

U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh St., S.W.
Washington, D.C. 20590

December 29, 2004

Mr. Clark Conklin
Chief of Pipeline Safety
Nebraska State Fire Marshal
246 South 14th Street
Lincoln, NE 68508-1804

Dear Mr. Conklin:

We have considered your letter of November 19, 2004, notifying us that the Nebraska State Fire Marshal has granted Aquila Inc. a waiver from the plastic pipe joining requirements at 49 CFR 192.285(a)(2) and (c).

Under § 192.285(a)(2), no person may make a plastic pipe joint until they qualify by making a specimen joint according to the applicable procedure that passes an inspection and test as required by § 192.285(b). In addition, § 192.285(c) requires a person to requalify if during any 12-month period that person does not make a joint using the procedure or has three joints or three percent of the joints made, whichever is greater, found unacceptable by pressure testing under § 192.513.

The waiver permits Aquila to requalify personnel once a year, but at intervals not exceeding 15 months. For mechanical and electrofusion joints, the waiver also permits persons to requalify by reviewing and demonstrating all steps leading to joint production but without actually completing the joint.

The rationale for the waiver is that requalification by process review rather than by inspecting and testing a completed joint is a satisfactory demonstration of a person's ability to continue to make sound joints after initial qualification. This is because electrofusion and mechanical joints are completed automatically after the operator properly sets up the equipment.

You note in your grant of waiver that similar waivers have been issued to operators in Kansas. However, the waivers issued to operators in Kansas require a person to requalify whenever that person has made one unacceptable joint under a qualified procedure. Therefore, we object to the grant of waiver.

OPS hereby stays the grant of waiver of § 192.285(a)(2) and (c) under authority granted by the natural gas pipeline safety law at 49 U.S.C. 60118(d). Within 90 days the Nebraska State Fire Marshal may appeal this matter in writing by providing additional information to show that granting this waiver is not inconsistent with pipeline safety.

Sincerely,
Richard D. Huriaux
Director of Standards Office of Pipeline Safety

November 19, 2004

Mr. James Reynolds
U.S. Department of Transportation
RSPA/ Office of Pipeline Safety
400 Seventh Street, SW- Room 7128
Washington, DC 20590

RE: Request for Waiver to Modify the Requirements of 49 C.F.R. Part 192.285(a)(2) and 192.285(c)

Dear Mr. Reynolds:

The Nebraska State Fire Marshal hereby gives notice to the Secretary of Transportation that it has granted Aquila Inc. a waiver from the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) as adopted by Nebraska Administrative Code Title 155, Chapter 1 §001.

The waiver would allow Aquila to qualify personnel for joining plastic pipe once each calendar year but at intervals not to exceed 15 months. It would also allow personnel to be requalified for mechanical and electrofusion connections by reviewing the procedures and not completing the process of making a specimen joint. **Please note that similar waivers have been issued to operators in Kansas**

Pursuant to 49 U.S.C. 60118, if the Nebraska State Fire Marshal's Office receives no objection from your office regarding this waiver, it will go into effect 60 days after your receipt of this notice.

Sincerely yours,
Clark Conklin
Chief of Pipeline Safety
Cc: Ivan Huntoon

Aquila
1815 Capitol Avenue
Omaha, NE 68102

January 28, 2004

Mr. Clark Conklin
Chief Deputy Fire Marshal
State of Nebraska
246 South 14th Street
Lincoln, Nebraska 68508-1804

Re: Waiver for Plastic Pipe Joining Re-Qualification

Dear Mr. Conklin:

Aquila requests a permanent waiver, so long as certain specified alternative regulations are met, from a portion of the gas safety rules as set out in the Code of Federal Regulations title 49 - Transportation, Subtitle B - Other Regulations Relating to Transportation: Chapter I - Research and Special Programs Administration, Department of Transportation, Subchapter D - Pipeline Safety, Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards. This waiver will be not be inconsistent with other pipeline safety regulations noted in part 192.

Aquila specifically seeks a waiver from sections 192.285(a)(2) and 192.285(c). 192.285(a)(2) requires each person to make mechanical and electrofusion joints each time they re-qualify. 192.285(c) requires a re-qualification every twelve (12) months that the procedure has not been used or after three (3) joints or three percent (3%) of the joints fail under section 192.513.

This text currently reads:

§192.285 Plastic pipe; qualifying persons to make joints.

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

(2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(b) The specimen joint must be:

(1) Visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and

(2) In the case of a heat fusion, solvent cement, or adhesive joint; (1) Tested under any one of the test methods listed under §192.283(a) applicable to the type of joint and material being tested;

(ii) Examined by ultrasonic inspection and found not to contain flaws that would cause failure; or

(iii) Cut into at least three longitudinal straps, each of which is:

(A) Visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and

(B) Deformed by bending, torque, or impact, and if failure occurs, it must not initiate in the joint area.

(c) A person must be re-qualified under an applicable procedure, if during any 12-month period that person:

- (1) Does not make any joints under that procedure; or
- (2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under §192.513.

Aquila request that a permanent waiver would allow for an alternative means of ensuring qualification for peoples making joints. The alternative would be:

A person must be re-qualified under applicable procedure at least once each calendar year, but at intervals not exceeding 15 months. Following the initial qualification for electrofusion and mechanical joining procedures, for re-qualification a person must participate in a review on the proper joining procedure during such time period.

The first part of this language would allow for scheduling training to avoid conflicts and require all joiners to be re-qualified annually not exceeding 15 months regardless of if they have not had any failures or have not made joints under that procedure.

The second part of this language would require joiners to initially qualify on the mechanical fittings by assembling fitting that is visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure. These individuals that have qualified initially would still be required to review these procedures for re-qualification, but would not have to expend the fitting in re-qualification.

This would also apply to electrofusion fittings. The joiners would initially qualify by completing the electrofusion procedure and those joints would be examined by ultrasonic inspection and found not to contain flaws or cut into at least three longitudinal straps, each of which is: visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and deformed by bending, torque, or impact, and if failure occurs, it must not initiate in the joint area. These individuals that have qualified initially would still be required to review and perform these procedures up to the point of pushing the button for re-qualification, but would not have to expend the fitting in re-qualification. Joiners would be required to re-qualify annually not exceeding 15 months.

This waiver will be congruent with waivers granted to Natural Gas Distribution Companies, including Aquila, in the states of Kansas and Missouri. I have attached copies of these orders for your review.

Sincerely,
Edwin M. Hatter, PE