

(f) *Eligibility applications/delegation of procurement authority.* Bureau officials authorized to redelegate procurement authority shall make a written determination that the individual meets the standards set forth in this Subpart prior to granting the re delegation of authority. Eligibility determinations shall be based on documentation provided by the candidate. Applications shall include at a minimum a completed and signed SF 171 or equivalent that demonstrates training, experience, and education and a copy of the applicant's existing delegation of authority, if applicable, and the proposed delegation of authority. Applicants shall be responsible for submitting adequate documentation concerning education, training, and experience to enable the Bureau official to make a determination regarding the candidates' eligibility for a delegation of authority. Once approved, a copy of the re delegation and supporting documents shall be sent to the Office of the Procurement Executive for review (See JAR 2801.601(g)).

(g) *Existing delegations of authority.* Contracting officers having an existing re delegation of procurement authority on the effective date of this rule shall submit an application for review by the Bureau official within six months of the effective date of this regulation. Individuals holding existing re delegations of procurement authority who are ineligible for a delegation of authority based on the standards in this subpart may retain their existing re delegation for a period of two years from the effective date of this regulation while qualifying under the standards. If the individual fails to qualify for a delegation of authority during the two year period the delegation of authority shall be terminated by the procurement activity.

Existing re delegation shall not be changed to increase the dollar authority or remove other limitations until the individual is determine eligible under the prescribed standards.

(h) *Waivers.* It is recognized that implementation of a standards program may cause, particularly in its initial implementation, significant problems. Circumstances may exist beyond the individual's control that prevent a candidate from achieving training goals or agencies established staffing practices, particularly in field installations, may conflict, and not be subject to immediate practical resolution. To address these situations a waiver may be granted on an individual basis in accordance with the following procedures:

(1) Waivers may only be granted by the Procurement Executive.

(2) The request for a waiver must be in writing and contain a complete justification for the action requested. In addition, a plan must be submitted with the request setting forth a schedule of training if the lack of classroom training is the deficiency factor.

(3) Waiver requests shall be submitted by the individual authorized to grant the delegation of procurement authority.

(4) Waiver requests should be viewed as exceptional and only be made where no other practical solution can be found. In addition to the above requirements, a waiver request must demonstrate that the individual on whose behalf the request is made is, except for the specific deficiencies under the standards, qualified to perform as a contracting officer at the level requested.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-88; Amdt. 192-57]

Gas Pipeline Damage Prevention Programs

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTON: Final rule.

SUMMARY: One part of the current damage prevention rule requires operators, when advised of intended excavation, to give the excavator notice of whether there is or is not a buried pipeline in the area of excavation. This amendment deletes the requirement to give such notice when the operator does not have a pipeline in the area of intended excavation. This final rule will reduce the burdens and costs to pipeline operators, particularly those who comply with the current rule by participating in "one-call" systems. The amendment will enhance the effectiveness of established "one-call" systems by providing uniformity of response procedures for all utility participants.

EFFECTIVE DATE: The effective date of this final rule is September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 368-4561, regarding the content of this final rule or the Dockets Branch, (202) 368-5046,

regarding other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Beginning April 1, 1983, operators of gas pipelines were required to conduct or participate in damage prevention programs to reduce the risk of excavation damage to buried pipelines in populated areas (47 FR 13818, April 1, 1982). Section 192.614(b) sets forth key elements of the programs, some of which are: Receiving notice about pending excavations, advising persons giving notice whether there are pipelines in the areas of excavation, and temporarily marking any pipelines in those areas.

To publicize the program and provide a means for receiving notices of planned excavation, most gas pipeline operators participate in "one-call" systems. These systems, which may be run by governmental or private entities, advertise a single telephone number for all excavators in a region to call to tell pipeline and other underground utility operators of the time and place of intended excavations. Information received by the "one-call" system is then relayed to participating utility operators. Operators who do not participate in "one-call" systems are required to publicize their individual damage prevention programs and provide for receipt of notices on their own.

Following implementation of new damage prevention program rule, RSPA noted problems with the program requirement in § 192.614(b)(4) that operators call (or otherwise actually notify) the persons giving notice to let them know whether a pipeline is located in the area of excavation activity. When "one-call" systems use grids that cover large land areas to identify participating utilities, pipeline operators have to return many calls for excavations that do not affect and are far away from their pipelines. In these cases, such negative "call-backs" can take the full time of several employees and be costly. For these reasons, some operators have avoided joining "one-call" systems, choosing instead to conduct independent programs. However, even independent program operators can be faced with having to make numerous negative "call-backs" when their pipelines traverse wide regions and all incoming notices are funneled to a central receiving station. In most "one-call" systems other utilities are not required to make negative "call-backs" but they still have effective damage prevention programs.

Another significant problem is that some excavators who have received negative "call-backs" from one, but not the only, gas pipeline operator or company division (i.e., transmission and distribution) in an area have erroneously assumed that there were not any gas pipelines near the excavation site. Fortunately, these errors are not known to have led to any reported accidents, but RSPA considers the accident potential serious enough to warrant modification of the existing rule.

The theory behind the "call-back" feature a § 192.614(b)(4) is that preliminary communication from operators to excavators prevents excavators from becoming impatient and digging before any utilities, including pipelines, in the area are marked. The benefit of preliminary communication as a deterrent to impromptu digging is obvious when pipelines are in the area of intended excavation. But, if no pipelines are in the area, the call-back imposes an undue burden on the pipeline operator without serving any safety purpose.

Lacking any hard evidence to substantiate the benefits of negative "call-backs," RSPA examined the issue as part of a wider study titled "An Examination of Outside Forces Damage and Damage Prevention," completed in April 1986. This study was unable to attach any direct benefit to making negative "call-backs."

Before the results of the study were published, RSPA issued a Notice of Proposed Rulemaking (Notice 1) (50 FR 49575; December 3, 1985), proposing to delete the requirement of § 192.614(b)(4) that gas pipeline operators respond to notices of intended excavation in areas that do not contain buried gas pipelines.

Favorable comments on the proposal were received from 21 respondents, consisting of eleven gas distribution pipeline operators, four gas transmission pipeline operators, three industry organizations, one "one-call" system operator and two State pipeline safety regulatory agencies (Michigan and Oregon). The commenters favoring the proposal concurred that requiring gas pipeline operators to respond to notices of proposed excavation in areas that do not contain buried gas pipelines was costly and provided negligible safety benefits. Eight of these commenters argued that the excavator could easily be confused by one gas pipeline operator indicating that it did not have gas pipelines in the excavation area when pipelines of another operator were present. This is particularly confusing to excavators because in most "one-call" systems it is only the pipeline operators

who are required to make negative "call-backs."

Comments opposing the proposal were received from seven respondents, consisting of three distribution pipeline operators, one trade organization (The American Congress on Surveying and Mapping (ACSM)), and three State pipeline safety regulatory agencies (Arizona, Maryland and Montana).

(Note: The three State agencies and one distribution pipeline operator are in States having negative "call-back" requirements by law other than the Federal pipeline safety regulations.)

The comments from those respondents opposing the proposal and the RSPA responses are as follows:

Comment: Six comments indicated that the present negative "call-back" requirement assures the excavator that the pipeline operator has properly received a notice of intent to dig made through a "one-call" system and that the notice is not lost or misplaced. Without the communication of a negative "call-back," the excavator cannot be sure there are no pipelines in the area.

Response: Notices forwarded to utilities by "one-call" systems most often are on a teletype or similar "hard copy." This procedure reduces to a minimum the probability of a notice of intent to dig not reaching the pipeline operator or being lost. RSPA has not found and no commenter supplied information indicating, that lost or misplaced notices are a problem in the operation of "one-call" systems.

In the Notice of Proposed Rulemaking, RSPA noted that the potential benefit to excavators of negative "call-backs" is diminished by their knowledge of a time frame within which operators must mark their underground pipelines after receiving notice of an intent to excavate. If pipelines are not marked, excavators can assume none exist in the area. "One-call" systems normally require participants to mark their utilities within a specified time after they receive notice and callers to the systems are advised of this time. The 1986-1987 "Directory of One-Call Systems," published by the American Public Works Association, Utility Location and Coordination Council, lists all "one-call" systems that were known to exist in the U.S. on January 1, 1985. With one exception, each "one-call" system has a specified response time listed in the directory that varies between systems (1, 2 or 3 days). The "one-call" system that does not have a specified time for marking advises each excavator of the time that can be expected for marking underground facilities on a case by case basis. Because "one-call" systems

advise excavators of the time required to temporarily mark underground facilities, RSPA believes the marginal benefits of negative "call-backs" for gas pipelines do not outweigh the actual burdens and costs of compliance. Thus, the negative "call-back" feature of the current rule is deleted as proposed to provide the least burdensome effective rule.

Comment: One State agency and four other respondents stated that the proposed rule change would have no effect in those States where a negative response is required by State law, would provide very little cost savings, and would reduce a desirable communications link with excavators.

Response: As a result of this comment RSPA contacted each State having a pipeline safety program and determined that 31 States now have laws relating to "one-call" systems. Thirteen of these States have laws, other than the requirements of Part 192, that would require gas operators to continue responding to excavators who give notice of intended excavations in areas that do not contain buried pipelines. Under the Natural Gas Pipeline Safety Act of 1968, as amended, the authority of these and other States to require a negative "call-back" by intrastate operators subject to State pipeline safety regulations would not be affected by the final rule.

RSPA disagrees that costs would not be reduced by eliminating the negative "call-back" requirement. For example, a study by Michigan Consolidated Gas Company indicated it would have saved \$221,000 in 1983 if negative "call-back" had not been required. Another study, done by Southern Natural Gas Company summarized the calls they received from the "one-call" systems in which they participate in two States during the 5-month period of September 1986 through January 1987. In Alabama, there was a total of 3,247 notices received with only 85 of these having a potential effect on their pipeline. Similarly, in Georgia there was a total of 3,647 notices received with only 10 of these requiring marking of the pipeline. Under the current requirements, Southern not only was required to contact the 95 excavators who were potentially effected by their pipeline but also the 6,799 excavators who were not close to the pipeline. This data is only for two States out of the seven States in which Southern participates in "one-call" systems.

As to the Communication link, RSPA believes that a sufficient link is maintained through the requirement that operators communicate with excavators who plan to dig in areas where pipelines

are located. This requirement would not be altered by this final rule.

Comment: In response to RSPA's point that excavators can reasonably assume that pipelines are not in an area when marking has not been done within 1-3 days after notice, one commenter stated that in many cases notice is given only a few hours before digging begins. This commenter said that an excavator is unlikely to wait 1-3 days to hear from an operator, having heard from all other operators on the first day, especially if that operator does not normally call-back with a negative response.

Response: If an excavator gives very short notice, "one-call" systems expedite the notification of all utility participants. OPS believes that in order to protect their pipelines the operators will expeditiously respond and mark any pipelines in the area before excavation begins. (§ 192.614(b)(5)). If no gas pipelines exist in the area, an excavator's hasty action in the absence of a negative "call-back" from operators should not cause any gas pipeline problems.

Comment: The ACSM stated that "If a surveyor does not have access to the most accurate information possible, he not only risks his own professional liability, but the safety of the public as well."

Response: The concern about professional liability and public safety by ACSM assumes that pipelines will not be marked. The remaining portion of § 192.614(b)(4) is not affected by this final rule, because pipeline operators are still required to notify persons who give notice of their intent to excavate if there are buried pipelines in the area of excavation activity.

Technical Pipeline Safety Standards Committee

Notice 1 was presented to the Technical Pipeline Safety Standards Committee on December 10, 1985. The Committee found the proposed rule to be technically feasible, reasonable, and practicable. A copy of the Committee report is available in the docket.

Classification

Since this final rule will have a positive effect on the economy of less than \$100 million a year, will result in cost savings to consumers, industry, and government agencies, and no adverse impacts are anticipated; the proposed rule is not "major" under Executive Order 12291. Also it is not "significant" under Department of Transportation procedures (44 FR 11034). RSPA believes that the final rule will reduce the costs of damage prevention programs by reducing the number of telephone calls

required by the current rule and the records of those calls. However, this savings is not expected to be large enough to warrant preparation of a Regulatory Evaluation.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Damage Prevention Program.

In view of the above, RSPA amends Part 192 to Title 49 of the Code of Federal Regulations as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 is revised to read as set forth below:

Authority: 49 App. U.S.C. 1672 and 1804; and 49 CFR 1.53.

2. Section 192.614(b)(4) is revised to read as follows:

§ 192.614 Damage Prevention Program

* * * * *

(b) * * *
 (4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

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Issued in Washington, DC, on August 28, 1987.

M. Cynthia Douglass,
Administrator, Research and Special Programs Administration.

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1132

Technical Amendment to CFR Regarding Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Technical amendment.

SUMMARY: In § 1132.1(b), three cross references regarding definitions of household goods that appear in sections in Parts 1056 and 1040 are incorrect. This notice revises those cross references.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Ann Guthridge, (202) 275-6786.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1132

Administrative practice and procedure.

Title 49 of the CFR, Part 1132 is amended as follows:

PART 1132—PROTESTS AGAINST TARIFFS; PROCEDURES IN CERTAIN SUSPENSION AND LONG AND SHORT HAUL RESTRICTION MATTERS

1. The authority citation for Part 1132 continues to read as follows:

Authority: 49 U.S.C. 10321, 10707, 10708, and 10726; 5 U.S.C. 553 and 559.

§ 1132.1 [Amended]

2. In the sixth sentence of § 1132.1(b), the references to "49 CFR 1056.1(a)" and "49 CFR 1040.2(b)" are revised to read "49 CFR 1056.1(b)(1)."

Noreta R. McGee,
Secretary.

[FR Doc. 19918 Filed 8-28-87; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Notice of closure and request for comments.

SUMMARY: NOAA announces the closure of the treaty Indian salmon fishery in the exclusive economic zone (EEZ) from the U.S.-Canada border to Point Chehalis, Washington, at 1 p.m., Pacific Daylight Time, August 26, 1987, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS, has determined in consultation with the Pacific Fishery Management Council (Council), the Oregon Department of Fish and Wildlife (ODFW), the Washington Department of Fisheries (WDF), and representatives of the treaty Indian tribes, that the ocean quota for the treaty Indian fisheries will be reached by that time and date. The closure is necessary to conform to the preseason announcement of 1987 management measures. This action is intended to ensure conservation of coho salmon.