

agent for service, or an organization's president constitutes service upon that person.

(g) *Report and recommendation.* The Administrative Law Judge must issue a report and recommendation at the close of the record. The report and recommendation must:

(1) Contain findings of fact and conclusions of law and the grounds for the decision based on the material issues of fact or law presented on the record;

(2) Be served on the parties to the proceeding; and

(3) Be issued no later than 25 days after receipt of the petition for review by the Associate Administrator of Pipeline Safety.

(h) *Petition for reconsideration.* (1) A party aggrieved by the Administrative Law Judge's report and recommendation, may file a petition for reconsideration with the Associate Administrator of Pipeline Safety within one day of service of the report and recommendation. The opposing party may file a response to the petition for reconsideration within one day of service of a petition for reconsideration.

(2) The Associate Administrator of Pipeline Safety must issue a final agency decision within three days of service of the final pleading outlined in paragraph (h)(1) of this section, but no later than 30 days after receipt of the original petition for review.

(3) The Associate Administrator of Pipeline Safety's decision on the merits of a petition for reconsideration constitutes the agency's final decision.

(i) *Judicial review.* After the issuance of a final agency decision pursuant to paragraph (c)(2) or (h)(3) of this section, or the issuance of a written determination by the Administrator pursuant to paragraph (j) of this section, a person subject to, and aggrieved by, an emergency order issued under section 190.236 may seek judicial review of the order in the appropriate District Court of the United States. The filing of an action seeking judicial review does not stay or modify the force and effect of the agency's final decision under paragraph (c)(2) or (h)(3) of this section, or the written determination under paragraph (j) of this section, unless stayed or modified by the Administrator.

(j) *Expiration of order.* If the Associate Administrator of Pipeline Safety, or the Administrative Law Judge, where appropriate, has not disposed of the petition for review within 30 days of receipt, the emergency order will cease to be effective unless the Administrator issuing the emergency order determines, in writing, that the imminent hazard

providing a basis for the emergency order continues to exist.

(k) *Time.* In computing any period of time prescribed by this part or by an order issued by the Administrative Law Judge, the day of filing of the petition for review or of any other act, event, or default from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days.

Issued in Washington, DC, on October 6, 2016, under authority delegated in 49 CFR 1.97.

Marie Therese Dominguez,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA-2011-0009; Amdt. No 192-121]

RIN 2137-AE71

Pipeline Safety: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other Than Single-Family Residences

AGENCY: Pipeline and Hazardous
Materials Safety Administration
(PHMSA), DOT.

ACTION: Final rule.

SUMMARY: Excess flow valves (EFV), which are safety devices installed on natural gas distribution pipelines to reduce the risk of accidents, are currently required for new or replaced gas service lines servicing single-family residences (SFR), as that phrase is defined in 49 CFR 192.383(a). This final rule makes changes to part 192 to expand this requirement to include new or replaced branched service lines servicing SFRs, multifamily residences, and small commercial entities consuming gas volumes not exceeding 1,000 Standard Cubic Feet per Hour (SCFH). PHMSA is also amending part 192 to require the use of either manual service line shut-off valves (e.g., curb valves) or EFVs, if appropriate, for new or replaced service lines with meter capacities exceeding 1,000 SCFH. Lastly, this final rule requires operators to notify customers of their right to request installation of an EFV on service

lines that are not being newly installed or replaced. PHMSA has left the question of who bears the cost of installing EFVs on service lines not being newly installed or replaced to the operator's rate-setter.

DATES: This final rule is effective April 14, 2017.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Regulatory Action

EFVs can reduce the risk of explosions in natural gas distribution pipelines by shutting off unplanned, excessive gas flows. These events are primarily the result of excavation damage to service lines that occurs between the gas main and the customer's building. Based on the comments to this rulemaking, PHMSA experience, and various studies, PHMSA has determined that the safety benefits of expanding the use of EFVs to new or entirely replaced distribution branch services (gas service lines that begin at an existing service line or that are installed concurrently with primary service lines but serve separate residences), multifamily facilities, and small commercial facilities is appropriate from a technical, economical, and operational feasibility standpoint.

B. Summary of the Major Provisions of the Regulatory Action

Pursuant to Section 22 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, this final rule amends the Federal pipeline safety regulations by adding four new categories of service for which EFV installation will be required. These four new categories are for new and entirely replaced services. The existing EFV installation requirement for SFRs served by a single service line remains unchanged. The new categories of service are as follows:

- Branched service lines to a SFR installed concurrently with the primary SFR service line (a single EFV may be installed to protect both lines);
- Branched service lines to a SFR installed off a previously installed SFR service line that does not contain an EFV;

- Multifamily installations, including duplexes, triplexes, fourplexes, and other small multifamily buildings (e.g., apartments, condominiums) with known customer loads at time of service installation, based on installed meter capacity, up to 1,000 SCFH per service;¹ and

- A single, small commercial customer served by a single service line, with a known customer load at time of service installation, based on installed meter capacity, of up to 1,000 SCFH per service.

Operators will be required to give all customers notice of the option to request an EFV installation, except where such installation is not required under § 192.383(c) (i.e., where the service line does not operate at a pressure of 10 psig or greater through the year, the operator has experienced contaminants in the gas stream that could interfere with EFV operation, an EFV could interfere with operation and maintenance activities, or an EFV meeting performance standards in § 192.381 is not available).

Finally, this final rule also amends the Federal pipeline safety regulations by requiring curb valves, or EFVs, if appropriate, for applications operating above 1,000 SCFH.

C. Costs and Benefits

PHMSA estimates a total impacted community of 4,448 operators for this rule (3,119 master meter/small LPG operators who will need to comply with notification requirements and 1,329 natural gas distribution operators who will need to install valves and comply with notification requirements) and 222,114 service lines per year on average. It is expected to generate safety benefits in the form of reduced fatalities, injuries, lost product, and other property damage from certain types of preventable incidents in gas distribution pipelines. The overall benefits over a 50-year period were estimated at the annual equivalent of \$5.5 million per year versus \$10.6 million in compliance costs when calculated using a 7 percent discount rate. When using a 3 percent discount rate, the total benefits of the rule were estimated at \$10.5 million while the costs were estimated at \$12.0 million.

II. Background

A. Excess Flow Valves and Curb Valves

An EFV is a mechanical safety device installed inside a natural gas distribution service line between the

street and residential meter. If there is a significant increase in the flow of gas (e.g., due to a damaged line), the EFV will “trip” or close to minimize the flow of gas through the line and thus, the amount of gas escaping into the atmosphere. During normal use, the valve is kept pushed open against oncoming gas flow by a spring. EFVs are designed so that general usage, such as turning on appliances, will not shut the valve. However, during a significant increase in the flow of gas (e.g., due to a damaged line), the spring cannot overcome the force of gas, and the valve will close and stay closed until the correct pressure is restored. When the correct pressure is restored, the EFV automatically resets itself.

Curb valves are installed below grade in a service line at or near the property line with a protective curb box or standpipe for quick subsurface access and are operated by use of a removable key or specialized wrench.

B. The South Riding, VA, Incident

On July 7, 1998, in South Riding, VA, an explosion stemming from a residential service line resulted in one death and three injuries. It is not known if the explosion occurred on a branched or non-branched service line, but PHMSA believes that this final rule or PHMSA’s previous rule requiring EFVs on single lines serving SFRs¹ would, at a minimum, have mitigated the consequences of the explosion.

An investigation by the National Transportation Safety Board (NTSB) found the explosion likely would not have occurred if an EFV had been installed on the service line leading to this single-family home. As a result of its investigation, on June 22, 2001, the NTSB issued Safety Recommendation P-01-2, recommending that PHMSA “require that EFVs be installed in all new and renewed gas service lines, regardless of a customer’s classification (i.e., not just lines serving single-family residences), when the operating conditions are compatible with readily available valves.”

C. PHMSA’s EFV Studies and Evaluation Report

In December 2005, a multi-stakeholder group convened by PHMSA published a report titled: “Integrity Management for Gas Distribution: Report of Phase I Investigations.”² The

report recommended that “[A]s part of its distribution integrity management plan, an operator should consider the mitigative value of EFVs. EFVs meeting performance criteria in § 192.381 and installed in accordance with § 192.383 may reduce the need for other mitigation options.”

In an effort to study the possible benefits of expanding EFVs beyond SFR applications, PHMSA began development of an Interim Evaluation in early 2009. In June and August of that year, PHMSA held public meetings on NTSB Recommendation P-01-2 with participants from the following major stakeholder groups: the National Association of Regulatory Utility Commissioners, the National Association of Pipeline Safety Representatives, the International Association of Fire Chiefs, the National Association of State Fire Marshals, natural gas distribution operators, trade associations, manufacturers, and the Pipeline Safety Trust.

On December 4, 2009, PHMSA amended the pipeline safety regulations to require the use of EFVs for new or replaced gas lines servicing SFRs.³ While this requirement met the mandate of the Pipeline Inspection, Protection, Enforcement, and Safety Act enacted in 2006, other distribution lines, including those that served branched SFRs, apartment buildings, other multi-residential dwellings, commercial properties, and industrial service lines, were still not required to use EFVs. These structures are susceptible to the same risks as SFR service lines.

PHMSA, already aware of this risk, issued a report in 2010 titled: “Interim Evaluation: NTSB Recommendation P-01-2 Excess Flow Valves in Applications Other Than Service Lines Serving One SFR” (Interim Evaluation),⁴ which studied the possible expansion of EFVs beyond SFRs and the challenges involved with such expansion. The Interim Evaluation also addressed other

³ “Pipeline Safety: Integrity Management Programs for Gas Distribution Pipelines,” December 4, 2009, (74 FR 63906) RIN 2137-AE15.

⁴ The purpose of the Interim Evaluation was to respond to NTSB Safety Recommendation P-01-02 and evaluate the possibility of expansion of EFVs to applications other than service lines serving one single-family residence (above 10 psig). The report also built a foundation for an economic analysis, considered the need for enhanced technical standards or guidelines, and suggested that any new technical standards include criteria for pressure drops across the EFV. The Interim Evaluation can be found at the following link: <http://www.regulations.gov/contentStreamer?documentId=PHMSA-2011-0009-0002&attachmentNumber=1&disposition=attachment&contentType=pdf>. The Interim Evaluation was finalized in 2015 based on comments to the Interim Report.

¹ The average single-family home uses about 200 standard cubic feet of gas per day and individual apartment units use even less.

¹ “Pipeline Safety: Integrity Management Programs for Gas Distribution Pipelines,” 74 FR 63906 (December 4, 2009), RIN 2137-AE15.

² <http://www.regulations.gov/contentStreamer?documentId=PHMSA-RSPA-2004-19854-0070&attachmentNumber=1&disposition=attachment&contentType=pdf>

practical alternatives, such as the use of manual isolation devices (*e.g.*, curb valves) to quickly cut off the uncontrolled flow of gas in an emergency. The Interim Evaluation also identified challenges related to the feasibility and practicality of the proposed solutions, as well as significant cost and benefit factors. The report found that there were no other devices or viable options to shut off gas supply quickly when gas service lines ruptured.

The Evaluation⁵ was finalized in 2015, based on comments to the Interim Evaluation, input from the meetings, and comments to the Advance Notice of Proposed Rulemaking (ANPRM) discussed below. Both reports can be found in Docket PHMSA–2011–0009.

D. Advance Notice of Proposed Rulemaking

PHMSA published an ANPRM for gas pipelines on November 25, 2011 (76 FR 72666), asking the public to comment on the findings of the Interim Evaluation and issues relating to the expanded use of EFVs in gas distribution systems. PHMSA also sought comments from gas distribution operators on their experiences using EFVs, including:

- Technical challenges of installing EFVs on services other than SFRs;
- Categories of service to be considered for expanded EFV use;
- Cost factors;
- Data analysis in the Interim Evaluation;
- Technical standards for EFV devices; and
- Potential safety and societal benefits, small-business and environmental impacts, and the costs of modifying the existing regulatory requirements.

PHMSA reviewed all of the comments received in response to the ANPRM. The comments received from the trade associations largely supported expanded EFV use, with certain limitations. Individual operators raised concerns about expanded EFV use that were generally related to logistics and implementation. Comments from municipalities reflected a concern that State laws that were already in place could conflict with new Federal requirements. The NTSB expressed strong support for increased EFV use. The ANPRM comments collectively helped PHMSA finalize the Interim Evaluation and determine what

regulatory changes to propose in the Notice of Proposed Rulemaking (NPRM).

E. Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

In January of 2012, President Obama signed the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which required PHMSA to study the possibility of expanding the use of EFVs beyond SFRs and issue a final report to Congress on the evaluation of the NTSB's recommendation on EFVs within 2 years after enactment of the Act. PHMSA was also required to issue regulations, if appropriate, requiring the use of EFVs or equivalent technology for new or entirely replaced gas distribution branch services, multifamily facilities, and small commercial facilities if economically, technically and operationally feasible.

F. Notice of Proposed Rulemaking

PHMSA published an NPRM (80 FR 41460) on July 15, 2015, asking the public to comment on the findings of the finalized Evaluation and PHMSA's proposals relating to the expanded use of EFVs in gas distribution systems. PHMSA proposed a rule that would:

- Expand the EFV requirement to include new or replaced branched service lines servicing SFRs, multifamily residences, and small commercial entities consuming gas volumes not exceeding 1,000 SCFH;
- Require the use of manual service line shut-off valves (*e.g.*, curb valves) for new or replaced service lines with meter capacities exceeding 1,000 SCFH;
- Require operators to notify customers of their right to request installation of an EFV on existing service lines; and
- Leave the question of who bears the cost of installing EFVs on service lines not being newly installed or replaced to the operator, customer, and the appropriate State regulatory agency.

III. Gas Pipeline Advisory Committee

The Technical Pipeline Safety Standards Committee (otherwise commonly referred to as the Gas Pipeline Advisory Committee (GPAC)) is a statutorily mandated advisory committee that advises PHMSA on proposed safety standards, risk assessments, and safety policies for natural gas pipelines. The GPAC was established under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1–16) and the Federal Pipeline Safety Statutes (49 U.S.C. Chap. 601). The committee consists of 15 members, with membership equally divided among Federal and State agencies, the

regulated industry, and the public. The GPAC advises PHMSA on the technical feasibility, practicability, and cost-effectiveness of each proposed natural gas pipeline safety standard.

On December 17, 2015, the GPAC met via a teleconference facilitated by PHMSA at PHMSA's headquarters in Washington, DC. During the meeting, the GPAC considered the specific regulatory proposals set forth in the NPRM and discussed the various comments and edits to the NPRM proposed by the pipeline industry and the public. The GPAC, in a unanimous 8–0 vote, found the NPRM, as published in the **Federal Register**, and the Draft Regulatory Evaluation to be technically feasible, reasonable, cost-effective, and practicable, if (1) changes were made relative to § 192.385 paragraphs (a) and (c), as amended during the meeting; and (2) PHMSA incorporated the preamble language regarding documentation of customer notification in § 192.383(f).

The GPAC recommended that PHMSA adopt the following changes:

- **Curb Valve Accessibility for First Responders:** PHMSA's proposal in the NPRM stated that manual service line shut-off valves are “a curb valve or other manually operated valve located near the service main or a common source of supply that is accessible to first responders and operator personnel [. . .] in the event of an emergency.” The GPAC recommended that the final rule remove language requiring proposed manual service line shut-off valves be accessible to “first responders and operator personnel.” Instead, the GPAC suggested that the rule require such valves be “accessible to operator personnel or other personnel authorized by the operator.” Several members of the GPAC shared the concerns of industry commenters that first responders would attempt to operate these manual service line shut-off valves without operator consent or authorization, which might lead to further or otherwise unforeseen consequences, including service outages. By allowing such valves to be used by “other personnel authorized by the operator,” operators could have discretion to ensure that people familiar with the gas distribution systems in question be qualified and authorized to operate manual service line shut-off valves, which might include properly trained emergency responders.

- **Curb Valve Maintenance:** PHMSA's proposal in the NPRM defined a manual service line shut-off valve as “a curb valve or other manually operated valve located near the service main or a common source of supply that is accessible to first responders and

⁵ <http://www.regulations.gov/contentStreamer?documentId=PHMSA-2011-0009-0027&attachmentNumber=1&disposition=attachment&contentType=pdf>.

operator personnel to manually shut off gas flow to the service line in the event of an emergency.” Several commenters noted that this definition could cause confusion and the potential misinterpretation that these curb valves would be subject to the maintenance requirements at § 192.747, which states that “each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months but at least once each calendar year.” The GPAC recommended that manual service line shut-off valves installed under section § 192.385 be subject to regular, but less prescriptive, scheduled maintenance, as documented by the operator and consistent with the valve manufacturer’s specification.

- **Documentation of Customer Notification:** PHMSA’s proposal in the NPRM stated operators “must provide written notification to the customer of their right to request the installation of an EFV,” and that “each operator must maintain a copy of the customer EFV notice for three years.” Several commenters noted that the term “written” seemed to exclude forms of electronic notification, and they also noted that documenting individual notifications would be a costly, overly burdensome task. The GPAC recommended that PHMSA incorporate language from the NPRM preamble indicating broader options for stakeholder communication, including statements printed on customer bills or mailings or certain forms of electronic communication, including Web site postings, would satisfy the customer notification requirement, and that operators could keep a single copy of a particular method of communication for purposes of fulfilling the documentation requirement.

This final rule adopts all three recommendations of the GPAC. Additional discussion of the amendments and associated comments of the GPAC are provided below as a part of the comment discussion.

IV. Comment Summary and Discussion

In the NPRM published July 15, 2015, PHMSA solicited public comment on whether the proposed amendments would enhance the safety of natural gas distribution systems, as well as the cost and benefit figures associated with these proposals. PHMSA received 12 comments from a broad array of stakeholders, including trade organizations, pipeline operators, a government agency, and a public citizen safety watchdog group. Below is a list of organizations that submitted comments

in response to the NPRM as well as the individual docket number for each comment. All comments and corresponding rulemaking materials received may be viewed on the www.regulations.gov Web site under docket ID PHMSA–2011–0009.

The majority of the comments specifically supported expanding EFV installation requirements. Major concerns included whether first responders should have access to curb valves, whether curb valves required inspection and maintenance, and what methods were being proposed for customer notification and documentation. Minor concerns included EFV installation, the effective date of the rule, and exceptions to EFV installation and notification. The substantive comments received on the proposed regulations are organized by topic and are discussed in the appropriate sections below, along with PHMSA’s responses.

Pipeline Operators (5)

- New Mexico Gas Company (NMG) PHMSA–2011–0009–0032
- Southwest Gas Corporation (SWG) PHMSA–2011–0009–0044
- NiSource (NS) PHMSA–2011–0009–0042
- Sierra Pacific Power Company (SPPC) PHMSA–2011–0009–0041
- MidAmerican Energy Company (MAE) PHMSA–2011–0009–0034

Trade Associations (5)

- American Gas Association (AGA) PHMSA–2011–0009–0037
- National Propane Gas Association (NPGA) PHMSA–2011–0009–0045
- Gas Piping Technology Committee (GPTC) PHMSA–2011–0009–0036
- American Public Gas Association (APGA) PHMSA–2011–0009–0024
- Northeast Gas Association (NGA) PHMSA–2011–0009–0039

Government/Municipalities (1)

- National Transportation Safety Board (NTSB) PHMSA–2011–0009–0035

Public Citizen Groups (1)

- Pipeline Safety Trust (PST) PHMSA–2011–0009–0040

A. Expansion of EFVs to Multifamily Residences, Branch Service Lines, and Small Commercial Buildings

Proposal: EFVs can reduce the risks of explosions by shutting off unplanned, excessive gas flows, primarily from excavation damage to service lines between gas mains and buildings. Gas distribution pipeline operators are currently required to install EFVs in

new and replacement service lines supplying SFRs, per the final rule titled “Integrity Management Programs for Gas Distribution Pipelines,” issued on December 4, 2009. In the NPRM, PHMSA proposed adding four new categories of service for which EFV installation will be required on new and entirely replaced gas distribution services. These four new categories are as follows:

- Branched service lines to an SFR installed concurrently with the primary SFR service line (a single EFV may be installed to protect both lines);
- Branched service lines to an SFR installed off a previously installed SFR service line that does not contain an EFV;
- Multifamily installations, including duplexes, triplexes, fourplexes, and other small multifamily buildings (*e.g.*, apartments, condominiums) with known customer loads at time of service installation, based on installed meter capacity, up to 1,000 SCFH per service; and
- A single, small commercial customer, served by a single service line, with known customer load at time of service installation, based on installed meter capacity, up to 1,000 SCFH per service.

Comments: The majority of the commenters from trade associations, industry, citizen groups, and government entities explicitly supported the expanded use of EFVs in all categories and recognized the benefits of their use. The NTSB was “pleased that PHMSA is now proposing to expand the requirements for installing EFVs” and understood “that the expanded coverage is based on a comprehensive examination of the practical operating limits of EFVs and comments on the ANPRM.” The NTSB stated that it “supports the measures proposed in the NPRM and believes that they will improve the safety of natural gas distribution pipeline systems.” The PST noted the publication “fulfill[s] the NTSB’s recommendation from 2001 to its full scope,” and they “join[ed] with the NTSB in supporting this proposed expansion.”

Industry trade associations, such as the AGA, which represents more than 200 local energy companies throughout the United States and provides gas to 94 percent of U.S. customers, stated in their comments that they and “their member utilities completely support expanding EFV installation to multifamily residential service lines and small commercial services.” The APGA, the national, non-profit association of publicly owned natural gas distribution

systems with over 700 members serving 37 States, also supported the expansion of EFVs, stating that “EFVs are the one tool that distribution operators can use to reduce the risk posed when natural gas service lines are ruptured by excavation.” The APGA also noted that “in written comments submitted in response to PHMSA’s ANPRM published November 25, 2011, APGA and other commenters suggested EFV installation requirements virtually identical to what PHMSA has proposed,” and “commend[ed] PHMSA for adopting APGA’s recommendation.”

NMGC “commend[ed] and support[ed] expanding the use of excess flow valves to new and fully replaced branch services, small multifamily facilities, and small commercial facilities where economically, technically, and operationally feasible.” SWG “support[ed] the practical and reasonable expansion of EFVs to new and fully replaced service lines beyond single family residential applications,” in part “evident by its EFV installation policy and number of EFVs installed [on its existing system].” Likewise, the NGA “support[ed] PHMSA’s proposal to expand the use of excess flow valves in gas distribution services for newly constructed applications other than single-family residences and when existing services are excavated or replaced,” recognizing that “installing EFVs, under conditions where they are effective, when new services are installed, or existing services are exposed, repaired or replaced, is a cost-effective measure to improve pipeline safety.” The NGA also noted that it “supported this proposal in its initial comments to the advanced notice of proposed rulemaking related to this issue in 2012.”

PHMSA Response: PHMSA has been attempting to address issues involving the broad installation of EFVs since at least 1990, and the NTSB has issued several recommendations to PHMSA and the regulated industry regarding the installation of EFVs on particular services as far back as the 1970s. NTSB Recommendation P-01-2, which asks PHMSA to “require that excess flow valves be installed in all new and renewed gas service lines, regardless of a customer’s classification, when the operating conditions are compatible with readily available valves,” is one of PHMSA’s oldest, unclosed NTSB recommendations.

Prior attempts to require the installation of EFVs on certain gas distribution services were not supported by both industry and State pipeline safety partners; for years, EFVs were perceived as unreliable, costly pieces of

equipment that might accidentally close and interfere with normal service, interfere with maintenance activities, or be difficult to size and use at varying line pressures. Further, in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006, Congress provided PHMSA with a mandate to focus its resources on requiring EFV installation on service lines serving single-family residences as part of PHMSA’s gas distribution integrity management program (DIMP) rulemaking. Following the issuance of the DIMP rulemaking and the EFV regulations in 2009, EFVs became more technologically feasible and cost-effective to a point where it became a realistic possibility for PHMSA to address fully the NTSB recommendation. PHMSA performed several studies and surveys to evaluate the feasibility of its position on high-volume EFVs and used its experience in the prior EFV rulemaking to assist in formulating this proposal. PHMSA is pleased that there is now such widespread support, both from industry and public groups, for expanding the installation of EFVs beyond SFRs. Accordingly, this final rule amends the Federal Pipeline Safety Regulations by adding the proposed four new categories of service to require EFV installation on branched service lines (both branched lines to SFRs installed concurrently with the primary SFR service line and branched lines to SFRs installed off a previously installed SFR service lines not containing an EFV), lines serving multifamily installations, and lines serving small commercial and industrial customers.

B. Curb Valve Accessibility to First Responders

Proposal: In the NPRM, PHMSA proposed requiring operators to install curb valves for applications that operate above 1,000 SCFH, are not suitable for EFV installation, and do not meet the exemptions in the existing § 192.383. Curb valves are the most feasible alternative to EFVs in locations that exceed 1,000 SCFH or have other issues that prevent EFV use. Although they cannot be operated instantaneously like EFVs, curb valves can still mitigate the effects of gas line explosions and are an effective safety measure. Therefore, PHMSA proposed that any curb valves installed under this section be accessible to first responders. PHMSA’s experience indicates that, frequently, first responders arrive at the scene of an incident before operator personnel do. If first responders have access to a curb valve during an emergency and can

operate it, the valve can be closed to mitigate further consequences.

Comments: The NTSB was pleased to note that PHMSA’s proposal to require that operators “install a manual service line shut-off valve on new or replaced service lines in such a manner that emergency personnel can access the valve [. . .] goes beyond the original intent of [the NTSB’s] recommendation, to further ensure safety.” The PST joined the NTSB in supporting this measure.

Several of the commenters representing trade associations and operators supported the use of curb valves where EFVs are not feasible but strongly opposed requiring that curb valves always be accessible to first responders. These commenters generally indicated that it should be the operator’s responsibility to operate these select portions of gas distribution systems and that it should be up to the operator’s discretion to allow other personnel to operate these valves, if needed. Certain operators noted the “Pipeline Emergencies” training manual, a document developed by a team of respected emergency response and industry experts in partnership with the National Association of Fire Marshals and PHMSA, states that emergency responders should consult the local gas company to determine local procedures for fire department use of curb valves. The AGA indicated there are a few unique situations where operators have properly trained first responders to operate curb valves, but such a practice is not followed by most utilities. Certain industry operators, including the SPPC, commented that they specifically train first responders in their service territories, for safety reasons, *not* to manually shut off gas flows. If manual service line shut-off valves are accessible to first responders, first responders may operate the wrong valve, may not have the proper equipment to operate the valve, or may incorrectly operate the valve.

Operators and trade associations also asserted that, given the complexity of gas distribution systems, emergency shut-off valves should only be operated by operator-qualified personnel who are familiar with the specific gas distribution system in question. NS suggested that, as operators have engineering records indicating the location of all valves and which ones they control, operator personnel can verify the location and purpose of a valve, thereby eliminating the possibility of operating the wrong one and creating a greater hazard.

The AGA noted there are many accounts of first responders who,

without the approval of the gas company, have inadvertently closed the wrong valve or opened a valve that should have been closed. Several operators argued that allowing first responders to operate manual service line shut-off valves would create additional inconveniences or safety risks, including loss of service to other customers or additional property damage, injuries, or even deaths.

Some operators indicated that giving first responders immediate access to curb valves would distract them from their primary mission, which is to perform safety assessments, make locations safe for people, and conduct evacuations from areas of danger. Instead, they would suddenly have responsibility for locating valves, determining which valves should be closed, and closing them—tasks which could potentially interfere with their primary mission and for which they might not be trained.

At the GPAC meeting, members of the committee expressed concerns similar to those raised by industry regarding unauthorized or improper manual service line shut-off valve usage. The committee debated whether there could be a requirement authorizing first responders to operate those particular valves or whether operators could give discretion to certain first responders to operate valves. One question that was brought up was whether eliminating “first responders” from the proposed language (which would leave “accessible to operator personnel” remaining) would unintentionally create a requirement that would make manual service line shut-off valves accessible to only company personnel. The committee eventually suggested revising the paragraph by striking the reference to first responders and inserting “other personnel authorized by the operator.” The committee believed this would give operators the primacy they sought for operating their own distribution systems while, at the same time, making the valves accessible and usable by non-operator personnel with the operator’s consent.

PHMSA Response: PHMSA disagrees with those commenters who argued that curb valves should not be accessible to first responders. Many comments PHMSA received seemed to equate valve accessibility with authority or expectation to operate those valves without consent. PHMSA is in no way implying that first responders should have complete autonomy in deciding whether to operate valves on a given gas distribution system.

In PHMSA’s experience, there have been accidents where the consequences

have grown due to operator delays in shutting off curb valves. As a part of an operator’s regular liaison with first responders, operators can, if they wish, train first responders to use curb valves properly through regular exercises and communications. Further, if the valve cover plate is clearly marked, there should not be any confusion regarding the operation of the valve in an emergency. However, PHMSA is not advocating the unauthorized operation of these valves. Unless they believe there is imminent threat to human life or extensive property damage, first responders should not operate curb valves without operator input or consent.

In this final rule, PHMSA is adopting the language recommended by the GPAC, which would make curb valves accessible to operators and other personnel authorized by the operator to manually shut off gas flow, if needed, in the event of an emergency. PHMSA appreciates the work of the GPAC in proposing a consensus solution that enables first responders, if qualified and authorized, to operate valves if needed, yet retains the operators’ right to make decisions regarding the operation of their own systems.

C. Curb Valve Maintenance

Proposal: In its NPRM, PHMSA proposed requiring operators to install curb valves for applications that operate above 1,000 SCFH, are not suitable for EFV installation, and do not meet the exemptions in the existing § 192.383. Curb valves are the most feasible alternative to EFVs in locations that exceed 1,000 SCFH or have other issues that prevent EFV use. Although they cannot be operated instantaneously like EFVs, curb valves can still mitigate the effects of gas line explosions and are an important safety measure. Under the proposed amendment to § 192.385(c), manual service line shut-off valves for any new or replaced service line must be installed in such a way as to allow accessibility during emergencies.

Comments: Just as it supported the proposal to ensure the accessibility of curb valves to first responders, the NTSB also supported this proposal. Comments from industry and trade associations, however, were unified in their concern that this requirement would create confusion regarding maintenance requirements based on earlier PHMSA interpretations.

Specifically, operators noted that the addition of § 192.385, as proposed in the NPRM, might lead to the mistaken inference that manual service line shut-off valves would be subject to the valve maintenance requirements set forth in

§ 192.747, “Valve maintenance: Distribution systems.” The AGA, NMGC, SWG, and APGA all noted that PHMSA has issued many letters of interpretation affirming that § 192.747 does not apply to curb valves, but the proposed § 192.385 could be misconstrued to require such annual inspections. The AGA and NMGC support PHMSA’s historical position that manual curb valves are not considered a “critical valve” for inspection purposes, suggesting that if these valves were to be designated as critical valves, operators would have to hire and train a significantly larger staff to inspect and maintain these valves, which would significantly increase operating costs and impose an administrative burden. The AGA and APGA noted that if it was PHMSA’s intent to change its position and require annual inspections on these manual curb valves, this is not indicated in the NPRM, the estimated cost of the rule, or the estimated paperwork burden. Operators suggested PHMSA clearly state in the final rule that curb valves installed under this proposal would not be subject to the requirements at § 192.747.

At the GPAC meeting, members of the committee discussed this proposal and whether these valves should be inspected and maintained according to the requirements at § 192.747. Several members agreed that inspecting and maintaining these valves would be an important safety measure, although several suggested that requiring these valves to be inspected and maintained would require an increase in staffing and operator qualification.

Other members of the committee expressed concerns about operating these valves for inspection purposes, arguing that testing curb valves could knock out service in areas if they were operated improperly, and that testing could potentially present more risk than reward. Members of the committee also agreed that requiring annual inspection and maintenance of these valves would be unreasonable and perhaps unnecessary. Some suggested that if these valves were to be inspected and maintained, then perhaps those requirements could be tied to existing maintenance activities, such as leak surveys and patrolling, meter-change programs, or other times when service lines would be shut off.

Ultimately, the committee suggested requiring valves installed under this section to be subject to regularly scheduled and documented maintenance consistent with the valve manufacturer’s specifications. While some GPAC members expressed concern

that valve manufacturers might specify overly stringent inspection and maintenance intervals for particular curb valves, other GPAC members noted that manufacturer specifications are an important part of the industry's operation and maintenance considerations.

PHMSA Response: PHMSA believes that curb valves installed under this section must be accessible (e.g., clear of debris) and occasionally operated to ensure they are working properly. A curb valve does not provide any safety benefit if it is inoperable. Therefore, to ensure the safe operation of a particular gas distribution system, it is imperative that these valves function as intended. PHMSA concluded that the burden of inspecting and maintaining these valves would be minimal, as operator personnel can meet these requirements by simply ensuring the valves are free of debris that could prevent operation and by ensuring the valves are able to turn and operate. Further, these requirements can be quickly performed and will not be an undue burden on operators, as operators can choose to coordinate them with other activities, such as leak surveys, patrolling, meter-change programs, as well as other actions where service would be shut off and properly qualified personnel are present.⁶ PHMSA also agrees with the GPAC discussion regarding manufacturer specifications. Not only are manufacturer specifications important to consider in the context of operating a safe gas transportation system, but market forces typically ensure reasonable operation and maintenance standards.

PHMSA appreciates the work of the GPAC in debating this proposal and chooses to adopt the language the GPAC recommended, as the amendment strikes a good balance between limiting any potential burden imposed on operators and performing necessary activities to ensure operability and safety. Therefore, the final rule amends the Federal Pipeline Safety Regulations to require that manual service shut-off valves installed under this section be subject to regular scheduled maintenance as documented by the operator and consistent with the valve manufacturer's specifications.

D. Customer Notification

Proposal: PHMSA proposed in the NPRM that operators must notify customers of their right to request the installation of EFVs. Specifically, each operator must provide written notification to the customer of their right to request the installation of an EFV within 90 days of the customer first receiving gas at a particular location. Operators of master-meter systems may continually post a general notification in a prominent location frequented by customers.

Comments: PHMSA received several comments on the proposed notification requirement regarding the frequency of notification, method of notification, notification content, and the persons who should receive notification. The NTSB was "pleased that PHMSA is proposing to require the operator to inform customers of their right to request an EFV be installed on an existing service line," and the PST joined the NTSB in that support. Operators and trade associations nearly universally supported notifying all existing customers of their right to request an EFV through broad communication methods rather than the proposed individual, dedicated notification method, which those commenters argued would have created a significant administrative burden.

Some commenters questioned the effectiveness of the requirement for notification to customers within 90 days of new service. The APGA felt it was unclear what was meant by "notification must occur within 90 days of the customer first receiving gas at a particular location." This could be interpreted to apply when the operator changed the name of the person to whom it sends gas bills. This could also be interpreted not to require notification of existing customers who have been receiving gas for more than 90 days. MAE noted it appears the intent studied in the Evaluation was for a single annual notification to all customers and customer classes, based on a 1-hour level of burden. Several operators, including MAE and SPPC, as well as trade organizations, argued that establishing a 90-day requirement per customer would cause a significant increase in costs, documentation efforts, and a tangible administrative burden.

MAE concurs with the idea of notifying owners of the option for an EFV and its potential benefits but believes this could be done with a new customer packet that could be acted upon by customers who want to initiate installation. This could then be inspected as a part of the public awareness program.

Many operators and trade associations suggested that notifying all existing customers through a broad notification, such as "bill stuffers," "new customer" packets, and Web site postings, would be a better use of operator resources and provide greater benefits. SWG noted that allowing operators to provide EFV notification through broad means would be consistent with the way PHMSA proposed the notification requirement for master-meter operators. Further, the AGA mentioned that the NPRM's "Section-by-Section" analysis indicated PHMSA was open to other forms of notification, such as a printed statement on a customer bill or mailings, but that was not evident in the actual proposed regulatory text. Members of the GPAC echoed this statement when the committee meeting was held and wanted PHMSA to clarify which methods of notification were acceptable. The AGA suggested that given the number of customers that have migrated to online billing and have opted to receive notifications electronically from their natural gas service provider, operators should be able to satisfy the notification requirement through electronic notifications to customers, postings on the company's Web site, and other forms of electronic communications. Satisfying the proposed requirement through these methods as well as traditional communications would allow effective communication at a lower cost and in a more efficient manner. The AGA urged PHMSA to make it clear in the final rule that individual communications to each customer would not be required, and that an annual general EFV communication would suffice. The APGA noted that, as many operators may elect to use bill stuffers to notify all customers about EFVs, PHMSA should allow, as an alternative to notification within 90 days of a customer receiving gas, operators to notify all customers annually of their right to request an EFV. For many APGA members, this would be the least administratively burdensome method of notifying customers and have the added benefit of providing customers who may have overlooked the original notice with additional opportunities to choose to have an EFV installed on their service lines.

Several commenters had miscellaneous concerns on what the customer notification should contain. SPPC suggested providing a description of EFVs and their safety benefits as well as advice on how to request one, a notification that could be inspected as part of an operator's public awareness

⁶Nonetheless, if there is minimal increase in time spent on the order of 5 minutes per visit for curb valve maintenance, PHMSA estimates costs would be approximately \$113,416 annually for an estimated 40,955 curb valves per year based on a fully loaded hourly wage rate for natural gas distribution meter readers (\$33.23 per hour per Bureau of Labor Statistics information (<http://www.bls.gov/oes/current/oes435041.htm>) and a total of 3,413 hours.

program. The AGA recommended that PHMSA require operators include general information in their public communications on the cost associated with retrofitting an existing service line to accommodate an EFV. NS suggested PHMSA adapt and incorporate language similar to that issued in the 1998 EFV customer notification rule, including language discussing the potential safety benefits, a description of installation and replacement costs, and an explanation of when a requested EFV would be installed.

PHMSA Response: PHMSA appreciates the comments received on this topic and the industry's support for a broad annual notification requirement that would provide customers with important safety information. When outlining the proposal in the NPRM, PHMSA did not intend to suggest that customer EFV notifications needed to be non-electronic or otherwise individually carried out. PHMSA has no objection to the method by which operators notify their customers as long as the operator can be sure of reaching all customers who have a right to request an EFV. Therefore, a combination of methods, including Internet Web site postings, bill stuffers, new customer packets, statements on billing materials, et cetera, can be used to notify all customers. PHMSA has determined that, as many of the commenter-proposed methods would theoretically notify, on a regular basis, all customers about their potential right to request an EFV, a broad, electronic method of communication would meet the intent of the regulation and be acceptable.

PHMSA has also determined that, as operators appear to be willing to notify all existing customers about their potential right to request an EFV, the specific 90-day customer notification window for new services is unnecessary. PHMSA has removed this language from the final regulatory text. A broad notification to all customers will also address any concerns about reaching customers who are not eligible for EFV installation or who have already had EFVs installed.

As for the specific content of a notification, PHMSA has determined it would be beneficial to include language that was previously required in the 1998 EFV notification rule, especially considering that operators would already be familiar with the previous requirements. In line with comments from SPPC, AGA, and NS, PHMSA will require that operators include general information on the cost associated with EFV installation, the potential safety benefits that may be derived from installing an EFV, and conditions for

installation. The operator may choose how to word the specific information as long as they provide sufficient information to give customers a rational basis for deciding whether they want to request an EFV installation. The notification should also be written in plain language.

E. Customer Documentation

Proposal: PHMSA proposed in the NPRM that each operator must maintain a copy of the customer EFV notice for 3 years. This notice must be available during PHMSA inspections or State inspections conducted under a pipeline safety program certified or approved by PHMSA under 49 U.S.C. 60105 or 60106.

Comments: The majority of the comments submitted by industry and trade associations were an extension of the concerns regarding customer notification and focused on the idea that documenting individual notifications would be a major undertaking and a poor use of resources. While many operators and trade associations seemed to agree that using and documenting broad methods of communications (e.g., statements printed on customer bills, mailings, or electronic Web pages) would be reasonable, there were some differing opinions on how notifications should be documented.

The AGA recommended that the final rule allow retention of a single copy of any notice, accompanied by a listing of the customers who received the mailing, or by documenting the electronic communication itself. The APGA noted that in the proposed rule's preamble, PHMSA stated that evidence of notification could include such items as a statement printed on customer bills or mailing. The APGA further noted that PHMSA did not propose to require operators to keep records showing that individual customers had been notified. SWG stated that while the section-by-section analysis indicated that operator evidence of notification could include such items as a statement printed on customer bills or mailings, the proposed regulatory text did not include such language.

Some operators and trade associations discussed other issues pertaining to the 3-year recordkeeping requirement. SPPC and NGA noted that customer properties with frequent turnover would have multiple records for the same address that would need to be maintained and sorted for a period that could extend beyond the 3 years required by the regulations. The NPGA argued that PHMSA's recordkeeping requirement presented a greater burden than estimated. For large liquefied petroleum

gas (LPG) operators, it would be a considerable clerical task to collect and review all EFV installation notifications to maintain a record spanning 3 years. The NPGA suggested that PHMSA permit the recordkeeping as an option rather than a requirement, which would allow LPG operators to choose best practices for their businesses and customers.

PHMSA Response: PHMSA determined that several of the concerns raised by commenters in this section could be addressed through clarifying the proposed language and through revisions to the customer notification method.

It was not PHMSA's intent to suggest that operators would need to transmit and document individual notifications to eligible customers. As a few of the commenters pointed out, PHMSA had indicated that a statement printed on customer bills or mailings would suffice as evidence for customer notification, but this language and intent was not incorporated into the proposed regulatory text. As PHMSA is allowing operators to notify customers through a broad range of electronic and traditional communications, the agency will also allow operators to retain a copy of the broad annual notification or notifications they are using to communicate with customers their right to request an EFV. In line with the 2008 Federal Pipeline Safety Regulations regarding operator evidence of customer notification, operators will be required to make a copy of the notice currently in use available during PHMSA inspections or inspections conducted under a program certified or approved by PHMSA under 49 U.S.C. 60105 or 60106 without any further recordkeeping requirement or timeframe.

F. Installation Flexibility

Proposal: PHMSA proposed in the NPRM that operators must install a manual service line shut-off valve for any new or replaced service line with an installed meter capacity exceeding 1,000 SCFH.

Comments: Overall, operators and trade associations supported installing curb valves where EFVs are not feasible due to operational concerns. However, many operators and trade associations noted that the language, as proposed, did not allow operators flexibility for installing EFVs where possible on lines operating at greater than 1,000 SCFH and also might require operators to install both an EFV and a manual service line shut-off valve on the same line.

Several operators and trade associations, including SPPC, NMGC, AGA, NS, MAE, APGA, and SWG, suggested PHMSA revise the proposed regulatory text to give operators the option to install either an EFV or a manual service line shut-off valve based on sound engineering analysis and the availability of larger-format EFVs. The NMGC verified with EFV manufacturers, such as GasBreaker Inc., that EFVs are available and will meet the requirements necessary for operating on single-family residences above 1,000 SCFH. NS saw an opportunity to encourage operators to install EFVs on loads in excess of 1,000 SCFH, as NS has had success with installing EFVs in service lines for loads greater than 1,000 SCFH. The APGA believed the technology of EFVs and products available would continue to evolve, and in the future, some operators may test and become comfortable installing EFVs on some services operating above 1,000 SCFH. The APGA noted the rule should state that an operator need not install a curb valve if the operator installs an EFV on a service line instead. Further, SPPC noted that this requirement should be flexible enough to ensure that operators can account for increased loads in the future, such as being able to install a curb valve on a new service line with an initial load less than 1,000 SCFH but that might later exceed 1,000 SCFH so as to avoid the additional cost of replacing an EFV with a curb valve in the future.

Additionally, NMGC, SWG, NGA, and AGA determined that under no circumstances should operators be required to install both an EFV and a manual service line shut-off valve on the same service line. The AGA noted that, as currently proposed, the regulations would require both a manual curb valve and an EFV on (1) any SFR operating at greater than 1,000 SCFH or (2) a non-SFR operating at greater than 1,000 SCFH where an operator installed an EFV under DIMP. Further, as proposed, the rule could prohibit further innovation on EFVs that might be able to operate above 1,000 SCFH.

The GPTC expressed a similar view on the issue, noting that the rule, as proposed, would not give an operator sufficient flexibility to use sound engineering practices to design an EFV on service lines with loads greater than 1,000 SCFH, in lieu of a manual curb valve. In the proposed § 192.383(b)(4) and (5), PHMSA established a threshold of 1,000 SCFH customer load over which an EFV was not required. However, there is no threshold limit of 1,000 SCFH for proposed

§ 192.383(b)(1), (2), and (3). The result is that a large SFR or branch to two large SFRs with a service line load greater than 1,000 SCFH would have both an EFV and a curb valve, but a multifamily residence with a service line load greater than 1,000 SCFH would require only an emergency curb valve, even if an EFV were available and suited for the application. The GPTC asked PHMSA to modify this section to allow greater flexibility.

PHMSA Response: PHMSA did not intend to require that operators install both a curb valve and an EFV on the same service line and would like to give operators the flexibility to choose the proper safety valve. PHMSA has no objection to operators installing EFVs on lines with capacities over 1,000 SCFH, as long as that decision is reached through sound engineering analysis. To clarify, if an operator cannot or chooses not to install an EFV on an applicable service line with capacity over 1,000 SCFH, it must install a curb valve.

PHMSA notes that it originally wanted to require operators install EFVs on service lines with loads up to 5,000 SCFH, as PHMSA knows that valves are available for these applications, and manufacturers have indicated they have sold EFVs for these load sizes. PHMSA chose the 1,000 SCFH threshold, which was accepted by the GPAC, as a compromise based on comments from industry. Having operators perform a sound engineering analysis will allow PHMSA to verify operators are taking into account maximum loads and the capabilities of EFVs, if available, to handle those loads. An operator's engineering analysis for sizing an EFV should be based on maximum expected load throughout the year, including snap loads, critical supply applications, system configuration, and future anticipated loads (e.g., when commercial facilities in a shopping center change, gas loads would also change). In many instances, operators size EFVs based on meter capacity at the service. Operators must use caution in expanding EFV use to other larger commercial and multifamily dwelling applications due to the complexity of service line design and usage patterns.

In response to SPPC's comment, PHMSA is not allowing manual valve installation for loads below 1,000 SCFH, even when future anticipated loads may exceed that threshold. In this final rule, PHMSA is allowing operators to install EFVs in lieu of manual valves in instances where loads exceed 1,000 SCFH. As operators already consider anticipated design loads and work with distribution system designers to determine proper system configurations

and valve sizing when installing systems, operators should be able to install appropriate valves for future anticipated loads.

PHMSA also considered the GPTC's comment. In the best professional judgment of PHMSA's subject matter experts, a SFR service line combined with a branch service to another SFR isn't known to exceed 1,000 SCFH, and typical houses consume anywhere from 100–250 SCF per day. However, commercial and industrial facilities can exceed 1,000 SCFH, and therefore the threshold is needed. Accordingly, in this final rule, PHMSA has amended the Federal Pipeline Safety Regulations at § 192.385(b) to require that operators install either a manual shut-off valve or, if possible, based on sound engineering analysis and availability, an EFV on lines operating at capacities exceeding 1,000 SCFH.

G. Cost Recovery and Other Cost-Benefit Issues

Proposal: In its NPRM, PHMSA proposed that existing service line customers who desire an EFV on service lines not exceeding 1,000 SCFH and not meeting one of the exceptions contained in paragraph (c) of § 192.383 may request an EFV on their service lines. If a service line customer requests EFV installation, an operator must install the EFV at a mutually agreeable date. The appropriate State regulatory agency would determine who would bear the cost of installation and how the cost would be distributed.

Comments: Operators and trade associations were strongly opposed to the final sentence in PHMSA's proposal that designated the appropriate State regulatory agency as the entity that would determine who would bear the cost of the requested EFV. Most of the comments questioned whether PHMSA had the legal authority to make such a statement and whether a State regulatory agency would be the appropriate authority for all cases. Specifically, the AGA, APGA, and GPTC noted that PHMSA lacked the jurisdiction to codify and regulate the manner by which utilities handle charges to customers.

The NPGA noted that PHMSA's proposal to permit State regulatory authorities to determine what party is responsible for installation costs when a customer requests installation of an EFV presents particular concerns for LPG systems and businesses. PHMSA's deference to State agencies would impose disproportionately negative effects on operators of LPG systems compared to other utilities, since LPG pipeline operators are not regulated in

the same manner as natural gas utilities. The NPGA asked that PHMSA modify the proposal to assign the cost of EFV installation performed at a customer's request to the customer itself, as LPG businesses are not positioned to pass along additional costs to customers in the same manner as locally regulated utilities.

NS noted that in previous amendments to § 192.383 (EFV customer notification, Feb 3, 1998), the Research and Special Programs Administration, PHMSA's predecessor agency, acknowledged that the cost of installing an EFV on an existing line was to be the responsibility of the customer. Therefore, if PHMSA wishes to address who is to pay for the installation of EFVs on existing service lines, NS proposed that PHMSA adopt its previous requirement that the service line customer bear the cost. NS also believed this requirement would also be best addressed under § 192.383(e).

The APGA was vehemently opposed to the proposed language stating that the appropriate State regulatory agency would determine to whom and how the costs of the requested EFVs would be distributed, indicating that of the approximately 1,000 public gas utilities subject to the Federal Pipeline Safety Regulations, only a few have a State agency determining how the cost of gas service is distributed among customers. Whereas State public utility commissions (PUC) typically review and approve the rates charged by investor-owned and privately owned operators (which represent less than 25 percent of distribution operators regulated by PHMSA), rates for public distribution systems are typically approved by the municipality, utility board, or similar local oversight body. The APGA noted the preamble of the NPRM made clear that PHMSA did not intend to regulate how EFV costs would be recovered and did not believe it was PHMSA's intent to require public gas distribution operators to become subject to PUC review for EFV cost recovery. Rather, the APGA believed it was PHMSA's intent to "leave the determination of how the cost of installing an EFV at customer request to the operator and whatever body approves the operator's gas rates."

Apart from PHMSA's proposal for determining cost recovery, some commenters discussed additional cost-benefit issues related to EFV installation on existing service lines. The APGA noted that operators should only be required to install EFVs if requesting customers also agree to whatever cost-recovery mechanism has been included in the operator's approved rates. The

AGA, SWG, and NGA noted that the cost of retrofitting an EFV on an existing service line could be significant, with SWG adding that this cost was not included in PHMSA's cost-benefit analysis. The NGA further indicated that offering customers the option of installing EFVs on existing services not planned for replacement, excavation, or repair was not a cost-effective safety measure, and installing EFVs on existing services should be evaluated by each operator as a part of its integrity management planning.

MAE requested a further analysis of the value and costs of installation, operations and maintenance, and leak rates on curb valves to determine whether there are more cost-efficient methods of emergency shut-off. A member of the GPAC also expressed concerns about PHMSA's cost-benefit numbers related to curb valves, suggesting that PHMSA reconsider including curb valve maintenance in the cost-benefit analysis and further analyze whether the incidents PHMSA used when examining the effectiveness and usefulness of curb valves were applicable to the analysis. Specifically, the GPAC member questioned whether, for the incidents PHMSA selected applicable to curb valves in its analysis, a curb valve on the line would have actually prevented fatalities, injuries, or property damage, noting that the narrative of a few of the accidents indicated some of the fatalities and injuries were actually caused by car crashes and not the subsequent gas incidents.

PHMSA Response: It was not PHMSA's intent in the proposal to specifically delegate cost-recovery duties to State regulatory agencies, especially where certain operators do not have their rates set by these entities. In the Section-by-Section analysis of the NPRM, PHMSA noted it "has no jurisdiction concerning natural gas rates or any costs incurred due to installation of an optional EFV at a consumer's request." PHMSA was only trying to indicate that it would defer to the existing rate-setting and cost-recovery structure under which operators currently operate. Therefore, PHMSA has removed the reference to "State regulatory authority" in the regulatory text applicable to cost recovery and has inserted "The operator's rate-setter" to reflect this intent.

PHMSA understands that the cost of installing an EFV on an existing line at the customer's request is more expensive than if the line were new or being replaced due to excavation and additional labor costs and determined it

was not cost-effective to require the fitting of an EFV on all existing services.

A 2007 National Regulatory Research Institute (NRRRI) study titled "Survey on Excess Flow Valves: Installations, Cost, Operating Performance, and Gas Operator Policy," suggests that customer-initiated EFV installations are quite rare, even in locations where they are currently allowed by local policy, and would not be a circumstance operators would be dealing with in significant numbers. However, without this provision, customers on existing lines without an EFV would essentially have no option to install an EFV, even if they highly valued the risk reduction that it provided and were willing to pay the full installation cost. These foregone transactions would represent deadweight loss. Although PHMSA determined that mandatory installation on all existing lines would not be cost-effective due to excavation and labor costs, some individual households might have a high willingness-to-pay for EFVs due to differences in risk aversion, rate of time preference, and other factors.

Further, it is PHMSA's understanding that customers would typically be required to pay for these installations. From an economic standpoint, an EFV requested and paid for by a customer would actually increase the overall net benefit of the final rule, as PHMSA can infer from the customer's choice that they value the EFV's protection at a level greater than the cost they pay.⁷ Therefore, PHMSA has chosen to retain the right for existing customers to request an EFV installation if they are eligible.

As for the concern of whether applicable incidents were chosen to analyze the costs and benefits for curb valves, PHMSA applied reasonable filters to its data to choose appropriate and applicable incidents for analysis but there can be some level of uncertainty in such incident data. PHMSA is also aware of incidents that might have been prevented by the use of a curb valve, but these incidents were excluded from the analysis due to data limitations or for other reasons.

In light of this particular comment, however, PHMSA reexamined and revised the incident set pertaining to curb valves in order to provide a more conservative cost-benefit analysis. For some of the incidents in question (e.g., where drivers crashed cars into meter sets), it is unlikely a curb valve would

⁷ For retrofits, the benefits per valve would be essentially the same as calculated in the accompanying Regulatory Impact Analysis (a range of \$4 to \$44 at a 7 percent rate, depending on the customer type).

have been effective in preventing the incident following impact, and these incidents were removed from the data set. The final Regulatory Impact Analysis is available in the docket.

PHMSA notes that because a curb valve can allow gas flow to be shut off quickly, a curb valve could still be effective in mitigating the consequences of these incidents by shortening their duration, especially where property damage is concerned. Further, PHMSA's data is limited and often does not indicate clearly whether fatalities, if not caused by the initial impact, are due to injuries sustained during the crash or by the subsequent pipeline incident. For example, quickly shutting off the flow of gas at the site of an incident may be able to save the life of someone who has been knocked unconscious or has been otherwise incapacitated. Because of this, PHMSA still believes that installing EFVs and curb valves on service lines can provide a tangible safety benefit to the public and the environment.

H. Miscellaneous Comments

Effective Date

Proposal: The NPRM proposed that each operator must install an EFV on any new or replaced service line for the services listed in the proposed § 192.383(b) before those lines were activated and prior to January 3, 2014.

Comments: Several operators and trade associations, including AGA, NS, and APGA, noted that the effective date for the proposed rule would impose the installation requirement retroactively. These commenters requested that operators be given at least 6 months to prepare for complying with the rule, including time to establish cost allocation with the appropriate rate-setter and to source the valves.

PHMSA Response: This portion of the rule was drafted with the 2012 statutory mandate in mind and did not necessarily indicate a retroactive requirement. PHMSA has revised the effective date in the final rule to allow operators 6 months to comply.

Exceptions to the Right To Request an EFV

Proposal: The NPRM proposed that operators need not install an EFV if one or more of the following conditions were present: (1) The service line does not operate at a pressure of 10 psig or greater throughout the year; (2) the operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a customer; (3) an EFV could interfere with necessary operation or maintenance

activities, such as blowing liquids from the line; or (4) an EFV meeting performance standards in § 192.381 is not commercially available to the operator.

Comments: The AGA and APGA noted that because of these exemptions, operators should not be required to provide an individual notification to customers of their right to request an EFV if it is not feasible to install an EFV on that customer's service line. The APGA also noted that if most operators chose to satisfy the notification requirement through customer bills or other mass communication, every customer would still receive notification, regardless of whether EFV installation were impossible or impractical. The APGA also believed that PHMSA should reconsider applying the proposed requirements for the right to request an EFV and customer notification to master-meter operators. As master-meter operators typically serve "garden-style" apartments, mobile home parks, universities, public housing, et cetera, the "customer" is typically a renter and not an owner, which could potentially cause confusion as to who has the right to request an EFV.

The AGA and SPPC asked that PHMSA consider exempting service lines that already had manual valves on them or lines where an operator might expect the load to increase beyond 1,000 SCFH and would install a manual valve instead.

PHMSA Response: PHMSA noted that the AGA and APGA comments were submitted under the assumption that PHMSA was requiring individual communications to all customers. As the APGA noted, because PHMSA is allowing broad and electronic communication methods regarding EFV installation, all customers, regardless of their eligibility for EFV installation, will be receiving a form of notice. Further, PHMSA has determined that master-meter operators will largely be held to the same standards as other operators as far as EFV installation is concerned.

PHMSA does not wish to include any further exceptions to the ones that were proposed. PHMSA is concerned that operators might interpret the fact that a service line already has a manual valve to mean that an EFV does not need to be installed. This would be an incorrect assumption. Applicable new and replaced service lines with loads not exceeding 1,000 SCFH must have EFVs installed on them. Moreover, as PHMSA is allowing installation flexibility for lines operating above 1,000 SCFH, the agency believes it is unnecessary to provide a specific exemption for

installing an EFV when the line could be expected to operate above 1,000 SCFH.

Definitions

Comments: Several commenters requested definitions or clarification for a few terms in the NPRM. Specifically, SPPC asked PHMSA to add a definition of "branch service line" to § 192.383(a). The APGA noted that SFR is not defined in part 192 and that PHMSA should add it to the definitions or spell out the term when used. The APGA also noted that PHMSA does not define who the "customer" is whom the operator must notify and who has the right to request an EFV. The APGA noted that, in the preamble, PHMSA states that messages on bills would satisfy the notification requirement, which appears to intend that the customer is the person to whom the utility sends the gas bill. The APGA urged PHMSA to clarify this definition if this is the case, as the term "customer" might also be interpreted to mean the consumer of the gas, a resident at a rented property, or perhaps the owner of a property. These could all be different people. The GPTC recommended adding a reference to proposed § 192.385(b) and (c) to refer back to § 192.383 and PHMSA's definition of replaced service line. MAE recommended PHMSA revise § 192.381(a) to clarify whether EFVs are required for systems that normally operate at 10 psig but that have minimum design pressures of 5–6 psig for anticipated heavy-load conditions.

PHMSA Response: PHMSA has added a definition of "branch service line" to the definitions paragraph of § 192.383 and spelled out "SFR" the first time it is used.

While PHMSA does not delineate who the "customer" is in the regulatory text, the APGA is correct in that PHMSA intends the "customer" to be the person to whom the utility sends the gas bill.

PHMSA declined to add a reference in proposed § 192.385(b) and (c) back to § 192.383 regarding PHMSA's definition of a replaced service line. PHMSA intends curb valves installed under § 192.385 to be appropriate substitutes for EFVs and are not otherwise considered manual valves within the distribution network.

Regarding MAE's comment, the language indicating that EFVs are to be used on service lines operating continuously throughout the year at a pressure not less than 10 p.s.i. (69 kPa) gage has been in the regulations since 1996. The only change that has been made since that time is the removal of the term "single-family" from "service lines." PHMSA is aware, however, there

are service lines that experience pressure drops below 10 psig during heavy loading conditions. These lines are not required to have EFVs installed on them.

Editorial Comments

Comments: NS suggested that proposed language concerning a mutually agreeable installation date should be moved to proposed § 192.383(e), which deals with notification requirements. The APGA was not clear on what “EFV measures” the reporting requirement refers to. The APGA suggested this is not a new reporting requirement but rather refers to the existing EFV reporting requirements in § 191.11 and should either be deleted or clarified to make clear that it only applies to operators that are required to file annual reports.

PHMSA Response: PHMSA considered these changes and made edits to the regulatory text where appropriate.

EFV Standard Development

Comments: The GPTC noted that while it appreciated PHMSA’s reference to the GPTC and its work, it still sought to clarify that the GPTC’s Guide Material Appendix 192–8, which provides operators with guidance for developing a distribution integrity management program and compliance with certain sections of part 192, does not include information on the selection, sizing, or installation of EFVs. They noted that helpful guidance to assist operators in addressing EFV performance, selection, and installation considerations is found in MSS SP–115, ASTM F1802, and ASTM F2138. The GPTC also suggested that if PHMSA wants specific standards to be developed, then PHMSA should approach those organizations to develop such standards.

The NGA commented that it did not believe that development of EFV standards was needed and that the development of design considerations would best be performed by the utilities themselves or by standards-setting organizations, based on EFV manufacturer specifications considering

customer load, meter size, service pipe size, and pressures.

PHMSA Response: PHMSA solicited comments in the gas pipeline ANPRM on whether standards should be developed for EFVs. In the NPRM, PHMSA noted that it would not be incorporating by reference any new standards for EFVs into the Pipeline Safety Regulations but might do so in the future if the need arose.

V. Regulatory Notices and Analysis

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the authority of the Federal pipeline safety laws (49 U.S.C. 60101 *et seq.*). Section 60102 of title 49, U.S.C., authorizes the Secretary of Transportation to issue regulations governing the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline service lines. Further, Section 60109(e)(3)(B) states that “the Secretary, if appropriate, shall by regulation require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial service facilities.”

B. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This final rule is a non-significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not reviewed by the Office of Management and Budget. This final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) because of substantial stakeholder interest in pipeline safety.

Executive Orders 12866 and 13563 require agencies regulate in the most cost-effective manner, make a reasoned determination that the benefits of the intended regulations justify its costs, and develop regulations that impose the least burden on society. PHMSA is

providing the final Regulatory Impact Analysis (RIA) simultaneously with this rule, and it is available in the docket. The final RIA does not address the benefits and costs of the proposal to require operators to install EFVs on branched service lines providing gas service to SFRs because the benefits and costs of this proposal were addressed in the regulatory impact analysis for a previous rulemaking.⁸ The final RIA found that the estimated monetized benefits do not exceed the monetized costs in all cases. For the requirement of installing EFVs on new or replaced service lines providing gas service to multifamily residences, the monetized costs exceeded monetized benefits, even when using lower-bound cost estimates. PHMSA believes that the amendments are nevertheless justified by significant unquantifiable benefits, such as avoided evacuations and environmental damage from EFV-preventable incidents, including incidents that could not be included in the analysis because they do not meet PHMSA’s reporting criteria. EFVs also provide protection against a low-probability but high-consequence incident that could inflict mass casualties.

PHMSA estimates a total impacted community of 4,448 operators for this rule (3,119 master meter/small LPG operators who will need to comply with notification requirements and 1,329 natural gas distribution operators who will need to install valves and comply with notification requirements) and 222,114 service lines per year on average. PHMSA assumed that valves do not have network effects; in other words, each EFV operates independently, and the costs and benefits of EFV installation simply scale linearly. The total annualized benefits of the rule are \$5.5 million when discounted at 7 percent, while the total annualized costs are \$10.6 million. At the 3 percent discount rate, the total benefits of the rule are \$10.6 million, while the costs are \$12.0 million.

The following table summarizes the annualized benefits and costs of this final rule:

TABLE ES–1—SUMMARY OF ESTIMATED BENEFITS AND COSTS (\$ MILLIONS)¹

Customer category	Annualized benefit	Annualized cost
Branched Line Single Family	See note	See note.
Multifamily Residence	1.0	6.2
Small Commercial	1.6	1.1
Industrial/Other curb valve	3.0	3.0

⁸ “Pipeline Safety: Integrity Management Programs for Gas Distribution Pipelines.” December 4, 2009, (74 FR 63906) (RIN 2137–AE15).

TABLE ES-1—SUMMARY OF ESTIMATED BENEFITS AND COSTS (\$ MILLIONS)¹—Continued

Customer category	Annualized benefit	Annualized cost
All classifications: Notification & recordkeeping	Not estimated	0.3
Total	5.5	10.6

Note: Benefits and costs for branched SFR services accounted for in economic analysis of previous rulemaking (Distribution Integrity Management Program).

¹50-year present value converted to annual equivalent using 7% discount rate.

Additional unquantified benefit areas include:

- Equity: Provides a fair and equal level of safety to members of society who do not live in SFRs;
- Additional incident costs avoided for which no PHMSA incident data are available;
- Mitigates the consequences (death, injury, property damage) of incidents when customer piping or equipment is involved and thus the incident would not be reflected in PHMSA records;
- Additional incident costs that are not recorded in incident reports, including costs of evacuations, emergency response costs, and business downtime;
- Environmental externalities associated with methane releases (discussed in the RIA Appendix);
- Peace of mind for operators and customers; and
- Protection against seismic events and intentional tampering.

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866, Regulatory Planning and Review, of September 30, 1993. Additionally, Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome. When developing this rule, PHMSA involved the public in the regulatory process in a variety of ways. Specifically, PHMSA considered public comments based on the proposals in the NPRM, addressed those comments in the docket, and discussed the proposals with the members of the GPAC and any public representatives in attendance.

This final rule is expected to produce a safety benefit that addresses a congressional mandate and a NTSB safety recommendation and which can be implemented at relatively minor cost; similar regulations have been effective when applied to single-family residences. Further, industry has already shown a willingness to expand EFV applications, recognizing that EFVs have the potential to avert high-cost, low-probability events that, while absent in the dataset for multifamily residences, can still occur.

C. Executive Order 13132: Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). PHMSA issues pipeline safety regulations applicable to interstate and intrastate pipelines. The requirements in this rule apply to operators of distribution pipeline systems, which are primarily intrastate pipeline systems. Under 49 U.S.C. 60105, a State may regulate an intrastate pipeline facility or intrastate pipeline transportation after submitting a certification to PHMSA. Thus, State pipeline safety regulatory agencies with valid certifications on file with PHMSA will be the primary enforcers of the safety requirements proposed in this NPRM. Under 49 U.S.C. 60107, PHMSA provides grant money to participating States to carry out their pipeline safety enforcement programs. Although a few States choose not to participate in the natural gas pipeline safety grant program, every State has the option to participate. This grant money is used to defray additional costs incurred by enforcing the pipeline safety regulations.

PHMSA has concluded this final rule does not include any regulation that: (1) Has substantial direct effects on States, relationships between the national government and the States, or distribution of power and responsibilities among various levels of government; (2) imposes substantial direct compliance costs on States and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive

Order 13132 (August 10, 1999; 64 FR 43255) do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities, unless the agency determines that a rule will not have a significant impact on a substantial number of small entities. This final rule has been developed in accordance with Executive Order 13272 (“Proper Consideration of Small Entities in Agency Rulemaking”) and DOT’s procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of rules on small entities are properly considered.

This final rule requires gas pipeline operators to comply with the new EFV installation requirements. The Small Business Administration (SBA) criteria for defining a small business in the natural gas pipeline distribution industry is one that employs less than 1000 employees as specified in the North American Industry Classification System (NAICS) codes. The RFA defines “small governmental jurisdiction” as the government of a city, county, town, township, village, school district, or special district with a population less than 50,000.

To identify gas distribution operators affected by the proposed requirements that are small businesses or small governmental jurisdictions, PHMSA used information provided by Dun and Bradstreet. Dun and Bradstreet provides PHMSA with estimates of small business classifications based on SBA size standards for operators that file an annual report, along with a flag for public sector entities that is based on information such as entity name and NAICS code. These data indicate that approximately 60 percent of affected operators are public entities; among these, the share that are small governmental jurisdictions is not known. Among the private sector entities, approximately one-third are small entities according to the SBA size definition for their NAICS code. The most common of these is NAICS

221210, natural gas distribution, for which the standard is 1,000 employees. Overall, while the number of small entities is not known with precision, it appears to be substantial when considering gas distribution operators that are small businesses or small governmental jurisdictions, as well as the master meter and small LPG operators that are presumed to be small entities.

However, PHMSA determined that this rule does not have a significant economic impact on a substantial number of small entities. While the natural gas distribution industry includes many small entities, including both small businesses and small governmental jurisdictions, the impacts of the rule are clearly *de minimis*, both in relation to operator revenues and to the utility rate-payers to whom the incremental costs would ultimately be allocated. PHMSA's Regulatory Flexibility Analysis, which reached this determination, is available in the docket for this rulemaking.

Accordingly, the head of the agency certifies under Section 605(b) of the RFA that this final rule will not have a significant economic impact on a substantial number of small entities because the additional costs are minimal.

E. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$147.6 million, adjusted for inflation, or more in any one year to State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the final rule. Installation of EFVs and curb valves significantly protects the safety of the public and is technically and economically feasible.

F. National Environmental Policy Act

PHMSA analyzed this final rule in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and DOT Order 5610.1C, and has determined that this action will not significantly affect the quality of the human environment. An environmental assessment of this final rule, which explains this determination, is available in the docket.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). Because this rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

H. Executive Order 13211: Energy Supply, Distribution, or Use

This final rule is not a “significant energy action” under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). It is not likely to have a significant adverse effect on supply, distribution, or energy use. Further, the Office of Information and Regulatory Affairs has not designated this final rule as a significant energy action.

I. Paperwork Reduction Act

Pursuant to 5 CFR 1320.8(d), PHMSA is required to provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. As a result of the requirements of this rulemaking, the following information collection impacts are expected:

Gas Distribution Annual Report Revision

PHMSA is revising § 192.383 to require the installation of EFVs on applications beyond SFRs that are currently required. Further, PHMSA is adding § 192.385, which would require the installation of manual service line shut-off valves. As a result, PHMSA wants to track the number of new installations related to these provisions on an annual basis. This will change the Gas Distribution Annual Report, which is contained in the currently approved information collection, titled “Annual Reports for Gas Distribution Operators,” identified under OMB Control Number 2137–0629. PHMSA is revising the Gas Distribution Annual Report to collect the number of EFVs installed on multifamily dwellings and small commercial businesses and the number of manual service line shut-off valves installed. Currently, operators are required to submit the total number of EFVs installed on SFRs and the total number of EFVs within their systems. Therefore, PHMSA does not expect operators to experience an increase in

burden beyond that already incurred for the Gas Distribution Annual Report. PHMSA has submitted an information collection revision request to OIRA to cover the components of this data collection. The request is under review and pending approval. PHMSA will publish a subsequent notice in the **Federal Register** upon the approval of this collection.

Customer Notification

Section 192.383 of this final rule will require operators to notify customers of their right to request the installation of EFVs. Operators have multiple options for fulfilling this requirement, including adding a short statement to customer bills, incorporating a public awareness message on the company Web site, incorporating the notification on bill stuffers or in new customer packets, and posting a notice in a prominent location (for master-meter/small LPG operators). PHMSA estimates that approximately half of the 6,237 operators categorized as either master-meter operators or small LPG systems will be impacted, resulting in 3,119 affected operators. This estimate is based on the premise that only half of these operators have systems that can accommodate an EFV. PHMSA also estimates that 1,329 gas distribution operators will be impacted. Therefore, PHMSA estimates a total impacted community of 4,448 (3,119 master-meter/small LPG operators and 1,329 gas distribution operators). PHMSA estimates that each impacted operator will take approximately 1 hour per year to create and complete this notification. PHMSA expects a vast majority of notifications to be made electronically, and, as such, expects the recordkeeping of these documents to be automatic and self-executing upon saving such documents. Consequently, PHMSA expects there to be no additional burden to the operator for saving the notifications for recordkeeping purposes. PHMSA estimates the total annual cost of this provision at \$280,713 per year (4,448 operators * 1 hour/operator * \$63.11/hour⁹). PHMSA has submitted a new information collection request to OIRA to cover the components of this data collection. The request is under review and pending approval. PHMSA will publish a subsequent notice in the **Federal Register** upon the approval of this collection.

As a result of the changes listed above, PHMSA is submitting an

⁹ Bureau of Labor Statistics, Occupational Employment Statistics, May 2015. Occupation code 13–041, industry code 221200. <http://www.bls.gov/oes/current/oes131041.htm>.

information collection revision request as well as a new information collection request to OMB for approval based on the requirements in this final rule. These information collections are contained in the pipeline safety regulations, 49 CFR parts 190–199. The following information is provided for these information collections: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity including a description of the changes applicable to the rulemaking action; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. The information collection burden for the following information collection is requested as follows:

1. Title: Annual Reports for Gas Distribution Operators.

OMB Control Number: 2137–0629.

Current Expiration Date: May 31, 2018.

Type of Request: Revision.

Abstract: This information covers the collection of annual report data for gas distribution pipeline operators. This information collection will only be revised to reflect the amendment to the Gas Distribution Annual Report, which will allow operators to submit the number of EFVs that are installed in multifamily dwellings and small commercial businesses and the number of manual service line shut-off valves installed. PHMSA does not expect this revision to result in a burden-hour increase.

Affected Public: Gas Pipeline Operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 1,446.

Total Annual Burden Hours: 23,136.

Frequency of Collection: On occasion.

2. Title: Customer Notifications for Installation of Excess Flow Valves.

OMB Control Number: TBD.

Current Expiration Date: Not Applicable.

Type of Request: New Information Collection.

Abstract: This new information collection will cover the reporting and recordkeeping requirements for gas pipeline operators associated with the requirement of operators to notify customers of their right to request the installation of excess flow valves.

Affected Public: Gas Pipeline Operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 4,448 responses.

Total Annual Burden Hours: 4,448 hours.

Frequency of Collection: On occasion.

Requests for a copy of this information collection should be directed to Angela Dow, Office of Pipeline Safety (PHP–30), Pipeline and Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone 202–366–4595.

J. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

K. Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 192

Excess flow valve installation, Excess flow valve performance standards, Pipeline safety, Service lines.

In consideration of the foregoing, PHMSA is amending 49 CFR part 192 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118, 60137, and 49 CFR 1.97.

■ 2. In § 192.381, paragraph (a) introductory text is revised to read as follows:

§ 192.381 Service lines: Excess flow valve performance standards.

(a) Excess flow valves (EFVs) to be used on service lines that operate continuously throughout the year at a pressure not less than 10 p.s.i. (69 kPa) gage must be manufactured and tested by the manufacturer according to an industry specification, or the

manufacturer's written specification, to ensure that each valve will:

* * * * *

■ 3. Section 192.383 is revised to read as follows:

§ 192.383 Excess flow valve installation.

(a) *Definitions.* As used in this section:

Branched service line means a gas service line that begins at the existing service line or is installed concurrently with the primary service line but serves a separate residence.

Replaced service line means a gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service line serving single-family residence means a gas service line that begins at the fitting that connects the service line to the main and serves only one single-family residence (SFR).

(b) *Installation required.* An EFV installation must comply with the performance standards in § 192.381. After April 17, 2016, each operator must install an EFV on any new or replaced service line serving the following types of services before the line is activated:

- (1) A single service line to one SFR;
- (2) A branched service line to a SFR installed concurrently with the primary SFR service line (*i.e.*, a single EFV may be installed to protect both service lines);
- (3) A branched service line to a SFR installed off a previously installed SFR service line that does not contain an EFV;
- (4) Multifamily residences with known customer loads not exceeding 1,000 SCFH per service, at time of service installation based on installed meter capacity, and
- (5) A single, small commercial customer served by a single service line with a known customer load not exceeding 1,000 SCFH, at the time of meter installation, based on installed meter capacity.

(c) *Exceptions to excess flow valve installation requirement.* An operator need not install an excess flow valve if one or more of the following conditions are present:

- (1) The service line does not operate at a pressure of 10 psig or greater throughout the year;
- (2) The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a customer;
- (3) An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

(4) An EFV meeting the performance standards in § 192.381 is not commercially available to the operator.

(d) *Customer's right to request an EFV.* Existing service line customers who desire an EFV on service lines not exceeding 1,000 SCFH and who do not qualify for one of the exceptions in paragraph (c) of this section may request an EFV to be installed on their service lines. If an eligible service line customer requests an EFV installation, an operator must install the EFV at a mutually agreeable date. The operator's rate-setter determines how and to whom the costs of the requested EFVs are distributed.

(e) *Operator notification of customers concerning EFV installation.* Operators must notify customers of their right to request an EFV in the following manner:

(1) Except as specified in paragraphs (c) and (e)(5) of this section, each operator must provide written or electronic notification to customers of their right to request the installation of an EFV. Electronic notification can include emails, Web site postings, and e-billing notices.

(2) The notification must include an explanation for the service line customer of the potential safety benefits that may be derived from installing an EFV. The explanation must include information that an EFV is designed to shut off the flow of natural gas automatically if the service line breaks.

(3) The notification must include a description of EFV installation and replacement costs. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be to the extent known.

(4) The notification must indicate that if a service line customer requests installation of an EFV and the load does not exceed 1,000 SCFH and the conditions of paragraph (c) are not present, the operator must install an EFV at a mutually agreeable date.

(5) Operators of master-meter systems and liquefied petroleum gas (LPG) operators with fewer than 100 customers may continuously post a general notification in a prominent location frequented by customers.

(f) *Operator evidence of customer notification.* An operator must make a copy of the notice or notices currently in use available during PHMSA inspections or State inspections conducted under a pipeline safety program certified or approved by PHMSA under 49 U.S.C. 60105 or 60106.

(g) *Reporting.* Except for operators of master-meter systems and LPG operators with fewer than 100 customers, each operator must report the EFV measures

detailed in the annual report required by § 191.11.

■ 4. Section 192.385 is added to subpart H to read as follows:

§ 192.385 Manual service line shut-off valve installation.

(a) *Definitions.* As used in this section:

Manual service line shut-off valve means a curb valve or other manually operated valve located near the service line that is safely accessible to operator personnel or other personnel authorized by the operator to manually shut off gas flow to the service line, if needed.

(b) *Installation requirement.* The operator must install either a manual service line shut-off valve or, if possible, based on sound engineering analysis and availability, an EFV for any new or replaced service line with installed meter capacity exceeding 1,000 SCFH.

(c) *Accessibility and maintenance.* Manual service line shut-off valves for any new or replaced service line must be installed in such a way as to allow accessibility during emergencies. Manual service shut-off valves installed under this section are subject to regular scheduled maintenance, as documented by the operator and consistent with the valve manufacturer's specification.

Issued in Washington, DC, on October 7, 2016, under authority delegated in 49 CFR Part 1.97.

Marie Therese Dominguez,
Administrator.

[FR Doc. 2016-24817 Filed 10-13-16; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 350

[Docket No. FMCSA-2016-0149]

RIN 2126-AB91

Amendments To Implement Grants Provisions of the Fixing America's Surface Transportation Act

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) adopts, as final, certain regulations required by the Fixing America's Surface Transportation Act (FAST Act) enacted on December 4, 2015. The involved statutory changes went into effect on October 1, 2016, and require that FMCSA make conforming changes to its

regulations to ensure they are current and consistent with the statutory requirements. Adoption of these rules is a nondiscretionary, ministerial action that FMCSA may take without issuing a notice of proposed rulemaking and receiving public comment, in accordance with the good cause exception available to Federal agencies under the Administrative Procedure Act.

DATES: This final rule is effective October 14, 2016. Petitions for Reconsideration must be received by the Agency no later than November 14, 2016.

FOR FURTHER INFORMATION CONTACT:

Kathryn Sinniger, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; by telephone at (202) 493-0908, or by electronic mail at kathryn.sinniger@dot.gov. If you have questions regarding the grants program, please contact: Thomas Liberatore, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; by telephone at (202) 366-3030, or by electronic mail at thomas.liberatore@dot.gov. If you have questions regarding the docket, call Docket Services, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose and Summary of the Major Provisions

This rule makes nondiscretionary, ministerial changes to FMCSA regulations that are required by the FAST Act (Pub. L. 114-94, 129 Stat. 1312, December 4, 2015). The FAST Act made several notable changes to the grant programs administered by FMCSA. For example, it consolidated the Border Enforcement, New Entrant, and Performance and Registration Information Systems Management (PRISM) grants into the formula Motor Carrier Safety Assistance Program (MCSAP) grant. Each State is now required to fully participate in the PRISM program by October 1, 2020, as a condition to receive funding under MCSAP. The FAST Act also created a standalone High Priority financial assistance (High Priority) Program with two major purposes: activities related to motor carrier safety and Innovative Technology Deployment (ITD). The ITD program modifies and replaces the FMCSA's Commercial Motor Vehicle Information Systems and Networks (CVISN) program. Also, the Safety Data Improvement Program, which was previously a standalone grant program,