

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Parts 192 and 195

[Amdt. Nos. 192-45 and 195-28; Docket PS-64]

Transportation of Natural and Other
Gas or Hazardous Liquids by Pipeline;
Qualification of Metallic ComponentsAGENCY: Materials Transportation
Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes criteria to qualify for use or reuse, in gas or hazardous liquid pipelines, components manufactured according to editions of voluntary standards which have not been incorporated by reference. Current regulations do not permit the use of these components.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION: Under the existing design requirements of Parts 192 and 195, various metallic pipeline components (other than pipe) may not be installed in new pipelines or as replacement parts in existing pipelines unless they have been manufactured in accordance with an edition of a voluntary standard that has been incorporated by reference. In Part 192, the latest referenced editions of voluntary standards are set out in Appendix A, and in Part 195, they are listed in § 195.3. However, components made to earlier referenced editions not currently listed may also be used. As a result, components manufactured to unreferenced editions of referenced voluntary standards (i.e., editions published before the earliest referenced editions, editions published between referenced editions, or editions published after the latest referenced editions) may not be used in pipelines subject to Parts 192 or 195. For example, a valve manufactured to the 1964 edition of the API 6D, "Specification for Pipeline Valves", may not be newly installed or relocated in a jurisdictional pipeline, since the editions of API 6D currently or previously referenced in Appendix A of Part 192 and § 195.3 do not include the 1964 edition. The effect of these design requirements is to preclude the reuse of many used components or new use of spare components that have never been used. In addition, these requirements

could preclude the relocation of prefabricated units designed to be portable, such as skid mounted gas scrubbers, pressure regulating stations, and measurement stations. The Interstate Natural Gas Association of America estimated (in Petition 77-14, which provides a basis for this rulemaking) that its gas pipeline industry members had on hand in 1977 \$22.5 million worth of components subject to these restrictions.

Notice and Comments

On March 3, 1980, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking (NPRM) (45 FR 13783) proposing physical, chemical and testing standards to qualify the use of metallic components built to pre-1970 editions of voluntary standards referenced in Part 192 and Part 195. The proposed standards were adapted from similar pipe qualification standards in Appendix B-III of Part 192.

Twenty-six commenters responded to the NPRM: Eighteen gas transmission and distribution companies, the American Gas Association, the Interstate Natural Gas Association of America, the New England Gas Association, the Offshore Operators Committee, the American Petroleum Institute, the American Society of Mechanical Engineers Gas Piping Standards Committee, the Washington State Utilities and Transportation Commission and the National Transportation Safety Board (NTSB).

All the commenters for various reasons supported the use (which includes reuse in this document) of metallic components built to unreferenced editions of referenced voluntary standards. The reason given most often (19 commenters) was that costs would be lowered for the operators and for the consumer, with no adverse effect on public safety. Four commenters qualified their support by recommending that the use of such components be contingent upon their safety being assured. Commenters disagreed with five statements in the notice as follows:

Two commenters took exception to the statement "In addition, such components would have to be subjected to hydrostatic testing under the requirement of Subpart J of Part 192 and Subpart E of Part 195 after they are installed in a pipeline and before operation." (Third paragraph from end of Supplemental Information.) The MTB recognizes that components can be excepted under § 192.505(d) or

§ 195.304(b) from the respective testing requirements of subparts J or E when a component is the only item being replaced or added. The reference to testing in the notice was not intended to ignore these exceptions. The intent of the notice (and of this final rule) was to permit the use of components built to unreferenced editions of referenced voluntary standards by application of acceptable qualifying criteria. The proposed and final criteria are independent of the existing hydrostatic testing requirements in Parts 192 and 195.

One commenter disagreed with the proposed § 192.144(b)(3), regarding nondestructive inspection of welded seams, in the apparent belief that this paragraph would impose a requirement for weld inspection in the field. Such is not the case. Although the proposed rule would have required only that the edition of the document under which the component was manufactured have equivalent or more stringent requirements for nondestructive testing, acceptance or rejection, and repair of welded seams as a referenced edition of that document, the final rule does not contain the weld inspection criterion. The proposed paragraph (b)(3) was deleted in favor of a broader, more generally applicable qualifying standard, as discussed below.

The NTSB recommended that § 192.144(a) and § 195.101(a) be changed to read: "It can be shown through visual or other inspection of the cleaned component that no defects exist which might impair its strength or resistance to leaks." The MTB agrees that this wording more clearly states the proposed requirement and has adopted the essence of this language in § 192.144(a) and § 195.101(a), with the exception of the words "or other". Because the commenter did not make clear what acceptable "or other" inspections might be and because the MTB is not aware of inspection techniques that might replace a visual inspection, the words "or other" have not been adopted.

The NTSB also recommended replacing the words "substantially the same" with the word "equivalent" in the proposed § 192.144(b) and § 195.101(b) regarding the comparison of documents. Although MTB has not adopted the recommended wording, the wording in the final rules is changed to read "equal or more stringent" to make clear that components manufactured to requirements not only equal but also

more stringent than those of a referenced edition are acceptable.

One commenter recommended changing the language of the final rule to permit the use of components built to unknown editions of unknown specifications, arguing that in many cases it might not be possible to identify either the voluntary standard or the edition of the standard to which a component was manufactured. The commenter recommended that such components be qualified for use if they meet the hydrostatic test requirements of Appendix B III.C. (2) of Part 192, pertaining to the qualification of steel pipe. The MTB believes this recommendation is outside the scope of the notice since the notice addressed only components built to editions of referenced standards, some editions of which are incorporated by reference into Parts 192 and 195. For this reason, the merits of this recommendation were not considered for this final rule. However, MTB would be receptive to receiving additional information on the safety and benefits of permitting the new use or reuse of components of this type.

In the notice, MTB considered applying the proposed qualification criteria only to components manufactured before April 1, 1970. This cutoff date was chosen on the presumption that since then pipeline operators have had sufficient opportunity to acquire components that are made to referenced editions of voluntary standards. One commenter recommended that the April 1, 1970, date be deleted, arguing that—

While retention of this date does provide, in a sense, continuity with the source of regulatory requirements of Part 192, it could prove to become an unnecessary economic cost at a future time. As successive editions of reference specifications and standards are issued and incorporated by reference into Parts 192 and 195 by updating, it is possible that some or a few of the early edition dates will be dropped from Appendices A and B of Part 192. Conceivably, the gas industry could find itself in the situation where it would be permissible under the regulations to use a valve that was manufactured prior to April 1, 1970, but not one manufactured just a few years after that date as the edition to which it was manufactured had been deleted.

The MTB does not believe that this commenter raised a genuine issue. While it is true that only the dates of the latest referenced editions are maintained in Appendix A of Part 192 and § 195.3, both provide that earlier editions that were once referenced may still be used to qualify the use of components made to those editions at the time they were referenced. At the same time, MTB recognizes that

manufacturers have made components to editions of referenced standards that were published after April 1, 1970, but never included in Appendix A of Part 192 or § 195.3. These intervening and later editions have not been adopted because of the administrative difficulties associated with keeping the dates of referenced editions up-to-date with the frequent new editions of the referenced standards that are published by the various voluntary standards setting bodies. Since components made to these omitted editions should be judged the same from a safety perspective as ones made to pre-1970 editions, there is no safety reason for not permitting them, too, to qualify for use under the criteria in §§ 192.144 and 195.101. Therefore, the final rule has been changed to allow use of components built to any unreferenced edition of a referenced voluntary standard without regard to the date of publication of that edition, provided the component passes the visual inspection and the edition of manufacture meets the qualification criteria. As a consequence of this change, components manufactured to editions of referenced standards published before, between, and after referenced editions in Appendix A of Part 192 or § 195.3 may qualify for use under the new §§ 192.144 and 195.101.

Advisory Committees

The proposed regulation was presented to the Technical Pipeline Safety Standards Committee for gas pipelines on December 9, 1980. The committee found the proposal to be technically feasible, reasonable, and practicable, with one member casting a dissenting vote. The dissenting member, while agreeing with the use of older components on the pipeline for which they were purchased, argued against their use on new pipelines, because allowing the use of older components on new pipelines would not require new pipelines to benefit from improvements in technology. The MTB, while mindful of the technology issue, believes that the principal concern is the safety of the components regardless of age, and for this reason has not precluded the use of older components on new pipelines.

The proposed regulation was also presented to the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) on December 7, 1982. The committee recommended that § 195.101(b) be changed to read "The edition of the document under which the component was manufactured has substantially the same safety-related requirements as a later edition of that document listed in Section 195.3" The committee felt that the term "safety

related requirements" would provide more leeway in comparing two editions of a referenced standard. This language has not been adopted in the final rule because the MTB feels that the term is too broad, lacks focus, and does not give sufficient guidance to pipeline operators on MTB enforcement personnel.

The language of the final rule has been changed, however, to make the basis for comparison of documents more closely related to the substance of voluntary standards for components, than to the pipe manufacturing standards upon which the notice was based. The proposed wording of § 192.144(b)(1) and § 195.101(b)(1) is changed to the form, "Pressure testing," to recognize that more than one pressure test might be required by a referenced standard and methods may differ. In §§ 192.144(b)(2) and 195.101(b)(2) the detailed descriptive words for material properties are changed to "Materials," to state the criterion simply and clearly. In addition, the proposed §§ 192.144(b)(3) and 195.101(b)(3) relating to nondestructive testing of weld seams, is deleted entirely. A new standard for comparison "Pressure and temperature ratings" is substituted because (1) unlike the proposed language which applied only to a small number of welded components, the language in the final rule applies to all metallic components, and (2) pressure and temperature ratings are clear guides for proper service of a component.

Classification

The Regulatory Flexibility Act (94 Stat. 1164, U.S.C. 601) requires a review of a proposed regulation issued after January 1, 1981, for its effect on small businesses, organizations, and governmental bodies. Although in this case a notice of proposed rulemaking was issued prior to January 1, 1981, the effect on the segments of the public covered by the Regulatory Flexibility Act has been assessed. These regulations will not have a significant economic impact on small entities because: (1) Few, if any interstate hazardous liquid pipelines are owned by small entities, and (2) small entities that own gas pipelines do not ordinarily maintain large stocks of metallic components affected by this rule. Those few that have stocks of affected components are not expected to benefit substantially from the cost reductions of the final rule.

Since this final rule will have a positive effect on the economy of less than \$100 million a year, will result in a cost savings to consumers, industry, and government agencies and no adverse

effects are anticipated, the action is not "major" under Executive Order 12291 or "significant" under Department of Transportation procedures.

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety, Components, Reference specifications, Metallic components.

PART 192—[AMENDED]

In view of the above, Parts 192 and 195 of Title 49 of the Code of Federal Regulations are amended as follows:

1. By adding a new § 192.144 to read as follows, and by adding the section title to the table of sections:

§ 192.144 Qualifying metallic components.

Notwithstanding any requirement of this subpart which incorporates by reference an edition of a document listed in Appendix A 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) It can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and

(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 Appendix A:

- (1) Pressure testing;
- (2) Materials; and
- (3) Pressure and temperature ratings.

(49 U.S.C. 1672 and 1804; 49 CFR 1.53 and Appendix A of Part 1)

PART 195—[AMENDED]

2. By adding a new § 195.101 to read as follows, and by adding the section title to the table of sections:

§ 195.101 Qualifying metallic components other than pipe.

Notwithstanding any requirement of the subpart which incorporates by reference an edition of a document listed in § 195.3, a metallic component other than pipe manufactured in accordance with any other edition of that document is qualified for use if—

(a) It can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and

(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 § 195.3:

- (1) Pressure testing;
- (2) Materials; and
- (3) Pressure and temperature ratings.

(49 U.S.C. 2002; 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C. on June 28, 1983.

L. D. Santman,
Director, Materials Transportation Bureau.

[FR Doc. 83-17821 Filed 7-1-83; 8:45 am]
BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1175 and 1176

[Ex Parte No. 429]

Elimination and Modification of Certain Securities Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules and application requirements and issuance of final policy statement; correction.

SUMMARY: At 48 FR 26317, June 7, 1983, the Commission adopted its proposal to eliminate certain securities regulations and modify others. The rules removed Part 1176, and relieved motor carriers of the regulations in Part 1175. Paragraph (c) and an Appendix were inadvertently omitted from the text of revised § 1175.10. That error is corrected by this notice.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245, or John J. Mattras, (202) 275-7677.

SUPPLEMENTARY INFORMATION: At 48 FR 26318, § 1175.10 is corrected by adding the following paragraph (c) and Appendix to the revised text:

§ 1175.10 Applications for authority to sell securities without competitive bidding.

(c) The rules and regulations prescribed in 49 U.S.C. 1170.3(e) shall govern the execution, filing, and disposition of the application.

Appendix

Pertinent conclusions and the requirement of the Commission in its report of May 8, 1944, in Ex Parte 158. "In the Matter of Competitive Bidding in the Sale of Securities under section 20a of the Interstate Commerce Act", are as follows:

We find that for the proper administration, execution, and enforcement of section 20a of the Interstate Commerce Act we should require as a condition to our approval of the sale of railroad securities issued under the provisions of that section that such securities be offered for sale at competitive bidding or

at what we have heretofore considered tantamount thereto, viz., upon invitation of bids for the purchase thereof. Proposals received in response to such invitation should be opened only at such time and place as is specified in the invitation, and the duly authorized representative of any person making any such proposal should be permitted to be present at the opening of such proposals, and to examine each proposal submitted. If the right be reserved in the advertisement or invitation for bids, the railroad proposing the issue may properly reject all bids and call for new bids or seek such relief as the facts and circumstances may warrant.

We further find that such requirement should apply to all classes of railroad securities other than equipment, as to which no change in the present practice is contemplated, except the following:

- (1) Common and preferred stocks;
- (2) Securities sold or otherwise issued pro rata to existing holders of securities of the issuing company pursuant to any preemptive right or privilege or in exchange for or extension of outstanding securities, or in connection with any liquidation, reorganization, or financial adjustment;
- (3) Any note or other security maturing in not more than 3 years;

(4) Securities sold or otherwise issued when the total issue does not exceed \$1,000,000, principal amount;

(5) Securities of any railroad company issued in exchange for the securities or properties of any other railroad company acquired pursuant to authority granted under the provisions of section 5(2) of the act, and any securities of such other company to be acquired by any other person pursuant to such authority;

(6) Securities sold or otherwise issued to a railroad company by any of its subsidiary companies pursuant to authority granted under section 20a of the act where such securities are not to be sold by the parent company, but are to be held subject to our further order; and

(7) Any securities as to which we shall find, upon due showing by a railroad company, either upon application under the provisions of section 20a or upon special application preliminary to the filing of such application under section 20a, that sale at competitive bidding should not be required.

Applications under section 20a to sell securities without competitive bidding on the ground that such securities come within one of the foregoing specific exemptions should include a statement of facts relied upon to show that the exemption applies. Special applications for exemption from the competitive bidding requirement may be made pursuant to such special instructions as may hereafter be issued.

We further find that for the present no formal rule or regulations requiring the sale of railroad securities at competitive bidding should be promulgated. Railroads applying after June 30, 1944, for authority to issue securities under the provisions of section 20a will be expected to observe these findings.

The foregoing requirement was modified by the Commission's report of June 18, 1952, in