

SUBCHAPTER D—PIPELINE SAFETY

PART 190 —PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

Subpart A—General

- Sec.
- 190.1 Purpose and scope.
 - 190.3 Definitions.
 - 190.5 Service.
 - 190.7 Subpoenas; witness fees.
 - 190.9 Petitions for finding or approval.
 - 190.11 Availability of informal guidance and interpretive assistance.

Subpart B—Enforcement

- 190.201 Purpose and scope.
- 190.203 Inspections.
- 190.205 Warning letters.
- 190.207 Notice of probable violation.
- 190.209 Response options.
- 190.211 Hearing.
- 190.213 Final order.
- 190.215 Petitions for reconsideration.

COMPLIANCE ORDERS

- 190.217 Compliance orders generally.
- 190.219 Consent order.

CIVIL PENALTIES

- 190.221 Civil penalties generally.
- 190.223 Maximum penalties.
- 190.225 Assessment considerations.
- 190.227 Payment of penalty.

CRIMINAL PENALTIES

- 190.229 Criminal penalties generally.
- 190.231 Referral for prosecution.

SPECIFIC RELIEF

- 190.233 Hazardous facility orders.
- 190.235 Injunctive action.
- 190.237 Amendment of plans or procedures.

Subpart C—Procedures for Adoption of Rules

- 190.301 Scope.
- 190.303 Delegations.
- 190.305 Regulatory dockets.
- 190.307 Records.
- 190.309 Where to file petitions.
- 190.311 General.
- 190.313 Initiation of rulemaking.
- 190.315 Contents of notices of proposed rulemaking.
- 190.317 Participation by interested persons.
- 190.319 Petitions for extension of time to comment.
- 190.321 Contents of written comments.
- 190.323 Consideration of comments received.

- 190.325 Additional rulemaking proceedings.
- 190.327 Hearings.
- 190.329 Adoption of final rules.
- 190.331 Petitions for rulemaking.
- 190.333 Processing of petition.
- 190.335 Petitions for reconsideration.
- 190.337 Proceedings on petitions for reconsideration.
- 190.338 Appeals.
- 190.339 Direct final rulemaking.

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Subpart A—General

§ 190.1 Purpose and scope.

(a) This part prescribes procedures used by the Research and Special Programs Administration in carrying out duties regarding pipeline safety under 49 U.S.C. 60101 *et seq.* (the pipeline safety laws) and 49 U.S.C. 5101 *et seq.* (the hazardous material transportation laws).

(b) This subpart defines certain terms and prescribes procedures that are applicable to each proceeding described in this part.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-6, 61 FR 18512, Apr. 26, 1996]

§ 190.3 Definitions.

As used in this part:

Hearing means an informal conference or a proceeding for oral presentation. Unless otherwise specifically prescribed in this part, the use of “hearing” is not intended to require a hearing on the record in accordance with section 554 of title 5, U.S.C.

OPS means the Office of Pipeline Safety, which is part of the Research and Special Programs Administration, U.S. Department of Transportation.

Person means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Presiding Official means the person who conducts any hearing relating to

§ 190.5

civil penalty assessments, compliance orders or hazardous facility orders.

Regional Director means the head of any one of the Regional Offices of the Office of Pipeline Safety, or a designee appointed by the Regional Director. Regional Offices are located in Washington, DC (Eastern Region); Atlanta, Georgia (Southern Region); Kansas City, Missouri (Central Region); Houston, Texas (Southwest Region); and Lakewood, Colorado (Western Region).

Respondent means a person upon whom the OPS has served a notice of probable violation.

RSPA means the Research and Special Programs Administration of the United States Department of Transportation.

State means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

[Amdt. 190–6, 61 FR 18513, Apr. 26, 1996]

§ 190.5 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally or by registered or certified mail.

(b) Service upon a person's duly authorized representative or agent constitutes service upon that person.

(c) Service by registered or certified mail is complete upon mailing. An official U. S. Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

§ 190.7 Subpoenas; witness fees.

(a) The Administrator, RSPA, the Chief Counsel, RSPA, or the official designated by the Administrator, RSPA, to preside over a hearing convened in accordance with this part, may sign and issue subpoenas individually on their own initiative or, upon request and adequate showing by any person participating in the proceeding that the information sought will materially advance the proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18

years of age, or by certified or registered mail.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (g) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at the person's office with the person in charge thereof, leaving them at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them by registered or certified mail to the person at the last known address, or by any method whereby actual notice is given to the person and the fees are made available prior to the return date.

(e) When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person, or by mailing them by registered or certified mail to that agent or representative and the fees are made available prior to the return date.

(f) The original subpoena bearing a certificate of service shall be filed with the official having responsibility for the proceeding in connection with which the subpoena was issued.

(g) A subpoenaed witness shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(h) Notwithstanding the provisions of paragraph (g) of this section, and upon request, the witness fees and mileage may be paid by the RSPA if the official who issued the subpoena determines on the basis of good cause shown, that: