

**§ 190.235**

**49 CFR Ch. I (10–1–07 Edition)**

(g) The Associate Administrator, OPS shall rescind or suspend a corrective action order whenever the Associate Administrator, OPS determines that the facility is no longer hazardous to life, property, or the environment. When appropriate, however, such a rescission or suspension may be accompanied by a notice of probable violation issued under § 190.207.

(h) At any time after a corrective action order issued under this section has become effective, the Associate Administrator, OPS may request the Attorney General to bring an action for appropriate relief in accordance with § 190.235.

(i) Upon petition by the Attorney General, the District Courts of the United States shall have jurisdiction to enforce orders issued under this section by appropriate means.

[70 FR 11138, Mar. 8, 2005]

**§ 190.235 Civil actions generally.**

Whenever it appears to the Associate Administrator, OPS that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any provision of 49 U.S.C. 60101 *et seq.*, or any regulations issued thereunder, the Administrator, PHMSA, or the person to whom the authority has been delegated, may request the Attorney General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, civil penalties, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

[70 FR 11139, Mar. 8, 2005]

**§ 190.237 Amendment of plans or procedures.**

(a) A Regional Director begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195, and 199 of this subchapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 of this part and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice

shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Associate Administrator, OPS shall determine whether the plans or procedures are inadequate as alleged and order the 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 rule-making procedures for the issue, amendment, and repeal of Pipeline Safety Program regulations of the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

**§ 190.303 Delegations.**

For the purposes of this subpart, *Administrator* means the Administrator,

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Pipeline and Hazardous Materials Safety Administration, or his or her delegate.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

### § 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 are maintained by the Pipeline and Hazardous Materials Safety Administration at 400 7th Street, SW, Washington, D.C. 20590-0001.

(b) Any person may examine public docket material, once a docket is established, at the offices of the Dockets Management System, U.S. Department of Transportation, 400 7th Street, SW., Room PL-401, Washington, DC 20590, and may obtain a copy of it upon payment of a fee, at any time between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays, with the exception of material which the Administrator, PHMSA 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. Public comments may also be submitted and reviewed by accessing the Dockets Management System's Web site at <http://dms.dot.gov>. Inquiries and comment submissions must identify the Docket Number. The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137 and 11139, Mar. 8, 2005]

### § 190.307 Records.

Records of the Pipeline and Hazardous Materials Safety 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).

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

### § 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, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590-0001.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

### § 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;