

issued in connection with any investigation conducted by the Board; and

(5) Such other factors as the Associate Administrator may consider appropriate.

(f) A corrective action order shall contain the following information:

(1) A finding that the pipeline facility is or would be hazardous to life, property, or the environment.

(2) The relevant facts which form the basis of that finding.

(3) The legal basis for the order.

(4) The nature and description of any particular corrective action required of the respondent.

(5) The date by which the required corrective action must be taken or completed and, where appropriate, the duration of the order.

(6) If the opportunity for a hearing was waived pursuant to paragraph (b) of this section, a statement that an opportunity for a hearing will be available at a particular time and location after issuance of the order.

(g) The Associate Administrator will terminate a corrective action order whenever the Associate Administrator determines that the facility is no longer hazardous to life, property, or the environment. If appropriate, however, a notice of probable violation may be issued under § 190.207.

(h) At any time after a corrective action order issued under this section has become effective, the Associate Administrator 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, as amended by Amdt. 190-16, 78 FR 58912, Sept. 25, 2013]

§ 190.235 Civil actions generally.

Whenever it appears to the Associate Administrator 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, 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]

§ 190.236 Emergency orders: Procedures for issuance and rescission.

(a) *Determination of imminent hazard.* When the Administrator determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes or is causing an imminent hazard, as defined in § 190.3, the Administrator may issue or impose an emergency order, without advance notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard. The order will contain a written description of:

(1) The violation, condition, or practice that constitutes or is causing the imminent hazard;

(2) Those entities subject to the order;

(3) The restrictions, prohibitions, or safety measures imposed;

(4) The standards and procedures for obtaining relief from the order;

(5) How the order is tailored to abate the imminent hazard and the reasons the authorities under 49 U.S.C. 60112 and 60117(1) are insufficient to do so; and

(6) How the considerations listed in paragraph (c) of this section were taken into account.

(b) *Consultation.* In considering the factors under paragraph (c) of this section, the Administrator shall consult, as the Administrator determines appropriate, with appropriate Federal agencies, State agencies, and other entities knowledgeable in pipeline safety or operations.

(c) *Considerations.* Prior to issuing an emergency order, the Administrator shall consider the following, as appropriate:

(1) The impact of the emergency order on public health and safety;

(2) The impact, if any, of the emergency order on the national or regional economy or national security;

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(3) The impact of the emergency order on the ability of owners and operators of pipeline facilities to maintain reliability and continuity of service to customers; and

(4) The results of any consultations with appropriate Federal agencies, State agencies, and other entities knowledgeable in pipeline safety or operations.

(d) *Service.* The Administrator will provide service of emergency orders in accordance with §190.5 to all operators of gas and hazardous liquid pipeline facilities that the Administrator reasonably expects to be affected by the emergency order. In addition, the Administrator will publish emergency orders in the FEDERAL REGISTER and post them on the PHMSA website as soon as practicable upon issuance. Publication in the FEDERAL REGISTER will serve as general notice of an emergency order. Each emergency order must contain information specifying how pipeline operators and owners may respond to the emergency order, filing procedures, and service requirements, including the address of DOT Docket Operations and the names and addresses of all persons to be served if a petition for review is filed.

(e) *Rescission.* If an emergency order has been in effect for more than 365 days, the Administrator will make an assessment regarding whether the unsafe condition or practice, or combination of unsafe conditions and practices, constituting or causing an imminent hazard, as defined in §190.3, continues to exist. If the imminent hazard does not continue to exist, the Administrator will rescind the emergency order and follow the service procedures set forth in §190.236(d). If the imminent hazard underlying the emergency order continues to exist, PHMSA will initiate a rulemaking action as soon as practicable.

[Amdt. 190–21, 84 FR 52027, Oct. 1, 2019]

§ 190.237 Emergency orders: Petitions for review.

(a) *Requirements.* A pipeline owner or operator that is subject to and aggrieved by an emergency order may petition the Administrator for review to determine whether the order will re-

main in place, be modified, or be terminated. A petition for review must:

(1) Be in writing;

(2) State with particularity each part of the emergency order that is sought to be modified or terminated and include all information, evidence and arguments in support thereof;

(3) State whether the petitioner requests a formal hearing in accordance with 5 U.S.C. 554, and, if so, any material facts in dispute; and,

(4) Be filed and served in accordance with paragraph (h) of this section.

(b) *Modification of petitions.* A petitioner may modify its petition for review to provide new information that materially affects the review proceeding and that is timely submitted. Where the petitioner has not requested a formal hearing, the Associate Administrator will make the determination whether to accept the new information. Where a case has been assigned for a formal hearing, the presiding administrative law judge will determine whether to accept the new information.

(c) *Response to the petition for review.* An attorney designated by the Office of Chief Counsel may file and serve, in accordance with paragraph (h) of this section, a response to the petition, including appropriate pleadings, within five calendar days of receipt of the petition by the Chief Counsel.

(d) *Associate Administrator's responsibilities.*—(1) *Formal hearing requested.* Upon receipt of a petition for review that includes a formal hearing request under this section, the Associate Administrator will, within three days after receipt of the petition, assign the petition to the Office of Hearings, DOT, for a formal hearing.

(2) *No formal hearing requested.* Upon receipt of a petition for review that does not include a formal hearing request, the Associate Administrator will issue an administrative decision on the merits within 30 days of receipt of the petition for review. The Associate Administrator's decision constitutes the agency's final decision.

(3) *Consolidation.* If the Associate Administrator receives more than one petition for review and they share common issues of law or fact, the Associate Administrator may consolidate the petitions for the purpose of complying