



**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
WASHINGTON, D.C.**

**PIPELINE SAFETY: OPERATOR QUALIFICATION FREQUENTLY ASKED QUESTIONS  
DOCKET NO. PHMSA-2020-0086**

**COMMENTS**

**FILED BY  
NORTHEAST GAS ASSOCIATION**

February 15, 2021

The Northeast Gas Association (NGA) appreciates the opportunity to share its comments regarding the Notification and Request for Comments on Pipeline Safety Docket No. PHMSA-2020-0086, Operator Qualification Frequently Asked Questions, issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation. This letter, submitted on behalf of NGA's membership, provides comments associated with this docket.

NGA is a regional trade association that focuses on education and training, technology research and development, operations, planning, and increasing public awareness of natural gas in the Northeast U.S. NGA membership has significant experience with administering OQ programs. NGA represents natural gas distribution companies, transmission companies, liquefied natural gas importers and associate member companies. Its member companies provide natural gas service to 13 million customers in 9 states (CT, ME, MA, NH, NJ, NY, PA, RI, VT).

NGA respectfully submits the following comments for consideration by PHMSA.

**Comments:**

**FAQ #6.** What requirements exist related to the qualification of individuals participating in mutual assistance agreements? (§§ 192.805, 195.505)

**Comments:** NGA supports the intent of this FAQ and agrees that mutual aid personnel need to be competent and qualified in the tasks they perform. During response to events requiring mutual assistance, in the spirit of the existing PHMSA FAQ<sup>1</sup> 1.9, PHMSA should allow Operators to evaluate, and if appropriate, accept "task equivalent" OQ credentials of the Operators providing mutual assistance contingent upon the Operator providing "site arrival

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<sup>1</sup> Reference PHMSA OQ Frequently Asked Questions, weblink:  
<https://www.phmsa.dot.gov/pipeline/operator-qualifications/oq-frequently-asked-questions>

training" for mutual aid personnel. The acceptance of task equivalents aligns with contractor OQ program acceptance, as described in existing PHMSA FAQs 1.3, 1.4, 1.6, and 1.8. The arrival training would address the Operator's company-specific procedures, materials and equipment, as applicable, for the work that is to be performed by mutual aid responders. Operators who adopt this approach should include these provisions within their OQ Written Plan and Emergency Response Plan. This approach allows Operators the flexibility to enlist support services quickly and efficiently during emergency events, while ensuring the competency of the individuals providing mutual aid assistance and ensuring the Company's operating procedures are effectively communicated and followed. NGA membership believes the language proposed below provides the needed flexibility and safeguards required for emergency situations requiring mutual aid.

**Proposed FAQ Language:** Mutual assistance agreements are typically designed to clarify the conditions under which pipeline Operators support each other in the safe restoration of services following a significant outage. It is the responsibility of the Operator whose system is being restored to ensure that all individuals performing covered tasks pursuant to mutual assistance agreements hold the relevant qualifications and have an understanding of applicable company specific procedures. Supplementary training covering company specific procedures may be addressed as part of a company defined mutual aid site arrival training process.

**FAQ #7.** How should training be incorporated in an operator's program? (§§ 192.805(h), 192.807, 195.505(h), 195.507)

**Comments:** NGA agrees with the intent of this FAQ and recognizes the importance of training in developing the competency of personnel. However, it appears that the FAQ response, in certain areas, goes beyond code requirements and could unintentionally set new regulatory expectations for Operators. The proposed FAQ response is significantly more prescriptive than the "training as appropriate" language in CFR192.805. Specific areas of concern include:

- Significant procedural changes do not always warrant retraining of all personnel. At times, simply communicating the change is sufficient (e.g., Operator will no longer use a specific component). Implementation of procedural changes are typically addressed through a company specific management of change (MOC) process. This OQ FAQ should not stipulate a universal, one-size-fits-all retraining requirement. This decision should rest with the Operator as defined in a company specific MOC policy.
- The need for remedial training upon failure of an evaluation should be determined by the Operator and/or individual, as there are numerous reasons that could result in a failure, but not warrant formal, documented remedial training. The proposed FAQ implies that remedial training is a requirement for all failures<sup>2</sup>. The language in the existing PHMSA FAQs 2.11 and 2.12, "If appropriate, remedial training and subsequent reevaluations can be offered if fundamental knowledge, skill or ability gaps are disclosed by the failure", is recommended as this is both reasonable and consistent with the code.

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<sup>2</sup> Note: this implication conflicts with proposed FAQ 17's statement "Remedial training should be considered prior to subsequent reevaluation" (emphasis added)

- The retention of training records to support qualifications is a significant concern. The proposed FAQ language implies that an individual is not qualified if an Operator or contractor cannot produce training records for each covered task they perform. Methodologies and systems would need to be developed to link specific OQ covered tasks to existing company specific training documentation processes. Additionally, training records reside with the employer. Many individuals change employers throughout their careers; this is especially true for contractors. These individuals have the requisite experience and competency to perform the covered task but may not have access to their original training records. This new requirement to retain and link training records to qualifications throughout an individual's career sets new expectations regarding portability of training records for Operators and Contractors. If this is truly PHMSA's intent, the industry will need time to address these issues and develop the required systems to ensure the continuity of those records between different employers.

Proposed FAQ Language: Appropriate training is required to ensure that individuals performing covered tasks have the knowledge and skills needed to perform the tasks. Such training should be incorporated in practices leading to the development, **career progression, competency, and** qualification of new employees, as well as practices that refresh the knowledge and skills of individuals with considerable experience. **For material, equipment, or procedure changes, Operators should address related training and qualification requirements as part of their management of change (MOC) process. In particular, any significant change in the procedures for performing the covered tasks should be the subject of training for all individuals performing those covered tasks. Training may also be required for equipment variations or differences.** In addition, remedial training should be offered, where appropriate, for those who fail initial qualification or qualified individuals who fail requalification prior to subsequent reevaluation to address fundamental knowledge, skill or ability gaps that may be disclosed by the failure. **In addition, individuals who fail initial qualification or qualified individuals who fail requalification should be provided with remedial training in their areas of deficiency prior to reevaluation.** It is an Operator's responsibility to provide training to ensure **competency individuals have the skills and knowledge** necessary to perform covered tasks on the Operator's unique pipeline system. **Operators must retain these appropriate training records to support individuals' qualifications and requalifications.**

**FAQ #12.** Do emergency responders need to be qualified under the operator's program? (§§ 192.801, 195.501)

Comments: NGA agrees with the premise that emergency responders who serve as an extension of the Operator's workforce should be appropriately qualified. However, the proposed response to this FAQ is ambiguous and subject to broad interpretation. The example provided in the existing FAQ 2.6, bullet 3, provides appropriate clarity regarding operator qualification expectations for emergency responders. A key principle that requires clarification is the difference between a professional emergency responder (First Responder) acting on their own accord to protect public safety, consistent with their job responsibilities, and a First Responder acting under the direction or on behalf of the Operator. For example, it is very common for a firefighter to close a meter valve to protect life and property during a building fire, of which the Operator is unaware until arrival on the scene. This action would not require the firefighter to be operator qualified, as the action they are taking is consistent with their job responsibilities and

first responder training. Conversely, an Operator who procedurally relies upon First Responders to act on their behalf in emergency situations and directs and relies upon First Responders' actions as an extension of an Operator's workforce, similar to a contractor acting at the request or direction of an Operator, would be expected to operator qualify those First Responders. This approach leverages emergency response resources to their fullest extent possible, optimizes public safety and helps ensure the highest level of pipeline safety. Conversely, a requirement to operator qualify the vast majority of First Responders could result in the unintended consequence of limiting the use of First Responders to protect life and property during gas related incidents, and expand similar expectations to other sections of the regulations (i.e.: Part 199).

Proposed FAQ Language: Emergency responders, such as company personnel and utility contractors, who are reasonably expected by the Operator to perform covered tasks, are required to be qualified under the Operator's OQ program. PHMSA recognizes that professional emergency responders may arrive on scene before Operator personnel. Professional emergency responders, such as fire fighters, need not be qualified by the Operator to act on their own accord consistent with their job responsibilities to protect public safety. Conversely, an Operator who procedurally relies upon professional emergency responders to act on their behalf in emergency situations and directs emergency responders' actions as an extension of an Operator's workforce, similar to a contractor acting at the request or direction of an Operator, are required to be qualified under the Operator's OQ program.

**FAQ #18.** What is a reasonable time between failure to pass an evaluation and reevaluation? (§§ 192.805(b) and (h), 195.505(b) and (h))

Comments: NGA supports the intent of this FAQ and agrees that identified gaps in fundamental knowledge or skills should be assessed and addressed prior to reevaluation. Furthermore, NGA agrees problematic competency demonstration evaluation questions revealed through the examination process should be analyzed as part of an Operator's OQ plan. These failures, while undesired, provide valuable insight into training program effectiveness and offer opportunities as leading indicators for continuous improvement. Failures should be evaluated and included in an Operator's periodic evaluation of training programs. However, there is a fine line an Operator is expected to observe regarding the perception of "coaching" and teaching to simply pass an exam. The proposed FAQ language could be interpreted as setting an expectation that Operators should "ensure" that the reason for failure is recognized and addressed prior to reevaluation, which implies that such a failure analysis would be conducted for each exam failure on an individual examinee basis. This interpretation certainly goes beyond existing requirements of 192.805 and sets an unrealistic expectation of Operators with potential unintended consequences. NGA recommends that emphasis should be placed on addressing "fundamental" knowledge or skill deficiencies to avoid the common pitfall of "teaching to a test". Assessing and evaluating patterns of exam failures is key to meeting the intent of continuous improvement and addresses the root cause of failures in a broader sense while avoiding the unintended pitfalls of inadvertently "teaching to a test". NGA has always advocated a clear distinction between training and competency demonstration through the examination process - and "coaching" at the time of an exam failure, in our opinion, could cross this line.

Proposed FAQ Language: While the regulation does not specify the period of time that may elapse between evaluations, the Operator should establish requirements for reevaluation after an individual's failure to pass an evaluation. ~~Operators should ensure that the reason for failure is recognized and addressed prior to reevaluation.~~ If fundamental knowledge, skill, or ability gaps are identified as reasons for the failure, the Operator should ~~consider provide~~ additional training prior to reevaluation. ~~In addition, if the examination process reveals a systematic series of failures over multiple evaluations, an Operator should evaluate its training and qualification programs and/or procedures, in the spirit of continuous improvement. The operator's written program should describe how the operator identifies and corrects the causes of failures before reevaluation.~~

**FAQ #31.** How should an operator address a situation in which an individual who is qualified to perform a covered task is performing that covered task incorrectly? (§§ 192.805(e), 195.505(e))

Comments: NGA agrees with the intent of this FAQ that Operators should have policies in place to address situations where an individual is observed to be performing a covered task incorrectly. That policy should include triggers which would result in the need to immediately suspend and/or disqualify the individual in that particular task. Operator policies may also stipulate the actions to be taken for varying degrees of performance deficiencies (e.g., differentiate between procedural variations with no detrimental impact to pipeline safety versus those which directly impact pipeline safety), which may include coaching/retraining as an appropriate action. However, adopting a blanket "one strike" policy for all tasks equally does not align with the existing regulations, nor does it align with the risk analysis approach to OQ task determinations. Additionally, the Operator developed OQ suspension/disqualification process should allow Operators the ability to conduct a deficiency review and temporarily suspend qualifications pending the outcome from that process. Qualifications may be reinstated thereafter, depending on the findings of that review. Additional recommendations include changes to terminology for clarity.

Proposed FAQ Language: Each Operator should develop ~~policies procedures~~ for dealing with ~~observed~~ performance deficiencies and ~~the applicable response for each observation, for suspending and/or disqualifying revoking an individual's qualification to perform a covered task and incorporate these policies into the Operator's written plan.~~ An individual who is found to be incorrectly performing a covered task for which the individual is qualified should be immediately removed from performing that covered task pending ~~a deficiency review, retraining/coaching,~~ reevaluation, ~~suspension,~~ or disqualification, ~~in accordance with the Operator's policy.~~

**FAQ #39.** What will the role of the Federal or State inspector be in evaluating the validity of written examinations and the associated answer keys? (§§ 192.805(b), 195.505(b))


Comments: NGA agrees with the intent of this FAQ. NGA respectfully requests that this FAQ recognize the need to maintain the security and confidentiality of the written examinations at all times. Appropriate means should be developed to enable regulatory effectiveness reviews while providing exam security and confidentiality safeguards.

Proposed FAQ Language: Written examinations should be designed to objectively evaluate the knowledge of the individual seeking qualification to perform a covered task. These examinations will not necessarily evaluate the skills and abilities of the individual; however, testing should cover key information needed to perform a task, possibly including the reasons behind the basic steps in a procedure. Federal or State inspectors will evaluate the effectiveness of all evaluation methods, including written examinations. **Security and confidentiality of exam questions and responses should be established and maintained through the review process.**

**Conclusion:**

Once again, NGA appreciates the opportunity to present these comments. Our goal in offering these comments is to provide operationally focused considerations and alternatives to certain OQ FAQ responses, which will help achieve our mutual goals of ensuring workforce competency while maximizing public safety value. We hope that our efforts will help PHMSA in achieving sustainable improvements, in the spirit of pipeline safety management system elements, to our country's gas safety objectives. Please contact us if you have any questions.

Respectfully submitted,



By: Thomas M. Kiley  
President & CEO  
Northeast Gas Association  
75 Second Avenue, Suite 510  
Needham, MA 02494

For further information please contact:

Paul Armstrong  
Vice President, Training & Qualification Services  
Northeast Gas Association  
75 Second Avenue, Suite 510  
Needham, MA 02494  
(781) 455-6800 ext. 1130  
[parmstrong@northeastgas.org](mailto:parmstrong@northeastgas.org)