

Dated: November 20, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: November 23, 2009.

Kathleen Sebelius,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 192, 195 and 198

[Docket No. PHMSA-2009-0265; Amdt Nos. 190-15; 192-111; 195-92, 198-5]

RIN 2137-AE51

Pipeline Safety: Editorial Amendments to the Pipeline Safety Regulations.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor changes in the regulatory text, reflects changes in governing laws, and improves the clarity of certain provisions in the pipeline safety regulations. This rule is intended to enhance the accuracy and reduce misunderstandings of the specified regulations. The amendments contained in this rule are non-substantive changes.

DATES: *Effective date:* The effective date of this final rule is January 29, 2010.

FOR FURTHER INFORMATION CONTACT:

Dana Register at (202) 366-4046.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA regularly reviews the Pipeline Safety Regulations (49 CFR Parts 186-199) to identify typographical errors, outdated contact information, or similar errors. In this final rule, we are correcting typographical errors; incorrect CFR references and citations; and clarifying certain regulatory requirements. Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary.

II. Amendments Included in This Final Rule

A. In 49 CFR 190.3, which contains definitions, we are now updating the location of the Eastern Regional Office to reflect a recent location change.

1. In § 190.3, under the definition of “Regional Director” we are correcting the Eastern Regional Office location by replacing the location “Washington, DC” with “Trenton, NJ.”

B. On October 17, 2008, PHMSA issued a final rule, under Docket No. PHMSA-2005-23447, that amended the Pipeline Safety Regulations (49 CFR Parts 186-199) to prescribe safety requirements for the operation of certain gas transmission pipelines at pressures based on higher operating stress levels. The rule allowed for an increase of maximum allowable operating pressure (MAOP) over that previously allowed in the regulations for pipelines that could meet certain criteria. On December 1, 2008, PHMSA stayed the effective date of this final rule until December 22, 2008 (73 FR 72737).

We are now correcting several editorial errors that we discovered after this final rule was published. Specifically:

2. In § 192.112, we are correcting paragraph (c)(2)(i) by replacing the phrase “[the effective date of the final rule]” with “December 22, 2008.”

3. In § 192.112, we are correcting paragraph (e)(2) by replacing the phrase “November 17, 2008” with “December 22, 2008.”

4. In § 192.620, we are correcting the following paragraphs:

(a) In paragraph (a)(1)(i), we are replacing the phrase “November 17, 2008” with “December 22, 2008”;

(b) In footnote 1 of paragraph (a)(2)(ii), we are replacing the phrase “November 17, 2008” with “December 22, 2008”

(c) In paragraph (b)(3), we are adding a reference to § 192.620(d)(3) to clarify the intent with respect to remotely operable valves;

(d) In paragraph (b)(7) we are replacing the phrase “November 17, 2008” with “December 22, 2008”;

(e) In paragraph (c)(4)(ii) we are replacing the phrase “November 17, 2008” with “December 22, 2008”;

(f) In paragraph (c)(6), we are clarifying that the construction requirements only apply to construction that occurred after the effective date of this rule, December 22, 2008;

(g) In paragraph (d)(3)(i), we are correcting the reference from “(d)(1)(i)” to “(d)(2)(i)”;

(h) In paragraph (d)(5)(iv), we are clarifying the language to note that sampling of accumulated liquids is required whenever cleaning pigs are used and corrosion inhibitors are required if corrosive gas or liquids are present;

(i) In paragraph (d)(7)(iii), we are correcting the reference to “paragraph

(8)” to “(d)(9)” and the reference from “(6)(i)” to “(d)(7)(i)”;

(j) In paragraph (d)(7)(iv)(C), we are correcting the reference from “(d)(8)” and “(d)(9)” to “(d)(9)” and “(d)(10)”;

(k) In paragraph (d)(8)(ii), we are clarifying that a close interval survey must be used to confirm restoration of cathodic protection unless the problem is a rectifier connection or power input remediation that can be verified by other means.

(l) In the introductory text of (d)(9)(i), we are correcting the reference from “(d)(8)(iii)” to “(d)(9)(iii)”;

(m) In paragraph (d)(9)(ii), we are correcting the reference from “(d)(8)(iii)” to “(d)(9)(iii)”;

(n) In paragraph (d)(10)(ii), we are correcting the reference from “(d)(9)(i)” to “(d)(10)(i)”;

(o) In paragraph (d)(10)(iii), we are correcting the reference from “(d)(8)(iii)” to “(d)(9)(iii)”;

(p) In paragraph (d)(11)(ii)(A), we are correcting the reference from “(d)(8)” to “(d)(9)”;

(q) In the introductory text of (d)(11)(iii), we are correcting the reference from “(d)(10)(ii)” to “(d)(11)(ii)”;

(r) In paragraph (d)(11)(iv), we are correcting the reference from “(d)(10)(ii) or (iii)” to “(d)(11)(ii) or (iii).”

C. On December 24, 2008, PHMSA issued a final rule under Docket No. PHMSA-2005-21305, that amended the pipeline safety regulations to allow operators to design pipelines made from new Polyamide-11 (PA-11) thermoplastic pipe using a higher design factor and to raise the design pressure limit for such pipelines. PHMSA believes that the current wording in 49 CFR 192.121 could be incorrectly interpreted to mean that the 0.40 design factor is not limited only to PA-11 pipe. Therefore, PHMSA has concluded that the formula should be clarified so that the 0.40 design factor only applies to PA-11. Therefore, we are making the following clarification:

“= 0.40 for PA-11 pipe produced after January 23, 2009 with a nominal pipe size (IPS or CTS) 4-inch or less, SDR-11 or greater (i.e. thicker pipe wall).”

D. In section 195.12, we are redesignating paragraph (d), entitled Record Retention, as paragraph (e).

E. The laws governing pipeline safety regulation provide the authority for PHMSA to issue grants to states to carry out pipeline safety programs under certification or agreement. The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Pub. L. 109-468) modified 49 U.S.C. 60107 to increase the maximum allowed amount

for such grants from 50 percent to 80 percent of the costs incurred by states for their safety programs. Accordingly, PHMSA is modifying 49 CFR 198.11, which implements this statutory mandate, to reflect the increase in the allowed maximum amount for grants.

III. Regulatory Analyses and Notices

A. Statutory Authority for Rulemaking

This final rule is published under the authority of 49 U.S.C. 60101 *et seq.* Specifically, 49 U.S.C. 60102(a) authorizes the Secretary of Transportation to prescribe regulations related to pipeline safety.

B. Executive Order 12866 (Amended by E.O. 13258 and E.O. 13422) and DOT Regulatory Policies and Procedures

This final rule is not a significant action under section 3(f) of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget. This final rule is also not a significant action under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

C. Executive Order 13132, Federalism (64 FR 43255, Aug. 10, 1999)

PHMSA has analyzed the rulemaking according to the principles and criteria of Executive Order 13132. The final rule makes editorial corrections and therefore will not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule does not impose substantial direct compliance costs on State or local governments and therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule will not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply. A tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule will not impose increased compliance costs on the regulated industry. The revisions and corrections we are making to the October 17, 2008, and December 24, 2008, final rules (Docket Nos. PHMSA-2005-23447 and PHMSA-2005-21305) are clerical and do not impose an additional impact on any small business. The changes we are making to Part 198 affect grant amounts awarded to states. Thus, DOT has determined that this final rule will not have a significant impact on a substantial number of small entities. Therefore, I certify under section 605 of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to ensure that the potential impacts of rulemakings on small entities are properly considered.

F. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. Ch. 25). It does not result in costs of \$132 million or more in any one year 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 rulemaking.

G. Paperwork Reduction Act

This final rule imposes no new information collection and recordkeeping requirements and therefore the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) does not apply.

H. Executive Order 13211

This rulemaking is not a "significant energy action" under Executive Order 13211 since it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

K. The National Environmental Policy Act

The National Environmental Policy Act (42 U.S.C. Ch. 55) requires that Federal agencies analyze proposed actions to determine whether the action will have a significant impact on the human environment. PHMSA has analyzed the effects of this final rule. Since this rule makes editorial corrections and does not impose substantive changes, PHMSA has determined that there are no environmental impacts associated with this final rule.

List of Subjects

49 CFR Part 190

Administrative practices and procedures, Definitions, Penalties.

49 CFR Part 192

Design pressure, Incorporation by reference, Maximum allowable operating pressure, and Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 198

Grant programs, Formula, Pipeline safety.

■ In consideration of the foregoing, PHMSA amends 49 CFR parts 190, 192, 195 and 198 as follows:

PART 190—PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

- 1. The authority citation for part 190 continues to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 *et seq.*; 49 CFR 1.53.

- 2. In § 190.3, the definition of “Regional Director” is revised to read as follows:

§ 190.3 Definitions.

* * * * *

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 Trenton, NJ (Eastern Region); Atlanta, Georgia (Southern Region); Kansas City, Missouri (Central Region); Houston, Texas (Southwest Region); and Lakewood, Colorado (Western Region).

* * * * *

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

- 3. The authority citation for part 192 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118; and 60137; and 49 CFR 1.53.

- 4. In § 192.112, paragraphs (c)(2)(i) and (e)(2) are revised to read as follows:

§ 192.112 Additional design requirements for steel pipe using alternative maximum allowable operating pressure.

(c) * * *

(2) * * *

(i) An ultrasonic test of the ends and at least 35 percent of the surface of the plate/coil or pipe to identify imperfections that impair serviceability such as laminations, cracks, and inclusions. At least 95 percent of the lengths of pipe manufactured must be tested. For all pipelines designed after December 22, 2008, the test must be done in accordance with ASTM A578/A578M Level B, or API 5L Paragraph 7.8.10 (incorporated by reference, see § 192.7) or equivalent method, and either

* * * * *

(e) * * *

(2) Pipe in operation prior to December 22, 2008, must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 90 percent SMYS for 10 seconds.

* * * * *

- 5. Section 192.121 is revised to read as follows:

§ 192.121 Design of plastic pipe.

Subject to the limitations of § 192.123, the design pressure for plastic pipe is determined by either of the following formulas:

$$P = 2S \frac{t}{(D - t)} (DF)$$

$$P = \frac{2S}{(SDR - 1)} (DF)$$

Where:

P = Design pressure, gauge, psig (kPa).
S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73° F (23° C), 100° F (38° C), 120° F (49° C), or 140° F (60° C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2004, *HDB/PDB/SDB/MRS Policies* (incorporated by reference, see § 192.7). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa). [Note: Arithmetic interpolation is not allowed for PA-11 pipe.]

t = Specified wall thickness, inches (mm).

D = Specified outside diameter, inches (mm).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = 0.32 or

= 0.40 for PA-11 pipe produced after January 23, 2009 with a nominal pipe size (IPS or CTS) 4-inch or less, and a SDR of 11 or greater (i.e. thicker pipe wall).

- 6. In § 192.620, paragraphs (a)(1)(i), (a)(2)(ii), (b)(3), (b)(7), (c)(4)(ii), (c)(6), (d)(3)(i), (d)(5)(iv), (d)(7)(iii), (d)(7)(iv)(C), (d)(8)(ii), the introductory text of (d)(9)(i), (d)(9)(ii), (d)(10)(ii), (d)(10)(iii), (d)(11)(ii)(A), the introductory text of (d)(11)(iii), and (d)(11)(iv), are revised to read as follows:

§ 192.620 Alternative maximum allowable operating pressure for certain steel pipelines.

(a) * * *

(1) * * *

(i) For facilities installed prior to December 22, 2008, for which § 192.111(b), (c), or (d) applies, use the following design factors as alternatives for the factors specified in those paragraphs: § 192.111(b) – 0.67 or less; 192.111(c) and (d) – 0.56 or less.

* * * * *

(2) * * *

(ii) The pressure obtained by dividing the pressure to which the pipeline

segment was tested after construction by a factor determined in the following table:

Class location	Alternative test factor
1	1.25
2	¹ 1.50
3	1.50

¹ For Class 2 alternative maximum allowable operating pressure segments installed prior to December 22, 2008 the alternative test factor is 1.25.

(b) * * *

(3) A supervisory control and data acquisition system provides remote monitoring and control of the pipeline segment. The control provided must include monitoring of pressures and flows, monitoring compressor start-ups and shut-downs, and remote closure of valves per paragraph (d)(3) of this section;

* * * * *

(7) At least 95 percent of girth welds on a segment that was constructed prior to December 22, 2008, must have been non-destructively examined in accordance with § 192.243(b) and (c).

* * * * *

(c) * * *

(4) * * *

(ii) For a pipeline segment in existence prior to December 22, 2008, certify, under paragraph (c)(2) of this section, that the strength test performed under § 192.505 was conducted at test pressure calculated under paragraph (a) of this section, or conduct a new strength test in accordance with paragraph (c)(4)(i) of this section.

* * * * *

(6) If the performance of a construction task associated with implementing alternative MAOP that occurs after December 22, 2008, can affect the integrity of the pipeline segment, treat that task as a “covered task”, notwithstanding the definition in § 192.801(b) and implement the requirements of subpart N as appropriate.

* * * * *

(d) * * *

(3) * * *

(i) Ensure that the identification of high consequence areas reflects the larger potential impact circle recalculated under paragraph (d)(2)(i) of this section.

* * * * *

(5) * * *

* * * * *

(iv) Use cleaning pigs and sample accumulated liquids. Use inhibitors

when corrosive gas or liquids are present.

* * * * *

(7)

(iii) Within six months after completing the baseline internal inspection required under paragraph (d)(9) of this section, integrate the results of the indirect assessment required under paragraph (d)(7)(i) of this section with the results of the baseline internal inspection and take any needed remedial actions.

(iv) * * *

* * * * *

(C) Integrate the results with those of the baseline and periodic assessments for integrity done under paragraphs (d)(9) and (d)(10) of this section.

(8) * * *

* * * * *

(ii) After remedial action to address a failed reading, confirm restoration of adequate corrosion control by a close interval survey on either side of the affected test station to the next test station unless the reason for the failed reading is determined to be a rectifier connection or power input problem that can be remediated and otherwise verified.

* * * * *

(9) * * *

(i) Except as provided in paragraph (d)(9)(iii) of this section, for a new pipeline segment operating at the new alternative maximum allowable operating pressure, perform a baseline internal inspection of the entire pipeline segment as follows:

* * * * *

(ii) Except as provided in paragraph (d)(9)(iii) of this section, for an existing pipeline segment, perform a baseline internal assessment using a geometry tool and a high resolution magnetic flux tool before, but within two years prior to, raising pressure to the alternative maximum allowable operating pressure as allowed under this section.

* * * * *

(10) * * *

* * * * *

(ii) Conduct periodic internal inspections using a high resolution magnetic flux tool on the frequency determined under paragraph (d)(10)(i) of this section, or

(iii) Use direct assessment (per § 192.925, § 192.927 and/or § 192.929) or pressure testing (per subpart J of this part) for periodic assessment of a portion of a segment to the extent permitted for a baseline assessment under paragraph (d)(9)(iii) of this section.

(11) * * *

* * * * *

(ii) * * *

(A) The defect is a dent discovered during the baseline assessment for integrity under paragraph (d)(9) of this section and the defect meets the criteria for immediate repair in § 192.309(b).

* * * * *

(iii) If paragraph (d)(11)(ii) of this section does not require immediate repair, repair a defect within one year if any of the following apply:

* * * * *

(iv) Evaluate any defect not required to be repaired under paragraph (d)(11)(ii) or (iii) of this section to determine its growth rate, set the maximum interval for repair or re-inspection, and repair or re-inspect within that interval.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 7. The authority citation for part 195 is amended to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118, and 60137; and 49 CFR 1.53.

§ 195.12 [Amended]

■ 8. In section 195.12, the second paragraph designated as paragraph (d), “Record Retention” is redesignated as paragraph (e).

PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

■ 9. The authority citation for Part 198 continues to read as follows:

Authority: 49 U.S.C. 60105, 60106, 60107, 60114, and 49 CFR 1.53.

■ 10. Section 198.11 is revised to read as follows:

§ 198.11 Grant Authority.

The pipeline safety laws (49 U.S.C. 60101 *et seq.*) authorize the Administrator to pay out funds appropriated or otherwise make available up to 80 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

Issued in Washington, DC on November 20, 2009 under authority delegated in 49 CFR part 1.

Cynthia L. Quarterman,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0911161406–91407–01]

RIN 0648–AY37

Groundfish Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Western Alaska Community Development Quota Program; Recordkeeping and Reporting; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule, correction.

SUMMARY: This action corrects column headings of a regulatory table; provides replacements for outdated text; reinstates a paragraph which describes the Chiniak Gully Research Area; corrects footnotes and other errors in two tables; and corrects two maps. These errors should be corrected immediately to eliminate potential confusion by the regulated public. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

DATES: Effective November 30, 2009.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. With Federal oversight, the State of Alaska (State) manages the commercial king crab and Tanner crab fisheries under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (collectively, FMPs). The FMPs were prepared by the North Pacific Fishery Management Council and approved by the Secretary of Commerce under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* The FMPs are implemented by regulations at 50 CFR parts 679 and 680. General provisions governing fishing by U.S. vessels in accordance with the FMPs appear at subpart H of 50 CFR part 600.