 1990, in one of its annual resolutions (1990-3), NAPSR urged the DOT Office of Pipeline Safety (OPS) "to create specific qualification standards of uniformity across the industry" and that the rulemaking "be expanded to include personnel engaged in design and construction." Like NTSB, NAPSR has recommended a rulemaking approach rather than Federal licensing or certification. In this notice RSPA has proposed that regulated design or construction functions required to properly accomplish covered operation, maintenance or emergency-response work must be performed by persons qualified as proposed in this notice. However, persons with pipeline expertise and registered as professional engineers in the state where the work is located are qualified for any such engineering design under this proposal.

At this time, RSPA does not see the need to extend the proposed qualification requirements to include personnel engaged in all regulated design and construction functions as recommended in the NAPSR resolution. Application of the proposed requirements to only those personnel performing regulated operation, maintenance and emergency response functions is consistent with the intent of the Recommendations by Congress and the mandate contained in the Pipeline Safety Act of 1992 (below). Nonetheless, in response to that NAPSR resolution, RSPA invites persons to comment on whether we should extend the testing and certification requirements to personnel engaged in all regulated design and construction of covered pipelines. Persons commenting in support of such an extension are requested to support their positions with data from related accidents that includes: the quantity of gas, hazardous liquid or carbon dioxide released and any resulting deaths, personal injuries, property damages and environmental damages.

Small Gas Systems

Although lack of sufficient training has been a factor contributing to accidents on both large and small pipeline systems, OPS, the advisory committees (below) and state pipeline safety inspectors recognize that there is

¹ Pub. L. No. 103-272 was enacted on July 5, 1994. This Act revises, codifies and enacts without substantive changes certain transportation laws, including those related to pipeline safety. Thus citations to the NGPSA and the HLPESA have been changed to 49 U.S.C. sec. 60101 et seq.

a particular need to improve the knowledge and skills of personnel in some of the small gas distribution systems. Personnel with some deficiencies include not only the operator and operator personnel, but also contractors working for small gas distribution systems. Small gas distribution systems are characterized in this proposal as distribution systems serving fewer than 10,000 customers. They include petroleum gas systems (covered by § 192.11) and master meter systems (defined in § 191.3), both of which usually serve mobile home parks, housing projects, and apartment complexes; and public, private, and municipal distribution systems. Industry sources estimate that there are about 1,000 petroleum gas systems covered by § 192.11, that serve 10 or more customers. Additionally, information in the OPS enforcement data base shows there are 52,000 master meter systems and 1,150 other small public, private, and municipal distribution systems. The lack of qualified personnel working on these small gas distribution systems looms as a potential threat to gas pipeline safety.

Advance Notice of Proposed Rulemaking

On March 23, 1987, OPS published an advance notice of proposed rulemaking (ANPRM) titled, "Pipeline Operator Qualifications," requesting public comment on the need for additional regulations or a certification/licensing program regarding the qualification of personnel who design, construct, operate, or maintain gas or hazardous liquid pipelines (Docket PS-94, Notice 1; 52 FR 9189). The ANPRM outlined RSPA's existing regulations requiring the qualification or training of personnel in certain aspects of pipeline safety, such as welding steel pipe, corrosion control, and joining plastic pipe. In addition, the ANPRM discussed RSPA and state efforts to train operator personnel in understanding the pipeline safety regulations.

Comments were received from 134 persons representing various gas and liquid pipeline operators, governmental agencies, and other interested parties. Of the 116 persons who commented on the competency level of operator personnel, approximately 75 percent felt that a lack of competent personnel did not pose a significant enough threat to public safety to warrant further governmental action. However, a minority of about 22 percent felt some attention should be given to small gas distribution systems. Of the 60 persons who commented on the question of whether governmental action, if taken,

should apply industry-wide or be limited to small systems, approximately 62 percent favored the latter. Of the 34 persons expressing an opinion on the appropriate governmental action, about 53 percent favored increasing direct training and the preparation of guidance material for operator personnel. The remainder were almost evenly divided between more regulation of training/qualification and a licensing/certification program. Of the 24 persons who commented on what areas of pipeline safety should be covered if additional training and qualification requirements are developed, almost everyone favored various combinations of design, construction, operation, and maintenance. Finally, of the 61 persons expressing an opinion on whether additional regulations for training and qualification would result in an improvement in pipeline safety, approximately 46 percent expected an improvement in accidents prevented or mitigated.

Advisory Committees

The Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) are OPS's gas and liquid advisory committees representing government agencies, pipeline operators, and the public. At a joint meeting in Washington, DC on September 23, 1987, the TPSSC and THLPSSC discussed the ANPRM. The advisory committees generally supported requiring all pipeline operators to conduct training and testing programs for personnel assigned to perform operation and maintenance functions. Many committee members were concerned, however, about the ability of some small gas distribution system operators to provide the necessary training, and requested that any new regulations be sensitive to the limited financial and technical resources of these small operators.

Subsequently, on September 13 and 14, 1988, these committees met again in Washington, DC, and discussed a preliminary rulemaking proposal which OPS had developed for the qualification of pipeline personnel. The basic training and testing requirements now being put forward for public comment were embodied in that proposal. The TPSSC supported the proposal by unanimous vote. The THLPSSC, after making three minor recommendations for clarification of statements in the proposed regulations, also supported the proposal unanimously. However, the three recommendations are no longer germane, since the statements that

required clarification have been removed from the proposed requirements.

Congressional Mandate

Under sections 106 and 205 of the Pipeline Safety Act of 1992 (Pub. L. No. 102-508; October 24, 1992), 49 U.S.C. § 60102, Congress mandated that DOT require "all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions". In complying with the congressional mandate, DOT is required to "address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits." Furthermore, Congress provided that certification may, "as the Secretary considers appropriate, be performed by the operator."

Qualification and Certification

RSPA is proposing that regulated pipeline operators implement requirements for the qualification of operation, maintenance and emergency-response personnel (including contractor personnel) and for the qualification of certain supervisory personnel. These requirements would be based on the continuing training program applicable to hazardous liquid and carbon dioxide pipeline operators. Operators would be required to certify the qualification of personnel for the performance of covered functions. However, RSPA is not proposing to establish an industry-wide personnel licensing program. This decision was made because the severity and extent of the personnel qualification problem does not currently warrant such an ambitious undertaking. In addition, there is no private or governmental apparatus currently in place to conduct such extensive licensing. This decision is consistent with the regulatory authority provided by 49 U.S.C. § 60102, which requires qualification and certification of those individuals performing functions related to the operation and maintenance of pipeline facilities. Of course, where local conditions warrant more rigorous action, state agencies are not precluded from starting a licensing or certification program for intrastate pipeline operators under their regulatory jurisdiction.

It is difficult to assess how detailed and extensive the new Federal personnel qualification regulations should be, because many pipelines have unique operating and maintenance requirements. Therefore, RSPA is proposing a more general performance-

oriented regulatory approach based on an expansion of the continuing training program hazardous liquid operators must now provide under § 195.403.

Available Training

Several states are working to improve the knowledge and skills of operator personnel in small gas distribution systems, including master meter systems, by state-sponsored educational programs. Currently, states with notable training programs include Alabama, Arizona, California, Kentucky, and Texas. In addition, some gas operators have established statewide and regional gas associations for the purpose of improving technical skills and the understanding of the gas pipeline safety regulations. These associations often encourage gas equipment suppliers to exhibit and instruct gas distribution and transmission personnel in the proper use of special tools and equipment. Similarly, state regulatory agencies are often encouraged to participate by teaching or clarifying the applicable Federal/state pipeline safety regulations to personnel working on small gas distribution systems.

At the Federal level, RSPA provides pipeline safety training through its Transportation Safety Institute (TSI) in Oklahoma City, Oklahoma. In 1992 and 1993 gas pipeline safety seminars taught by instructors from the TSI were held in 20 and 21 states, respectively. These one, two, three, and four-day seminars teach various aspects of pipeline safety regulations and include instructional material oriented toward the operator personnel working on small gas distribution systems. The gas pipeline safety seminars will also be held in 26 states during 1994. Attendance at these instructive seminars requires advance registration and payment of a modest registration fee. Additionally, other hazardous liquid and gas pipeline safety courses planned by TSI for presentation in 1994 include regulation compliance, corrosion control and computer simulator dispatching. Pipeline operators interested in further information on TSI training courses should contact their state pipeline safety regulatory office or phone the Pipeline Safety Division of the Transportation Safety Institute at (405) 954-7219.

In 1989, RSPA distributed to each state pipeline safety agency a set of 10 VHS cassettes prepared by the Pipeline Safety Section of the Arizona Corporation Commission for training small gas distribution operators in that state. The cassettes can be used by operators of small distribution systems in all the states to augment the training of their employees. The cassettes

present fundamental theory and practical application of gas distribution plus the basics of the Federal pipeline safety regulations.

Another RSPA training aid is the "Guidance Manual for Operators of Small Gas Systems," which is available (in single copy) to pipeline operators at no cost from the Transportation Safety Institute, Pipeline Safety Division, DTI-60, Post Office Box 25082, Oklahoma City, Oklahoma 73125-5050. The manual was developed by RSPA with the assistance of state pipeline safety representatives and gas distribution trade association members. The manual has recently been revised and updated. It provides a broad overview of compliance responsibilities under parts 191, 192, and 199 of the Federal pipeline safety regulations and is designed for use by non-technically trained operator personnel working on small gas distribution systems, including master meter systems. Since the publication of the first edition in 1982, some 50,000 copies have been disseminated to gas operator personnel.

Covered Functions

The proposed regulations apply to personnel who perform regulated operation, maintenance, and emergency-response functions (covered functions) on a "pipeline," as that term is defined in §§ 192.3 and 195.2 of the pipeline safety regulations. Additionally, the proposed regulations would apply to "supervisory persons" (defined in §§ 192.803 and 195.503, as operators, managers, supervisors, foremen, co-workers, and other personnel) who directly oversee persons performing these same covered functions. Lack of qualified personnel to perform regulated pipeline design and construction functions that are unrelated to pipeline operation, maintenance, or emergency response has not been identified as a significant safety problem. Thus, at this time, no new requirements are proposed for these areas. Nonetheless, if regulated design or construction functions are required to properly accomplish regulated operation, maintenance, or emergency-response work, then persons performing those related design or construction functions must be qualified as proposed in this notice. However, persons with pipeline expertise and registered as professional engineers in the state where the pipeline work is located are qualified for any such engineering design under the proposed requirements.

Covered functions are those operation, maintenance, and emergency-response functions that are regulated by the pipeline safety regulations.

However, covered functions are not limited to those under Part 192, Subpart L—Operations and Subpart M—Maintenance or Part 195, Subpart F—Operation and Maintenance. The covered functions are much broader and are generally identified as having all three of the following characteristics:

- Characteristic No. 1—The function is performed by persons either in direct contact, or in close association with pipelines regulated by parts 192 or 195.

- Characteristic No. 2—The function performed applies to the operation or maintenance of pipelines, or the response to an emergency involving pipelines. These functions are performed on pipelines that are or have been in service, as opposed to new pipelines that have not yet been readied for service. Operating functions include, among other things, the control of pressure, movement, or storage of gas under part 192 and hazardous liquids or carbon dioxide under part 195.

Maintenance functions keep a pipeline in proper condition or preserve a pipeline for future use. They include, among other things, functions involved in inspection, protection, repair, replacement, and integrity testing. Emergency-response functions are steps an operator takes to recognize emergency conditions; control or mitigate their harmful effects to persons, property, or the environment; and then return the pipeline to normal operating conditions:

- Characteristic No. 3—The function is regulated by a provision contained in part 192 or 195. A function is regulated in instances where a provision: (1) contains a rule that governs the conduct of the function, or (2) requires that the function be done according to a plan or procedure.

Proposed Subparts

Because the training and testing of pipeline personnel may be an expanding requirement, the qualification regulations under this proposal would be placed in new subpart N of part 192 and new subpart G of part 195. The current § 195.403 (Training) would be deleted.

Under the proposed §§ 192.805(a) and 195.505(a), operators would have to assure that personnel (both experienced and inexperienced) who perform, or directly oversee persons performing, regulated operation, maintenance, or emergency-response functions (covered functions) have been qualified by completion of all the requirements for qualification. Persons qualified to perform certain covered functions may need additional training and testing before performing other covered

functions to which they are upgraded, promoted, or transferred. The personnel affected by this proposal may be operators themselves; regular, part-time, or temporary employees of the operator; independent contractors and subcontractors engaged by the operator; and regular, part-time, or temporary employees of contractors and subcontractors.

Under §§ 192.805(b) and 195.505(b), functions required to be performed by qualified persons may (except for the specified functions) also be performed by persons without such qualification if, while performing the function, those persons are accompanied and directed by a qualified supervisory person. This provision is intended to permit on-the-job training of persons not yet qualified. The supervisory person involved would not only have to directly oversee performance of the covered function, but accompany and direct the trainee (or unqualified person) while he or she performs the function.

Moreover, supervisory persons directly overseeing qualified persons performing covered functions would, themselves, be required to be qualified or required to be qualified administratively for those covered functions as required in §§ 192.805(c) and 195.505(c). The term "qualified administratively" is defined in §§ 192.803 and 195.503.

Under the proposed §§ 192.805(c) and 195.505(c), supervisory persons may become qualified administratively in certain covered functions by meeting all the proposed training and testing requirements, except those involving the demonstration of competent manual skills. Accordingly, supervisory persons directly overseeing personnel such as qualified welders would be permitted an exemption from "hands-on" welding. However, such supervisory persons would be required to demonstrate an appropriate knowledge of the pipeline safety regulations for welding—subpart E of part 192 or subpart D of part 195 as required under the proposed §§ 192.811(d)(1) and 195.511(d)(1). RSPA encourages the practice of some pipeline operators to require that persons directly supervising welders be, themselves, fully qualified welders.

Under §§ 192.807 and 195.507, all evaluating, training, and testing of personnel would be performed by an instructor with demonstrable proficiency in the functions to be taught and tested. Demonstrable proficiency is proposed to be defined as evidence of competence acceptable to other persons with specialized training or certification in the performance of similar functions. However, the instructor's proficiency

need only be commensurate with the level of knowledge and skills required for competent performance of the function on the operator's unique pipeline. This provision recognizes that the degree or extent of knowledge and skills required to competently perform some functions on a particular pipeline may be less than that required for similar functions on more complex pipelines.

Operators (who own or operate pipelines) are permitted to serve as instructors or to select operator personnel or other entities to serve as instructors, providing that the operator or persons selected as instructors have the required level of proficiency. An operator who would not qualify as an instructor but would need to be evaluated for purposes of qualification would have to obtain the evaluation from an instructor, who could be another operator, employee of that other operator or an entity qualified as an instructor.

Under §§ 192.809(a) and 195.509(a), instructors would be required to evaluate the work experience and training of persons requiring qualification in order to determine what, if any, prior work experience and training were suitable and applicable to that required for competent performance of the persons' current functions. Work experience and training that are evaluated as equivalent to any of the general or specific training elements of §§ 192.811 and 195.511 would not require retraining, but would require testing under §§ 192.813 and 195.513 to confirm the evaluation. After completion of the evaluation of the prior experience and training of persons performing covered functions, the operator would be required by §§ 192.809(b) and 195.509(b) to prepare a written or computerized qualification training and testing schedule containing details such as names and titles of affected persons, dates and locations for training and testing, elements of general and specific training to be taught or tested, and names of instructors. Under §§ 192.809(c) and 195.509(c), the operator would be required to prepare a written or computerized refresher training schedule showing similar details, except that testing is not required, under this proposal, for refresher training. The proposed elements of qualification training under §§ 192.811 and 195.511 are based on the training program hazardous liquid operators are now required to conduct under § 195.403(a); However, the proposed requirements are more comprehensive.

Under the proposal, all affected personnel (except persons with prior equivalent work experience or training that have been confirmed by testing) would have to satisfactorily complete general training elements of §§ 192.811 and 195.511 appropriate to the operator's unique pipeline and specific training elements relevant to a person's covered functions on that unique pipeline. Operators would have to demonstrate that their personnel have received training relevant to the operator's unique pipeline system in the applicable elements of §§ 192.811 and 195.511 through any, or a combination of the following methods: prior formal education, prior company-sponsored training, work experience, apprenticeship, or newly provided on-the-job or classroom training. All would qualify as legitimate training methods. The necessary depth and length of training would be established by the operator so that they are sufficient to assure personnel competency as demonstrated by subsequent testing under §§ 192.813 and 195.513.

Under this approach, pipeline instructors would determine for each individual what work experience and prior education or training are relevant to that individual's covered functions and what additional training is needed to meet the proposed elements of training. Consequently, wholesale training should be unnecessary for most experienced personnel of pipeline operators with currently adequate training programs. Although this approach is intended to give operators latitude in developing a qualification program, each operator's program would be required to result in personnel of the operator and the contractor being proficient in all the training elements proposed under §§ 192.811 and 195.511. Because the training appropriate for one individual function, or a particular pipeline, may not be appropriate for another individual function, or another pipeline, an operator's qualification program would be developed and implemented to accommodate such distinctions.

RSPA is particularly concerned that control center dispatchers and other operating personnel are adequately trained to recognize the abnormal operating conditions or the emergency conditions of proposed §§ 192.811(d)(4) and 195.511(d)(4). Further, RSPA is concerned that control center persons and other operating personnel are adequately trained in the appropriate reactions to restore abnormal operating conditions to normal conditions and are adequately trained in the appropriate reactions to prevent the development of

emergency conditions. Additionally, in the proposed §§ 192.811(d)(5) and 195.511(d)(5), control center persons, and operating and emergency-response personnel must be adequately trained in the appropriate reactions to control emergency conditions or to mitigate the potential for personal injury, death, property damage, and environmental damage. Sections 192.811(d)(5) and 195.511(d)(5) would supplement the requirements of the current §§ 192.615 (Emergency plans) and 195.402 (Procedural manual for operations, maintenance, and emergencies).

Under §§ 192.813 and 195.513, tests would have to be designed by the operator to demonstrate that personnel possess the knowledge and skills that training is intended to impart. Testing could be through any, or a combination of, written, hands-on, or oral methods appropriate for the function tested. For some functions, a suitable test might consist of observing "hands-on" performance supplemented by appropriate questioning. Operators must set the minimum acceptable test grade at a level that would demonstrate the knowledge and skills required to competently perform the function tested. Testing would be required for all persons performing covered functions including experienced personnel evaluated under §§ 192.809(a) and 195.509(a) to have met training requirements by equivalent prior training or experience. RSPA believes that testing is the only reasonable way to ensure that personnel possess the knowledge and skills required for qualification.

Under these proposed regulations, qualification of an individual based on training and testing would not be a one-time event. Each time the pipeline safety regulations or the operator's procedures are changed or new ones are put into effect, operators would have to determine which persons may need additional training to carry out their covered functions under the new regulations or procedures. When further qualification training is required, it would have to be followed by a test. When qualification is required to comply with new or revised pipeline safety regulations, the qualification training and testing would have to be completed before the compliance dates specified in the rule and before the affected person begins performance of a covered function. A similar evaluation and timely qualification process would be required each time a person is given an operation, maintenance, or emergency-response assignment for which that person is not qualified. Until that person becomes qualified, the

person must be accompanied and directed by a qualified person.

The requirement of existing § 195.403(a) that the training program be continuing would be made more definite under the proposed requirement for refresher training at intervals not to exceed 2 years. Under the proposed §§ 192.815 and 195.515, refresher training is intended to be a review of the general and the appropriate specific elements under §§ 192.811 and 195.511. The review may be accomplished by the same methods used for qualification training. However, there is no exception for prior experience or training evaluated as equivalent, as permitted in §§ 192.811(a) and 195.511(a). An existing requirement under § 195.403(c) requires hazardous liquid operators to require and verify that their supervisors maintain a thorough knowledge of that portion of the procedures established under § 195.402 (Procedural manual for operations, maintenance, and emergencies). This requirement would not be continued in its present form under the proposed qualification standards because it is less rigorous than the proposed requirement that affected personnel be qualified. Moreover, an existing requirement under § 195.403(b) concerning review of personnel performance relative to the objectives of the training program would be carried forward into proposed competency reviews under §§ 192.817(e) and 195.517(e).

The purpose of competency reviews is to evaluate the effectiveness of qualification training, testing, and refresher training by reviewing the performance of personnel involved with covered functions which resulted in reportable accidents and other nonreportable events. The nonreportable events would be deaths, personal injuries, property damage, or damage to the environment, any of which may have occurred without a release of the gas, hazardous liquid, or carbon dioxide, or otherwise did not meet the threshold limits for reportable gas incidents under § 191.5 or reportable liquid accidents under § 195.50. Among other such events would be violation of operating procedures, and abnormal operating conditions or emergency conditions as set out in the proposed §§ 192.811(d)(4)-(d)(5) and §§ 195.511(d)(3)-(d)(4).

Within 2 months after a competency review, the operator would be required to have identified and implemented appropriate revisions, if any are identified, in the qualification program to reduce the likelihood of the

reoccurrence of a similar accident or event.

Sections 192.819 and 195.519 would require the operators to prepare and maintain records showing that personnel have been trained and tested as required. Additionally, the operator would be required to sign and date certification statements specifying the covered functions for which each person is qualified. The date of the certification statement becomes the date of the persons qualification for the specified covered functions. Records would be kept for a minimum of 3 years after a person is no longer employed by the operator in a capacity that requires qualification.

Relation to Other Qualification Rules

Except for the removal of § 195.403 discussed above, RSPA does not intend that the qualification rules proposed by this notice substitute for any of the existing requirements of parts 192 and 195 governing the qualification of personnel to perform specific functions. Consequently, individuals who perform functions requiring qualification under the existing pipeline safety regulations such as welding, nondestructive testing, corrosion control, or plastic pipe joining as part of a regulated operation, maintenance, or emergency-response function on a pipeline would have to meet both the existing job-specific qualification requirements, and the additional qualification standards put forth in this notice.

Contractor Personnel

The proposed regulations apply to persons performing covered functions and supervisory persons directly overseeing persons performing covered functions. The persons may be employed by the operator, be a contractor engaged by the operator, or be employed by the contractor. Thus, contractor and subcontractor personnel performing covered functions for an operator on the pipeline would be required to be qualified, as prescribed in this notice.

The pipeline operator is responsible for assuring that contractor personnel performing covered functions comply with the proposed qualification requirements. To comply with this requirement, operators may elect to implement the following steps: (1) include appropriate "qualification of personnel" clauses in contracts with contractors; (2) require contractors to prepare and keep current records demonstrating that personnel performing covered functions receive training, testing and refresher training and, if required, competency reviews as

required by the proposed requirements in this notice; and (3) monitor onsite contractor personnel to ensure that persons performing covered functions are qualified and certified as proposed in this notice.

Proposed Compliance Deadlines

RSPA proposes, under §§ 192.821(a)-(b) and 195.521(a), that all pipeline operators be given 6 months to prepare a qualification training and testing schedule. However, operators of small gas systems would be given 3 years and all other pipeline operators would be given 2 years to comply with all other requirements for personnel qualification under the proposed §§ 192.821 and 195.521. Based on the recommendations of the joint advisory committees made on September 23, 1987, that the regulations be sensitive to the limited financial and technical resources of operators of small gas distribution systems, the proposed §§ 192.821(b)(2)-(b)(4) would allow operators of such systems an additional year to comply with all the regulations except the requirement for preparation of the qualification training and testing schedule as set out in § 192.821(b)(1). This extra year should provide a reasonable time period for small gas distribution operators to utilize the state, Federal, and gas association training aids to develop the relevant training and testing required to qualify personnel to whom these proposed rules would apply. All the compliance dates begin at the date of promulgation of the final rule in the *Federal Register*.

Operators of pipelines subject to part 195 remain subject to § 195.403 until the proposed subpart G becomes effective.

Rulemaking Analyses

E.O. 12866 and DOT Regulatory Policies and Procedures

This proposed rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, is subject to review by the Office of Management and Budget (OMB). The proposal is considered significant under the Department of Transportation Policies and Procedures (44 FR 11034; February 26, 1979), because of the substantial interest expressed by the pipeline industry, state and Federal agencies, and Congress. A regulatory evaluation is available for review in the docket.

Federalism Assessment

The proposed rulemaking action would not have substantial direct effects on states, on the relationship between the Federal Government and the states,

or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

Based on the facts available about the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C 601-612) that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This notice of proposed rulemaking contains information collection requirements in the form of written or computerized training and testing schedules under the proposed §§ 192.809 and 195.509, and recordkeeping to substantiate the training and testing of personnel under the proposed §§ 192.819 and 195.519. These paperwork requirements are necessary to properly implement 49 U.S.C. § 60102. The operator would develop the schedules and prepare and maintain the personnel training and testing records for proper performance of the proposed rule. However, pipeline operators with adequately qualified personnel currently have such records of training and testing. For persons newly trained and tested under the requirements of this proposal, much of the information required for the personnel records would be available in the required qualification schedules. None of these information collection requirements would be prepared for the purpose of submittal to RSPA.

These proposed information collection requirements have been submitted to the OMB for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. Chap. 35) and 5 CFR 1320 under the following:

ADMINISTRATION: Department of Transportation, Research and Special Programs Administration;

TITLE: Qualification of Pipeline Personnel;

NEED FOR INFORMATION: To prevent pipeline incidents and accidents by assuring the competency of pipeline personnel through training, testing, and periodic refresher training;

PROPOSED USE OF INFORMATION: To ensure pipeline personnel have the necessary knowledge and skills to competently perform regulated

operation, maintenance, and emergency response functions;

FREQUENCY: On occasion;
BURDEN ESTIMATE: \$2.5 million (initially), and \$0.9 million (annually) thereafter;

RESPONDENTS: Operators subject to CFR Parts 192 & 195;

FORM(S): None;

AVERAGE BURDEN HOURS PER RESPONDENT: 1.8 hours (initially), and 0.7 hours (annually).

For further information contact: The Information Management Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Tel. (202) 366-4735.

Comments on the proposed information collection requirements should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for Department of Transportation, Research and Special Programs Administration. It is requested that comments sent to OMB also be sent to the RSPA rulemaking docket for this proposed action.

List of Subjects

49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

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

In consideration of the foregoing, RSPA proposes to amend title 49 of the Code of Federal Regulations parts 192 and 195 as follows:

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, 60118; 49 CFR 1.53.

2. A new subpart N would be added to read as follows:

Subpart N—Qualification of Pipeline Personnel

Sec.	
192.801	Scope.
192.803	Definitions.
192.805	Personnel to be qualified.
192.807	Instructors.
192.809	Evaluation and scheduling.
192.811	Qualification training.
192.813	Testing.
192.815	Refresher training.
192.817	Competency reviews.
192.819	Recordkeeping.
192.821	Compliance dates.

Subpart N—Qualification of Pipeline Personnel**§ 192.803 Scope.**

(a) This subpart prescribes minimum requirements for the qualification of personnel performing covered functions.

(b) Under this subpart, personnel must complete requirements for qualification training, testing, and refresher training.

(c) Under this subpart, the operator must ensure implementation of the following requirements: identification of covered functions and affected personnel; selection of instructors and subject matter; evaluation of prior experience and training of personnel; scheduling and implementation of training, testing, and refresher training; performance of competency reviews; maintenance of qualification records; certification of personnel and supervisory person qualification; and adherence with compliance dates.

(d) No operator may use a person to perform any covered function for which qualification is needed, unless and until that person is qualified and certified by the operator, or that person is accompanied and directed by a qualified person.

§ 192.803 Definitions.

As used in this subpart:

Covered functions means regulated operation, maintenance, and emergency-response functions performed in direct contact, or in close association with pipelines subject to this part. Covered functions are not limited to those under Subpart L—Operations or Subpart M—Maintenance of this part. Covered functions do not include clerical, truck driving, accounting, or other functions not subject to this part.

Demonstrable proficiency means evidence of knowledge and skill acceptable to other persons with specialized training or certification in the performance of similar functions.

Demonstrated successful performance on a test means achievement of at least the minimum acceptable grade level that demonstrates the knowledge and skills required to competently perform the function tested.

Personnel means persons performing covered functions or supervisory persons directly overseeing persons performing covered functions. The persons may be the operator or employed by the operator, be a contractor engaged by the operator, or be employed by such contractor.

Qualification training and testing schedule means a written or computerized schedule, prepared by the

operator, that sets out the following minimum details: names and titles of personnel, dates of training and testing, elements of general and specific training to be taught or tested, and names of instructors.

Qualified means meeting the training, testing, and recordkeeping requirements of this subpart for a covered function.

Qualified administratively means meeting the training, testing, and recordkeeping requirements of this subpart for covered functions, except those involving the demonstration of competent "hands-on" skills, such as required for welding.

Refresher training schedule means a written or computerized schedule, prepared by the operator, that sets out the details of the qualification training and testing schedule, except that information relating to testing is not required.

Small gas distribution systems means, as characterized in this subpart, gas distribution systems serving fewer than 10,000 customers. They include petroleum gas systems (covered by § 192.11) and master meter systems (defined in § 191.3), both of which usually serve mobile home parks or housing complexes; and private or municipal systems.

Supervisory persons means persons such as operators, managers, supervisors, foremen, co-workers and other personnel.

§ 192.805 Personnel to be qualified.

(a) Except as provided in paragraphs (b) and (c) of this section, persons performing covered functions and supervisory persons directly overseeing persons performing covered functions must be qualified under this subpart.

Personnel requiring such qualification may be the operator or employed by the operator; be a contractor engaged by the operator, or be employed by such contractor.

(b) Except for the covered functions of welding and nondestructive testing under subpart E of this part and of plastic pipe joining under subpart F of this part, personnel requiring qualification under paragraph (a) of this section may perform a covered function without qualification if, while performing the function, those persons are accompanied and directed by a supervisory person qualified under this subpart.

(c) Supervisory persons directly overseeing qualified persons performing covered functions must, themselves, be qualified or be qualified administratively for those functions.

§ 192.807 Instructors.

(a) To implement the evaluating, training, and testing requirements of this subpart, an instructor (the operator or others selected by the operator) must have demonstrable proficiency in the functions to be taught and tested commensurate with the level of knowledge and skills required for the operator's unique pipeline system.

(b) Whenever an instructor selected by the operator is a person or entity other than the operator or operator personnel, the operator remains responsible for ensuring that the requirements of this subpart are complied with.

§ 192.809 Evaluation and scheduling.

(a) The instructor shall evaluate any prior experience and training of personnel requiring qualification under § 192.805. Previous experience or training equivalent to any of the general or specific training elements of § 192.811 would not require qualification training in those elements, but would require testing under § 192.813.

(b) To ensure completion of the evaluation under paragraph (a) of this section and the scheduling necessary for implementation of training and testing under §§ 192.811 and 192.813, the operator shall prepare a written or computerized qualification training and testing schedule. The schedule shall contain names and titles of affected persons, dates and locations for training and testing, elements of general and specific training to be taught or tested, and names of instructors.

(c) To ensure completion of the scheduling necessary for implementation of the refresher training under § 192.815, the operator shall prepare a written or computerized refresher training schedule. The schedule shall contain details, with the exception of testing, similar to those required in paragraph (b) of this section.

§ 192.811 Qualification training.

(a) Except for any prior experience or training evaluated as equivalent under § 192.809(a), to be qualified under this subpart, personnel must satisfactorily complete general and specific training appropriate to the operator's unique pipeline system. Supervisory persons are required to be similarly qualified or, under § 192.805(c), are permitted to be qualified administratively.

(b) General and specific training may be acquired through one or any combination of classroom education, operator-sponsored training, on-the-job training, or apprenticeship.

(c) Minimum general training required by all persons includes knowledge of the following elements:

(1) Characteristics and hazardous properties of gas transported, such as explosive range, temperature, and corrosive effects on pipeline systems, as well as toxicity, olfactory, asphyxiatory, and temperature effects on persons, property, and the environment;

(2) Potential ignition sources of escaping gas;

(3) Purpose and operation of the damage prevention program in § 192.614 including the operation of one-call systems; and

(4) Purpose of the drug testing program under part 199 of this chapter.

(d) Minimum specific training required when relevant to a person's function includes knowledge of the following elements:

(1) Requirements of the other subparts of this part;

(2) Requirements of part 191 of this chapter—Transportation of Natural and Other Gas by Pipelines: Annual Reports; Incident Reports, and Safety-Related Condition Reports;

(3) Requirements of part 199 of this chapter—Drug Testing;

(4) Recognition of abnormal and emergency conditions:

(i) Ability to recognize abnormal operating conditions which may indicate a dangerous situation or a condition exceeding operating design limitations, such as a pressure above the maximum allowable operating pressure but not exceeding the limitations of § 192.201, and to recognize other conditions such as those in §§ 192.605 (c) and (f).

(ii) Ability to recognize emergency conditions such as an operating pressure exceeding the limitations of § 192.201 and to recognize emergency conditions such as those in §§ 192.605 and 192.615.

(iii) Training for paragraphs (d)(4)(i) and (d)(4)(ii) of this section shall, where feasible, utilize simulated pipeline conditions.

(5) Reaction to abnormal and emergency conditions:

(i) Ability to react appropriately to an abnormal operating condition or to a condition exceeding design limitations in a manner that restores the normal operating condition or prevents the development of an emergency condition.

(ii) Ability to react appropriately to an emergency condition to control or mitigate the potential for personal injury, death, property damage, and environmental damage.

(iii) Training for paragraphs (d)(5)(i) and (d)(5)(ii) of this section shall, where

feasible, utilize simulated pipeline conditions.

(6) Requirements for notifying and responding to notifications from one-call systems where the operator is a participating member;

(7) Repairs of pipelines using appropriate precautions, such as isolation, purging, and venting;

(8) Proper operation and maintenance of available combustible gas detecting equipment and locating instruments for underground pipelines.

(9) Firefighting procedures and proper use of available equipment, such as fire suits, breathing apparatus, water hoses, and chemical fire extinguishers (by utilizing, where feasible, simulated pipeline emergency conditions).

§ 192.813 Testing.

(a) Except as provided for supervisory persons in this paragraph, to be qualified under this subpart, personnel must have demonstrated successful performance on a test of the general training elements in § 192.811(c) and relevant specific training elements in § 192.811(d). Testing may be performed through one or any combination of written, hands-on, or oral methods appropriate for the function tested. Supervisory persons are required to be similarly qualified or, under § 192.805(c), are permitted to be qualified administratively.

(b) Testing is not required for the refresher training under § 192.815.

§ 192.815 Refresher training.

(a) To remain qualified under this subpart personnel, within 24 months of the date of the certification statement required under § 192.819(b), must receive refresher training. Refresher training is a review of the requirements for general training and the appropriate requirements for specific training under § 192.811.

(b) Refresher training is required within 24-month intervals thereafter.

§ 192.817 Competency reviews.

At intervals not exceeding 7 months, but at least twice each calendar year, an operator shall review the performance of any personnel involved in an incident (reportable or nonreportable events under § 191.5 of this chapter) that resulted in an explosion, fire, unintentional release of gas, personal injury or death, property damage to the operator or others, damage to the environment or that is a violation of the operator's procedures under § 192.605. Among other such events are abnormal operating conditions or emergency conditions set out in §§ 192.811 (d)(4) and (d)(5). Within 2 months after a competency review, the operator shall:

(a) Evaluate the effectiveness of qualification training, testing, and refresher training required by this subpart; and

(b) Identify and implement appropriate revisions, if any, in the qualification program to improve the competency of operator personnel in order to reduce the likelihood of similar incidents.

§ 192.819 Recordkeeping.

(a) For personnel qualified to perform covered functions, the operator shall prepare and maintain written or computerized records and dates of:

(1) The general and specific training elements of § 192.811 which the person has satisfactorily completed;

(2) The results of the testing required by § 192.813 indicating the person has demonstrated successful performance; and

(3) The refresher training required by § 192.815 which the person has received.

(b) Each operator shall sign and date the following statements, and include it among the records for each qualified person: "I certify that on this date [insert name of person] is [qualified or qualified administratively] to perform the specified covered function(s) by the training and testing required by 49 CFR Part 192, Subpart N, as demonstrated by the accompanying record(s) prepared for that person in accordance with § 192.819."

(c) The records shall be retained for at least 36 months after a person ceases to be employed by the operator in a capacity that requires qualification under this subpart.

§ 192.821 Compliance dates.

(a) Except for operators of small gas systems under paragraph (b) of this section, operators shall meet the following compliance dates:

(1) Completion of the initial qualification training and testing schedule required by § 192.809(b) before [6 months after date of publication of final rule];

(2) Completion of the initial qualification training and testing required by §§ 192.811 and 192.813 and recordkeeping required by § 192.819 before [24 months after date of publication of final rule];

(3) Completion of the initial refresher training schedule required by § 192.809(c) before [30 months after publication of final rule]. Thereafter, the refresher training schedule shall be updated as necessary for implementation of the requirements for refresher training under § 192.815;

(4) Completion of the initial refresher training required by § 192.815 before [42

months after date of publication of final rule); and

(5) Completion of the initial competency reviews, if any, required under § 192.817 before [12 months after date of publication of final rule].

(b) Operators of small gas distribution systems defined in § 192.803 shall meet the following compliance dates:

(1) Completion of the initial qualification training and testing schedule required by § 192.809(b) before [6 months after date of publication of final rule];

(2) Completion of the initial qualification training and testing required by §§ 192.811 and 192.813 and recordkeeping required by § 192.819 before [36 months after date of publication of final rule];

(3) Completion of the initial refresher training schedule required by § 192.809(c) before [42 month after date of publication of final rule]. Thereafter, the schedule shall be updated as necessary for implementation of the requirements for refresher training under § 192.815;

(4) Completion of the initial refresher training required by § 192.815 before [54 months after date of publication of final rule]; and

(5) Completion of the initial competency reviews, if any, required under § 192.817 before [24 months after date of publication of final rule].

PART 195—[AMENDED]

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

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

4. Section 195.403 would be removed and reserved and a new subpart G would be added to read as follows:

Subpart G—Qualification of Pipeline Personnel

Sec.	
195.501	Scope.
195.503	Definitions.
195.505	Personnel to be qualified.
195.507	Instructors.
195.509	Evaluation and Scheduling.
195.511	Qualification training.
195.513	Testing.
195.515	Refresher training.
195.517	Competency reviews.
195.519	Recordkeeping.
195.521	Compliance dates.

Subpart G—Qualification of Pipeline Personnel.

§ 192.503 Scope.

(a) This subpart prescribes minimum requirements for the qualification of personnel performing covered functions.

(b) Under this subpart, personnel must complete requirements for qualification training, testing, and refresher training.

(c) Under this subpart, the operator must ensure implementation of the following requirements: identification of covered functions and affected personnel; selection of instructors and subject matter; evaluation of prior experience and training of personnel; scheduling and implementation of training, testing, and refresher training; performance of competency reviews; maintenance of qualification records; certification of personnel and supervisory person qualification; and adherence with compliance dates.

(d) No operator may use a person to perform any covered function for which qualification is needed, unless and until that person is qualified and certified by the operator, or that person is accompanied and directed by a qualified person.

§ 195.503 Definitions.

As used in this subpart:

Covered functions means regulated operation, maintenance, and emergency-response functions performed in direct contact, or in close association with pipelines subject to this part. Covered functions are not limited to those under Subpart F—Operation and Maintenance of this part. Covered functions do not include clerical, truck driving, accounting, or other functions not subject to this part.

Demonstrable proficiency means evidence of knowledge and skill acceptable to other persons with specialized training or certification in the performance of similar functions.

Demonstrated successful performance on a test means achievement of at least the minimum acceptable grade level that demonstrates the knowledge and skills required to competently perform the function tested.

Personnel means persons performing covered functions or supervisory persons directly overseeing persons performing covered functions. The persons may be the operator or employed by the operator, be a contractor engaged by the operator, or be employed by such contractor.

Qualification training and testing schedule means a written or computerized schedule, prepared by the operator, that sets out the following minimum details: names and titles of personnel, dates of training and testing, elements of general and specific training to be taught or tested, and names of instructors.

Qualified means meeting the training, testing, and recordkeeping requirements of this subpart for a covered function.

Qualified administratively means meeting the training, testing, and recordkeeping requirements of this subpart for a covered function, except those involving the demonstration of competent "hands-on" skills, such as required for welding.

Refresher training schedule means a written or computerized schedule, prepared by the operator, setting out the same details as the qualification training and testing schedule, except that information relating to testing is not required.

Supervisory persons means persons such as operators, managers, supervisors, foremen, co-workers and other personnel.

§ 195.505 Personnel to be qualified.

(a) Except as provided in paragraphs (b) and (c) of this section, persons performing covered functions and supervisory persons directly overseeing persons performing covered functions must be qualified under this subpart. Personnel requiring such qualification may be the operator or employed by the operator, be a contractor engaged by the operator, or be employed by such contractor.

(b) Except for the covered functions of welding and nondestructive testing under subpart D of this part, personnel requiring qualification under paragraph (a) of this section may perform a covered function without qualification if, while performing the function, those persons are accompanied and directed by a supervisory person qualified under this subpart.

(c) Supervisory persons directly overseeing qualified persons performing covered functions must, themselves, be qualified or be qualified administratively for those functions.

§ 195.507 Instructors.

(a) To implement the evaluating, training, and testing requirements of this subpart, an instructor (the operator or others selected by the operator) must have demonstrable proficiency in the functions to be taught and tested commensurate with the level of knowledge and skills required for the operator's unique pipeline system.

(b) Whenever an instructor selected by the operator is a person or entity other than the operator or operator personnel, the operator remains responsible for ensuring that the requirements of this subpart are complied with.

§ 195.509 Evaluation and scheduling.

(a) The instructor shall evaluate any prior experience and training of personnel requiring qualification under § 195.505. Previous experience or training equivalent to any of the general or specific training elements of § 195.511 would not require qualification training in those elements, but would require testing under § 195.513.

(b) To ensure completion of the evaluation under paragraph (a) of this section and the scheduling necessary for implementation of training and testing under §§ 195.511 and 195.513, the operator shall prepare a written or computerized qualification training and testing schedule. The schedule shall contain names and titles of affected persons, dates and locations for training and testing, elements of general and specific training to be taught or tested, and names of instructors.

(c) To ensure completion of the scheduling necessary for implementation of the refresher training under § 195.515, the operator shall prepare a written or computerized refresher training schedule. The schedule shall contain details, with the exception of testing, similar to those required in paragraph (b) of this section.

§ 195.511 Qualification training.

(a) Except for any prior experience or training evaluated as equivalent under § 195.509(a), to be qualified under this part, personnel must satisfactorily complete general and specific training appropriate to the operator's unique pipeline system. Supervisory persons are required to be similarly qualified or, under § 195.505(c), to be qualified administratively.

(b) General and specific training may be acquired through one or any combination of classroom education, operator-sponsored training, on-the-job training, or apprenticeship.

(c) Minimum general training required by all persons includes knowledge of the following elements:

(1) Characteristics and hazardous properties of non-HVL hazardous liquid, HVL, or carbon dioxide transported, such as flammability range, temperature, and corrosive effects on pipeline systems, as well as toxicity, olfactory, asphyxiatory, low temperature freeze burns, and vapor cloud effects on persons, property, and the environment;

(2) Potential ignition sources of escaping liquids;

(3) Purpose and operation of the damage prevention program in effect by the operator; and

(4) Purpose of the drug testing program under part 199 of this chapter.

(d) Minimum specific training required when relevant to a person's function includes knowledge of the following elements:

(1) Requirements of the other subparts of this part;

(2) Requirements of part 194 of this chapter—Response Plans for Onshore Oil Pipelines;

(3) Requirements of part 199 of this chapter—Drug Testing;

(4) Recognition of abnormal and emergency conditions:

(i) Ability to recognize abnormal operating conditions which may indicate a dangerous situation or a condition exceeding operating limitations, such as a pressure above the normal operating pressure but not exceeding the limitations of § 195.406(b), and to recognize other conditions such as those in § 195.402(d).

(ii) Ability to recognize emergency conditions such as an operating pressure exceeding the limitations of § 195.406(b) and to recognize emergency conditions such as those in § 195.402(e) including release of carbon dioxide.

(iii) Training for paragraphs (d)(4)(i) and (d)(4)(ii) of this section shall, where feasible, utilize simulated pipeline emergencies.

(5) Reaction to abnormal and emergency conditions:

(i) Ability to react appropriately to an abnormal operating condition or to a condition exceeding design limitations in a manner that restores the normal operating condition or prevents the development of an emergency condition.

(ii) Ability to react appropriately to an emergency condition to control or mitigate the potential for personal injury, death, property damage, and environmental damage.

(iii) Training for paragraphs (d)(5)(i) and (d)(5)(ii) of this section shall, where feasible, utilize simulated pipeline conditions.

(6) Requirements for notifying and responding to notifications from one-call systems where the operator is a participating member;

(7) Repairs of pipelines using appropriate precautions, such as isolation, purging, and venting;

(8) Proper operation and maintenance of available combustible gas detecting equipment and locating instruments for underground pipelines; and

(9) Firefighting procedures and proper use of available equipment, such as fire suits, breathing apparatus, water hoses, and chemical fire extinguishers (by utilizing, where feasible, simulated pipeline emergency conditions).

§ 195.513 Testing.

(a) Except as provided for supervisory persons in this paragraph, to be qualified under this subpart, personnel must have demonstrated successful performance on a test of the general training elements in § 195.511(c) and relevant specific training elements in § 195.511(d). Testing may be performed through one or any combination of written, hands-on, or oral methods appropriate for the function tested. Supervisory persons are required to be similarly qualified or, under § 195.805(c), are permitted to be qualified administratively.

(b) Testing is not required for the refresher training under § 195.515.

§ 195.515 Refresher training.

(a) To remain qualified under this subpart personnel, within 24 months of the date of the certification statement required under § 195.519(b), must receive refresher training. Refresher training is a review of the requirements for general training and the appropriate requirements for specific training under § 195.511.

(b) Refresher training is required within 24-month intervals thereafter.

§ 195.517 Competency reviews.

At intervals not exceeding 7 months, but at least twice each calendar year, an operator shall review the performance of any personnel involved in an accident (reportable or nonreportable event under § 195.50) that resulted in an explosion, fire, unintentional release of liquid, personal injury or death, property damage to the operator or others, or damage to the environment or that is a violation of the operator's procedures under § 195.402. Among other such events are abnormal operating conditions or emergency conditions set out §§ 195.511(d)(3) and (d)(4). Within 2 months after a competency review, the operator shall:

(a) Evaluate the effectiveness of qualification training, testing, and refresher training required by this subpart; and

(b) Identify and implement appropriate revisions, if any, in the qualification program to improve the competency of operator personnel in order to reduce the likelihood of similar incidents.

§ 195.519 Recordkeeping.

(a) For personnel qualified to perform covered functions, the operator shall prepare and maintain written or computerized records and dates of:

(1) The general and specific training elements of § 192.511 which the person has satisfactorily completed;

(2) The results of the testing required by § 195.513 indicating the person has demonstrated successful performance; and

(3) The refresher training required by § 195.515 which the person has received.

(b) Each operator shall sign and date the following certification, and include it among the records for each qualified person. "I certify that on this date [insert name of person] is [qualified or qualified administratively] to perform the specified covered function(s) by the training and testing required under 49 CFR Part 195, Subpart G, as demonstrated by the accompanying record(s) prepared for that person in accordance with § 195.519."

(c) The records shall be retained for at least 3 years after a person ceases to be employed by the operator in a capacity that requires qualification under this subpart.

§ 195.521 Compliance dates.

Operators shall meet the following compliance dates:

(a) Completion of the qualification training and testing schedule required by § 195.509(b) before [6 months after date of publication of final rule];

(b) Completion of the qualification training and testing required by §§ 195.511 and 195.513 and recordkeeping required by § 195.519 before [24 months after date of publication of final rule];

(c) Completion of the initial refresher training schedule required by § 195.509(c) before [30 months after publication of final rule]. Thereafter, the refresher training schedule shall be updated as necessary for implementation of the requirements for refresher training under § 195.515.

(d) Completion of the initial refresher training required by § 195.515 before [36 months after date of publication of final rule].

(e) Completion of the initial competency reviews, if any are required under § 195.517 before [12 months after date of publication of final rule].

Issued in Washington, DC on July 27, 1994.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

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Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC-94-9]

RIN 2125-AD37

Parts and Accessories Necessary For Safe Operation; Automatic Brake Adjusters and Brake Adjustment Indicators

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA is proposing to require the use of automatic brake adjusters (ABAs) on hydraulically-braked commercial motor vehicles (CMVs) and air-braked CMVs manufactured on or after October 20, 1993, and October 20, 1994, respectively. The FHWA is also proposing a requirement for brake adjustment indicators on air-braked CMVs with external adjustment mechanisms manufactured on or after October 20, 1994. This rulemaking is intended to: Insure that the operational standards for brakes in the Federal Motor Carrier Safety Regulations (FMCSRs) are consistent with the manufacturing standards in the Federal Motor Vehicle Safety Standards (FMVSSs) numbers 105 and 121, which now require the installation of automatic brake adjusters and adjustment indicators on certain CMVs manufactured on or after these dates; and improve the safety of operation of CMVs by reducing the incidence of brakes that are out of adjustment.

In addition, the FHWA requests information concerning the possibility of requiring these devices to be retrofitted to CMVs placed in operation prior to the effective dates of the recent amendments to FMVSS Nos. 105 and 121.

DATES: Comments must be received on or before October 3, 1994.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-94-9, room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All answers to questions should refer to the appropriate question number and all comments on specific provisions should refer to the appropriate section and paragraph number. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of

comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

A. General Information

Proper brake adjustment is critical to the safe operation of commercial motor vehicles. When brakes are correctly adjusted, vehicles can generally be brought to a stop within a satisfactory distance and in a controlled manner. However, brakes that are not properly adjusted cannot develop the retardation force designed into the vehicle's brake system, resulting in increased stopping distances. Under emergency conditions, this can result in a collision that might otherwise have been avoided, or in a more severe collision than would have occurred with properly-adjusted brakes.

Out-of-adjustment brakes are the primary equipment-related cause for commercial motor vehicles to be placed out of service during roadside inspections. According to the FHWA's Office of Motor Carrier Field Operations Annual Report for Fiscal Year 1992, 36.2 percent of vehicles placed out-of-service are cited for this deficiency. A copy of this report has been placed in the docket.

In addition, brake-related accidents, some stemming from gross brake maladjustment, are also a factor in some "equipment malfunction" CMV accident citations. The National Highway Traffic Safety Administration's (NHTSA) regulatory evaluation, prepared in conjunction with their rulemaking on automatic brake adjusters (ABAs), noted that 6.8 percent of all medium and heavy truck accidents were reported as being caused by defective equipment. Of that figure, 31 percent were due to defective brakes, with 60 percent of those brakes judged to be out of adjustment; this amounts to 1.3 percent of accidents reported—or nearly 4,000 accidents per year. The regulatory evaluation also cited a review of National Transportation Safety Board (NTSB) reports on 97 serious heavy truck accidents investigated from 1969 to 1981. Out-of-adjustment brakes were cited as a causal or contributing factor in 27 of those 97 accidents, or 28