

mechanisms operate in a manner consistent with the requirements of part 54 of this chapter, as well as such other action as is deemed necessary and in the public interest.

**§ 69.622 Transition to the permanent Administrator.**

(a) If the association or the independent subsidiary is not appointed the permanent Administrator, the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall cooperate fully in making the permanent Administrator operational.

(b) The association and independent subsidiary shall take all steps necessary to maintain the division of responsibilities between the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation as set forth in parts 54 and 69 of this chapter or such other steps that the Commission may order.

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**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Part 193**

[Docket No. PS-151; Amdt. 193-14]

RIN 2137-AC 88

**Liquefied Natural Gas Regulations—Miscellaneous Amendments**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule incorporates safety requirements for mobile and temporary Liquefied Natural Gas (LNG) facilities by referencing the National Fire Protection Association (NFPA) Standard 59A (1996 edition), Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG). This rule will reduce the burden on the industry and state and federal governments by eliminating waiver requirements for mobile and temporary LNG facilities. In this rule RSPA is responding to the adverse comment received on the mobile LNG facilities requirements in the previously published direct final rule [62 FR 8402; 2/25/97] by addressing a commenter's main concern that states in which mobile LNG equipment is located must be notified two weeks in advance. The remainder of the requirements for mobile LNG facilities are unchanged.

**EFFECTIVE DATES:** This direct final rule takes effect October 15, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 15, 1997. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by September 2, 1997 the rule will become effective on the date specified. RSPA will issue a subsequent notice in the **Federal Register** by September 30, 1997 after the close of the comment period to confirm that fact and reiterate the effective date. If an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and RSPA would withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

**ADDRESSES:** Send comments in duplicate to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Identify the docket and notice number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8421 between 8:30 a.m. and 5:00 p.m. each business day.

**FOR FURTHER INFORMATION CONTACT:** Mike Israni, telephone (202) 366-4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or the Dockets Unit (202) 366-4453, for copies of this document or other information in the docket.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 25, 1997, RSPA published a direct final rule (62 FR 8402) titled. " Liquefied Natural Gas Regulations—Miscellaneous Amendments." In that rule RSPA updated the Liquefied Natural Gas (LNG) regulations by replacing the current 'Flammable vapor-gas dispersion protection' method with a method based on the 'dense gas dispersion (DEGADIS)' model, and replacing the current 'Thermal radiation protection' method with a method based on the "LNGFIRE" program model. In addition, that final rule incorporated safety requirements for mobile and temporary LNG facilities by referencing to the National Fire Protection Association (NFPA) Standard 59A (1996 edition).

RSPA did not receive any comments relative to the direct final rule provisions for § 193.2057, Thermal radiation protection, and § 193.2059, Flammable vapor-gas dispersion protection. Therefore, a separate document [62 FR 36465; July 8, 1997] confirming that the changes to Sections 193.2057 and 193.2059 in the direct final rule became effective on June 25, 1997, was sent to the **Federal Register**.

RSPA received two comments on the requirements for mobile and temporary LNG facilities. One comment was from the industry and a second was from an individual employed by a state utility commission. The industry comment, from the largest independent natural gas distribution company in New England, applauded RSPA's incorporation by reference of the safety requirements for mobile and temporary LNG facilities in the NFPA standard 59A. This commenter stated that the waiver approval process for temporary LNG facilities was burdensome because a separate waiver request to state regulators was required for each facility. However, the commenter praised RSPA for issuing a direct final rule which would no longer require a waiver from Part 193 requirements for these LNG facilities if they comply with NFPA 59A.

The commenter from the state utility commission expressed concern over adopting the NFPA standard 59A by reference for the mobile and temporary LNG facilities. This commenter noted that the specific provisions of the 16 alternative requirements for mobile LNG facilities that were jointly developed by New England area state representatives were missing or were inadequately addressed in the NFPA standard 59A. This commenter stated that RSPA should review the requirements in greater detail, and ensure all 16 items were addressed before adopting NFPA 59A.

RSPA, prior to initiating this rulemaking, reviewed all 16 alternative requirements and, with the exception of one issue (namely, requiring an operator to notify the State agency having jurisdiction at least 2 weeks in advance), determined that all requirements are adequately addressed in NFPA standard 59A. The NFPA did not include this requirement in standard 59A because it is beyond the NFPA's scope. RSPA did not include it in the previous direct final rule. However, RSPA is adding that requirement in this direct final rule.

As described in the direct final rule (February 25, 1997; 62 FR 8402), RSPA is amending 49 CFR Part 193 by adding a section 193.2019 on mobile and temporary LNG facilities. Mobile and

temporary LNG facilities have a good safety record and their use has become quite common. However, Part 193 currently does not contain requirements for such temporary operations and many temporary operations cannot meet some of the Part 193 requirements. In those cases, operations have been authorized through waivers issued by the relevant states, and approved by RSPA, for mobile and temporary facilities for peakshaving applications, for service maintenance during gas pipeline systems repair/alteration, or for other short term applications. In acting on waiver requests, RSPA reviews justification for not complying with Part 193 and requires alternative safety provisions to maintain public safety. There has been no adverse impact on safety as a result of the waiver process and RSPA anticipates an equivalent level of safety following implementation of this direct final rule. The safety guidelines and the restrictions for LNG mobile facilities in applicable sections of NFPA 59A (1996 edition) provide an adequate level of assurance of public safety. The safety guidelines are identical to those required as conditions for waiver except for the requirement shown as follows:

“The State agency having jurisdiction over pipeline safety in the State in which the portable LNG equipment is to be located must be provided with a location description for the installation at least 2 weeks in advance, including to the extent practical, the details of siting, leakage containment or control, fire fighting equipment, and methods employed to restrict public access, except that in the case of emergency where such notice is not possible, as much advance notice as possible must be provided.”

Because RSPA has determined that all 16 alternative requirements have now been addressed and for the other reasons stated above, we do not see any necessity for issuing a proposed rule. Therefore, RSPA is incorporating by reference NFPA 59A for mobile and temporary LNG facilities in this direct

final rule. Operators will no longer need a waiver from Part 193 requirements for mobile facilities if they comply with the applicable sections of NFPA 59A and the requirement stated above. This will reduce the burden on the industry and state and federal governments without compromising safety.

#### Rulemaking Analysis and Notices

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This rule is not considered to be a significant regulatory action under section 3(f) of Executive Order 12866, and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This rule amends LNG regulations to include requirements for mobile and temporary facilities. This is consistent with the President's goal of regulatory reinvention and improvement of customer service to the American people. There is no additional cost to comply with this rule. These changes do not warrant preparation of a Regulatory Evaluation.

##### *Executive Order 12612*

This action has been analyzed under the criteria of Executive Order 12612 (52 FR 41685; October 30, 1987) and does not have sufficient federalism impacts to warrant the preparation of a Federalism Assessment.

##### *Regulatory Flexibility Act*

Based on the facts available concerning the impact of this rule, I certify under section 606 of the Regulatory Flexibility Act that it does not have a significant impact on a substantial number of small entities.

##### *Paperwork Reduction Act*

This rule does not modify the paperwork burden that LNG operators already have. Therefore, a paperwork evaluation is unnecessary.

#### List of Subjects in 49 CFR Part 193

Fire prevention, Incorporation by reference, Pipeline safety, Reporting and

recordkeeping requirements, Security measures.

In consideration of the foregoing, RSPA amends part 193 of title 49 of the Code of Federal Regulations as follows:

#### PART 193—[AMENDED]

1. The authority citation for part 193 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60103, 60104, 60108, 60109, 60111, 60112, 60118; and 49 CFR 1.53.

2. Part 193 is amended by adding § 193.2019 to subpart A to read as follows:

#### Subpart A—General

##### § 193.2019 Mobile and temporary LNG facilities

(a) Mobile and temporary LNG facilities for peakshaving application, for service maintenance during gas pipeline systems repair/alteration, or for other short term applications need not meet the requirements of this part if the facilities are in compliance with applicable sections of NFPA 59A (1996 edition).

(b) The State agency having jurisdiction over pipeline safety in the State in which the portable LNG equipment is to be located must be provided with a location description for the installation at least 2 weeks in advance, including to the extent practical, the details of siting, leakage containment or control, fire fighting equipment, and methods employed to restrict public access, except that in the case of emergency where such notice is not possible, as much advance notice as possible must be provided.

Issued in Washington, D. C. on July 28, 1997.

**Kelley S. Coyner**

*Acting Administrator*

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