

and fire protection with references to a consensus standard, NFPA 59A, "Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)" (1996 edition). However, as explained below, an amendment to § 193.2005, Applicability, inadvertently made the application of part 193 to existing LNG facilities unclear.

Before the final rule took effect, former § 193.2005(a)(1) ¹ exempted LNG facilities existing or under construction from any new or amended standards on siting, design, installation, or construction of LNG facilities. This exemption included standards in subpart B—Siting, subpart C—Design, subpart D—Construction, and subpart E—Equipment. In contrast, part 193 did not exempt LNG facilities existing or under construction from new or amended standards on operation or maintenance, including standards in subpart F—Operations, subpart G—Maintenance, subpart H—Personnel Qualifications and Training, subpart I—Fire Protection, and subpart J—Security. Applying these standards retroactively to existing facilities is consistent with the Congressional authorization to regulate the safe operation and maintenance of LNG facilities (49 U.S.C. 60103(d)).

However, as revised by the final rule, present § 193.2005(a) ² can be interpreted to exclude LNG facilities existing on March 31, 2000, from changes the final rule made to standards on operations, maintenance, and fire protection of LNG facilities. These changes affected §§ 193.2521, 193.2619(c), 193.2639(a) and subpart I—Fire Protection. Yet no such exclusion was intended. Although the preamble discussion of § 193.2005 indicated that "new requirements" would not apply to existing LNG facilities,³ the new requirements we intended were requirements on siting, design, installation, and construction of LNG facilities. Given our long-standing regulatory policy that part 193

operation, maintenance, and fire protection standards apply to all regulated LNG facilities, if we had intended to exclude certain facilities from these standards, we would have explained this change in policy. Neither the final rule nor the underlying notice of proposed rulemaking (63 FR 70735; Dec. 22, 1998) contains such an explanation.

Therefore, we are proposing to revise present § 193.2005(a) as set forth below. The revision would clarify that LNG facilities existing or under construction are exempt only from new or amended standards on siting, design, installation, and construction of LNG facilities. We also intend this revision to clarify that §§ 193.2521, 193.2619(c), 193.2639(a) and subpart I—Fire Protection apply to LNG facilities existing or under construction on March 31, 2000.

Cross-references

Part 193 contains several sections with cross-references to sections in subpart I that were removed by the final rule published March 1, 2000. To correct this problem, we are proposing the following amendments:

Section 193.2503(h) requires that operating procedures provide for compliance with § 193.2805(b). However, § 193.2805(b) no longer exists. It concerned fire prevention procedures that are no longer required by part 193. So § 193.2503(h) would be removed.

Section 193.2507 requires that operators monitor buildings determined under § 193.2805(a)(2) in which a hazard to persons or property could exist to detect fire or any malfunction or flammable fluid that could cause a hazardous condition. Section 193.2805(a)(2), which was removed by the final rule, required operators to determine areas, as described in section 500–5 of NFPA 70 (1996 edition), where the potential exists for presence of flammable fluids. Although the cross-reference to § 193.2805(a)(2) would be removed from § 193.2507, operators would still have to monitor buildings in which a hazard to persons or property could exist. Operators could use the previously referenced NFPA 70 as a compliance guide.

Section 193.2509(b) requires operators to follow procedures in handling fire emergencies identified under § 193.2817(a). Section 193.2817(a), which no longer exists, required that operators determine the types and sizes of fires that could occur in or near an LNG plant and affect the safety of plant components. Although the reference to § 193.2817(a) would be removed, operators would still have to follow

procedures in handling fire emergencies.

Section 193.2605(b)(2) requires that maintenance procedures describe actions needed to comply with § 193.2805. Section 193.2805 no longer exists. It concerned fire prevention plans that are not now required by part 193. So the cross-reference to § 193.2805 would be removed.

Section 193.2705(b) requires operators to determine periodically if inspectors are satisfactorily performing their duties assigned under § 193.2307. This section, which required certain inspections of construction, installation, and testing activities, was removed by the final rule as no longer necessary in view of inspection duties under NFPA 59A. Although the cross-reference to § 193.2307 would be removed, operators would still have to determine if construction, installation, and testing activities are being satisfactorily inspected.

Section 193.2717(a) requires operators to train their operating and maintenance personnel in various fire protection standards in subpart I that no longer exist:

- Paragraph (a)(1) requires training in fire prevention procedures under § 193.2805(b). Since part 193 no longer requires these procedures, paragraph (a)(1) would be removed.

- In paragraph (a)(2), the cross-reference to § 193.2805(a) would be removed, but operators would still have to train personnel to know the potential causes and areas of fire.

- In paragraph (a)(3), the cross-reference to § 193.2817(a) would be removed, but operators would still have to train personnel to know the types, sizes, and predictable consequences of fire.

- In paragraph (a)(4), the cross-reference to "equipment provided under § 193.2817" would be replaced by "equipment provided under § 193.2801."

Plans and Procedures

Part 193 requires operators to prepare and follow written plans and procedures for various LNG plant activities. For example, plans are required for personnel health (§ 193.2711) and training (§§ 193.2713–193.2719), and procedures are required for operations (§ 193.2503), emergencies (§ 193.2509(b)), fluid transfers (§ 193.2513(a)), maintenance (§ 193.2605(b)), and security (§ 193.2903).

Under § 193.2017 operators must make their plans and procedures available for review by federal and state inspectors. Reviews by RSPA personnel

¹ § 193.2005 Applicability. (a) New or amended standards in this part governing the siting, design, installation, or construction of an LNG facility and related personnel qualifications and training do not apply to: (1) LNG facilities under construction before the date such standards are published; or * * * (49 CFR 193.2005 (1999)).

² § 193.2005 Applicability. (a) Safety requirements mandating compliance with standard ANSI/NFPA 59A and other changes in this part governing siting, design, construction, equipment, fire protection, operation and maintenance apply to LNG facilities placed in service after March 31, 2000, unless otherwise noted. (49 CFR 2005 (2001)).

³ The final rule states: "This section 193.2005 has been restructured to clarify that new requirements apply to new and significantly altered LNG facilities after the effective date of this rule unless otherwise noted." (65 FR 109502).