

§ 190.301

required amendment if they are inadequate, or withdraw the notice if they are not. In determining the adequacy of an operator's plans or procedures, the Associate Administrator, OPS shall consider:

(1) Relevant available pipeline safety data;

(2) Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility, and for the location of the facility;

(3) The reasonableness of the plans or procedures; and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in this subpart.

[Amdt. 190-3, 56 FR 31090, July 9, 1991, as amended by Amdt. 190-6, 61 FR 18516, Apr. 26, 1996]

Subpart C—Procedures for Adoption of Rules

SOURCE: Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, unless otherwise noted.

§ 190.301 Scope.

This subpart prescribes general rulemaking procedures for the issue, amendment, and repeal of Pipeline Safety Program regulations of the Research and Special Programs Administration of the Department of Transportation.

§ 190.303 Delegations.

For the purposes of this subpart, *Administrator* means the Administrator, Research and Special Programs Administration, or his or her delegate.

§ 190.305 Regulatory dockets.

(a) Information and data considered relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 190.325; and final regulations

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are maintained by the Research and Special Programs Administration at 400 7th Street, SW, Washington, D.C. 20590-0001.

(b) Any person may examine any docketed material at the offices of the Research and Special Programs Administration at any time during regular business hours after the docket is established, except material which the Administrator determines should be withheld from public disclosure under applicable provisions of any statute administered by the Administrator and section 552(b) of Title 5, United States Code, and may obtain a copy of it upon payment of a fee.

§ 190.307 Records.

Records of the Research and Special Programs Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of title 5, United States Code, and part 7 of the Regulations of the Office of the Secretary of Transportation (part 7 of this title).

§ 190.309 Where to file petitions.

Petitions for extension of time to comment submitted under § 190.319, petitions for hearings submitted under § 190.327, petitions for rulemaking submitted under § 190.331, and petitions for reconsideration submitted under § 190.335 must be submitted to: Administrator, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590-0001.

§ 190.311 General.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings with respect to each substantive rule.

§ 190.313 Initiation of rulemaking.

The Administrator initiates rulemaking on his or her own motion; however, in so doing, the Administrator may use discretion to consider the recommendations of other agencies of the

United States or of other interested persons including those of any technical advisory body established by statute for that purpose.

§ 190.315 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes:

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed regulation;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 190.317 Participation by interested persons.

(a) Any interested person may participate in rulemaking proceedings by submitting comments in writing containing information, views or arguments in accordance with instructions for participation in the rulemaking document.

(b) The Administrator may invite any interested person to participate in the rulemaking proceedings described in § 190.325.

(c) For the purposes of this subpart, an interested person includes any Federal or State government agency or any political subdivision of a State.

§ 190.319 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before expiration of the time stated in the notice. It is requested, but not required, that three copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. A petition is granted only if the peti-

tioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

§ 190.321 Contents of written comments.

All written comments must be in English. It is requested, but not required, that five copies be submitted. Any interested person should submit as part of written comments all material considered relevant to any statement of fact. Incorporation of material by reference should be avoided; however, where necessary, such incorporated material shall be identified by document title and page.

§ 190.323 Consideration of comments received.

All timely comments and the recommendations of any technical advisory body established by statute for the purpose of reviewing the proposed rule concerned are considered before final action is taken on a rulemaking proposal. Late filed comments are considered so far as practicable.

§ 190.325 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that the Administrator finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or the Administrator's representative and interested persons, at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript of minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 190.327 Hearings.

(a) If a notice of proposed rulemaking does not provide for a hearing, any interested person may petition the Administrator for an informal hearing. The petition must be received by the Administrator not later than 20 days before expiration of the time stated in