

short-spaced grandfathered assignment becomes unlicensed; it is no longer entitled to this special treatment. Therefore, in view of our policy against allowing substandard assignments, we believe that the public interest requires deletion of Channel 253 from Charleston.<sup>3</sup>

§ 73.202 [Amended]

6. Accordingly, pursuant to authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, it is ordered, That effective April 7, 1975, the FM Table of Assignments, § 73.202(b) of the rules, is amended to read as follows for the city listed below:

City	Channel No.
Charleston, West Virginia	241, 248, 260, 274

7. It is further ordered, That this proceeding is terminated.

Adopted: February 19, 1975.

Released: February 26, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, Secretary.

NOTE.—Rules changes herein will be covered by T.S. III(72)-6.

[FR Doc.75-5788 Filed 3-4-75;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY [Docket No. OPS-25; Amdts. 192-18 & 195-8]

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

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Welding Requirements

The purpose of this amendment is to improve the quality of welding performed on gas and liquid pipeline facilities under Parts 192 and 195, respectively. In Part 192, the amendment incorporates by reference sections 2.0, 3.0, and 6.0 of the 1973 (13th) edition of API Standard 1104, "Standard for Welding Pipe Lines and Related Facilities." Sections 3.0 and 6.0 of the 13th edition are incorporated by reference in Part 195. However, as discussed hereinafter, the standards in subsection 6.9 for depth of undercutting adjacent to the root bead governing acceptability of a weld are not adopted. The amendment also makes certain editorial modifications in the regulations for clarity. Other changes make the transition from the currently referenced 11th edition to the 13th edition less burdensome for operators and carriers.

On July 24, 1974, the Director, Office of Pipeline Safety (OPS), issued Notice 74-5 (39 FR 27589; July 30, 1974), proposing to make this amendment. Inter-

ested persons were invited to participate in the rule making by submitting written data, views, or arguments by August 21, 1974. The notice provided a relatively brief period for public comment because interested persons previously had been given an opportunity to comment on similar proposed rule changes in Notice 74-3 (39 FR 14220, April 22, 1974). This earlier notice, which proposed incorporation by reference of sections 2.0, 3.0, and 6.0 of the 1971 (12th) edition of API Standard 1104, was withdrawn by OPS in Notice 74-5 because the 12th edition was out of print.

Eighteen persons filed written comments in Docket OPS-25 in response to the invitation to participate. All commenters favored incorporation by reference of sections 2.0 and 3.0 of the 13th edition as proposed. Although a majority favored adoption of section 6.0 in its entirety, seven commenters objected to the method prescribed in subsection 6.9 for using radiography to measure the depth of undercutting adjacent to the root bead of a weld.

Unlike previous editions, the 13th edition includes depth of an internal undercut area as one of the criteria for determining whether a weld is acceptable. Under subsection 6.9 of the 13th edition, when using radiography alone, depth is determined by comparing the density of the film image of a defect with the density of the film image of an object of known thickness. This object is a shim-type comparator on which narrow V-shaped notches of specified depth are machined. When compared on a radiograph, the shade of the image of the narrow V-shaped notches in this comparator and the shade of the image of an undercut area of weld will show if the depth of the undercut is within acceptable limits.

Recognizing a possible difficulty in accurately comparing the images of the notches with the images of an undercut area on a radiograph, in Notice 74-5 OPS invited interested persons to comment on their experience in using the shim-type comparator to measure depth. In general, commenters indicated that the pipeline industry has had very little experience in using this comparator.

Some commenters who favored adoption of subsection 6.9 stated that because means other than radiography can be used to determine depth of undercutting, the use of the shim-type comparator would not be mandatory under subsection 6.9. This comment is only partially valid. Although other means are available to determine the depth of undercutting on the outside of pipe, there is no practical alternative to radiography in determining the depth of undercutting inside of pipe. Sonics cannot detect the difference between the defect called "wagon tracks" and undercutting. Other methods of nondestructive testing, including visual, would require personal contact with the weld inside the pipe. Personal contact is impossible on small diameter pipe and im-

practical on large diameter pipe if the weld is located too far from an open end for a person to reach by crawling into the pipe. In almost all cases, therefore, radiography is the only reasonable method available to determine the depth of undercutting at root beads inside pipe.

One commenter noted that depth of undercutting had been difficult to determine in a laboratory test using radiography and the shim-type comparator. OPS believes that this comment is indicative of the results which could be expected under field conditions where most pipeline welds are made.

Apart from the lack of experience by pipeline operators in using a shim-type comparator, OPS believes that difficulty in determining depth of undercutting by radiography occurs for several reasons. First, the tolerances specified in subsection 6.9 for the depth of undercutting are too small for easy determination by radiography in the field. Secondly, many variables are present in making a determination, including film density, film processing, misalignment, and change in pipe wall thickness. Thirdly, unless the radiation source is centered, a difference in densities along the length of film results in an accurate determination of depth of undercutting only where the shim is placed. Lastly, OPS believes that use of the shim-type comparator would result in many disagreements over the proper interpretation of a radiograph. Poor welds might be accepted and sound welds rejected. For these reasons, OPS has not adopted the depth of undercutting adjacent to a root bead as a standard of weld acceptability.

Two commenters suggested that the industry begin a testing program to verify the use of the shim-type comparator. OPS believes this is an excellent suggestion. The program could be carried out by selected companies or all companies during pipeline construction. Radiographs could be made using the shim-type comparator and the results could be documented. The legal standard of acceptability for internal undercutting would be the length dimensions prescribed in the 13th edition, but the results could be compared with the 13th edition's depth requirements to determine how many welds would have been accepted or rejected using the shim-type comparator. The documented results could be presented to OPS for evaluation of the need for further rulemaking.

Report of the Technical Pipeline Safety Standards Committee. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 was submitted to the Committee as Item 3 in a list of five proposed amendments. The Committee has made a favorable report which is set forth

<sup>3</sup>See Lake Geneva, Wisconsin, 17 F.C.C. 2d 284 (1969) and; Fortland, Tennessee, 35 F.C.C. 2d 601 (1972).

below. The Committee member who disagreed with the majority of the Committee on Item 3 did not submit a statement of his views.

JANUARY 17, 1975.

Memorandum to: The Secretary of Transportation, Attention: Joseph C. Caldwell, Director, Office of Pipeline Safety.

From: Secretary, Technical Pipeline Safety Standards Committee.

Subject: Proposed Changes to CFR Part 192, Minimum Federal Safety Standards for Transportation of Natural and Other Gases by Pipeline.

The following letter and attachments represent an official report by the Technical Pipeline Safety Standards Committee concerning the Committee's action related to five proposed amendments to 49 CFR Part 192, Minimum Federal Safety Standards for Transportation of Natural and Other Gases by Pipeline.

The Committee reviewed the proposals of the Office of Pipeline Safety at a meeting, held in Washington, D.C., on October 30 and 31, 1974, and through an informal balloting procedure recommended certain modifications, some of which were acceptable to the Office of Pipeline Safety. A formal ballot, reflecting the suggested changes, was prepared and distributed to the Committee members, by the undersigned on December 5, 1974.

Formal ballots have been submitted by all fourteen members of the Committee. The majority of the Committee approved all five items on the ballot as being technically feasible, reasonable, and practicable. Negative votes were cast by one member against Items 1, 2, and 3, by two members against Item 4 and by four members against Item 5. Another member, who had been unable to attend the meeting and participate in the discussions, abstained from voting.

Attachment A sets forth the minority opinions submitted in support of the negative votes on Items 4 and 5.

LOUIS W. MENDONSA.

In view of the improved safety criteria provided by this amendment and the short lead time necessary to prepare for compliance, I have determined that good cause exists for making this amendment effective in less than 30 days after issuance.

In consideration of the foregoing, Parts 192 and 195 of Title 49 of the Code of Federal Regulations are amended to read as follows, effective March 20, 1975.

1. Section 192.225(a) is amended to read as follows:

**§ 192.225 Qualification of welding procedures.**

(a) Each welding procedure must be qualified under section IX of the ASME Boiler and Pressure Vessel Code or section 2 of the 1973 edition of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under section 2 of the 1968 edition of API Standard 1104 before March 20, 1975, may continue to be used but may not be requalified under that edition.

2. Section 192.227(a) (2) is amended to read as follows:

**§ 192.227 Qualification of welders.**

(a) \* \* \*

(2) The following editions of section 3 of API Standard 1104:

(i) The 1973 edition, except that a welder may be qualified by radiography under subsection 3.51 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(ii) If a welder is qualified before March 20, 1975, the 1968 edition, except that a welder may not requalify under the 1968 edition.

3. Section 192.229(c) is amended to read as follows:

**§ 192.229 Limitations on welders.**

(c) A welder qualified under § 192.227 (a) may not weld unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under—

(1) Section 3 or 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

(2) In the case of tests conducted before March 20, 1975, section 3 or 6 of the 1968 edition of API Standard 1104.

4. Section 192.241(c) is amended to read as follows:

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

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead.

5. Item II.A.8 of Appendix A of Part 192 would be amended to read as follows:

**APPENDIX A—INCORPORATED BY REFERENCE**

**II. Documents incorporated by reference.**

**A. American Petroleum Institute:**

8. API Standard 1104 "Standard for Welding Pipe Lines and Related Facilities" (1968 and 1973 editions).

6. Section 195.222 is amended to read as follows:

**§ 195.222 Welders: Testing.**

Each welder must be qualified in accordance with one of the following editions of section 3 of API Standard 1104:

(a) The 1973 edition, except that a welder may be qualified by radiography under subsection 3.51 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead; or

b) If a welder is qualified before March 20, 1975, the 1968 edition, except that a welder may not requalify under the 1968 edition.

7. Section 195.228 is amended to read as follows:

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

Each weld and welding must be inspected to ensure compliance with the requirements of this subpart. Visual inspection must be supplemented by non-destructive testing. The acceptability of a weld is determined according to the standards in section 6 of the 1973 edition of API Standard 1104, except for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead.

8. The table of section, § 195.228 is amended to read as follows:

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

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1672), sections 831-835 of Title 10, United States Code, section 6(e) (4) of the Department of Transportation Act (49 U.S.C. 1655(e) (4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on February 27, 1975.

JOSEPH C. CALDWELL,  
Director,  
Office of Pipeline Safety.

[FR Doc.75-5807 Filed 3-4-75;8:45 am]

**Title 50—Wildlife and Fisheries**

**CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS**

**Procedures for Hearings on Proposed Regulations**

The Marine Mammal Protection Act authorizes the Secretary to prescribe regulations and to waive the moratorium on the taking and/or importation of marine mammals and marine mammal products and, for such prescription or waiver, refers the Secretary to section 103 of the Act (16 U.S.C. 1373). Section 103(d) requires that regulations be made on the record after opportunity for an agency hearing on such regulations and, in the case of a waiver, on a determination by the Secretary to waive the moratorium.

On July 12, 1974, proposed regulations to govern hearings on the record as required by section 103 of the Act (16 U.S.C. 1373) were published in the FEDERAL REGISTER, 39 FR 25664-25667. Thirty days were provided for comments on the proposed regulations.

The only comment received was from the Environmental Protection Agency (EPA). The EPA suggested that provision be made for introducing the environmental impact statement into the record of the hearing. To comply with that suggestion, §§ 216.73(b)(6) and 216.85(b) have been amended. Furthermore, if an environmental impact statement is necessary, the statement will be considered when the Director determines the issues of fact published in the notice of hearing pursuant to § 216.73(b)(5).

Section 216.89 has also been amended to provide all interested persons an opportunity to comment on the presiding officer's recommended decision. All comments must be submitted on or before March 25, 1975.

Section 216.90 has been amended to provide for the Director's consideration of written comments on the recommended decision. In addition, the Director may remand the hearing record to the presiding officer for a fuller development of the record.

The following regulations are hereby published in final form to govern hearings on the record required by section 103 of the Marine Mammal Protection Act (16 U.S.C. 1373).

*Effective date:* These amendments shall be effective on March 5, 1975.

Dated: February 28, 1975.

JACK W. GEHRINGER,  
Acting Director.

**PART 216—SUBPART G—NOTICE AND HEARING ON SECTION 103 REGULATIONS**

Sec.	
216.70	Basis and Purpose
216.71	Definitions
216.72	Scope of Regulations
216.73	Notice of Hearing
216.74	Notification by Interested Persons
216.75	Presiding Officer
216.76	Direct Testimony Submitted as Written Documents
216.77	Mailing Address
216.78	Inspection and Copying of Documents
216.79	Ex parte Communications
216.80	Prehearing Conference
216.81	Final Agenda of the Hearing
216.82	Determination to Cancel the Hearing
216.83	Rebuttal Testimony and New Issues of Fact in Final Agenda
216.84	Waiver of Right to Participate
216.85	Conduct of the Hearing
216.86	Direct Testimony
216.87	Cross-Examination
216.88	Oral and Written Arguments
216.89	Recommended Decision, Certification of the transcript and submission of comments on the recommended decision
216.90	Director's Decision

*Authority:* Title I of the Marine Mammal Protection Act of 1972, 86 Stat. 1027 (16 U.S.C. 1361-1407); Pub. L. No. 92-522.

**Subpart G—Notice and Hearing on § 103 Regulations**

**§ 216.70 Basis and purpose.**

(a) Sections 101(a)(2), 101(a)(3)(A), and 101(b) (16 U.S.C. §§ 1371(a)(2), 1371(a)(3)(A), 1371(b) (1972)) of the

Act and these regulations authorize the Director, National Marine Fisheries Service, to (1) impose regulations governing the taking of marine mammals incidental to commercial fishing operations; (2) waive the moratorium and to adopt regulations with respect to the taking and importing of animals from each species of marine mammals under his jurisdiction; (3) prescribe regulations governing the taking of depleted marine mammals by any Indian, Aleut or Eskimo, respectively. In prescribing regulations to carry out the provisions of said sections, the Act refers the Director to § 103 (16 U.S.C. § 1373 (1972)). In accordance with § 103(d), regulations must be made on the record after opportunity for an agency hearing on such regulations and, in the case of a waiver, on the determination by the Director to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A) (1972)).

(b) The purpose of this subpart is to establish rules of practice and procedure for all hearings conducted pursuant to § 103(d).

**§ 216.71 Definitions.**

Definitions shall be the same as in subpart A of this Part except as follows:

(a) "Party" means, for the purposes of this subpart:

(1) The Director or his representative;

(2) A person who has notified the Director by specified dates of his or her intent to participate in the hearing pursuant to §§ 216.74 and 216.83(b).

(b) "Witness" means, for the purposes of this subpart, any person who submits written direct testimony on the proposed regulations.

A person may be both a party and a witness.

**§ 216.72 Scope of regulations.**

The procedural regulations in this subpart govern the practice and procedure in hearings held under § 103(d) of the Act. These hearings will be governed by the provisions of 5 U.S.C. § 556 and § 557 of the Administrative Procedure Act. The regulations shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to any waiver or regulation proposed pursuant to § 103(d) of the Act with full protection for the rights of all persons affected thereby.

**§ 216.73 Notice of hearing.**

(a) A notice of hearing on any proposed regulations shall be published in the FEDERAL REGISTER, together with the Director's proposed determination to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. § 1371(a)(3)(A)), where applicable.

(b) The notice shall state:

(1) The nature of the hearing;

(2) The place and date of the hearing. The date shall not be less than 60 days after publication of notice of the hearing;

(3) The legal authority under which the hearing is to be held;

(4) The proposed regulations and waiver, where applicable, and a summary of the statements required by § 103(d) of the Act (16 U.S.C. § 1373(d));

(5) Issues of fact which may be involved in the hearing;

(6) If a draft Environmental Impact Statement is required, the date of publication of the draft and the place(s) where the draft and comments thereon may be viewed and copied;

(7) Any written advice received from the Marine Mammal Commission;

(8) The place(s) where records and submitted direct testimony will be kept for public inspection;

(9) The final date for filing with the Director a notice of intent to participate in the hearing pursuant to § 216.74;

(10) The final date for submission of direct testimony on the proposed regulations and waiver, if applicable, and the number of copies required;

(11) The docket number assigned to the case which shall be used in all subsequent proceedings; and

(12) The place and date of the prehearing conference.

**§ 216.74 Notification by interested persons.**

Any person desiring to participate as a party shall notify the Director, by certified mail, on or before the date specified in the notice.

**§ 216.75 Presiding officer.**

(a) Upon publication of the notice of hearing pursuant to § 216.73, the Director shall appoint a presiding officer pursuant to 5 U.S.C. 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this subpart, shall have power to:

(1) Change the time and place of the hearing and adjourn the hearing;

(2) Evaluate direct testimony submitted pursuant to these regulations, make a preliminary determination of the issues, conduct a prehearing conference to determine the issues for the hearing agenda, and cause to be published in the FEDERAL REGISTER a final hearing agenda;

(3) Rule upon motions, requests and admissibility of direct testimony;

(4) Administer oaths and affirmations, question witnesses and direct witnesses to testify;

(5) Modify or waive any rule (after notice) when determining no party will be prejudiced;

(6) Receive written comments and hear oral arguments;

(7) Render a recommended decision; and

(8) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) In case of the absence of the original presiding officer or his inability to act, the powers and duties to be performed by the original presiding officer under this part in connection with a proceeding may, without abatement of