



2016 Michigan Seminar

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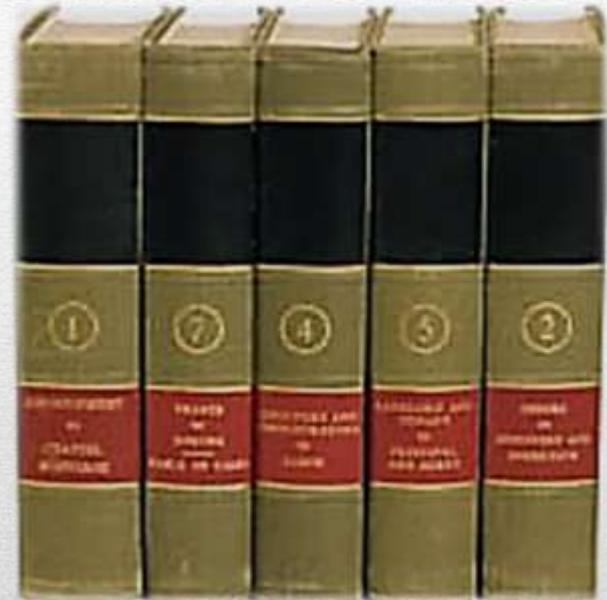
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Regulation Construction

- ◆ Part
- ◆ Subpart
- ◆ Section
- ◆ Paragraph
- ◆ Subparagraph





Types of Regulatory Language in Title 49 CFR Part 192



No Smoking

Specification
VS.
Performance





Specification Regulations

Advantages:

- ◆ Easy to Determine Compliance
 - ◆ Easy to Determine a Course of Action
 - ◆ Uniformity of Means of Compliance
-



Specification Regulations

Disadvantages



- ◆ Do Not Specify Level of Safety
- ◆ Do Not Allow for Variations in Environment, Operating, or Physical Characteristics
- ◆ May Require Unnecessary Cost
- ◆ Do Not Encourage Technology



Performance Regulations

Advantages

- ◆ Allow for Adaptation to an Individual Situation
 - ◆ Encourage Development of New Equipment
 - ◆ Allow Economical Solutions to Achieve the Desired Level of Safety
 - ◆ Promote Safety and Not the Letter of the Law
-



Performance Regulations

Disadvantages

- ◆ Difficult to Determine Compliance
- ◆ Some operators may not understand exactly what is required, and attempts to comply may result in problems that could
- ◆ Jeopardize safety





“Process” Regulations

Newer Initiatives ~ IM, OQ, PA

“Common Threads”

- ◆ **Formal Written Program**
 - ◆ **Management Commitment & Support**
 - ◆ **Defined Roles & Responsibilities**
 - ◆ **Use of Industry Standards**
 - ◆ **Long-term vs. Short-term**
 - ◆ **Monitoring Progress**
 - ◆ **Periodic Formal Evaluation & Review**
 - ◆ **Management of Change**
 - ◆ **Continuous Improvement**
-



Regulations

Layout

“Outline Format”

- ◆ Hierarchical layout
 - ◆ organizes the material by subject
 - ◆ underlying text defines the regulatory requirements for each code section
-



Regulations

Reading and Following the Flow

- ◆ Not just reading from the top to the bottom of the page
 - ◆ **Example:** 49 CFR §192.619 – requires moving through numerous sections of the code to get all the requirements
 - ◆ Paragraph §192.619(a)(1) refers back to Subparts C and D for the design requirements
 - ◆ Then §192.105 (under Subpart C) references six other code sections, which in turn refer to additional sections and back to the starting point
-



Regulations

Reading and Following the Flow

- ◆ Before starting to move back and forth through the code part, read the complete code section.
 - ◆ Exceptions or differing requirements for various types of pipelines or operators may be identified further on in the regulation.
-



Regulations

Reading and Following the Flow

- The grammar and construction of the phrases and sentences in the regulations must be examined to understand their full meaning.
 - The gas pipeline regulations have §192.15 rules of regulatory construction, to provide some guidance. It explains the following:
-



Rules of Regulatory Construction



- Includes**
 - May**
 - May Not**
 - Shall**
 - Singular - Plural**
 - Masculine - Feminine**
-



Rules of Regulatory Construction

- “(a) As used in this part:
 - “Includes” means “including but not limited to.”
 - “May” means “is permitted to” or “is authorized to.”
 - “May not” means “is not permitted to” or “is not authorized to.”
 - “Shall” is used in the mandatory and imperative sense.
 - (b) In this part:
 - (1) Words importing the singular include the plural;
 - (2) Words importing the plural include the singular; and,
 - (3) Words importing the masculine gender include the feminine.”
-



Rules of Regulatory Construction



- Part 193 for LNG has a similar section
 - However, Part 195 for hazardous liquids does not
 - However it is reasonable to conclude that the same concepts would apply
-



Rules of Regulatory Construction

Guideposts

- Two small words, **or** along with **and**, as well as the **semicolon** play a big part in defining regulatory requirements
-



Rules of Regulatory Construction

Guideposts

- The **semicolon** is used to link together all the clauses on the same outline level
 - If an **and** is used in the next to last clause, then all clauses are tied together with **and**
 - All the items listed are required
-



Rules of Regulatory Construction

Guideposts

- If an **or** is used, that is what ties the clauses together
 - Not all the items in the list may be required, or the operator may have a choice of actions for compliance
-



Rules of Regulatory Construction

Guideposts

- Paragraph (d) in the Public Awareness regulation (§192.616 and §195.440) is a good example, listing five educational elements of an operator's plan.
 - The **semicolon** along with an **and** in (d)(4) indicates that all five items are required elements.
-



Rules of Regulatory Construction

Guideposts

- The use of **OR** provides the operator with options or choices.
 - The definition of transmission line in §192.3 has three criteria for categorizing a pipeline as a transmission line.
 - All three criteria are contained in one paragraph as numbered phrases, but the use of **OR** in (2) indicates that a pipeline needs to meet only one of the criteria to be a transmission line.
-



Rules of Regulatory Construction

Guideposts

- A final example is the definition of “incident” from §191.3 which combines both **and** and **or**.
 - This definition require a “a release of gas” **and** at least one of three additional criteria.
 - The “accident” definition in §195.50 is worded somewhat differently, but still requires a release **and** any one of several additional events.
-



- **ANPRM** – Advance Notice of Proposed Rulemaking
 - Used to gather information
- **NPRM** – Notice of Proposed Rulemaking
 - Defines intent and scope of proposed regulations
- **SNPRM** – Supplemental Notice of Proposed Rulemaking
 - Additions to, or changes in, intent or scope

Rulemaking Acronyms



- **IFR** – Interim Final Rule
 - Typically used for an identified safety issue
- **FR** – Final Rule
 - Implementation date, depending on significance of regulation and time to implement
- **DFR** – Direct Final Rule
 - Used for non-controversial issues

Rulemaking Acronyms



Rulemaking Process

Where can I find information on the Status of rulemakings?

<http://www.phmsa.dot.gov/pipeline/regs>

Then select from the “Rulemaking Menu” on the upper right area of the page:

- Rulemaking Home
- Rulemaking Archives
- Rulemaking Pending



Special Permits



Operator can be Waived from Compliance with a Safety Standard by means of a Special Permit

Intrastate - Petition to State

Interstate - Petition to Regional Office



Alert Notices & Advisory Bulletins

- Alert Notices, a notice of a situation of immediate safety concern
- Advisory Bulletins, an advisory not of immediate safety concern.





Alert Notices & Advisory Bulletins

- Advisory Bulletins - an advisory of a safety concern that an operator should follow as it applies to their facilities and operations matters that have potential to become safety or environmental risks





Alert Notices & Advisory Bulletins

ADB–2016-03

To: Owners and Operators of Petroleum Gas and Natural Gas Facilities in Areas subject to Heavy Snowfall or Abnormally icy Weather.

Advises owners and operators of the need to take appropriate steps to prevent damage to pipeline facilities from accumulated snow or ice. Past events on natural gas distribution system facilities appear to have been related to either stress of snow and ice or the malfunction of pressure control equipment due to ice blockage of pressure control equipment vents. Take precautionary actions.



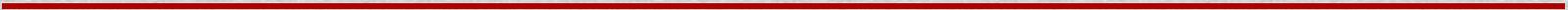
For Better Understanding

- Interpretations offer some clues
 - only apply only to the specific situation addressed in each operator's request.
 - Special Permits and Advisory Bulletins can also be used to further interpret the objective of the regulation.
 - These types of documents do not exist for every code section.
-



For Better Understanding

- Reading the words is easy.
- Understanding of a rule and its intent for compliance requirements can be a long and multifaceted process.





For Better Understanding

- Reading the regulation in its entirety, paying close attention to the small details, as well as other available documents, are all necessary tasks in understanding and complying with the regulations.
-



Information Available from PHMSA

- Latest News
 - Training Calendar
 - Joint Industry Training
 - Operator Qualification
 - Resource Links
 - Regulatory Information
 - Codes
 - Pipeline Safety Laws
 - Federal Regulatory Information
-



PHMSA Information Websites

PHMSA Training and Qualifications

<http://www.phmsa.dot.gov/pipeline/TQ>

PHMSA Pipeline Safety Regulations

<http://www.phmsa.dot.gov/pipeline/TQ/Regulations>

PHMSA Rulemaking

<http://www.phmsa.dot.gov/pipeline/regs/rulemaking>



Websites

Advisory Bulletins

<http://phmsa.dot.gov/pipeline/regs/advisory-bulletin>



API expands access to its safety standards

- The American Petroleum Institute and other industry groups provide free online public access to a large group of key industry standards, including a broad range of safety standards.
 - 160 standards are being made available online, and represent almost one-third of all API standards.
 - Will include all that are safety-related or have been incorporated into federal regulation.
-



Should or May Shall or Must

Incorporated by Reference or IBR documents, “should” is “must” unless written justification why not practicable/necessary for safety

Enforcement Guidance

Various enforcement guidance is available at:

<http://phmsa.dot.gov/foia/e-reading-room>

Includes O&M, OQ, Corrosion, Public Awareness

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Electronic Reading Room

Only Reading Room records created on or after November 1, 1996, are required to be made available electronically.

Other Reading Room records maintained by PHMSA can be accessed from the following conventional (paper) Reading Room(s):

DOT Dockets Office | A computer terminal and printer are available at this location for accessing Electronic Reading Room records.
1200 New Jersey Ave, SE
Room W12-140
Washington, D.C. 20590

10:00-17:00 ET
Monday through Friday,
except Federal holidays.

For access, call 202-366-9322, 202-366-9626, or 800-647-5527

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This Electronic Reading Room notes four categories of records under the Freedom of Information Act (FOIA):

I. Final Opinions and Orders

- » [Hazmat Decisions on Appeal](#)
- » [Hazmat Orders of the Chief Counsel](#)
- » [Pipeline Final Orders \(2002-Present\)](#)
- » [Pipeline Corrective Action Orders \(2002-Present\)](#)
- » [Pipeline Closed Notices of Amendment \(2002-Present\)](#)
- » [Pipeline Compliance Documents \(pre-2002\)](#)

II. Policy Statements

- » [Hazmat Interpretations](#)
- » [Pipeline Interpretations](#)
- » [Unsolicited Proposal Policy](#)
- » [SBREFA Policy](#)
- » [Hazmat Systems Integrity Safety Program Policy](#)
- » [Web Policies](#)

III. Staff Manuals and Instructions

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Supporting Community Response

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- Incident Reporting

PHMSA Resources

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- ePayments
- Glossary
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Enforcement Guidance

Enforcement Guidance	O&M Part 192
Revision Date	09-28-2011
Code Section	§192.703
Section Title	General
Existing Code Language	<p>(a) No person may operate a segment of pipeline, unless it is maintained in accordance with this subpart.</p> <p>(b) Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service.</p> <p>(c) Hazardous leaks must be repaired promptly.</p>
Origin of Code	Original Code Document, 35 FR 13248, 08-19-70
Last Amendment	
Interpretation Summaries	<p>Interpretation: PI-ZZ-065 Date: 05-22-1998</p> <p>The only safety standard in Part 192 that governs the maintenance of service line valves is §192.703(b). This section requires the repair, replacement, or removal from service of any segment of pipeline, including a valve that is unsafe. Although the inability to operate a service line valve may be reason to apply §192.703(b), Part 192 does not require inspection of service line valves to see if they are operable.</p> <p>Interpretation: PI-89-021 Date: 09-27-1989</p> <p>The letter requested clarification of our August 31, 1989, letter regarding protection for offshore pipelines. The requirements of 49 CFR 192.317(a) applies to conditions known or that can be foreseen at the time of construction. Thereafter, an operator does not have a continuing obligation under this rule to provide protection against hazards from changed or new conditions. However, if the operator learns the pipeline has become unsafe due to these changed or new conditions, the operator would</p>

Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	GPTC Guide Material is available.
Guidance Information	<ol style="list-style-type: none"> 1. Operators need to repair of conditions that are "unsafe" or "could adversely affect the safe operation of [the] pipeline system," but do not specify a time period in which the required repairs must be made. 2. Operator needs to define hazardous leak. Part 192 Subpart P defines hazardous leaks. While this definition is only applicable to distribution systems, it may provide guidance for defining hazardous leaks. See §192.711 for additional guidance material. 3. Operator needs to have a leak classification system if all leaks are not repaired promptly. 4. Operator needs to have written procedures for leak classification and defining required repairs including time frames for performing repairs. 5. Operator must have a process for documenting leaks.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The lack of a procedure is a violation of §192.605. 2. The lack of records is a violation of §192.603. 3. The operator did not follow written procedures. 4. Operator does not have a leak classification process. 5. Pipelines known to be unsafe are not repaired. 6. Operator did not perform repairs in a timely manner or in accordance with their procedures.



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Inspector Training & Qualifications Division

The Pipeline Safety Inspector Training and Qualifications Division (TQ) offers a wide variety of training activities designed to familiarize government and industry personnel with the requirements of pipeline safety regulations and to educate Federal and State pipeline safety inspectors in the application of compliance requirements, inspection techniques, and enforcement procedures.

TQ provides nationwide training and technical assistance in support of the PHMSA Office of Pipeline Safety and their effort to promote safety in the transport of hazardous gases and liquids in the nation's pipelines. These activities include in-depth classroom training at the Mike Monroney Aeronautical Center located in Oklahoma City, Oklahoma, as well as at various regional and State seminars.



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Latest News

- [Federal Register Notice on HMEP Fees](#)

Training Calendar

The following are upcoming calendar events with a focus on Pipeline Training.

All items viewed here and more are in the main [Pipeline calendar](#) as well as the [all-PHMSA calendar](#).

Quick List: Training Guides and Tools





Questions, Concerns, Omitted terms? Feel free to email us.

All Terms

Part 192

Part 195

668 PHMSA Terms

49 CFR Parts 192 and 195 & Inspector Web-based Training Terms

A B C D E F G H I J K L
M N O P Q R S T U V W X Y Z

- Includes terms defined in code and interpretations
- Technical documents and other IBR sources

Abandoned

Permanently removed from service

Source: §192.3, §195.2

Abandoned pipeline

A pipeline permanently removed from service that has been physically separated from its source of gas or hazardous liquid and is no longer maintained under regulation 49 CFR Parts 192 or 195, as applicable. Abandoned pipelines are usually purged of the gas or liquid and refilled with nitrogen, water, or a non-flammable slurry mixture.

Source: GPTC

Abnormal operating condition

A condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:



PHMSA Information Websites

PHMSA Training and Qualification

<http://www.phmsa.dot.gov/pipeline/tq>

PHMSA Pipeline Safety Regulations

<http://www.phmsa.dot.gov/pipeline/tq/regs>

PHMSA Rulemaking

[http://www.phmsa.dot.gov/pipeline/regs/
rulemaking](http://www.phmsa.dot.gov/pipeline/regs/rulemaking)



***Remember,
We're with the Government And
We're Here to Help!***



Pipeline Safety Websites

ops.dot.gov

primis.phmsa.dot.gov
