

SUBCHAPTER D—PIPELINE SAFETY

PARTS 186–189 [RESERVED]

PART 190—PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

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AUTHORITY: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 *et seq.*; 49 CFR 1.53.

SOURCE: 45 FR 20413, Mar. 27, 1980, unless otherwise noted.

Subpart A—General

§ 190.1 Purpose and scope.

(a) This part prescribes procedures used by the Pipeline and Hazardous Materials Safety Administration in carrying out duties regarding pipeline safety under 49 U.S.C. 60101 *et seq.* (the pipeline safety laws) and 49 U.S.C. 5101 *et seq.* (the hazardous material transportation laws).

(b) This subpart defines certain terms and prescribes procedures that are applicable to each proceeding described in this part.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190–6, 61 FR 18512, Apr. 26, 1996; 70 FR 11137, Mar. 8, 2005]

§ 190.3 Definitions.

As used in this part:

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

Hearing means an informal conference or a proceeding for oral presentation. Unless otherwise specifically prescribed in this part, the use of “hearing” is not intended to require a hearing on the record in accordance with section 554 of title 5, U.S.C.

OPS means the Office of Pipeline Safety, which is part of the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation.

§ 190.5

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

Presiding Official means the person who conducts any hearing relating to civil penalty assessments, compliance orders or hazardous facility orders.

Regional Director means the head of any one of the Regional Offices of the Office of Pipeline Safety, or a designee appointed by the Regional Director. Regional Offices are located in Trenton, NJ (Eastern Region); Atlanta, Georgia (Southern Region); Kansas City, Missouri (Central Region); Houston, Texas (Southwest Region); and Lakewood, Colorado (Western Region).

Respondent means a person upon whom the OPS has served a notice of probable violation.

PHMSA means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation.

State means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

[Amdt. 190-6, 61 FR 18513, Apr. 26, 1996, as amended at 68 FR 11749, Mar. 12, 2003; 70 FR 11137, Mar. 8, 2005; Amdt. 190-15, 74 FR 62505, Nov. 30, 2009]

§ 190.5 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally, by registered or certified mail, overnight courier, or electronic transmission by facsimile or other electronic means that includes reliable acknowledgement of actual receipt.

(b) Service upon a person's duly authorized representative or agent constitutes service upon that person.

(c) Service by registered or certified mail or overnight courier is complete upon mailing. Service by electronic transmission is complete upon transmission and acknowledgement of receipt. An official receipt for the mailing from the U.S. Postal Service or overnight courier, or a facsimile or other electronic transmission con-

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firmation, constitutes prima facie evidence of service.

[45 FR 20413, Mar. 27, 1980, as amended at 73 FR 16567, Mar. 28, 2008]

§ 190.7 Subpoenas; witness fees.

(a) The Administrator, PHMSA, the Chief Counsel, PHMSA, or the official designated by the Administrator, PHMSA, to preside over a hearing convened in accordance with this part, may sign and issue subpoenas individually on their own initiative or, upon request and adequate showing by any person participating in the proceeding that the information sought will materially advance the proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified or registered mail.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (g) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at the person's office with the person in charge thereof, leaving them at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them by registered or certified mail to the person at the last known address, or by any method whereby actual notice is given to the person and the fees are made available prior to the return date.

(e) When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a designated agent or representative for service, or to any officer, director, or