

■ 26. Section 87.421 is amended by revising paragraph (c) to read as follows:

**§ 87.421 Frequencies.**

\* \* \* \* \*

(c) Frequencies in the band 121.600–121.925 MHz are available to control towers and RCOs for general air traffic control communications. The antenna heights shall be restricted to the minimum necessary to achieve the required coverage. Channel spacing is 25 kHz.

\* \* \* \* \*

■ 27. Section 87.475 is amended by revising paragraphs (b)(2) and (c)(2) introductory text to read as follows:

**§ 87.475 Frequencies.**

\* \* \* \* \*

(b) \* \* \*

(2) Radiobeacon stations enable an aircraft station to determine bearing or direction in relation to the radiobeacon station. Radiobecons operate in the bands 190–285 kHz; 325–435 kHz; 510–525 kHz; and 525–535 kHz. Radiobecons may be authorized, primarily for off-shore use, in the band 525–535 kHz on a non-interference basis to travelers information stations.

\* \* \* \* \*

(c) \* \* \*

(2) The frequencies available for assignment to radionavigation land test stations for the testing of airborne receiving equipment are 108.000 and 108.050 MHz for VHF omni-range; 108.100 and 108.150 MHz for localizer; 334.550 and 334.700 MHz for glide slope; 978 and 979 MHz (X channel)/1104 MHz (Y channel) for DME; 1030 MHz for air traffic control radar beacon transponders; 1090 MHz for Traffic Alert and Collision Avoidance Systems (TCAS); and 5031.0 MHz for microwave landing systems. Additionally, the frequencies in paragraph (b) of this section may be assigned to radionavigation land test stations after coordination with the FAA. The following conditions apply:

\* \* \* \* \*

**Subpart R—[Removed and Reserved]**

■ 28. Remove and reserve subpart R.

■ 29. Section 87.529 is revised to read as follows:

**§ 87.529 Frequencies.**

Prior to submitting an application, each applicant must notify the applicable FAA Regional Frequency Management Office. Each application must be accompanied by a statement showing the name of the FAA Regional Office and date notified. The Commission will assign the frequency.

Normally, frequencies available for air traffic control operations set forth in Subpart E will be assigned to an AWOS, ASOS, or to an ATIS. When a licensee has entered into an agreement with the FAA to operate the same station as both an AWOS and as an ATIS, or as an ASOS and an ATIS, the same frequency will be used in both modes of operation.

**PART 95—PERSONAL RADIO SERVICES**

■ 30. The authority citation for part 95 continues to read as follows:

**Authority:** Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

■ 31. Section 95.655 is amended by revising paragraph (a) to read as follows:

**§ 95.655 Frequency capability.**

(a) No transmitter will be certificated for use in the CB service if it is equipped with a frequency capability not listed in § 95.625, and no transmitter will be certificated for use in the GMRS if it is equipped with a frequency capability not listed in § 95.621, unless such transmitter is also certificated for use in another radio service for which the frequency is authorized and for which certification is also required.

(Transmitters with frequency capability for the Amateur Radio Services and Military Affiliate Radio System will not be certificated.)

\* \* \* \* \*

[FR Doc. 04–13323 Filed 6–10–04; 8:45 am]

**BILLING CODE 6712–01–P**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 191, 192, 195, and 199**

**[Docket No. RSPA–99–6106; Amdt. Nos. 191–16, 192–94, 195–81, 199–20]**

**RIN 2137–AD35**

**Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (2001)**

**AGENCY:** Research and Special Programs Administration (RSPA), U.S. Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule is part of an effort by RSPA to periodically update the pipeline safety regulations. This rule incorporates the most recent editions of the voluntary consensus standards and specifications referenced in the Federal pipeline safety regulations to enable pipeline operators to utilize the most current technology, materials, and

industry practices in the design, construction, and operation of their pipelines. This rule also increases the design pressure limitation for new thermoplastic pipe, allows the use of plastic pipe for certain bridge applications, increases the time period for revision of maximum allowable operating pressure after a change in class location, clarifies welding requirements, and makes various other editorial clarifications and corrections. This final rule does not require pipeline operators to undertake any significant new pipeline safety initiatives.

**DATES:** This final rule takes effect on July 14, 2004. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 14, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Gopala K. Vinjamuri by telephone at (202) 366–4503, by fax at (202) 366–4566, by e-mail at [gopla.vinjamuri@rspa.dot.gov](mailto:gopla.vinjamuri@rspa.dot.gov), or by mail at U.S. Department of Transportation, RSPA/Office of Pipeline Safety, Room 7128, 400 Seventh Street, SW, Washington, DC 20590–0001. Copies of this document or other material in the docket can be reviewed by accessing the Docket Management System's home page at <http://www.dms.dot.gov>. General information on the Federal pipeline safety program is available at the Office of Pipeline Safety Web site at <http://www.ops.dot.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background**

This final rule is a periodic update of RSPA's pipeline safety regulations to incorporate the most recent editions of the voluntary consensus standards and specifications referenced at 49 CFR Part 192, Appendices A and B, and 49 CFR Part 195.3. This rule also makes several other revisions and clarifications to improve the consistency and accuracy of the pipeline safety regulations. RSPA previously issued final rules on May 27, 1996 (61 FR 26121) and February 17, 1998 (63 FR 7721) that updated references to the consensus standards publications incorporated by reference in the pipeline safety regulations, and made various editorial clarifications and corrections. On March 22, 2000, RSPA issued a Notice of Proposed Rulemaking (NPRM) (65 FR 15290) proposing to amend the sections incorporating consensus standards to update to the current editions. Additionally, RSPA proposed to increase the pressure limitation for new thermoplastic pipe, to allow plastic pipe on bridges, to

clarify welding requirements, to revise the hazardous liquid pipeline accident reporting definition, to clarify the definition of a gas transmission line, and make other editorial clarifications and corrections to certain sections of the Federal pipeline safety regulations.

RSPA received a total of thirty written comments on the proposals in the NPRM. Eighteen of the comments were from the gas pipeline operators, six were from trade associations including the American Petroleum Institute, the American Gas Association, the National Fire Protection Association, the Texas Natural Gas Association, and the New England Gas Association, and the remaining six were from the Gas Piping Technology Institute, the Iowa State Public Service Commission, two advocacy groups, and two industry consultants. We also received recommendations and comments by the National Association of Pipeline Safety Representatives (NAPSR), a non-profit association of officials from State agencies that participate in RSPA's Federal pipeline safety regulatory program, and recommendations by the State Industry Regulatory Review Committee (SIRRC). The Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC), which were established by statute to evaluate and comment on pipeline safety issues, discussed the proposed amendments during their May 20, 2000 meeting and provided comments on the proposals in the NPRM. The relevant comments are summarized and discussed under each issue area below.

#### Standards Incorporated by Reference

RSPA's Office of Pipeline Safety participates in more than 25 national voluntary consensus standards committees and adopts standards when they are applicable. The Federal pipeline safety regulations incorporate by reference all or portions of over 60 consensus standards and specifications for the design, construction, and operation of gas and hazardous liquid pipelines that were developed and published by recognized technical organizations, including the American Petroleum Institute (API), ASME International (ASME), American Society for Testing and Materials (ASTM), Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), American Gas Association (AGA), and the National Fire Protection Association (NFPA). The standards and specifications incorporated for gas pipelines, formerly in Appendix A to part 192 are now found at 49 CFR Part

192.7 and in Appendix B to Part 192. Those incorporated for hazardous liquid pipelines are found at 49 CFR 195.3. These documents can be obtained by contacting the following organizations:

1. The American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428
2. ASME International, Three Park Avenue, New York, NY 10016-5990
3. Manufacturers Standardization of Valves and Fittings Industry, Inc., 127 Park Street NW, Vienna, VA 22180
4. The National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02260-9101

These documents are also available for inspection at the following locations:

1. Office of Pipeline Safety, Room 7128, U.S. Department of Transportation, 400 7th Street SW, Washington, DC 20590
2. Office of the Federal Register, 800 N. Capitol Street, NW, Suite 700, Washington, DC 20408

The organizations responsible for developing these standards and specifications periodically publish revised editions incorporating the most current technology. This rule updates the Federal pipeline safety regulations to reflect the most recent editions of each standard and specification incorporated by reference to enable pipeline operators to utilize the latest technology, materials, and engineering practices. Because some of the standards proposed in the NPRM are no longer available, we reviewed and referenced the next available edition. Adoption of these updated documents ensures that pipeline operators will not be unnecessarily burdened with outdated material, design, and construction requirements.

The order and appearance of the consensus standards in the CFR has also been updated and clarified. The standards are set forth by name and version date in the proposed amendments to 49 CFR Part 192, Appendices A and B, and 49 CFR 195.3. In general, the only change is to reference the new edition and year of publication. On October 31, 2001, API appended errata to the 19th edition of the API 1104 standard, "Welding of Pipelines and Related Facilities," which we have reviewed and accepted as part of the document for the purposes of this final rule. No substantive changes are associated with these errata. In addition to adopting the most recent editions of the standards and specifications already incorporated by reference in the pipeline safety regulations, this final

rule adopts one new technical document, the Plastics Pipe Institute's technical report entitled, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe" (PPI TR-3/2000 or the "PPI Technical Report"). Sections 192.7 and 195.3 will continue to govern the applicability of all documents incorporated by reference.

Other than certain editorial corrections suggested by the API, we did not receive any comments on the substance of the updated consensus standards publications and other documents. However, with respect to adopting the 42nd edition of the API 5L standard, Specification for Line Pipe, and the 19th edition of the API 1104 standard, "Welding of Pipelines and Related Facilities," the following issues are noteworthy. The 42nd edition of the API 5L standard is substantially different from the 41st edition referenced previously in the CFR. The 42nd edition of the API 5L specification, which has been adopted in its entirety, prescribes two performance specification levels (PSL-1 and PSL-2) for manufactured line pipe. Designers now have the option to use either the PSL-1 specification with the attendant supplementary requirements (SRs), or the more restrictive PSL-2 specification for which many SRs are mandatory. It is also important to note that certain critical aspects of the PSL-2 specification, such as the mandatory fracture toughness requirements, are considered minimum requirements. Therefore, designers must evaluate, among other things, the actual requirements for fracture toughness, strength level, weldability, and quality assurance measures for each pipeline application and the actual requirements should be reflected in the pipe and component purchase specifications. We encourage pipeline designers to carefully review the updated 5L specification and take advantage of the improved quality of pipe manufactured under PSL-2 requirements. The mandatory minimum fracture toughness requirements of the PSL-2 specification, and other recent developments including tighter dimensional tolerances, stricter controls on chemical composition, more stringent quality assurance measures, and enhanced record keeping requirements make PSL-2 pipe highly suitable for natural gas and hazardous liquid pipeline applications. RSPA is currently considering amending the pipeline

safety regulations to require the use of PSL-2 quality level or better pipe for all future pipeline construction.

The 19th edition of the API 1104 standard, "Welding of Pipelines and Related Facilities," certain portions of which are incorporated by reference, is also substantially different from the edition referenced previously. As noted by several commenters, there are significant differences in the acceptance criteria between the ultrasonic test (UT) method and the radiography test (RT) method for weld quality. First, some commenters suggested that adopting the new standard be postponed until the acceptance criteria for RT and UT could be equalized. In our judgment however, equalizing the acceptance criteria is not practical because UT and RT are distinctly different methods providing different sensitivity and capability. Therefore, we will continue to accept the use of either method, along with the corresponding acceptance criteria. Secondly, in addition to being capable of discerning cracks and crack-like defects, UT methods must be capable of discerning defect indications that would be acceptable under "workmanship acceptance criteria." This is important because under 49 CFR 192.241(c) and 195.228(b), the acceptability of a weld that is nondestructively tested is determined according to the API 1104 standard. However, if a girth weld is unacceptable under that standard for a reason other than a crack, Appendix A of API 1104, "Alternate Acceptance Standard for Girth Welds," may determine its acceptability. Therefore, certain planar defects—such as lack of fusion and weld undercut—can be further assessed under that Appendix.

Since the closing date for comments to the NPRM, we note that a few standards have been issued with more recent publication dates than those being adopted herein. We intend to identify all relevant standards that have been amended since the currently adopted standards were issued and will propose to adopt the new editions as appropriate in 2004.

#### *Plastics Pipe Institute (PPI) Technical Report*

In the NPRM, we proposed to incorporate by reference the Plastics Pipe Institute's technical report entitled, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe" (PPI TR-3/2000 or the "PPI Technical Report"). The PPI technical report provides a method for determining the hydrostatic design basis

(HDB) for pipelines operating at any temperature by using the arithmetic interpolation procedure in Part D2 of the report entitled, "Policy for Determining Long-Term Strength (LTHS) by Temperature Interpolation." Incorporation of this report will provide gas distribution pipeline operators with the flexibility to design safe thermoplastic pipeline systems at a wide range of operating temperatures. Our proposal to incorporate the PPI technical report by reference for the first time did not draw any objection by the commenters. Therefore, the report will be referenced in the gas pipeline safety regulations at 49 CFR 192.121, "Design of Plastic Pipe."

#### **Other Revisions**

In addition to the incorporation by reference of the most recent editions of voluntary consensus standards and other documents, it was proposed that the design pressure limitation for new thermoplastic pipe be increased, that plastic pipe be permitted for certain bridge applications, that the time period for revising maximum allowable operating pressure (MAOP) when a change in class location occurs be modified, that certain welding requirements be clarified, that strength test requirements for components be modified, that the definition of a hazardous liquid pipeline accident be revised, and that numerous editorial changes and clarifications be made. With a few exceptions, the comments were generally supportive of these proposals, although one commenter suggested that substantive changes to the regulations would be more appropriately handled in a proceeding separate from a periodic update of referenced industry standards.

#### *Definition of a Gas Transmission Line. Section 192.3*

Section 192.3 defines the term "transmission line," in part, by the nature of the entities between which the gas is being transported. Under subparagraph (a) of the definition, pipelines that transport gas from a gathering line or storage facility to a distribution center, storage facility, or "large volume customer" that is not downstream of a distribution center may be considered transmission lines. A large volume customer, in turn, is a customer who may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional gas users. However, the definition of a large volume customer appears in subparagraph (c), which deals only with the transportation of gas within a storage

field. Because the definition of "large volume customer" relates directly to the definition of "transmission line," the proposed amendment would clarify the application of the term by removing it from subparagraph (c) and placing it in a separate paragraph. Several commenters suggested that the term "transmission line" not be defined in terms of a "large volume customer" at all. Two commenters suggested modifying the term "distribution center" so that it would be broad enough to encompass these entities. In our judgment, however, it is useful to distinguish between (local) distribution centers and large volume customers. Therefore, we adopt the amendment as proposed.

#### *Design of Plastic Pipe. Section 192.121*

Section 192.121 prescribes the formula for determining the hydrostatic design pressure for thermoplastic pipe. This section allows for design pressures based on the long-term hydrostatic strength (LTHS) to be determined in accordance with the corresponding listed pipe material specification determined at certain temperatures. The proposed amendment to § 192.121 incorporates the PPI technical report which provides an enhanced methodology to establish the hydrostatic design basis (HDB) and LTHS design parameters for thermoplastic pipe. The report also provides for interpolating HDB and LTHS data at specified temperatures, namely 70 °F (23 °C), 100 °F (38 °C), 120 °F (49 °C) and 140 °F (60 °C). With the improvement over time of polyethylene materials technologies and pipe manufacturing processes, thermoplastic pipe performance and reliability has improved significantly and the proposed amendment will provide greater flexibility to pipe designers without compromising safety. In our judgment, the incorporation of the PPI technical report as a guide to interpolate the test data for pipe HDB and LTHS at intermediate temperatures will result in a corresponding improvement in the accuracy of determining thermoplastic pipe design parameters. Therefore, we adopt the amendment as proposed.

#### *Design Limitations for Plastic Pipe. Section 192.123*

Section 192.123(a) limits the design pressure for thermoplastic pipe calculated in § 192.121 to less than or equal to 100 psig (689 kPa) for pipe used in gas distribution systems or in Class 3 and 4 locations. The proposed amendment to § 192.123(a) allows a maximum design pressure of 125 psig (862 kPa) for thermoplastic pipe

designed in accordance with § 192.121. After the effective date of this rule, design pressures at operating temperatures other than those specified in the material specifications listed in ASTM 2513 would be established as provided for in Part D2 of the PPI technical report (see above discussion on the amendment of § 192.121). Therefore, the increase in pressure would correspond with the increased margin of safety resulting from the more reliable means of establishing the design pressure parameters using the PPI technical report. Eleven of the commenters agreed that the proposed increase in the design pressure limitation was warranted. AGA, for example, noted that modern polyethylene pipe was already being operated at pressures greater than 100 psig pursuant to waivers granted by State pipeline safety regulators and that such use had thus far proven to be reliable. AGA further contended that the reliability of newer polyethylene pipe was supported by laboratory and field analysis of the LTHS of these polyethylene materials. Copies of the AGA petitions are included in the docket. Bay State and Northern Natural Gas suggested that the design pressure limitation be established per International Organization for Standardization (ISO) standards, which allow any design pressure permitted by the measured HDB. UGI Utilities suggested an even higher maximum allowable pressure. However, because there is insufficient data to conclude that such pressures would provide adequate safety to the public, we conclude that prescribing a maximum pressure higher than 125 psig is unsupported at this time. It is important to note that the design pressure limitation increase only applies to thermoplastic pipe produced after the effective date of this rule, *i.e.*, to pipe newly produced in accordance with the PPI technical report method. Therefore, in the absence of a waiver, existing pipe would continue to be limited to a maximum operating pressure of 100 psig. Finally, members of the TPSSC raised the issue that it might be necessary to mandate greater burial depth to mitigate any unknown level of consequences of a failure at higher operating pressure. The committee concluded that this matter would be more appropriately addressed in future rulemaking. Having considered all these comments, we adopt the amendment as proposed.

#### *Valves. Section 192.145*

Section 192.145 sets forth the minimum design requirements for

valves used in gas pipeline systems and requires that valves meet the API 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" standard, "or equivalent." The proposed amendment would have removed the words "or equivalent" from this provision. The intent of the amendment was to reduce the burden of making ad hoc determinations of whether alternative standards are equivalent to the API 6D standard. The removal of the words "or equivalent" from this provision was opposed by 15 commenters, who contended that the amendment would be a major change with considerable impact to the industry. It was also pointed out that there was no discussion on this issue in the preamble to the NPRM. Some of the comments included extensive material describing the variety of valve standards they felt were equivalent to API 6D, including API 600, ANSI B16.34, and ANSI B16.38, and contended that the level of safety provided by these alternative standards was demonstrably adequate. The TPSSC discussed the matter at length, questioned the need for the amendment, and recommended that the amendment not be adopted in the final rule.

In our judgment, API 6D is the valve standard accepted worldwide and we remain concerned about the practicability of making repeated determinations of whether alternative standards are equivalent to the API 6D standard. Nevertheless, we have concluded that the use of any design standard that results in a performance level equivalent to that of the valves made under the API 6D standard is acceptable. In light of the comments received, we considered the following two options: (1) Not to adopt the proposed amendment, or (2) modify the language by adding, "\* \* \* or to a standard that provides a level of performance equivalent to that of API 6D." Upon further consideration, we have determined that the later option satisfies both the original intent of the proposed amendment and the concerns of the commenters. Therefore, we adopt the amendment as modified.

#### *Welding Procedures. Section 192.225*

The proposed amendment, which was recommended by NAPSR, requires operators to qualify welding procedures under Section 5 of the API 1104 standard or Section IX of the ASME Boiler and Pressure Vessel Code. The intent of the amendment is to harmonize this provision with § 192.227, which references API 1104 and Section IX of the ASME Boiler and Pressure Vessel Code. We have not

accepted SIRRC's suggestion that the welding qualification regulations allow "other accepted welding standards" because we are not aware of any other widely accepted pipeline welding standards. Therefore, we adopt the amendment as proposed.

#### *Limitations on Welders. Section 192.229*

Section 192.229 prohibits welders from performing welds on pipeline components to be operated at a hoop stress of 20 percent or more of SMYS unless the welder has performed a test weld meeting the acceptance criteria of Sections 6 or 9 of API 1104 during the preceding six calendar months. In response to requests for increased flexibility with regard to the time period, the proposed amendment would provide an alternative where welders who regularly perform production welds could maintain an ongoing qualification status by making acceptable test welds at least two times in a calendar year, but at intervals not exceeding 7½ months. Although supportive of the idea, many commenters noted that the proposed language was confusing. We agree with the commenters and have revised the language without affecting the intent of the proposed rule change. The revised language is as follows:

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under section 6 or 9 of API 1104. Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the acceptance criteria at least twice each calendar year, but at intervals not exceeding 7½ months. A welder qualified under an earlier edition of a standard listed in Appendix A may weld but may not requalify under that earlier edition; and

The intent of the amendment is to provide flexibility in meeting the qualification requirements for welders who regularly perform production welds which are tested under the same acceptance criteria for test welds referenced in Sections 6 and 9 of API 1104, while ensuring that first time welders and welders who perform welds infrequently are (re)qualified prior to welding. Therefore, we adopt the amendment as modified.

#### *Inspection of Test Welds. Section 192.241*

The proposed amendment to § 192.241(a) requires that visual inspection of a weld be conducted "by an inspector qualified by appropriate training and experience." Although this amendment directly followed a NAPSR

recommendation, SIRRC suggested that the use of the term "inspector" may be problematic and suggested changing it to "person." One commenter noted that the reasons for the proposed amendment were not discussed in the preamble to the NPRM and suggested that the amendment not be adopted. Although we agree that the use of the term inspector may well be problematic, in our judgment, the term "individual" is more suitable than the term "person" for this purpose and does not affect the intent of the proposed amendment. Therefore, we adopt the amendment as modified.

*Installation of Plastic Pipe. Section 192.321*

Recent advances in thermoplastic pipe performance and reliability have made it suitable for certain aboveground applications. In response to a petition by the Gas Piping Technology Committee (GPTC) and other comments, RSPA has concurred with a number of state waivers allowing plastic pipe installation on bridges. These waivers require that the pipe be well protected from mechanical damage, elevated temperatures, and ultraviolet radiation exposure. The proposed amendment would permit the use of plastic pipe across bridges, but closely tracks the conditions set forth in these state waivers. All comments on the subject supported the amendment. A majority of these commenters also suggested that, as long as the pipe is protected in accordance with the conditions set forth in the proposed rule, the use of thermoplastic pipe for other aboveground installations including railway crossings, highway bridges, and similar structures should be permitted. However, the GPTC technical report, "Installation of Plastic Gas Pipeline Across Bridges," which is available in this docket, did not provide sufficient justification for accepting these modifications. Therefore, we adopt the amendment as proposed.

*Strength Test Requirements for Steel Pipe To Operate at a Hoop Stress of 30 Percent or More of SMYS. Section 192.505*

Under § 192.505(d), the strength test requirements for pipeline components, including non-standard components such as flanges, can be satisfied by pressure testing, and those for components manufactured in quantity can be satisfied by prototype testing. The proposed amendment would enable manufacturers to establish a pressure rating by use of standard pressure ratings in the ASME/ANSI B16.5, "Pipe Flanges and Flange Fittings" or MSS

SP44, "Steel Pipe Flanges" material specifications, or alternatively, through unit stress calculations. The proposed amendment would add a new subparagraph (d)(3):

The component carries a pressure rating established through ASME/ANSI, MSS specification, (ibr, see § 192.7) or a pressure rating established by unit stress calculations as described in § 192.143.

The determination of the strength of a non-standard component by unit stress calculations is of particular relevance to situations where one-of-a-kind, non-standard components are fabricated and the component strength is not determined by pressure testing, prototype testing, or use of standard pressure ratings in a listed material specification. Five of the six commenters supported the proposed amendment. One commenter suggested that qualifying a component by unit stress calculations alone would be inadequate. Notably, unit stress analysis is contemplated in the regulations as part of the design requirements at § 192.143, which also requires the analysis of loading stresses and other design parameters. The proposed amendment was endorsed by the GPTC, which acknowledged that the unit stress of non-standard components should be individually analyzed and pressure tested to ensure compliance. GPTC noted that the use of ASME/ANSI and MSS material specifications to establish pressure ratings has been routine for many years for manufactured standard components. In our judgment, the proposed amendment provides additional flexibility to determine component strength and maintains the limitation that pressure ratings established by unit stress calculations may not exceed the ratings listed in the standard material specifications. Therefore, we adopt the amendment as proposed.

*Change in Class Location: Confirmation or Revision of Maximum Allowable Pressure. Section 192.611*

Section 192.611(d) allows 18 months for a gas pipeline operator to confirm or revise the maximum allowable operating pressure (MAOP) of a pipeline after a change in class location. The proposed amendment would increase the time period from 18 months to 24 months, and clarify that the 24-month time period begins when a building or buildings are ready for occupancy and not when the operator discovers that there are new buildings or completes a class location review. Although the proposed change was unopposed by most commenters, some SIRRC

members and one other commenter objected to the adoption of a 24-month time period because it would have an adverse impact on operators without any corresponding benefit. Upon further consideration, we adopt the increase in the time period from 18 months to 24 months as proposed, but modify the proposed language to clarify that the time period begins when the results of a study conducted under § 192.609 indicate a change in class location. Moreover, this result is also consistent with the intent of Section 854.2 of standard ASME B31.8. Therefore, we adopt the proposed language.

*Damage Prevention Program. Section 192.614*

The proposed amendment was intended to clarify the circumstances, such as an emergency situation, when an operator may not be able to provide temporary marking of buried pipelines in an area of intended excavation activity. Many commenters, including SIRRC, expressed confusion concerning the proposed amendment and noted that there was no discussion in the preamble to the NPRM. Upon further consideration, we have determined that withdrawing the proposed amendment will not significantly affect the level of safety. However, we intend to reexamine this issue at a later date. Therefore, the proposed amendment is not adopted.

*Distribution Systems; Leakage Surveys. Section 192.723*

Section 192.723 requires operators of gas distribution systems to perform periodic leak surveys. For areas outside business districts, the prescribed minimum interval is "as frequently as necessary \* \* \* but not exceeding 5 years." The proposed amendment would provide flexibility in performing the 5 year leak detection surveys by allowing up to 63 months between surveys. The intent of the amendment was to allow flexibility for inclement weather or other unforeseen circumstances. The commenters expressed confusion as to definition of certain other terms in the provision, such as "cathodically unprotected lines," and questioned the need for the additional three months. Two of the commenters noted that there was no discussion of this amendment in the preamble to the NPRM. Operators should plan adequately to ensure that the leak survey interval outside business districts is conducted every five years. However, we recognize the need for some flexibility in the scheduling of these leakage surveys. Therefore, we are adopting language to require that

leakage surveys outside of business districts be conducted at least once every five calendar years at intervals not exceeding 63 months.

*Definition of Maximum Operating Pressure. Section 195.2*

The proposed amendment would include the definition of the term "maximum operating pressure" as the maximum pressure at which a liquid pipeline or pipeline segment may be normally operated under Part 195. No comments were filed in opposition to the amendment. Therefore, we adopt the amendment as proposed.

*Accident Reporting. Section 195.50*

In the NPRM, RSPA proposed to eliminate the accident reporting criteria discrepancy between Parts 192 and 195 by modifying § 192.50(e) to ensure that the criteria are the same for both gas and hazardous liquid pipelines. This issue was addressed and resolved in a separate proceeding under a final rule issued on January 8, 2002 (67 FR 831). Therefore, there is no need to address this issue in this final rule.

*Welding Procedures. Section 195.214*

Based on the preceding discussion of § 192.225, we adopt the amendments to § 195.214 as proposed.

*Inspection of Test Welds. Section 195.228*

Based on the preceding discussion at § 192.241, we adopt the amendment to § 195.228 as modified.

*Public Education. Section 195.440*

Section 195.440 requires hazardous liquid pipeline operators to establish a continuing educational program to enable individuals to recognize pipeline emergencies and report them to the operator and to the authorities. The proposed amendment would have added One Call centers to the list of entities for required reporting of emergencies. Two of the three responders opposed the amendment, noting that the role of One Call centers is for prior notification of intended excavation activities to facilitate temporary marking and not for actual emergency response. Upon further consideration, we have determined that the amendment, as proposed, does not achieve its intended purpose. Therefore, the proposed amendment is not adopted.

**Rulemaking Analyses**

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

The Department of Transportation does not consider this action to be a

significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993) and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant under the DOT's regulatory policies and procedures (44 FR 11034; Feb. 26, 1979). This rule amends the pipeline safety regulations to reference the most recent editions of the voluntary industry consensus standards already incorporated by reference in the pipeline safety regulations, gives pipeline operators additional flexibility in the use of thermoplastic pipe, and makes certain clarifications and corrections. These revisions are consistent with the President's goal of regulatory reinvention and the improvement of customer service to the American people. There are minimal costs for pipeline operators to comply with this rule because the consensus standards were developed and published by authoritative organizations associated with the petroleum industry and voluntary adherence to them has been a regular industry practice for decades. The latest editions of the consensus standards have already been implemented by pipeline operators throughout the United States to increase the safety and reliability of their pipeline systems. A draft regulatory evaluation was prepared for the NPRM and no comments were received. A final regulatory evaluation is available in the docket.

*Executive Order 13132*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rule does not propose any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Further, this rule does not have sufficient impacts on federalism to warrant the preparation of a federalism assessment.

*Executive Order 13175*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084, ("Consultation and Coordination with Indian Tribal Governments.") Because this rule does not significantly

or uniquely affect the communities of the Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

*Executive Order 13211*

This final rule is not a significant energy action under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rule has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

*Regulatory Flexibility Act*

In this action, RSPA is incorporating by reference industry consensus standards that are developed and published by authoritative organizations associated with the petroleum industry. The standards development process utilized by these organizations gives pipeline operators of all sizes the opportunity to fully participate in the consensus building process. Consequently, these industry codes and standards are well known and have been implemented by small and large pipeline operators throughout the United States and in some cases, internationally. Moreover, RSPA's interactions with operators' associations have presented no reason to expect that this action would have a significant economic impact on smaller operators. In addition, no significant adverse comments were received from small entities during the notice and comment period. Because this final rule provides relief from adherence to outdated standards and provides additional operating flexibility to pipeline operators of all sizes, and will not impose additional economic impacts for government units, businesses, or other organizations, I certify, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this final rule will not have a significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act*

This final rule contains no new information collection requirements or additional paperwork burdens. Therefore, submitting an analysis of the burdens to OMB pursuant to the Paperwork Reduction Act was unnecessary.

*Unfunded Mandates Reform Act of 1995*

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100

million or more to either 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 rule.

#### *Environmental Assessment*

RSPA has analyzed this action for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). To the extent the most recent editions of the standards incorporated by reference adopt improvements in pipeline materials and control technologies, their application is generally associated with facilities located within the existing rights-of-way. This action does not lead directly to any construction project or involve any land acquisition. It does not induce significant impacts to land use, does not have a significant impact on any natural, cultural, recreational, historic or other resource, does not involve any significant air, water, or noise quality impacts, does not impact travel patterns, and does not otherwise have any significant environmental impacts. Accordingly, I have determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment. An Environmental Assessment was prepared for the NPRM. No comments were received. A finding of no significant impact has been signed and placed in the docket.

#### **List of Subjects**

##### *49 CFR Part 191*

Pipeline safety, Reporting and recordkeeping requirements.

##### *49 CFR Part 192*

Incorporation by reference, Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

##### *49 CFR Part 195*

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

##### *49 CFR Part 199*

Drug testing, Pipeline safety, Reporting and recordkeeping requirements, Safety, Transportation.

■ In consideration of the foregoing, RSPA amends 49 CFR Parts 191, 192, 195, and 199 as follows:

#### **PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS**

■ 1. The authority citation for part 191 continues to read as follows:

**Authority:** 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

■ 2. Amend § 191.7 by revising the first sentence to read as follows:

##### **§ 191.7 Addressee for written reports.**

Each written report required by this part must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW., Washington, DC 20590.

\* \* \* \* \*

#### **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, and 60118; and 49 CFR 1.53.

■ 2. Amend § 192.3 by revising the definition of Transmission line to read as follows:

##### **§ 192.3 Definitions.**

\* \* \* \* \*

*Transmission line* means:

(1) A pipeline, other than a gathering line, that:

(i) Transports gas from a gathering line, storage facility, or another transmission line to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

(ii) Operates at a hoop stress of 20 percent or more of SMYS; or

(iii) Transports gas within a storage field.

(2) A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

\* \* \* \* \*

■ 3. Amend § 192.7 by revising paragraphs (b) and (c) to read as follows:

##### **§ 192.7 Incorporation by reference.**

\* \* \* \* \*

(b) All incorporated materials are available for inspection in the Research and Special programs Administration,

400 Seventh Street, SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, the incorporated materials are available from the respective organizations listed in paragraph (c) (1) of this section.

(c) The full titles of documents incorporated by reference, in whole or in part, are provided herein. The numbers in parentheses indicate applicable editions. For each incorporated document, citations of all affected sections are provided. Earlier editions of currently listed documents or editions of documents listed in previous editions of 49 CFR Part 192 may be used for materials and components designed, manufactured, or installed in accordance with these earlier documents at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR Part 192 for a listing of the earlier listed editions or documents.

(1) Incorporated by reference (ibr). List of Organizations and Addresses.

(i) American Gas Association (AGA), 400 North Capitol Street, NW, Washington, DC 20001.

(ii) American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005.

(iii) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

(iv) ASME International (ASME), Three Park Avenue, New York, NY 10016-5990.

(v) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE, Vienna, VA 22180.

(vi) National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

(vii) Plastics Pipe Institute, Inc. (PPI), 1825 Connecticut Avenue, NW, Suite 680, Washington, DC 20009.

(viii) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084.

(ix) Gas Technology Institute (GTI), 1700 South Mount Prospect Road, Des Plaines, IL 60018.

(2) Documents incorporated by reference (Numbers in Parentheses Indicate Applicable Editions).

Source and name of referenced material	49 CFR reference
A. American Gas Association (AGA):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (AGA PR-3-805-1989).	§§ 192.933(a); 192.485(c).
B. American Petroleum Institute (API):	
(1) API Specification 5L "Specification for Line Pipe" (API 5L, 42nd edition, 2000) .....	§§ 192.55(e); 192.113; Item I of Appendix B to part 192.
(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (4th edition, 1990).	§ 192.65(a).
(3) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (21st edition, 1994).	§ 192.145(a).
(4) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999, including its October 31, 2001 errata).	§§ 192.227(a); 192.229(c)(1); 192.241(c); Item II, Appendix B to part 192.
C. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A 53/A53M-99b "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless" (ASTM A53/A53M-99b).	§§ 192.113; Item I, Appendix B to part 192.
(2) ASTM Designation: A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-99).	§§ 192.113; Item I, Appendix B to part 192.
(3) ASTM Designation: A333/A333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (ASTM A333/A333M-99).	§§ 192.113; Item I, Appendix B to part 192.
(4) ASTM Designation: A372/A372M "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (ASTM A372/A372M-1999).	§ 192.177(b)(1).
(5) ASTM Designation: A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (ASTM A381-1996).	§§ 192.113; Item I, Appendix B to part 192.
(6) ASTM Designation: A671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (ASTM A671-1996).	§§ 192.113; Item I, Appendix B to part 192.
(7) ASTM Designation: A672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-1996).	§§ 192.113; Item I, Appendix B to part 192.
(8) ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (ASTM A691-1998).	§§ 192.113; Item I, Appendix B to part 192.
(9) ASTM Designation: D638 "Standard Test Method for Tensile Properties of Plastics" (ASTM D638-1999).	§§ 192.283(a)(3); 192.283(b)(1).
(10) ASTM Designation: D2513-87 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (ASTM D2513-1987).	§ 192.63(a)(1).
(11) ASTM Designation: D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings. (D2513-1999).	§§ 192.191(b); 192.281(b)(2); 192.283(a)(1)(i); Item I, Appendix B to part 192.
(12) ASTM Designation: D 2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-2000).	§§ 192.191(a); 192.281(d)(1); 192.283(a)(1)(ii); Item I, Appendix B to part 192.
(13) ASTM Designation: F1055 "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing" (F1055-1998)..	§ 192.283(a)(1)(iii).
D. ASME International (ASME):	
(1) ASME/ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (ASME B16.1-1998)	§ 192.147(c).
(2) ASME/ANSI B16.5 "Pipe Flanges and Flanged Fittings" (ASME B16.5-1996, including ASME B16.5a-1998 Addenda).	§§ 192.147(a); 192.279.
(3) ASME/ANSI B31G "Manual for Determining the Remaining Strength of Corroded Pipelines" (ASME/ANSI B31G-1991).	§§ 192.485(c); 192.933(a).
(4) ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (ASME/ANSI B31.8-1995).	§ 192.619(a)(1)(i).
(5) ASME/ANSI B31.8S "Supplement to B31.8 on Managing System Integrity of Gas Pipelines" (ASME/ANSI B31.8S-2002).	§§ 192.903(c); 192.907(b); 192.911, Introductory text; 192.911(i); 192.911(k); 192.911(l); 192.911(m); 192.913(a) Introductory text; 192.913(b)(1); 192.917(a) Introductory text; 192.917(b); 192.917(c); 192.917(e)(1); 192.917(e)(4); 192.921(a)(1); 192.923(b)(2); 192.923(b)(3); 192.925(b) Introductory text; 102.925(b)(1); 192.925(b)(2); 192.925(b)(3); 192.925(b)(4); 192.927(b); 192.927(c)(1)(i); 192.929(b)(1); 192.929(b)(2); 192.933(a); 192.933(d)(1); 192.933(d)(1)(i); 192.935(a); 192.935(b)(1)(iv); 192.937(c)(1); 192.939(a)(1)(i); 192.939(a)(1)(ii); 192.939(a)(3); 192.945(a).
(6) ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers (ASME Section I-1998).	§§ 192.153(a).
(7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels" (ASME Section VIII Division 1-2001).	§§ 192.153(a); 192.153(b); 192.153(d); 192.165(b)(3).
(8) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, "Rules for Construction of Pressure Vessels: Alternative Rules" (ASME Section VIII Division 2-2001).	§§ 192.153(b); 192.165(b)(3).
(9) ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications" (ASME Section IX-2001).	§§ 192.227(a); Item II, Appendix B to part 192.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP44-96 "Steel Pipe Line Flanges" (MSS SP-44-1996 including 1996 errata) ....	§ 192.147(a).
(2) [Reserved].	



Source and name of referenced material	49 CFR reference
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 "Flammable and Combustible Liquids Code" (NFPA 30-1996) .....	§ 192.735(b).
(2) ANSI/NFPA 58 "Liquefied Petroleum Gas Code (LP-Gas Code)" (NFPA 58-1998) .....	§ 192.11(a); 192.11(b); 192.11(c).
(3) ANSI/NFPA 59 "Standard for the storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (NFPA 59-1998).	§ 192.11(a); 192.11(b); 192.11(c).
(4) ANSI/NFPA 70 "National Electrical Code" (NFPA 70-1996) .....	§§ 192.163(e); 192.189(c).
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR-3/2000 "Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design Bases (PDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials "(PPI TR-3-2000-Part E only, "Policy for Determining Long Term Strength (LTHS) by Temperature Interpolation)".	§§ 192.121.
H. NACE International (NACE):	
(1) NACE Standard RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology" (NACE RP-0502-2002).	§§ 192.923(b)(1); 192.925(b) Introductory text; 192.925(b)(1); 192.925(b)(1)(ii); 192.925(b)(2) Introductory text; 192.925(b)(3) Introductory text; 192.925(b)(3)(ii); 192.925(b)(iv); 192.925(b)(4) Introductory text; 192.925(b)(4)(ii); 192.931(d); 192.935(b)(1)(iv); 192.939(a)(2).
I. Gas Technology Institute (GTI). (Formerly Gas Research Institute):	
(1) GRI 02/0057 "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology" (GRI 02/0057-2002).	§ 192.927(c)(2); 192.7.

§ 192.113 [Amended]

■ 4. Amend § 192.113 by removing the words "ASTM A53" and adding the words "ASTM A53/A53M." in their place.

■ 5. Amend § 192.121 by revising the definition for "S" following the equation to read as follows:

§ 192.121 Design of plastic pipe.

\* \* \* \* \*

S = For thermoplastic pipe, the HDB determined in accordance with the listed specification at a temperature equal to 73 °F (23 °C), 100 °F (38 °C), 120 °F (49 °C), or 140 °F (60 °C). In the absence an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part E of PPI TR-3/2000 entitled, Policy for Determining Long-Term Strength (LTHS) by Temperature Interpolation, as published in the technical Report TR-3/2000 "HDB/PDB/MRS Policies", (ibr, see § 192.7). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

\* \* \* \* \*

■ 6. Amend § 192.123 by revising the introductory text in paragraph (a), revising paragraph (b)(2)(i), and adding a new paragraph (e) to read as follows:

§ 192.123 Design limitations for plastic pipe.

(a) Except as provided in paragraph (e) of this section, the design pressure may not exceed a gauge pressure of 125 psig (862 kPa) for plastic pipe used in:

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) For thermoplastic pipe, the temperature at which the HDB used in the design formula under § 192.121 is determined.

\* \* \* \* \*

(e) The design pressure for thermoplastic pipe produced after [insert effective date of final rule] may exceed a gauge pressure of 100 psig (689 kPa) provided that:

(1) The design pressure does not exceed 125 psig (862 kPa);

(2) The material is a PE2406 or a PE3408 as specified within ASTM D2513 (ibr, see § 192.7);

(3) The pipe size is nominal pipe size (IPS) 12 or less; and

(4) The design pressure is determined in accordance with the design equation defined in § 192.121.

■ 7. Amend (192.144 by revising the introductory text and paragraph (b) introductory text to read as follows:

§ 192.144 Qualifying metallic components.

Notwithstanding any requirement of this subpart which incorporates by reference an edition of a document listed in § 192.7 or Appendix B of this part, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this part if—

(a) \* \* \*

(b) The edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in § 192.7 or appendix B of this part:

\* \* \* \* \*

■ 8. Amend § 192.145 by revising paragraph (a) to read as follows:

§ 192.145 Valves.

(a) Except for cast iron and plastic valves, each valve must meet the minimum requirements of API 6D (ibr, see § 192.7), or to a national or international standard that provides an equivalent performance level. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements.

\* \* \* \* \*

■ 9. Amend § 192.225 by revising the section heading and paragraph (a) to read as follows:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API 1104 (ibr, see § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code "Welding and Brazing Qualifications" (ibr, see § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s).

\* \* \* \* \*

■ 10. Amend § 192.227 by revising paragraph (a) to read as follows:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 6 of API 1104 (ibr, see § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (ibr, see § 192.7). However,

a welder qualified under an earlier edition than listed in appendix A of this part may weld but may not requalify under that earlier edition.

\* \* \* \* \*

■ 11. Amend § 192.229 by revising paragraph (c)(1) to read as follows:

**§ 192.229 Limitations on welders.**

\* \* \* \* \*

(c) \* \* \*

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under the sections 6 or 9 of API Standard 1104 (ibr, see § 192.7). Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7½ months. A welder qualified under an earlier edition of a standard listed in § 192.7 of this part may weld but may not requalify under that earlier edition; and

\* \* \* \* \*

■ 12. Amend § 192.241 by revising paragraphs (a) introductory text and paragraph (c) to read as follows:

**§ 192.241 Inspection and test of welds.**

(a) Visual inspection of welding must be conducted by an individual qualified by appropriate training and experience to ensure that:

\* \* \* \* \*

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 9 of API Standard 1104 (ibr, see § 192.7). However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 applies to the weld, the acceptability of the weld may be further determined under that appendix.

■ 13. Amend § 192.283 by revising the section heading, paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), (a)(3), and (b)(1) to read as follows:

**§ 192.283 Plastic pipe: Qualifying joining procedures.**

(a) \* \* \*

(1) \* \* \*

(i) In the case of thermoplastic pipe, paragraph 6.6 (sustained pressure test) or paragraph 6.7 (Minimum Hydrostatic Burst Test) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2513 (ibr, see § 192.7);

(ii) In the case of thermosetting plastic pipe, paragraph 8.5 (Minimum

Hydrostatic Burst Pressure) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517; (ibr, see § 192.7); or

(iii) In the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) of ASTM Designation F1055, (ibr, see § 192.7).

(2) \* \* \*

(3) For procedures intended for non-lateral pipe connections, follow the tensile test requirements of ASTM D638 (ibr, see § 192.7), except that the test may be conducted at ambient temperature and humidity if the specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use.

(b) \* \* \*

(1) Use an apparatus for the test as specified in ASTM D 638 (except for conditioning), (ibr, see § 192.7).

\* \* \* \* \*

■ 14. Amend § 192.285 by revising the section heading to read as follows:

**§ 192.285 Plastic pipe: Qualifying persons to make joints.**

\* \* \* \* \*

■ 15. Amend § 192.287 by revising the section heading to read as follows:

**§ 192.287 Plastic pipe: Inspection of joints.**

\* \* \* \* \*

■ 16. Amend § 192.321 by revising paragraph (a) and by adding a new paragraph (h) to read as follows:

**§ 192.321 Installation of plastic pipe.**

(a) Plastic pipe must be installed below ground level except as provided by paragraphs (g) and (h) of this section.

\* \* \* \* \*

(h) Plastic pipe may be installed on bridges provided that it is:

(1) Installed with protection from mechanical damage, such as installation in a metallic casing;

(2) Protected from ultraviolet radiation; and

(3) Not allowed to exceed the pipe temperature limits specified in § 192.123.

■ 17. Amend § 192.505 by revising paragraphs (d)(1), (d)(2), and by adding paragraph (d)(3) to read as follows:

**§ 192.505 Strength test requirements for steel pipeline to operate at a hoop stress of 30 percent or more of SMYS.**

\* \* \* \* \*

(d) \* \* \*

(1) The component was tested to at least the pressure required for the pipeline to which it is being added; or

(2) The component was manufactured under a quality control system that ensures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added; or

(3) The component carries a pressure rating established through applicable ASME/ANSI, MSS specifications, or by unit strength calculations as described in § 192.143.

\* \* \* \* \*

■ 18. Amend § 192.611 by revising paragraph (d) to read as follows:

**§ 192.611 Change in class location: Confirmation or revision of maximum allowable operating pressure.**

\* \* \* \* \*

(d) Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under § 192.609 must be completed within 24 months of the change in class location. Pressure reduction under paragraph (a) (1) or (2) of this section within the 24-month period does not preclude establishing a maximum allowable operating pressure under paragraph (a)(3) of this section at a later date.

■ 19. Amend § 192.723 by revising the first sentence in paragraph (b)(2) to read as follows:

**§ 192.723 Distribution systems: Leakage surveys.**

\* \* \* \* \*

(b) \* \* \*

(2) A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. \* \* \*

**Appendix A to Part 192 [Removed and Reserved]**

■ 20. Remove and reserve Appendix A.

■ 21. Appendix B to Part 192 are revised to read as follows:

**Appendix B to Part 192—Qualification of Pipe**

**I. Listed Pipe Specification**

API 5L—Steel pipe, “API Specification for Line Pipe” (ibr, see § 192.7)

ASTM A 53/A53M—99b—Steel pipe, “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, welded and Seamless” (ibr, see § 192.7)

ASTM A 106—Steel pipe, “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (ibr, see § 192.7)

- ASTM A 333/A 333M—Steel pipe, “Standard Specification for Seamless and Welded steel Pipe for Low Temperature Service” (ibr, see § 192.7)
- ASTM A 381—Steel pipe, “Standard specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (ibr, see § 192.7)
- ASTM A 671—Steel pipe, “Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures” (ibr, see § 192.7)
- ASTM A 672—Steel pipe, “Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (ibr, see § 192.7)
- ASTM A 691—Steel pipe, “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures” (ibr, see § 192.7)
- ASTM D 2513—1999 “Thermoplastic pipe and tubing, “Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings” (ibr, see § 192.7)
- ASTM D 2517—Thermosetting plastic pipe and tubing, “Standard Specification Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (ibr, see § 192.7)

II. Steel Pipe of Unknown or Unlisted Specification

A. *Bending Properties.* \* \* \*

B. *Weldability.* A girth weld must be made in the pipe by a welder who is qualified under subpart E of this part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104 (ibr, see § 192.7). If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the ASME Boiler and Pressure Vessel Code (ibr, see

§ 192.7). The same number of chemical tests must be made as are required for testing a girth weld.

C. *Inspection.* \* \* \*

D. *Tensile properties.* If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 MPa) or less, or the tensile properties may be established by performing tensile test as set forth in API Specification 5L (ibr, see § 192.7).

\* \* \* \* \*

■ 22. Amend Appendix C to Part 192 by adding a sentence at the end of paragraph I to read as follows:

**Appendix C—Qualification of Welders for Low Stress Level Pipe**

I. \* \* \* A welder who successfully passes a butt-weld qualification test under this section shall be qualified to weld on all pipe diameters less than or equal to 12 inches.

\* \* \* \* \*

**PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE**

■ 1. The authority citation for part 195 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

■ 2. Amend § 195.2 by adding a definition in alphabetical order to read as follows:

**§ 195.2 Definitions.**

\* \* \* \* \*

*Maximum operating pressure (MOP)* means the maximum pressure at which a pipeline or segment of a pipeline may be normally operated under this part.

\* \* \* \* \*

■ 3. Amend § 195.3 by revising the section heading, paragraph (b), and paragraph (c) to read as follows:

**§ 195.3 Matter incorporated by reference in whole or in part.**

\* \* \* \* \*

(b) All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows:

- (1) American Gas Association (AGA), 400 North Capitol Street, NW, Washington, DC 20001.
- (2) American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005.
- (3) ASME International (ASME), Three Park Avenue, New York, NY 10016-5990.
- (4) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE, Vienna, VA 22180.
- (5) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.
- (6) National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.
- (7) NACE International, 1440 South Creek Drive, Houston, TX 77084

(c) The full titles of publications incorporated by reference wholly or partially in this part are as follows. Numbers in parentheses indicate applicable editions:

Source and name of referenced material	49 CFR reference
A. American Gas Association (AGA):	
(1) AGA Pipeline Research Committee, Project PR-3-805, “A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe” (December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§ 195.452(h)(4)(B).
(2) [Reserved].	
B. American Petroleum Institute (API):	
(1) API Specification 5L “Specification for Line Pipe” (42nd edition, 2000) .....	§§ 195.106(b)(1)(i); 195.106(e).
(2) API Specification 6D “Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)” (21st edition, 1994).	§ 195.116(d).
(3) API Specification 12F “Specification for Shop Welded Tanks for Storage of Production Liquids” (11th edition, November 1994).	§§ 195.132(b)(1); 195.205(b)(2); 195.264(b)(1); 195.264(e)(1); 195.307(a); 195.565; 195.579(d).
(4) API 510 “Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration” (8th edition, June 1997, and Addenda 1 through 4).	§§ 195/205(b)(3); 195.432(c).
(5) API Standard 620 “Design and Construction of Large, Welded, Low-Pressure Storage Tanks” (9th edition).	§§ 195.132(b)(2); 195.205(b)(2); 195.264(b)(1); 195.264(e)(3); 195.307(b).
(6) API 650 “Welded Steel Tanks for Oil Storage” (1998) .....	§§ 195.132(b)(3); 195.205(b)(1); 195.264(b)(1); 195.264(e)(2); 195.307(c); 195.307(d); 195.565; 195.579(d).

Source and name of referenced material	49 CFR reference
(7) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (2nd edition, December 1997).	§§ 195.565; 195.579(d).
(8) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tank Bottoms" (2nd edition, December 1997).	§ 195.579(d).
(9) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, 2001, and Addendum 1, 2003).	§ 195.205(b)(1); 195.432(b).
(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999 plus its October 31, 2001 errata).	§§ 195.222; 195.228(b).
(11) API Standard 2000 "Venting Atmospheric and Low-Pressure Storage Tanks" (4th edition, September 1992).	§§ 195.264(e)(2); 195.264(e)(3).
(12) API 1130 "Computational Pipeline Monitoring" (1st edition, 1995) .....	§§ 195.134; 195.444.
(13) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents" (6th edition, 1998).	§ 195.405(a).
(14) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, 1998).	§ 195.405(b).
(15) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (2nd edition, 1996).	§ 195.428(c).
(16) API Standard 2510 "Design and Construction of LPG Installations"(7th edition, 1995)	§§ 195.132(b)(3); 195.205(b)(3); 195.264(b)(2); 195.264(e)(4); 195.307(e); 195.428(c); 195.432(c).
<b>C. ASME International (ASME):</b>	
(1) ASME/ANSI B16.9 "Factory-Made Wrought Steel Butt welding Fittings" (1993) .....	§ 195.118(a).
(2) ASME/ANSI B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids" (1998).	§ 195.452(h)(4)(i).
(3) ASME/ANSI B31G "Manual for Determining the Remaining Strength of Corroded Pipelines" (1991).	§§ 195.452(h)(4)(i)(B); 195.452(h)(4)(iii)(D).
(4) ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (1995) .....	§ 195.5(a)(1)(i); 195.406(a)(1)(i).
(5) ASME Boiler and Pressure vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," (1998 edition with 2000 addenda).	§ 195.124; 195.307(e).
(6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules for Construction for Pressure Vessels" (2001 Edition).	§ 195.307(e).
(7) ASME Boiler and Pressure vessel Code, Section IX "Welding and Brazing Qualifications," (2001 Edition).	§ 195.222.
<b>D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):</b>	
(1) MSS SP-75 "Specification for High Test Wrought Butt Welding Fittings" (1993) .....	§ 195.118(a).
(2) [Reserved].	
<b>E. American Society for Testing and Materials (ASTM):</b>	
(1) ASTM Designation: A53/A53M "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (A53/A53M-99b).	§ 195.106(e).
(2) ASTM Designation: A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-99).	§ 195.106(e).
(3) ASTM Designation: A 333/A 333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service"(A 333/A 333M-99).	§ 195.106(e).
(4) ASTM Designation: A 381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (A 381-96).	§ 195.106(e).
(5) ASTM Designation: A 671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A 671-96).	§ 195.106(e).
(6) ASTM Designation: A 672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A 672-96).	§ 195.106(e).
(7) ASTM Designation: A 691 "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A 691-98).	§ 195.106(e).
<b>F. National Fire Protection Association (NFPA):</b>	
(1) ANSI/NFPA 30 "Flammable and Combustible Liquids Code" (1996) .....	§ 195.264(b)(1).
(2) [Reserved].	
<b>G. NACE International (NACE):</b>	
(1) NACE Standard RP-169-96: "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (1996).	§ 195.571.
(2) Reserved.	

■ 4. Amend § 195.58 by revising the first sentence to read as follows:

**§ 195.58 Address for written reports.**

Each written report required by this subpart must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW., Washington, DC 20590.

\* \* \*

■ 5. Amend § 195.214 by revising the section heading and paragraph (a) to read as follows:

**§ 195.214 Welding procedures.**

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (ibr, see § 195.3) . The quality of

the test welds used to qualify the welding procedure shall be determined by destructive testing.

\* \* \* \* \*

■ 6. Section 195.222 is revised to read as follows:

**§ 195.222 Welders: Qualification of welders.**

Each welder must be qualified in accordance with Section 6 of API 1104 (ibr, see § 195.3) or Section IX of the

ASME Boiler and Pressure Vessel Code, (ibr, see § 195.3) except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not requalify under that earlier edition.

■ 7. Amend § 195.228 by revising paragraph (b) to read as follows:

**§ 195.228 Welds and welding inspection: Standards of acceptability.**

\* \* \* \* \*

(b) The acceptability of a weld is determined according to the standards in Section 9 of API 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 (ibr, see § 195.3) applies to the weld, the acceptability of the weld may be determined under that appendix.

**PART 199—DRUG AND ALCOHOL TESTING**

■ 1. The authority citation for part 199 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

■ 2. Amend § 199.119 by revising paragraph (b) to read as follows:

**§ 199.119 Reporting of anti-drug testing results.**

\* \* \* \* \*

(b) Each report required under this section shall be submitted to the Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington, DC 20590.

\* \* \* \* \*

■ 3. Amend § 199.229 by revising paragraph (c) to read as follows:

**§ 199.229 Reporting of alcohol testing results.**

\* \* \* \* \*

(c) Each report required under this section shall be submitted to the Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington, DC 20590.

\* \* \* \* \*

Issued in Washington, DC, on April 23, 2004.

**Samuel G. Bonasso,**  
Deputy Administrator.

[FR Doc. 04-12070 Filed 6-10-04; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 222 and 223**

[Docket No. 040604170-4170-01; I.D. 060204D]

RIN 0648-AS42

**Sea Turtle Conservation; Shrimp Trawling Requirements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary emergency rule.

**SUMMARY:** NMFS is imposing, for a 30-day period, additional restrictions on shrimp trawlers in offshore Atlantic waters west of 77°57.5' W. long. (approximately Cape Fear, N.C.) and north of 30° N. lat. (just north of St. Augustine, Fla.). Shrimp trawlers in this area are prohibited from fishing at night between 9 p.m. and 5 a.m. eastern daylight time (EDT). NMFS is taking this action because NMFS has determined that recent, unusually high increases in shrimping effort in this area, particularly very long tows made at night, are the cause of extraordinarily high mortality and strandings of sea turtles that are listed as endangered or threatened. This action is necessary to reduce mortality of listed sea turtles incidentally captured in shrimp trawls.

**DATES:** This action is effective from June 7, 2004 through July 7, 2004.

**ADDRESSES:** Assistant Regional Administrator for Protected Resources, NMFS Southeast Regional Office, 9721 Executive Center Drive North, Suite 102, St. Petersburg, FL 33702, 727-570-5312.

For access to the docket to read background documents go to <http://www.regulations.gov> and/or the mailing address listed above.

**FOR FURTHER INFORMATION CONTACT:**

Robert Hoffman (ph. 727-570-5312, fax 727-570-5517, e-mail

Robert.Hoffman@noaa.gov), or Barbara A. Schroeder (ph. 301-713-1401, fax 301-713-0376, e-mail

Barbara.Schroeder@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*)

turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken and killed as a result of numerous activities, including fishery trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206, or if in accordance with the terms and conditions of a biological opinion issued under section 7 of the ESA or an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic area, Gulf area, and summer flounder sea turtle protection area; see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to provide for the escape of sea turtles. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, the flounder TED, and one type of soft TED the Parker soft TED (see 50 CFR 223.207).

TEDs incorporate an escape opening, usually covered by a webbing flap, that allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97-percent effective in excluding sea turtles during testing based upon specific testing protocols (50 CFR 223.207(e)(1)). Approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

**February 21, 2003, Amendments to the Sea Turtle Conservation Regulations**

On February 21, 2003, NMFS issued a final rule (68 FR 8456), amending the sea turtle conservation regulations to protect large loggerhead, green, and leatherback sea turtles. The February 2003 final rule requires that all shrimp trawlers fishing in the offshore waters of the southeastern United States (Atlantic area and Gulf area) and the inshore