

(6) A performance measure based on internal audits of the operator's pipeline system per 49 CFR Part 195.

(7) A performance measure based on external audits of the operator's pipeline system per 49 CFR Part 195.

(8) A performance measure based on operational events (for example: relief occurrences, unplanned valve closure, SCADA outages, etc.) that have the potential to adversely affect pipeline integrity.

(9) A performance measure to demonstrate that the operator's integrity management program reduces risk over time with a focus on high risk items.

(10) A performance measure to demonstrate that the operator's integrity management program for pipeline stations and terminals reduces risk over time with a focus on high risk items.

VI. Examples of types of records an operator must maintain.

The rule requires an operator to maintain certain records. (See §195.452(1)). This section provides examples of some records that an operator would have to maintain for inspection to comply with the requirement. This is not an exhaustive list.

(1) a process for identifying which pipelines could affect a high consequence area and a document identifying all pipeline segments that could affect a high consequence area;

(2) a plan for baseline assessment of the line pipe that includes each required plan element;

(3) modifications to the baseline plan and reasons for the modification;

(4) use of and support for an alternative practice;

(5) a framework addressing each required element of the integrity management program, updates and changes to the initial framework and eventual program;

(6) a process for identifying a new high consequence area and incorporating it into the baseline plan, particularly, a process for identifying population changes around a pipeline segment;

(7) an explanation of methods selected to assess the integrity of line pipe;

(8) a process for review of integrity assessment results and data analysis by a person qualified to evaluate the results and data;

(9) the process and risk factors for determining the baseline assessment interval;

(10) results of the baseline integrity assessment;

(11) the process used for continual evaluation, and risk factors used for determining the frequency of evaluation;

(12) process for integrating and analyzing information about the integrity of a pipeline, information and data used for the information analysis;

(13) results of the information analyses and periodic evaluations;

(14) the process and risk factors for establishing continual re-assessment intervals;

(15) justification to support any variance from the required re-assessment intervals;

(16) integrity assessment results and anomalies found, process for evaluating and remediating anomalies, criteria for remedial actions and actions taken to evaluate and remediate the anomalies;

(17) other remedial actions planned or taken;

(18) schedule for evaluation and remediation of anomalies, justification to support deviation from required remediation times;

(19) risk analysis used to identify additional preventive or mitigative measures, records of preventive and mitigative actions planned or taken;

(20) criteria for determining EFRD installation;

(21) criteria for evaluating and modifying leak detection capability;

(22) methods used to measure the program's effectiveness.

VII. Conditions that may impair a pipeline's integrity.

Section 195.452(h) requires an operator to evaluate and remediate all pipeline integrity issues raised by the integrity assessment or information analysis. An operator must develop a schedule that prioritizes conditions discovered on the pipeline for evaluation and remediation. The following are some examples of conditions that an operator should schedule for evaluation and remediation.

A. Any change since the previous assessment.

B. Mechanical damage that is located on the top side of the pipe.

C. An anomaly abrupt in nature.

D. An anomaly longitudinal in orientation.

E. An anomaly over a large area.

F. An anomaly located in or near a casing, a crossing of another pipeline, or an area with suspect cathodic protection.

[Amdt. 195–70, 65 FR 75409, Dec. 1, 2000, as amended by Amdt. 195–74, 67 FR 1661, Jan. 14, 2002; Amdt. 195–94, 75 FR 48608, Aug. 11, 2010]

## PARTS 196–197 [RESERVED]

## PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

### Subpart A—General

- Sec.  
198.1 Scope.  
198.3 Definitions.

### Subpart B—Grant Allocation

- 198.11 Grant authority.  
198.13 Grant allocation formula.

**Subpart C—Adoption of One-Call Damage Prevention Program**

- 198.31 Scope.
- 198.33 [Reserved]
- 198.35 Grants conditioned on adoption of one-call damage prevention program.
- 198.37 State one-call damage prevention program.
- 198.39 Qualifications for operation of one-call notification system.

AUTHORITY: 49 U.S.C. 60105, 60106, 60114; and 49 CFR 1.53.

SOURCE: 55 FR 38691, Sept. 20, 1990, unless otherwise noted.

**Subpart A—General**

**§ 198.1 Scope.**

This part prescribes regulations governing grants-in-aid for State pipeline safety compliance programs.

**§ 198.3 Definitions.**

As used in this part:

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

*Adopt* means establish under State law by statute, regulation, license, certification, order, or any combination of these legal means.

*Excavation activity* means an excavation activity defined in §192.614(a) of this chapter, other than a specific activity the State determines would not be expected to cause physical damage to underground facilities.

*Excavator* means any person intending to engage in an excavation activity.

*One-call notification system* means a communication system that qualifies under this part and the one-call damage prevention program of the State concerned in which an operational center receives notices from excavators of intended excavation activities and transmits the notices to operators of underground pipeline facilities and other underground facilities that participate in the system.

*Person* means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

*Underground pipeline facilities* means buried pipeline facilities used in the transportation of gas or hazardous liquid subject to the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

*Secretary* means the Secretary of Transportation or any person to whom the Secretary of Transportation has delegated authority in the matter concerned.

*Seeking to adopt* means actively and effectively proceeding toward adoption.

*State* means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

[55 FR 38691, Sept. 20, 1990, as amended by Amdt. 198-2, 61 FR 18518, Apr. 26, 1996; 68 FR 11750, Mar. 12, 2003; 70 FR 11140, Mar. 8, 2005]

**Subpart B—Grant Allocation**

SOURCE: Amdt. 198-1, 58 FR 10988, Feb. 23, 1993, unless otherwise noted.

**§ 198.11 Grant authority.**

The pipeline safety laws (49 U.S.C. 60101 *et seq.*) authorize the Administrator to pay out funds appropriated or otherwise make available up to 80 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

[Amdt. 198-5, 74 FR 62506, Nov. 30, 2009]

**§ 198.13 Grant allocation formula.**

(a) Beginning in calendar year 1993, the Administrator places increasing emphasis on program performance in allocating state agency funds under §198.11. The maximum percent of each state agency allocation that is based on performance follows: 1993—75 percent; 1994 and subsequent years—100 percent.

(b) A state's annual grant allocation is based on maximum of 100 performance points derived as follows:

- (1) Fifty points based on information provided in the state's annual certification/agreement attachments which document its activities for the past year; and

## § 198.31

(2) Fifty points based on the annual state program evaluation.

(c) The Administrator assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by the Administrator and communicated to each State agency. At a minimum, the Administrator considers the following performance factors in allocating funds:

(1) Adequacy of state operating practices;

(2) Quality of state inspections, investigations, and enforcement/compliance actions;

(3) Adequacy of state recordkeeping;

(4) Extent of state safety regulatory jurisdiction over pipeline facilities;

(5) Qualifications of state inspectors;

(6) Number of state inspection person-days;

(7) State adoption of applicable federal pipeline safety standards; and

(8) Any other factor the Administrator deems necessary to measure performance.

(d) Notwithstanding these performance factors, the Administrator may, in 1993 and subsequent years, continue funding any state at the 1991 level, provided its request is at the 1991 level or higher and appropriated funds are at the 1991 level or higher.

(e) The Administrator notifies each state agency in writing of the specific performance factors to be used and the weights to be assigned to each factor at least 9 months prior to allocating funds. Prior to notification, PHMSA seeks state agency comments on any proposed changes to the allocation formula.

(f) Grants are limited to the appropriated funds available. If total state agency requests for grants exceed the funds available, the Administrator prorates each state agency's allocation.

[Amdt. 198-1, 58 FR 10988, Feb. 23, 1993, as amended at 70 FR 11140, Mar. 8, 2005]

### Subpart C—Adoption of One-Call Damage Prevention Program

#### § 198.31 Scope.

This subpart implements parts of the pipeline safety laws (49 U.S.C. 60101 *et seq.*), which direct the Secretary to require each State to adopt a one-call

## 49 CFR Ch. I (10-1-10 Edition)

damage prevention program as a condition to receiving a full grant-in-aid for its pipeline safety compliance program.

[Amdt. 198-2, 61 FR 18518, Apr. 26, 1996]

#### § 198.33 [Reserved]

#### § 198.35 Grants conditioned on adoption of one-call damage prevention program.

In allocating grants to State agencies under the pipeline safety laws, (49 U.S.C. 60101 *et seq.*), the Secretary considers whether a State has adopted or is seeking to adopt a one-call damage prevention program in accordance with § 198.37. If a State has not adopted or is not seeking to adopt such program, the State agency may not receive the full reimbursement to which it would otherwise be entitled.

[Amdt. 198-2, 61 FR 38403, July 24, 1996]

#### § 198.37 State one-call damage prevention program.

A State must adopt a one-call damage prevention program that requires each of the following at a minimum:

(a) Each area of the State that contains underground pipeline facilities must be covered by a one-call notification system.

(b) Each one-call notification system must be operated in accordance with § 198.39.

(c) Excavators must be required to notify the operational center of the one-call notification system that covers the area of each intended excavation activity and provide the following information:

(1) Name of the person notifying the system.

(2) Name, address and telephone number of the excavator.

(3) Specific location, starting date, and description of the intended excavation activity.

However, an excavator must be allowed to begin an excavation activity in an emergency but, in doing so, required to notify the operational center at the earliest practicable moment.

(d) The State must determine whether telephonic and other communications to the operational center of a one-call notification system under paragraph (c) of this section are to be toll free or not.

(e) Except with respect to interstate transmission facilities as defined in the pipeline safety laws (49 U.S.C. 60101 *et seq.*), operators of underground pipeline facilities must be required to participate in the one-call notification systems that cover the areas of the State in which those pipeline facilities are located.

(f) Operators of underground pipeline facilities participating in the one-call notification systems must be required to respond in the manner prescribed by §192.614 (b)(4) through (b)(6) of this chapter to notices of intended excavation activity received from the operational center of a one-call notification system.

(g) Persons who operate one-call notification systems or operators of underground pipeline facilities participating or required to participate in the one-call notification systems must be required to notify the public and known excavators in the manner prescribed by §192.614 (b)(1) and (b)(2) of this chapter of the availability and use of one-call notification systems to locate underground pipeline facilities. However, this paragraph does not apply to persons (including operator's master meters) whose primary activity does not include the production, transportation or marketing of gas or hazardous liquids.

(h) Operators of underground pipeline facilities (other than operators of interstate transmission facilities as defined in the pipeline safety laws (49 U.S.C. 60101 *et seq.*), and interstate pipelines as defined in §195.2 of this chapter), excavators and persons who operate one-call notification systems who violate the applicable requirements of this subpart must be subject to civil penalties and injunctive relief that are substantially the same as are provided under the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

[55 FR 38691, Sept. 20, 1990, as amended by Amdt. 198-2, 61 FR 18518, Apr. 26, 1996]

**§ 198.39 Qualifications for operation of one-call notification system.**

A one-call notification system qualifies to operate under this subpart if it complies with the following:

(a) It is operated by one or more of the following:

(1) A person who operates underground pipeline facilities or other underground facilities.

(2) A private contractor.

(3) A State or local government agency.

(4) A person who is otherwise eligible under State law to operate a one-call notification system.

(b) It receives and records information from excavators about intended excavation activities.

(c) It promptly transmits to the appropriate operators of underground pipeline facilities the information received from excavators about intended excavation activities.

(d) It maintains a record of each notice of intent to engage in an excavation activity for the minimum time set by the State or, in the absence of such time, for the time specified in the applicable State statute of limitations on tort actions.

(e) It tells persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground pipeline facilities to whom the notice will be transmitted.

**PART 199—DRUG AND ALCOHOL TESTING**

**Subpart A—General**

Sec.

- 199.1 Scope.
- 199.2 Applicability.
- 199.3 Definitions.
- 199.5 DOT procedures.
- 199.7 Stand-down waivers.
- 199.9 Preemption of State and local laws.

**Subpart B—Drug Testing**

- 199.100 Purpose.
- 199.101 Anti-drug plan.
- 199.103 Use of persons who fail or refuse a drug test.
- 199.105 Drug tests required.
- 199.107 Drug testing laboratory.
- 199.109 Review of drug testing results.
- 199.111 Retention of samples and additional testing.
- 199.113 Employee assistance program.
- 199.115 Contractor employees.
- 199.117 Recordkeeping.
- 199.119 Reporting of anti-drug testing results.