



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

AUG 11 2010

Mr. Joe M. Johnson  
Acting Bureau Chief  
New Mexico Public Regulation Commission  
Pipeline Safety Bureau  
1120 Paseo de Peralta  
Santa Fe, New Mexico 87504

Dear Mr. Johnson:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated October 19, 2009, you requested an opinion/interpretation on the requirements of § 192.619 and asked whether the current policy of the New Mexico Public Regulation Commission's Pipeline Safety Bureau (PSB) on determining maximum allowable operating pressure (MAOP) for intrastate gas pipelines regulated by the PSB is acceptable.

You stated that the PSB had recently performed compliance reviews involving older (pre-1970) gas pipelines for which the operators were unable to provide operating pressure records for the five year period preceding July 1, 1970. These operators are suggesting that they do not believe that they have to comply with the MAOP requirements of § 192.619(a)(3) on the grounds that the lines are pre-code. You stated that in some cases, this had resulted in those operators attempting to establish MAOPs of their pre-code pipelines at a pressure higher than the pipeline had ever been known to operate at without pressure testing or uprating the pipeline.

You correctly stated that under Part 192, gas distribution and transmission pipelines operated prior to July 1, 1970, that were not pressure tested after July 1, 1965, and for which the operating pressure for the five years preceding July 1, 1970, cannot be documented, the pipeline would need to be pressure tested or uprated in order to establish a MAOP for the pipeline. However, you also stated that for a number of years it has been PSB's alternative practice to:

- a) Accept an affidavit from a person responsible for pipeline operations during that time period, attesting to the operating pressure during that period; or
- b) Require the operator to consult with PSB and select a substitute five year period, acceptable to the PSB in lieu of testing or uprating pre-1970 pipelines in § 192.619(a)(3).  
You stated that your internal policy in this regard is as follows:

- 1) PSB would review available operating records. PSB would choose operating records dating back as close to the five years preceding July 1, 1970, and would use operating records for the 1970's whenever possible;

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations do not create legally-enforceable rights or obligations and are provided to help the public understand how to comply with the regulations.

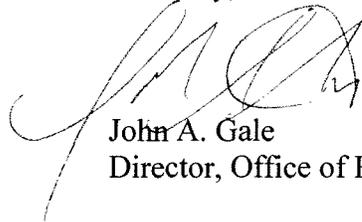
- 2) PSB would not accept operating records after the date an operator was inspected or cited for an MAOP violation as a substitute for the period specified in § 192.619(a)(3); and
- 3) If the pipeline operator and PSB cannot agree on a substitute pressure, the operator is given a reasonable amount of time to pressure test, uprate, or otherwise provide adequate documentation to support the intended MAOP.

We agree with PSB that gas distribution and transmission pipelines operated prior to July 1, 1970, that were not pressure tested after July 1, 1965, and for which operating pressure for the five years preceding July 1, 1970, cannot be documented, the pipeline would need to be pressure tested or uprated in order to establish a MAOP for the pipeline in accordance with Part 192.

Regarding PSB's alternative practice of accepting affidavits or other operating records in lieu of pressure testing or uprating of pipelines in the absence of pre-July 1, 1970 pipeline operating pressure data, we would note that Part 192 has no regulatory language to support the allowance of the PBS alternative practice. In order to establish a MAOP in a manner other than pressure testing or uprating in accordance with Subpart K of Part 192, an operator would have to seek a waiver and provide justification for its proposed alternative approach.

I hope that this information is helpful to you. If I can be of further assistance, please contact me at (202) 366-4046.

Sincerely,



John A. Gale  
Director, Office of Regulations



## PHP Controlled Correspondence Sheet

**PHMSA Control Number :**

**Action Office: PHP- 30**

**PHP Control Number: 10-0016**

**Due Date:12/28/2009**

**Writer: Joe M. Johnson**

**Subject: : New Mexico Public Regulation Commission request an opinion/interpretation on the requirements of Section 192.619**

**Action: Opinion/interpretation**

<b>Date</b>	<b>Action</b>	<b>Action by</b>
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<b>Date</b>	<b>Note</b>	<b>Note by</b>
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For more information please contact:  
Glenda Marshall, [Glenda.marshall@dot.gov](mailto:Glenda.marshall@dot.gov)

OCT 28 2009

# NEW MEXICO PUBLIC REGULATION COMMISSION

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## CHIEF OF STAFF

Daniel "Danny" Mayfield

October 19, 2009

Mr. Jeff Wiese, Associate Administrator  
US DOT/PHMSA/OPS  
PHH-1  
1200 New Jersey Avenue, SE  
East Bldg., 2<sup>nd</sup> Floor  
Washington, DC 20590

Dear Mr. Wiese:

I am writing to request an opinion/interpretation on the requirements of Section 192.619 and whether our current policy on determining maximum allowable operating pressures (MAOPs) for pipelines is acceptable.

Recently we have had a couple of operators of older (pre-code) pipelines who have suggested that for pipelines operated prior to July 1, 1970, and operating records for the 5 years preceding July 1, 1970 are not available, that they do not have to comply with the requirements of Section 192.619(a,3). In some cases this has resulted in those operators attempting to establish MAOPs of their pre-code pipelines at a pressure higher than the pipeline has ever been known to operate at, without pressure testing or uprating the pipeline.

**In accordance with Section 192.619 What is the maximum allowable operating pressure for steel or plastic pipelines?**, with one exception as provided in paragraph (c) of 192.619, ***no person may operate a segment of steel or plastic gas distribution or transmission pipeline at a pressure that exceeds the lowest of the following:***

**(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of Part 192.**

**(2) The pressure obtained by dividing the pressure to which the segment was tested after construction as specified in paragraph 192.619(a,2).**

**(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding July 1, 1970, unless the segment was tested according to the requirements in paragraph 192.619(a,2) after July 1, 1965 or the segment was uprated according to the requirements in subpart K.**

**(4) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.**

It is our understanding that for gas distribution and transmission pipelines operated prior to July 1, 1970, that were not pressure tested after July 1, 1965, and operating pressure for the 5 years preceding July 1, 1970, is unknown the pipeline would need to be pressure tested or uprated in order to establish the Maximum Allowable Operating Pressure (MAOP) for the pipeline.

However, for a number of years it has been our practice to:

- a) Accept an affidavit from a person responsible for pipeline operations during that time period, attesting to the operating pressure during that period, or
- b) The operator must consult with the Pipeline Safety Bureau and may select a substitute 5 year period, acceptable to the Pipeline Safety Bureau, in lieu of testing or uprating pipelines that were operated prior to July 1, 1970, and the operator cannot document the highest operating pressure for the 5 years preceding July 1, 1970, as specified in Section 192.619(a,3). Our internal policy in this regard is as follows:
  - 1) Review available operating records. We will choose operating records dating back as close to the 5 years preceding July 1, 1970, and will try to find operating records for the 1970s, whenever possible. Those records have a higher probability of reflecting operating pressures for the period specified in Section 192.619(a,3).
  - 2) We will not accept operating records after the date an operator was inspected or cited for an MAOP violation as a substitute for the period specified in 192.619(a,3).
  - 3) If the pipeline operator and the Pipeline Safety Bureau cannot agree on a substitute pressure, the operator is given a reasonable amount of time to:
    - (a) pressure test,
    - (b) uprate, or
    - (c) provide adequate documentation to support the intended MAOP.

Is the above policy acceptable as an alternative to pressure testing or uprating, when records needed to demonstrate compliance with Section 192.619(a,3) are not available.

Sincerely,

A handwritten signature in black ink that reads "Joe M. Johnson". The signature is written in a cursive, flowing style.

Joe M. Johnson,  
Acting Bureau Chief