and Reporting Points, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class D and Class E airspace listed in this document would be revised and published in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is to be amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AAL AK D Anchorage, Elmendorf AFB Airport, AK [Revised]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61° 15′11″ N., long. 149° 47′38″ W.)
Elmendorf Localizer
(At. 61° 15′14″ N., long. 149° 46′48″ W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Elmendorf AFB Airport and within 2 miles each side of the Elmendorf Localizer front course extending from the 4.7-mile radius to a point 5.5 miles from Elmendorf AFB Airport; excluding that airspace east of long. 149° 43′ W, and that airspace within the Anchorage International Airport, AK, Class C airspace area and the Anchorage Merrill Field, AK, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas

* * * * *

AAL AK E2 Anchorage, Elmendorf AFB Airport, AK [New]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61° 15′ 11″ N., long. 149° 47′ 38″ W.)
Elmendorf Localizer
(At. 61° 15′ 14″ N., long. 149° 46′ 48″ W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Elmendorf AFB Airport and within 2 miles each side of the Elmendorf Localizer front course extending from the 4.7-mile radius to a point 5.5 miles from Elmendorf AFB Airport; excluding that airspace east of long. 149° 43′ W, and that airspace within the Anchorage International Airport, AK, Class C airspace area and the Anchorage Merrill Field, AK, Class D airspace area.

* * * * *

Issued in Anchorage, AK, on October 20, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–28756 Filed 10–26–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–98–3783; Notice 1]

RIN 2137–AB38

Pipeline Safety: Qualification of Pipeline Personnel

AGENCY: Research and Special Programs Administration (RSPA); Office of Pipeline Safety (OPS).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposed rule would require pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks on pipeline facilities. The intent of this qualification rule is to ensure a qualified workforce and to reduce the probability and consequence of incidents caused by human error. This NPRM proposes to create new subparts in the gas and hazardous liquid pipeline safety regulations. These would establish qualification requirements for individuals performing covered tasks, and would also amend certain training requirements in the hazardous liquid regulations. This proposed rule was developed through a negotiation process.

DATES: RSPA must receive written comments to this proposed rule by December 28, 1998.

ADDRESSES: Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments may also be filed electronically by e-mail at ops.comments@rspa.dot.gov. Comments should identify the docket number (RSPA–98–3783). Persons should submit the original document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. Comments can also be viewed over the Internet on http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by e-mail at eben.wyman@rspa.dot.gov, regarding the subject matter of this notice; or the Dockets Unit, (202) 366–4453, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Although no regulatory program is capable of completely eliminating human error, the objective of this proposed rule is to reduce the risk of accidents on pipeline facilities attributable to human error. This proposed rule for the qualification of individuals is intended to provide an additional level of safety. This proposed rule does not replace existing qualification requirements in 49 CFR part 192. However, it does remove the operations and maintenance training requirements of § 195.403. The proposed rule does not diminish the importance of the safety requirements already in the pipeline safety regulations. These include requirements for safety design features, such as relief valves and over-pressure protection devices, to provide protection against human error and other causes of incidents and accidents.

The proposed rule would require operators of pipelines to develop a qualification program to evaluate an individual's ability to perform covered tasks, and to recognize and react to abnormal operating conditions that may occur while performing covered tasks.

The proposed rule would also set recordkeeping requirements that operators must follow to successfully demonstrate compliance, and the information that must be maintained on each individual who has been evaluated and deemed qualified to work on a pipeline facility. Finally, the proposed rule would specify the deadlines by which operators must develop and implement their qualification programs.

This proposed rule allows operators with existing programs to modify those programs if necessary to ensure compliance with the minimum requirements of this proposed rule. The proposed rule would also require operators without a qualification program to establish a program to evaluate the qualifications of individuals performing certain operation and maintenance activities on those pipeline facilities that could affect pipeline operation or integrity.

This proposed rule would establish a new subpart N in 49 CFR part 192 and a new subpart G in 49 CFR part 195. The proposal would amend the training regulations in 49 CFR 195.403. The emergency response training requirements remain as they appear in 49 CFR 195.403.

II. Statutory Authority and Regulatory History

Sections 106 and 205 of the Pipeline Safety Act of 1992 (Pub. L. 102–508) required the Department of Transportation to establish regulations requiring that ''all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.''

On August 3, 1994, RSPA published a notice of proposed rulemaking to establish specific training requirements for the qualification of pipeline workers (59 FR 39506). This proposal would have introduced qualification standards for personnel that perform, or supervise persons performing, regulated operations, maintenance, and emergency response functions. The purpose of the proposal was to improve pipeline safety by requiring operators to ensure the competency of pipeline personnel through training, testing, and periodic refresher training.

In response to this notice, RSPA received 131 comments that expressed a wide variety of interests and concerns. Most commenters asserted that the proposal should have taken a more general approach to qualification with broad requirements for persons performing ''safety related'' functions. Commenters stated that the proposal was too prescriptive and that the many references to training requirements should be modified to focus the proposal on actual qualification, rather than on the methods(s) of achieving qualification.

OPS' technical advisory committees, the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee, disapproved of the proposal. These Committees passed several motions for amendments to the proposal. These motions were generally consistent with the written comments.

Subsequently, the pipeline safety law was amended to require that ''all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities'' (49 U.S.C. 60102(a)). This law also requires that the ''qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits'' (49 U.S.C. 60102(a)).

Following review of the comments to the 1994 proposed rulemaking, as well as recommendations by the Technical Advisory Committees, and a petition for withdrawal and alternative proposal submitted collectively by the American Gas Association, the American Public Gas Association, and the Southern Gas Association, RSPA decided that a regulatory process other than traditional rulemaking would better address the issues surrounding operator qualifications. Consequently, RSPA issued a Notice of Withdrawal of the 1994 proposed rulemaking (61 FR 34413, July 22, 1996) and simultaneously issued a Notice of Intent to form a negotiated rulemaking committee to develop a proposed rule on the qualification of pipeline personnel (61 FR 34410, July 22, 1996).

III. Negotiated Rulemaking

RSPA understands that effective regulatory solutions to certain issues can be difficult for an agency to craft. In the typical rulemaking process, the participants often develop adversarial relationships that prevent effective communication and creative solutions. Exchange of ideas that may lead to solutions that are acceptable to all interested groups does not often occur in the traditional notice and comment rulemaking procedure.

Negotiated rulemaking is conducted under authority of the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act. The process involves assembling representatives of the affected interests assemble to discuss a particular issue and all potential solutions. The goal is to reach consensus and prepare a proposed rule for consideration by the agency. After public comment on the proposed rule, the group may reconvene to review the comments and make recommendations for a final rule. This inclusive process is intended to make the proposed rule more acceptable to all affected interests and minimize the likelihood of petitions for reconsideration and litigation.

RSPA believed that the negotiated rulemaking process would provide ample opportunity for all affected parties to present their views and to reach a consensus on a proposed qualification rule. Negotiated rulemakings have been used successfully by the Department of Transportation, including the Federal Aviation Administration, the United States Coast Guard, the Federal Highway Administration, and the National Highway Traffic Safety Administration, and the Federal Railroad Administration. In addition, the Environmental Protection Agency, and the Occupational Safety and Health Administration have successfully used the process.

A. Members of the RSPA Negotiated Rulemaking Committee

The Federal Mediation and Conciliation Service (FMCS) served as the convenor and facilitator for the Negotiated Rulemaking Committee. FMCS chaired the negotiations, offered suggestions in attempting to reach the desired consensus, and helped determine the feasibility of negotiating particular issues. From the beginning of this process, RSPA met with FMCS on several occasions to discuss the issues that needed to be addressed and the interests that needed to be represented on a negotiated rulemaking committee. After a comprehensive search, (RSPA selected the following organizations, representing broad interests, to serve on the Negotiated Rulemaking Committee:

1. *American Gas Association (A.G.A.)*: Represents a large number of gas distribution and a few transmission companies in the pipeline industry. A.G.A. members consist of both large and small operators.

2. *American Petroleum Institute (API)*: Represents the interests of the hazardous liquid pipeline companies. API is the major trade association in the petroleum industry, and also represents the interests of operators of other hazardous liquid pipelines.

3. *Interstate Natural Gas Association of America (INGAA)*: Represents the interests of the larger interstate gas transmission pipeline companies in the natural gas transportation industry. INGAA consists mainly of the larger interstate gas transmission pipelines.

4. *American Public Gas Association (APGA)*: Represents publicly-owned and municipal gas companies. Although these public companies are generally small, they operate a large number of the distribution pipelines in American cities and suburbs.

5. *National Propane Gas Association (NPGA)*: Represents the interests of propane marketing and distribution at the local level . NPGA is made up of both large and small companies.

6. *Association of Texas Intrastate Natural Gas Pipelines*: Represents the interests of intrastate natural gas transmission pipelines.

7. *Midwest Gas Association (MGA)*: Represents over 300 investor-owned utilities, municipal utilities, contractors and manufacturers. MGA brought considerable expertise in pipeline personnel training issues.

8. *NACE International, The Corrosion Society (NACE):* An organization of corrosion experts. NACE works primarily on issues of corrosion and corrosion control systems.

9. *National Association of Pipeline Safety Representatives (NAPSR):* Represents state pipeline safety programs. Many of these organizations will incorporate the final rule on operator qualifications into their pipeline safety program.

10. *National Association of Regulatory Utility Commissioners (NARUC):* Represents the interests of the state utility commissioners, who regulate gas rates and terms of service in most of the fifty states.

11. *National Association of State Fire Marshals:* Represents the interests of state fire officials in state safety programs and the issue of qualification for emergency response.

12. *International Union of Operating Engineers (IUOE):* Represents the interests of a substantial number of pipeline construction and maintenance workers.

13. *International Brotherhood of Electrical Workers (IBEW):* Represents over 21,000 gas industry workers.

14. *Office of Pipeline Safety (OPS):* Served as the representative of RSPA, and the Designated Federal Official on the Negotiated Rulemaking Committee.

B. Negotiated Rulemaking Committee Groundrules.

Most of the procedures and protocols followed in the negotiation were established by the Committee. A set of Committee ''groundrules'' was developed by participants at the initial meeting. Issues discussed and agreed upon by the Committee included: how discussions would be conducted, possibility of subgroups to work on particular issues, expectations of Committee members, the Committee's role throughout the rulemaking process, audience participation, and other topics. The following are some of the more significant critical groundrules established by the Committee:

1. Membership: All organizations were allowed one seat at the table, and permitted to name one alternate to serve in their absence.

2. Good faith: All participants were expected to act in good faith on behalf of their organization. OPS agreed to issue the Committee's proposed rule as long as it was not in conflict with any other legal requirements. In turn, the Committee agreed to support the proposal following publication in the **Federal Register**. It was agreed that the Committee would be actively involved through publication of the final rule.

3. *Conduct of meetings:* Committee members reserved the right to bring constituents to the table to address the Committee, and could quietly consult with constituents during the course of the negotiation. All meetings were open to the public. The Committee agreed that there would be time scheduled on every meeting agenda for comment by the audience.

4. *Public Record:* RSPA kept a record of all Committee meetings. This record was placed in the public docket (Docket No. PS 94) and is publicly available.

5. *Consensus:* The goal of the negotiating process is consensus. The Committee developed its own definition of consensus for the purposes of this rulemaking, which was as follows: ''A decision which all members or designated alternates present at the meeting can agree upon. The decision may not be everyone's first choice, but they have heard it and everyone can live with it.''

C. *Committee Meetings.*

The Committee convened a total of seven times between May, 1997, and January, 1998. Each negotiating session lasted a minimum of two days, with two sessions convening for two and a half days. The Committee reached final consensus on the NPRM in its last meeting in January, 1998.

IV. Scope

The Accountable Pipeline Safety and Partnership Act of 1996 required RSPA to adopt regulations requiring that ''all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities'' and ''shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits'' (49 U.S.C. 60102(a)). The Committee determined that a national qualification program conducted by RSPA, another federal agency, or a state agency, would not be an appropriate or practical response to this mandate. Such a system offers the advantages of national consistency, including the ability of contractor employees to work for different operators under a single qualification regime. However, it was determined that the complexity and cost of administering such a system, coupled with the difficulty of devising a system appropriate for the wide variations in the operations and maintenance procedures and facilities of individual operators, precluded this from being an effective option.

The Committee determined the mandate would best be met by a non-prescriptive, performance based regulation requiring each operator to develop, or have developed, a written program for the qualification of individuals. This would allow each program to be tailored to the unique operations and practices of each operator.

A. Persons Covered by the Proposed Rule

This proposed rule applies to operators subject to the requirements of 49 CFR parts 192 or 195. The rule applies to all individuals who perform covered tasks, regardless of whether they are employed by the operator, a contractor, a sub-contractor, or any other entity performing covered tasks on behalf of the operator.

B. Operators are Responsible for Identifying Covered Tasks

Under this proposed rule, the operator would be responsible for identifying which activities performed on the pipeline facility are covered tasks. The process for identifying covered tasks is set forth in 49 CFR 192.801 and 195.501 (''Scope'') of this proposed rule.

The Committee discussed whether the regulator or the operator should be responsible for identifying covered tasks. Because of large differences between operations of pipelines across the country, a uniform list of tasks would not be useful, and could result in overall increased costs. For example, some operators do not have transmission lines in their systems, others operate only distribution lines, and others do not have compressors, pump stations, or storage facilities. Some operators perform a large number of covered tasks, while other, smaller, operators may have only a limited number of tasks that would be classified as covered tasks.

Identification of covered tasks is a key component of the qualification requirements under this proposed rule. The Committee proposed that it would be more effective and practical to let each operator determine the covered tasks requiring qualification.

However, some Committee members were concerned that if operators are allowed to determine the covered tasks, the proposed rule should also ensure that the regulators retain the authority to review each operator's determinations. Some Committee members objected to allowing each operator to identify covered tasks requiring individuals to be qualified. These members objected to the use of the words ''determined by,'' which could be interpreted to preclude regulators from questioning the operator's identification of covered tasks. The Committee decided to use the words ''identified by'' to mean the selection of covered tasks by the operator. The Committee concluded that the authority to allow pipeline safety regulators to require modifications to programs that fail to meet regulatory requirements was already within the scope of federal and state jurisdiction, as was the authority to question particular activities included as covered tasks by the operator. The Committee concluded that covered tasks would be activities identified by the operator.

Therefore, under this proposed rule, the operator of a pipeline facility would be responsible for identifying which activities performed on that facility are covered tasks. The criteria for identifying such tasks on gas and hazardous liquid pipelines is set forth in 49 CFR 192.801 and 195.501, respectively.

Although operators are responsible for identifying covered tasks for which individuals must be qualified, regulators remain responsible for reviewing operator qualification programs and ensuring that federal regulatory standards are applied and met nationwide. Regulators may question an operator's inclusion and exclusion of particular activities as covered tasks. Regulators may require modifications to programs that fail to meet the requirements of the rule.

C. Identification of Covered Tasks

The proposed rule includes a four-part test that each operator must use to determine whether an activity constitutes a covered task. A covered task is: (1) Performed on a pipeline facility; (2) an operations or maintenance task; (3) performed pursuant to a requirement in 49 CFR part 192 or 195; and (4) affects the operation or integrity of the pipeline.

1. *Tasks performed on a pipeline facility.*

The phrase ''performed on a pipeline facility'' means an activity that is performed by an individual whose performance directly impacts the pipeline facility. An individual who works on a pipeline component that is physically connected to the pipeline system is performing work ''on a pipeline facility'' and may be subject to the proposed rules, regardless of whether or not product is flowing through the pipeline. However, a person who repairs a pipeline system or appurtenance, that has been removed from the system, would not be performing work on the pipeline, and therefore would not be performing a covered task.

2. *Operations or maintenance tasks.* The Federal pipeline safety law requires that all individuals who operate and maintain pipeline facilities be qualified to operate and maintain those facilities (49 U.S.C. 60102(a)(1)(C)).

Most of the operations and maintenance activities on pipeline facilities are found in 49 CFR part 192, subparts L and M, or in 49 CFR part 195, subpart F. In addition, the regulations contain other subparts that include requirements for conducting operations and maintenance activities. For example, part 192, subpart I, establishes requirements for protecting metallic pipelines from external, internal, and atmospheric corrosion. The requirements to monitor corrosion control systems are operations activities. The requirements to take corrective action when deficiencies are found in a corrosion control program are maintenance activities. Therefore, the task of repairing pipelines affected by corrosion is also a maintenance activity.

Certain tasks performed on pipeline facilities may be covered tasks when performed in the course of operation and maintenance activities, but not be covered tasks in the course of other activities. For example, the task of ''welding'' could be a covered task when performed as an operations and maintenance activity on a pipeline, such as when installing a weld-over sleeve to repair an anomaly. However, the task of ''welding'' is not a covered task under this subpart when performed during the fabrication of new installations, because this would not be an operations and maintenance task.

However, welders are currently subject to qualification requirements in 49 CFR part 192, subpart E, and 195, subpart D. To comply with the proposed rule, welders would have to be additionally qualified to recognize and react to abnormal operating conditions when welding as a covered task. This also applies to other tasks such as ''plastic pipe joining'', for which the regulations contain specific requirements.

3. *Tasks Performed Pursuant to a Requirement in 49 CFR part 192 or 195.* Covered tasks include only those operations and maintenance activities required by 49 CFR part 192 or 195.

Examples of covered tasks might include:

- Purging a pipeline because it is specifically required by 49 CFR 192.629;
- Leakage surveys of distribution lines, required by 49 CFR 192.723;
- Starting, operating, and shutting down gas compressor units, because 49 CFR 192.605(b)(7) specifically requires written procedures on these tasks, to provide safety during maintenance and operations;
- Inspection of navigable water crossings under 49 CFR 195.412; and
- Inspection of breakout tanks required by 49 CFR 195.432.

Operators of pipeline facilities may voluntarily conduct operations and maintenance activities that are not

required by a specific provision in 49 CFR part 192 or 195. However, an activity does not necessarily become a covered task simply because an operator develops procedures for conducting the activity, and includes those procedures in its Operations and Maintenance Plan. For example, an operator may voluntarily choose to maintain a customer's buried piping, and include procedures for this activity in its Operations and Maintenance Plan. Because such maintenance is not specifically required by 49 CFR part 192 or 195, the associated maintenance activities are not covered tasks.

It is possible for a task to be ''performed pursuant to a requirement in part 192 or 195'' even if the task is not specifically addressed by a particular section. The task need only be performed pursuant to the requirement contained in a particular section. For example, 49 CFR 195.428 states that each operator shall inspect overpressure protection devices and ensure these devices are operating adequately. Section 195.428 does not explicitly discuss calibrations that may be necessary to address low pressure shutdowns; yet such calibrations may be required to comply with the regulation. Therefore, the task of calibrating the overpressure protection devices to address low pressure shutdowns would be performed as a result of a requirement contained in part 195.

4. *Tasks affecting the operation or integrity of the pipeline.*

Under the proposed rule, covered tasks include only those activities that could affect the operation or integrity of the pipeline.

The main purpose of the proposed rule is to ensure safety of pipelines through qualification of individuals. Initial discussions centered around safety-related tasks and the need to categorize covered tasks as only those tasks as having safety implications. Some Committee members argued that most of the provisions in 49 CFR parts 192 and 195 regulate safety-related activities. It would therefore be redundant to include the word ''safe'' on pipeline operations addressed under this criteria. Therefore, it was decided to use the phrase, ''operation or integrity,'' because some tasks do not adversely affect the operation or integrity of the pipeline, even though they meet the other three criteria. The Committee decided to include a fourth criteria that must be satisfied for a task to be a covered task, namely that the task affects the operation or integrity of the pipeline.

The Committee discussed the term ''operation'' as used here in the safety context of normal versus abnormal operation, where the latter could result in an unsafe condition. For example, the control of flow and pressure in pipelines could result in abnormal operation, if the pressure is allowed to rise above an acceptable limit. Therefore, in this example, activities that include controlling flow and pressure on a pipeline system would be considered covered tasks if the other three criteria for covered tasks were met.

An additional example of a task affecting the integrity of the pipeline would be coating or jacketing of aboveground pipeline components. In the event atmospheric corrosion is present, coating or jacketing the component could affect the integrity of the pipeline. However, painting a pipeline for aesthetic reasons would not affect the integrity of the pipeline.

The ''integrity'' of the pipeline refers to the pipeline's ability to operate safely and to withstand stresses imposed during operations. An example of a short-term effect on integrity would be exceeding the Maximum Allowable Operating Pressure (MAOP) for gas pipelines and Maximum Operating Pressure (MOP) for liquid pipelines. An example of a long-term effect would be failure from corrosion due to improper coating after repair of a welded joint.

Because the term ''pipeline facility'' was used in the first criteria, the Committee also considered whether it would be appropriate to use the term ''pipeline facility,'' in the fourth criteria instead of the term ''pipeline''. Although some argued that consistency should be maintained, others stated that the primary goal of the proposed rule is to ensure the safe operation and integrity of the pipeline itself. Furthermore, the term ''pipeline'' as defined in 49 CFR parts 192 and 195 already encompasses the ''facilities'' targeted by the proposed rule. The Committee therefore agreed that this criterion should remain unchanged.

If a task fails to meet any one of the four criteria, the task would not be considered a covered task under this proposed rule. The following are hypothetical examples of how the four-part test can be used to identify a covered task:

Example 1: Leakage surveys on gas transmission pipelines.

(1) Performed on a pipeline facility? Yes, because leakage surveys are performed immediately above the pipeline and on the pipeline right-of-way.

(2) Is an operations and maintenance task? Yes, leakage surveys are conducted in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? Yes, leakage surveys are required by 49 CFR 192.706 and 192.723.

(4) Affects the operation or integrity of the pipeline? Yes, if a leakage survey is not properly conducted, a leak might not be detected resulting in a potentially hazardous situation.

Since all four criteria are met, the leakage survey is a covered task.

Example 2: Measuring pipe-to-soil potentials.

(1) Performed on a pipeline facility? Yes, pipe-to-soil potentials are measured at cathodic test stations attached directly to the pipeline.

(2) Is an operations and maintenance task? Yes, as pipe-to-soil potentials are read in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? Yes, pipe-to-soil potential measurements are required by 49 CFR 192.465 and 195.416.

(4) Affects the operation or integrity of the pipeline? Yes, pipe-to -soil potential measurements, if taken improperly will, not accurately reflect the level of cathodic protection being provided. While not affecting the immediate operation of the pipeline, the future integrity of the pipeline might be jeopardized (i.e. corrosion might develop), if inadequate cathodic protection is applied to the pipeline over a period of time.

Since all four criteria are met, the measurement of pipe-to-soil potentials is a covered task.

Example 3: Meter reading.

(1) Performed on a pipeline facility? Yes, a meter is a part of a pipeline facility.

(2) Is an operations and maintenance task? Yes, meters are read in the course of pipeline operations and maintenance activities.

(3) Is performed as a requirement of this part? No, meter reading is not a requirement of 49 CFR part 192 or part 195.

(4) Affects the operation or integrity of the pipeline? No, meter reading has no impact on pipeline operation or integrity.

Because the task of meter reading fails at least one of the four criteria, meter reading is not considered a covered task.

In identifying covered tasks, operators must consider specific tasks and not necessarily the job classification of individuals performing the tasks, because each job classification may incorporate several tasks. For example, an individual with the job classification, ''meter reader,'' may be assigned tasks other than reading a meter, such as distribution line patrolling under 49 CFR Part § 192.721, that could be covered tasks.

D. Amendments to § 195.403 (Training)

Section 195.403 currently prescribes the training requirements for operations, maintenance, and emergencies for operators of hazardous liquid pipelines. Because the proposed rule includes a qualification process for operations and maintenance activities, but does not

address emergency response qualification, 49 CFR 195.403 would be amended to retain emergency response training requirements. This rule proposes to remove the specific operations and maintenance training requirements addressed in 49 CFR 195.403. Persons performing operations and maintenance tasks would need to be qualified in accordance with the proposed rule.

V. Definitions

The definitions section of this proposed rule was developed to facilitate common understanding of key terms. The Committee began using a number of terms that were not commonly defined by all members. To facilitate communication, these terms were defined and are provided in the proposed rule.

Abnormal Operating Condition

An abnormal operating condition, as defined in this proposed rule, is ''a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may indicate a condition exceeding design limits or result in a hazard(s) to persons, property, or the environment.'' This definition is derived from Federal pipeline safety law (49 U.S.C. 60102), and 49 CFR 192.605 (c)(1)(v) and 49 CFR 195.402(d)(1)(v).

''Abnormal operating conditions'' is also referenced in the definition of the term ''qualified''. To be qualified, an individual needs to be able to properly perform assigned covered tasks and be able to recognize and react to an abnormal operating condition that may be encountered while performing the covered task. For example, this may include notifying the responsible parties or taking corrective action to mitigate the condition.

As an example, an individual that has been qualified to perform leak surveys should be able to recognize and react to an abnormal operating condition such as blowing gas. Likewise, an individual who is qualified to perform control of gas pressure and flow should be able to recognize and react to an abnormal operating pressure in a pipeline segment.

Not all atypical operating conditions are abnormal. An example of an atypical operating condition that is not abnormal is a pipeline which can (not to exceed MAOP or MOP) operate up to 200 pounds per square inch (psig), but which typically operates at 50 psig. Operating this pipeline at 150 psig could be atypical, but not abnormal. If however the atypical operating condition would cause the pressure in the pipeline to exceed its allowable limits or cause a hazard to persons, property or the environment, an abnormal operating condition would result. A qualified individual performing control of gas pressure and flow who observes an unanticipated pressure increase in such a pipeline segment should know to investigate the cause of the change before it reaches the MAOP/MOP of the line.

Evaluation

An evaluation of an individual's ability to perform a covered task is the process that assesses and documents the individual's qualifications to perform the covered task. Although the definition lists several acceptable methods for evaluation, the list is not all-inclusive.

The evaluation of an individual's qualifications should be an objective, consistent process that documents an individual's ability to perform the covered task. This includes the individual's ability to recognize and react to abnormal operating conditions that the operator could reasonably anticipate the qualified individual will encounter while performing the covered task. The operator should establish the acceptance criteria for the evaluation method used (for example, for on-the-job training spell out the performance criteria; for a written exam establish the cutoff score). The following table was developed in Committee discussion and shows acceptable evaluation methods for 'transitional', 'initial' and 'subsequent' qualification:

Evaluation method	'Transitional' qualification [1]	'Initial' qualification [2]	'Subsequent' qualification [3]
Written exam	YES	YES	YES
Oral exam	YES	YES	YES
Work performance history review	YES	May not be used as the sole evaluation method.	May not be used as the sole evaluation method after the three-year compliance date.
Performance on-the-job	YES	YES	YES
On-the-Job Training	YES	YES	YES
Simulation	YES	YES	YES
Other	YES	YES	YES

Notes:

[1] 'Transitional' qualification means qualification completed during the period between the effective date of the rule and the three-year compliance date, of individuals who have been performing a covered task on a regular basis prior to the effective date of the rule.

[2] 'Initial' qualification means qualification, at any time, of individuals who were not performing a covered task on a regular basis prior to the effective date of the rule.

[3] 'Subsequent' qualification means evaluation of an individual's qualification, after 'transitional' or 'initial' qualification, at the interval established by the operator.

Under 49 CFR 192.809(c) and 195.509(c), a work performance history review may *not* be used as a sole evaluation method after {INSERT 38 MONTHS FOLLOWING PUBLICATION OF THE FINAL RULE} 'Transitional' qualification may rely on a work performance history review as the sole evaluation method. 'Initial' qualification may not rely on only a work performance history review. 'Subsequent' qualifications may rely on work performance history review if used in conjunction with at least one other evaluation method.

The operator must establish the parameters for the work performance history review. For example, a work performance history review may include: a search of existing records for documentation of an individual's past satisfactory performance of a covered task(s); verification that the individual's work performance history contains no indications of substandard work or involvement in an incident (part 192) or accident (part 195), caused by an error in performing a covered task; and, verification that the individual has successfully performed the covered task on a regular basis prior to the effective date of the rule.

Qualified

Qualified, means that an individual has been evaluated and is able to properly perform a covered task(s), and recognize and react to abnormal operating conditions that may be encountered during the performance of the covered task(s). An individual may be qualified using any of the evaluation methods specified in the operator's written qualification program.

VI. Qualification Program

The Committee identified the following seven elements as requirementsd in the operator's qualification program:

Paragraph (a) of 49 CFR 192.805 and 195.505 require operators to identify the covered tasks to be included in the qualification program. Whether an activity is a covered task would be determined using the four criteria in 49 CFR 192.801(b) or 195.501(b). Because operators are responsible for identifying covered tasks, variations among qualification programs are expected.

A concern of the Committee was whether periodic review of covered tasks should be required. Although a periodic review requirement was not included in the proposed rule, an operator may consider a periodic review to ensure the accuracy of its covered task list.

Paragraph (b) requires that the qualification program include provisions to ensure through evaluation that individuals performing covered tasks are qualified. This would set forth the evaluation methods to determine if an individual is qualified. The Committee discussed contractor personnel and who is responsible for their qualification and compliance under this rule. Some members believed contractors should not be subject to this proposed rule and that OPS should be responsible for ensuring the qualification of contractor personnel. OPS does not have the authority to directly enforce compliance by contractors with this rule. The pipeline operator is responsible for all individuals working on their pipeline systems. This includes operator and contractor personnel.

The Committee discussed the role of those performing evaluations. Members agreed not to include a provision in the rule requiring evaluators be ''qualified'' to evaluate. However, persons performing evaluations should possess the required knowledge (1) to ascertain an individuals ability to perform covered tasks and (2) to substantiate an individuals ability to recognize and react to abnormal operating conditions that might surface while performing those tasks. This does not necessarily mean that the persons performing evaluations should be physically able to perform the covered tasks themselves.

The Committee discussed the concerns and options available to the operator regarding who should evaluate the individuals performing covered tasks. Because the operator is responsible for the development and implementation of the evaluation methods, the Committee thought that the operator should also be responsible for selecting appropriately knowledgeable individuals to perform evaluations. The proposed rule requires a qualification program that focuses on ensuring an individual can properly perform a covered task(s) rather than the credentials of persons conducting evaluations.

Paragraph (c) allows for performance of covered tasks by individuals who are not qualified as long as a qualified individual directly observes the non-qualified individual(s), and is able to take immediate corrective actions when necessary. For example, a distribution company may use a three-person crew to repair gas leaks. Two of the crew members could be non-qualified. The crew excavates and repairs leaking gas mains and services under the direct and close observation of the qualified member of the crew. The intent of this provision is to ensure that non-qualified individuals performing covered tasks are subject to close observation by a qualified individual. Ultimately, the qualified member of the crew is responsible for the repair. The ratio of non-qualified individuals to a ''qualified'' individual, should be kept to a minimum.

Paragraph (d) requires the operator to evaluate an individual if the operator has reason to believe that the individual's performance of a covered task could have contributed to an incident as defined in 49 CFR part 191 or accident as defined in 49 CFR part 195. If so, the individual's qualification should be evaluated to determine if the individual continues to be qualified to perform the covered task.

Paragraph (e) requires the operator to evaluate an individual if there is reason to believe that the individual is no longer qualified to perform a covered task. This could occur if the individual displays unsatisfactory performance of the task, or if there is reason to believe the individual no longer can perform the task. The operator's qualification program must include provisions for evaluating an individual's qualification if the circumstances warrant.

Paragraph (f) recognizes that changes may occur that impact how a covered task is performed. Changes that may need to be communicated to individuals performing covered tasks may include:

- Modifications to company policies or procedures.
- Changes in state or Federal regulations.
- Utilization of new equipment and/or technology.
- New information from equipment or product manufacturers.

The proposed rule requires that the qualification program include provisions for communicating information on substantive changes to the individuals performing the affected covered tasks. When significant changes occur, the operator should consider whether additional qualification requirements are necessary and whether individuals performing the covered task should be evaluated again.

Paragraph (g) addresses whether an individual's qualification to perform a covered task should be subject to evaluation at appropriate intervals. The appropriate interval may vary depending on the task. It was therefore left to the operator to determine which tasks and the interval at which subsequent qualification of an individual performing a covered task will occur. The Committee felt that the evaluation intervals could be specified in units of time, frequency of task performance or other appropriate units. The Committee recognized that subsequent evaluation methods may differ from initial qualification methods.

This rule does not require that the written qualification program be incorporated into an operator's Operations and Maintenance Plan. The operator may expand any of the seven required elements and add additional elements to their program but will only be held accountable to meet the requirements of this Subpart.

VII. Recordkeeping

Under the proposed rule, each operator is required to maintain records that demonstrate compliance. The Committee had considerable discussion regarding records content, records to be retained, and length of retention.

The records that support an individual's qualifications must include the identity of each qualified individual (for example name, social security number, or employee number, etc. may be used), identification of each covered task for which qualified, date(s) of current qualification and qualification method(s). Records of an individual's current qualifications must be maintained while the individual is

performing the covered tasks for which qualified. When an individual is evaluated for subsequent qualification, the prior qualification records must be maintained for a period of five years. Also, when an individual stops performing a covered task (i.e., the individual retires, is promoted, etc.) the individual's qualification records that were current at that time must be retained for a period of five years. The Committee selected five years to be consistent with other regulatory time periods. The records may be kept in paper, electronic, or any other appropriate format. The records may be kept at a central location or at multiple locations.

The proposed rule does not address whether a certification or other record of qualification need be issued to each qualified individual. This matter is solely within the discretion of the operator.

VIII. General

Development and implementation of a qualification program will take some operators longer than others. Many operators currently have adequate processes or programs to ensure the qualification of individuals working on their pipeline systems. However, to ensure that this proposed rule is enforceable, definitive time frames must be specified. The Committee decided that 18 months would be sufficient time to develop a written qualification program.

An operator will have three years from the effective date of the final rule to complete the qualification of all individuals performing covered tasks on its system. This will allow operators with more limited resources and differing budget cycles adequate time to complete the qualification process. Those operators who are able to comply before the mandatory compliance date are encouraged to do so. The rule does not intend to penalize early compliance. Therefore, the starting time for subsequent evaluation intervals determined by the operator is not required to begin until the compliance date.

Finally, work performance history review will only be allowed as the sole method of evaluation during the three-year time period prior to mandatory compliance with the rule. After this time, work performance history review will be an acceptable method of evaluating individuals only in combination with another evaluation method.

Rulemaking Analyses and Notices

Executive Order 12866

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. The proposal is considered significant under the Department of Transportation Policies and Procedures (44 FR 1103, February 26, 1979) because of the substantial interest expressed by the pipeline industry, state and Federal agencies, and Congress. This section summarizes the conclusions of the draft regulatory evaluation. Copies of the draft regulatory evaluation are available for review and copying. Several groups, including the Congress, the National Transportation Safety Board, and the National Association of State Pipeline Safety Representatives, have called repeatedly for a pipeline personnel qualification rule.

This proposal is the product of a negotiated rulemaking in which all major interested parties to the rule participated, including trade associations, pipeline operators both large and small, organized labor, state pipeline representatives, and the Federal government. Members of the negotiated rulemaking committee all agreed that this process ensured that a cost-effective alternative for pipeline qualification was adopted. The American Gas Association (AGA) and other participants in the negotiated rulemaking contributed to estimations of the cost of this proposal. RSPA adjusted the cost estimates to provide an annualized cost estimate for the entire industry. Based on an estimated 175,000 covered pipeline employees (AGA estimate), including both operator employees and contractors, AGA provided three distinct cost categories for compliance with the proposed rule by gas and hazardous liquid pipeline operators:

1. Cost for qualification program set-up, $210 million
2. Cost of transitional evaluation and qualification, $140 million
3. Cost of subsequent evaluation and qualification, $87.5 million

RSPA estimated that a qualification program would be effective for a minimum of 10 years. Therefore, RSPA amortized the set-up costs over 10 years using a 7% interest rate for an annualized cost of $29.3 million for program development and initial qualification.

The transitional qualification was amortized over a six year period (three years before the effective date of the regulation that requires initial qualification, and an estimated three years before subsequent qualification) at 7% for an annualized transitional qualification of $28.6 million.

On average, qualification for various covered tasks would be reviewed approximately every three years. Therefore, the next qualification (and each subsequent qualification) is amortized over three years at 7% or an annual subsequent qualification cost of $32.4 million.

The result of these calculations is a cost of $57.9 million per year for the years 1–6 ($29.3 million + $28.6 million)and a cost of $61.7 million per year for years 7–10 ($29.3 million + 32.4 million). The average annual cost for compliance with the proposed rule is approximately $59 million.

The preamble to this proposed rule notes that the intent of the qualification rule is to ensure a qualified workforce and to reduce the probability and consequences of accidents caused by human error. Investigations of pipeline incidents/accidents clearly attributable to human error often indicate a deficiency of knowledge or skill (i.e., lack of qualification) on the part of pipeline personnel. However, the impact of inadequate qualification of pipeline personnel is not always apparent. For example, incidents/accidents that operators attribute to equipment failure or corrosion may actually have been set in motion by poorly performed operation or maintenance procedures. Although many state pipeline safety representatives have stated that this proposal will reduce incidents/accidents by ensuring a qualified workforce, they concede that the task of quantifying that reduction is very difficult.

In 1997, there were a total of 363 reportable pipeline incidents/accidents. Of these, 105 were directly attributable to human error. This data shows that human error played a direct role in 29% of reportable pipeline failures in 1997. These incidents/accidents resulted in six fatalities (cost-approximated at $16 million), 37 injuries (cost-approximated at $18 million), and $15 million in property damage, resulting in a total estimated monetized loss of $49 million. In fact, human error frequently is not cited as a contributing factor in incident/accident investigations, even though it is recognized that human error underlies nearly all pipeline failures to some degree. Although the quantifiable benefits directly attributable to operator personnel error do not exceed the annualized cost of the rule, we believe the nonquantifiable benefits (as explained below) will exceed the cost.

Perhaps the most important factor to consider when assessing the benefits of this proposal is that very few pipeline failures occur without some degree of human error. However, as stated above, available data does not always capture the contribution of human error. For example, in 1997, there were 88 reportable incidents attributed to outside force damage in the natural gas pipeline industry. Although the data reflects outside force damage as the cause of the incidents, human error is inherently present in most outside force damage. For instance, the outside force damage may have resulted from a pipeline worker not following local one-call system procedures or from improper marking of the pipeline prior to excavation. These scenarios show the difficulty in quantifying the benefits of this proposed rule, because the pipeline incident data does not always accurately describe the role of human error. (Of course, some outside force damage extends outside the scope of this proposed rule, as when a third party disregards one-call procedures.)

Although quantifying all the benefits of an operator qualification rule is impossible, RSPA believes that the overall benefits exceed the costs of the rule. Although relatively few fatalities and injuries occur each year from pipeline failures, the potential exists for significant, and very costly, disasters.

For example, on March 23, 1994, a natural gas pipeline explosion destroyed eight apartment buildings in Edison, New Jersey. Although deaths and injuries were limited, total damages exceeded $25 million. The investigation did not cite operator personnel qualification as a direct contributing factor, but this incident demonstrates the extent of loss that can result from a pipeline incident/accident. This proposed rule will help reduce the likelihood of such large-scale disasters.

Other nonquantifiable benefits of this proposed rule include improved worker productivity and reduced down-time for pipeline operators because of improved worker performance. This should directly translate into reduced operating expenses. Finally, documentation of a qualified workforce should improve operator public relations and lead to reduced litigation costs because pipeline operators will be able to demonstrate that their employees and contractors possess the required skills to safely perform operations and maintenance activities. RSPA provides further analysis for its conclusion that this proposed rule will have a positive benefit/cost in its ''Regulatory Evaluation.''

Comments concerning the costs and benefits of this proposed rule can be sent to the dockets office, referenced at the beginning of this notice.

Regulatory Flexibility Act

The Negotiated Rulemaking Committee unanimously agreed that all operators, regardless of size, should be subject to the proposed rule. One of the participants in the negotiated rulemaking was a representative of the American Public Gas Association (APGA). The APGA represents municipal gas distribution companies, the main group of small entities in the pipeline industry. Very few small entities can be found among hazardous liquid and gas transmission companies because these businesses tend to be large, heavily capitalized firms. In conversations between RSPA and APGA, APGA indicated that as a trade association it would make itself available to assist its members in complying with this proposed rule.

As indicated in the regulatory evaluation, many resources exist to assist both small and large operators in compliance with this proposal, including classes from DOT's Transportation Safety Institute, nonprofit industry associations, as well as for profit companies. Additionally, while some costs such as the development of the qualification program is on a per company basis, the actual qualification will be on a per employee basis. As a result, costs incurred by smaller companies should be less than those incurred by larger companies.

Further, the Committee considered the flexibility that this proposed rule allows in terms of permitting each company to tailor its worker qualification program to its own unique needs, and would allow small operators to interact with inspectors to evaluate and modify their qualification programs if necessary. Because of this flexibility, the availability of assistance in developing qualification plans, the fact that much of the cost will be proportionate to the number of employees, and the fact that very few small entities can be found among hazardous liquid and gas transmission companies, I certify that this proposal will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This NPRM contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has submitted a copy of this section to the Office of Management and Budget for its review.

The public information and recordkeeping burden for this collection of information is estimated to be 2.2 million hours annually (6.6 million hours/3 years = 2.2 million per year). The total number of respondents is estimated to be 50,000. The average number of hours per respondent is 44 (2.2 million hours/50,000 = 44 hours).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Office for U.S. Department of Transportation. Comments should be sent within 30 days of the publication of this NPRM.

The Department considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical use.

Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

Enhancing the quality, usefulness, and clarity of the information to be collected: and

Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by the OMB.

For more details see the Paperwork Reduction Act Analysis available for copying and review in the public docket.

Executive Order 12612

This proposed rule has been analyzed with the principles and criteria in Executive Order 12612 (''Federalism'') (52 FR 41685), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rule.

List of Subjects

49 CFR Part 192

Natural gas, Pipeline Safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Hazardous liquids, Petroleum, Pipeline safety.

In consideration of the foregoing, RSPA hereby proposes to amends 49 CFR parts 192 and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 10110, 60113, and 60118; and 49 CFR 1.53.

2. Subpart N is proposed to be added to read as follows:

Subpart N—Qualification of Pipeline Personnel

Sec.
192.801 Scope.
192.803 Definitions.
192.805 Qualificaiton Program.
192.807 Recordkeeping.
192.809 General.

Subpart N—Qualification of Pipeline Personnel

§ 192.801 Scope.

(a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

(1) Is performed on a pipeline facility;

(2) Is an operations or maintenance task;

(3) Is performed as a requirement of this part; and

(4) Affects the operation or integrity of the pipeline.

§ 192.803 Definitions.

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may indicate a condition exceeding design limits or result in a hazard(s) to persons, property, or the environment.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following: written examination; oral examination; work performance history review; observation during:

(1) Performance on the job,

(2) On the job training,

(3) Simulations; or other forms of assessment.

Qualified means that an individual has been evaluated and can:

(1) Perform assigned covered tasks; and

(2) Recognize and react to abnormal operating conditions.

§ 192.805 Qualification Program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) Identify covered tasks;

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in part 191 of this chapter;

(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(f) Communicate changes that affect covered tasks to individuals performing those tasks; and,

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

§ 192.809 General.

(a) Operators must have a written qualification program by {INSERT DATE 2018 MONTHS AFTER PUBLICATION OF FINAL RULE}.

(b) Operators must complete the qualification of individuals performing covered tasks by {INSERT DATE 38 MONTHS AFTER PUBLICATION OF FINAL RULE}.

(c) After {INSERT DATE 38 MONTHS AFTER PUBLICATION OF FINAL RULE} work performance history may not be used as a sole evaluation method.

PART 195—[AMENDED]

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

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

4. Section 195.043 would be revised to read as follows:

§ 195.403 Emergency Response Training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) Carry out the emergency procedures established under § 195.402 that relate to their assignments;

(2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

(3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

(4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage.

(5) Learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition; and,

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

(1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and

(2) Make appropriate changes to the emergency response training program as necessary to ensure that it is effective.

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of

the emergency response procedures established under § 195.402 for which they are responsible to ensure compliance.

5. Subpart G is proposed to be added to read as follows:

Subpart G—Qualification of Pipeline Personnel

Sec.
195.501 Scope.
195.503 Definitions.
195.505 Qualification Program.
195.507 Recordkeeping.
195.509 General.

Subpart G—Qualification of Pipeline Personnel

§ 195.501 Scope.

(a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

(1) Is performed on a pipeline facility;

(2) Is an operations or maintenance task;

(3) Is performed as a requirement of this part; and

(4) Affects the operation or integrity of the pipeline.

§ 195.503 Definitions.

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may indicate a condition exceeding design limits or result in a hazard(s) to persons, property, or the environment.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following: written examination; oral examination; work performance history review; observation during:

(1) Performance on the job,

(2) On the job training,

(3) Simulations; or other forms of assessment.

Qualified means that an individual has been evaluated and can:

(1) Perform assigned covered tasks; and

(2) Recognize and react to abnormal operating conditions.

§ 195.505 Qualification Program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) Identify covered tasks;

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in this part 195;

(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(f) Communicate changes that affect covered tasks to individuals performing those tasks; and

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

§ 195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

§ 195.509 General.

(a) Operators must have a written qualification program by {INSERT DATE 20 MONTHS AFTER PUBLICATION OF FINAL RULE}.

(b) Operators must complete the qualification of individuals performing covered tasks by {INSERT DATE 38 MONTHS AFTER PUBLICATION OF FINAL RULE}.

(c) After {INSERT DATE 38 MONTHS AFTER PUBLICATION OF FINAL RULE} work performance history may not be used as a sole evaluation method.

Issued in Washington, DC on October 21, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

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