and quantitative, to an operator's integrity management program prepared periodically.

(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(l)). 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]

PART 196—PROTECTION OF UNDERGROUND PIPELINES FROM EXCAVATION ACTIVITY

Subpart A—General

Subpart B—Damage Prevention Requirements

AUTHORITY: 49 U.S.C. 60101 *et seq.;* and 49 CFR 1.97.

SOURCE: 80 FR 43866, July 23, 2015, unless otherwise noted.

Subpart A—General

§ 196.1 What is the purpose and scope of this part?

This part prescribes the minimum requirements that excavators must follow to protect underground pipelines from excavation-related damage. It also establishes an enforcement process for violations of these requirements.

§ 196.3 Definitions.

Damage or *excavation damage* means any excavation activity that results in the need to repair or replace a pipeline due to a weakening, or the partial or complete destruction, of the pipeline, including, but not limited to, the pipe, appurtenances to the pipe, protective coatings, support, cathodic protection or the housing for the line device or facility.

Excavation refers to excavation activities as defined in §192.614, and covers all excavation activity involving both mechanized and non-mechanized equipment, including hand tools.

Excavator means any person or legal entity, public or private, proposing to or engaging in excavation.

One-call means a notification system through which a person can notify pipeline operators of planned excavation to facilitate the locating and marking of any pipelines in the excavation area.

Pipeline means all parts of those physical facilities through which gas, carbon dioxide, or a hazardous liquid moves in transportation, including, but not limited to, pipe, valves, and other appurtenances attached or connected to pipe (including, but not limited to, tracer wire, radio frequency identification or other electronic marking system devices), pumping units, compressor units, metering stations, regulator stations, delivery stations, holders, fabricated assemblies, and breakout tanks.

Subpart B—Damage Prevention Requirements

§ 196.101 What is the purpose and scope of this subpart?

This subpart prescribes the minimum requirements that excavators must follow to protect pipelines subject to PHMSA or State pipeline safety regulations from excavation-related damage.

§ 196.103 What must an excavator do to protect underground pipelines from excavation-related damage?

Prior to and during excavation activity, the excavator must:

(a) Use an available one-call system before excavating to notify operators of underground pipeline facilities of the timing and location of the intended excavation;

(b) If underground pipelines exist in the area, wait for the pipeline operator to arrive at the excavation site and establish and mark the location of its underground pipeline facilities before excavating;

(c) Excavate with proper regard for the marked location of pipelines an operator has established by taking all practicable steps to prevent excavation damage to the pipeline;

(d) Make additional use of one-call as necessary to obtain locating and marking before excavating to ensure that underground pipelines are not damaged by excavation.

§ 196.105 [Reserved]

§ 196.107 What must an excavator do if a pipeline is damaged by excavation activity?

If a pipeline is damaged in any way by excavation activity, the excavator must promptly report such damage to the pipeline operator, whether or not a leak occurs, at the earliest practicable moment following discovery of the damage.

§ 196.109 What must an excavator do if damage to a pipeline from excavation activity causes a leak where product is released from the pipeline?

If damage to a pipeline from excavation activity causes the release of any PHMSA regulated natural and other gas or hazardous liquid as defined in part 192, 193, or 195 of this chapter from the pipeline, the excavator must promptly report the release to appropriate emergency response authorities by calling the 911 emergency telephone number.

§ 196.111 What if a pipeline operator fails to respond to a locate request or fails to accurately locate and mark its pipeline?

PHMSA may enforce existing requirements applicable to pipeline operators, including those specified in 49 CFR 192.614 and 195.442 and 49 U.S.C. 60114 if a pipeline operator fails to properly respond to a locate request or fails to accurately locate and mark its pipeline. The limitation in 49 U.S.C. 60114(f) does not apply to enforcement taken against pipeline operators and excavators working for pipeline operators.

Subpart C—Administrative Enforcement Process

§ 196.201 What is the purpose and scope of this subpart?

This subpart describes the enforcement authority and sanctions exercised by the Associate Administrator for Pipeline Safety for achieving and maintaining pipeline safety under this part. It also prescribes the procedures governing the exercise of that authority and the imposition of those sanctions.

§ 196.203 What is the administrative process PHMSA will use to conduct enforcement proceedings for alleged violations of excavation damage prevention requirements?

PHMSA will use the existing administrative adjudication process for alleged pipeline safety violations set forth in 49 CFR part 190, subpart B. This process provides for notification that a probable violation has been committed, a 30-day period to respond including the opportunity to request an administrative hearing, the issuance of a final order, and the opportunity to petition for reconsideration.

§ 196.205 Can PHMSA assess administrative civil penalties for violations?

Yes. When the Associate Administrator for Pipeline Safety has reason to believe that a person has violated any provision of the 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder, including a violation of excavation damage prevention requirements under this part and 49 U.S.C. 60114(d) in a State with an excavation damage prevention law enforcement program PHMSA has deemed inadequate under 49 CFR part 198, subpart D, PHMSA may conduct a proceeding to determine the nature and extent of the violation and to assess a civil penalty.

§ 196.207 What are the maximum administrative civil penalties for violations?

The maximum administrative civil penalties that may be imposed are specified in 49 U.S.C. 60122.

§ 196.209 May other civil enforcement actions be taken?

Whenever the Associate Administrator has reason to believe 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, 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.

§ 196.211 May criminal penalties be imposed?

Yes. Criminal penalties may be imposed as specified in 49 U.S.C. 60123.

PART 197 [RESERVED]

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

Subpart A—General

Subpart B—Grant Allocation

Subpart C—Adoption of One-Call Damage Prevention Program

Subpart D—State Damage Prevention Enforcement Programs

AUTHORITY: 49 U.S.C. 60101 *et seq.;* 49 CFR 1.97.

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.*).