

title of each program in which the issue was treated.

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William J. Tricarico,
Secretary.

[FR Doc. 86-12330 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdts. 192-52 and 195-38; Docket No. PS-87]

Transportation of Gas or Hazardous Liquids by Pipeline, Welding Requirements

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Final rule.

SUMMARY: These amendments generally conform requirements of Parts 192 and 195 for welding procedure qualification and performance and for welder qualification, with the exception of requirements for low stress welder qualification applicable only to Part 192. Welding procedure requirements are now identical, worded in performance language for both regulations. Requirements for qualification of welders are editorially conformed, retaining the incorporation by reference of section 3 of API Standard 1104 and section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

EFFECTIVE DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, (202) 426-2082, regarding the content of this amendment, or the Dockets Branch, (202) 426-3148, regarding copies of the amendment or other information in this docket.

SUPPLEMENTARY INFORMATION:

Background

These amendments continue the process of conforming the welding requirements of 49 CFR Part 192 for gas pipelines with those for hazardous liquid pipelines under 49 CFR Part 195. As described in the Notice of Proposed Rulemaking (NPRM) (50 FR 49429, December 2, 1985), the two sets of requirements were developed separately at different times and as a result differ with each other in ways that cannot be explained on the basis of technical or

safety differences between gas and liquid pipelines.

Based on prior petition by the industry and subsequent notice and comment, Part 195 was amended in 1984 (Amdt. 195-32, 49 FR 36859, September 20, 1984) to generally conform requirements for qualification of welders with those of Part 192. Both parts now require (except for welders who work on gas pipelines to be operated at a pressure that produces a hoop stress of less than 20 percent of the specified minimum yield strength of the pipe) that welders be qualified in accordance with either section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. At the time of Amendment 195-32, other requirements relating to qualification of welders remaining in Part 192 but were not incorporated into Part 195 because the requirements were unnecessary for safety and could be misleading. As stated in the NPRM of this proceeding, paragraph (b) of § 192.227 exempted welders from separate qualification for differences in carbon and low alloy steels being welded when being qualified under the ASME Code. Because material, within broad limits, is not an essential variable for welder qualification, the paragraph is unnecessary and is deleted with this amendment.

Similarly, sections on preheating and stress relieving are deleted from Part 192 because, by specifying overly-liberal requirements, the sections did not regulate an actual safety hazard but instead created the impression that preheating and stress relieving may not be required when good engineering judgment would mandate that one or the other are necessary. Part 195 contains no separate requirements for preheating or stress relieving.

Qualification of welding procedures was discussed in detail in the NPRM preceding this amendment, and the difference between Parts 192 and 195 was pointed out regarding qualification of the welding procedure. Part 195 merely stated that the procedures must be tested and Part 192 required that the procedures must be qualified in accordance with API 1104 or the ASME Code. Because both of these industry standards require destructive testing of test weldments made to qualify the welding procedure, the requirement for destructive testing has been incorporated in both Parts 192 and 195. RSPA believes that there are two advantages, besides conformity between Parts 192 and 195, in incorporating this language. First, the language rules out qualification of welding procedures by various forms of nondestructive

inspection, and second, the language allows qualification by more than one type of destructive testing, including tensile testing, nick-break, guided bend testing, as well as COD (crack opening displacement), CTOD (crack-tip opening displacement) and other forms or methods of destructive testing that may be fracture toughness or fracture mechanics oriented. Incorporated by reference of section 6 of API Standard 1104 for standards of acceptability of welds is not changed by this rulemaking for either Part 192 or Part 195.

The Proposal

The RSPA proposal published in the NPRM (Docket PS-87, Notice 1) is reproduced here for guidance in evaluating comments and arguments advanced in the next section of this preamble. As published on page 49431 of the Federal Register (50 FR 49429-49431, December 2, 1985), the proposal reads:

RSPA proposes to amend 49 CFR 192 and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1872; 49 U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

§ 192.223 [Removed]

2. By deleting § 192.223 in its entirety.
3. By revising § 192.225 to read:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

4. By deleting paragraph (b) of § 192.227, redesignating the existing paragraph (c) as (b), and by revising paragraph (a) to read:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in Appendix A may weld but may not requalify under that earlier edition.

§ 192.237 [Removed]

5. By deleting § 192.237 in its entirety.

§ 192.239 [Removed]

6. By deleting § 192.239 in its entirety.

PART 195—[AMENDED]

7. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53, and Appendix A of Part 1.

8. By revising § 195.214 to read:

§ 195.214 Welding: Procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

§ 195.222 Welding: Qualification of welders.

9. By revising the title of § 195.222 to read as set forth above. In the preamble to the proposal, RSPA provided justification for deletion of §§ 192.223, 192.237, and 192.239 as duplicative and unnecessary for safety. Comments on the deletion of these sections as well as on the balance of the proposal are discussed below as they apply to each section.

Comments in Response to Notice 1

RSPA received a total of 17 comment letters on the NPRM, 10 from gas pipeline operators, 1 from a combined liquid and gas operator, 3 from trade organizations representing gas operators, 1 from a State Public Service Commission, and from the American Petroleum Institute (API) and the American Welding Institute (AWI). All supported the proposal to delete §§ 192.223, 192.237, and 192.239 from Part 192 as unnecessary, and generally agreed with the proposed conformity between Parts 192 and 195, except the State Public Service Commission and the Boston Gas Company. The State Public Service Commission interpreted the reference to section 2 of API Standard 1104 in the existing § 192.225 to mean that all of section 2, including the development and establishment of the welding procedure, is presently incorporated by reference. The interpretation is incorrect. Section 2 of API 1104 and section IX of the ASME Boiler and Pressure Vessel Code are referred to in § 192.225 only for qualification, or testing, and not for development and establishment of the written welding procedure. The section now reads, in part:

§ 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 API Standard 1104, whichever is appropriate to the function of the weld, except that a

welding procedure qualified under an earlier edition previously listed in Appendix A may continue to be used but may not be required under the earlier edition.

The requirement for "established written welding procedures" is presently in § 192.223(a) which, by containing no reference to industry or other standards, is and has been a performance requirement since issuance of the regulations. The same paragraph also requires that the procedures be "qualified" under § 192.225, which is simply a duplication of the requirements of § 192.225.

RSPA believes that the error in interpretation is a common one because of the use of the word "qualified" in association with section 2 of API 1104 without further definition of the limited meaning of that term. However, if a State regulation includes other requirements of API 1104 or of the ASME Code as mandatory, there is no conflict with the Federal regulations. The applicable Federal laws permit States to apply to intrastate pipelines additional or more stringent State regulations that are compatible with Federal regulations.

The Boston Gas Company stated that they were concerned about the deletion of § 192.223 and the revision of § 192.225, eliminating reference to the industry standards. Boston Gas expressed their concerns as:

It is our feeling that Parts 192.223, 192.225, and 192.227 should be retained. Subpart E has withstood the test of time. We do not believe it should be modified for the sake of alignment with another Part. We recommend that Part 195 be modified to be aligned with Part 192.

In the interest of assuring the Boston Gas Company that the requirements of Part 192 are not watered down to suit Part 195, all of the requirements of §§ 192.223 and 192.227 have been retained. Paragraph (a) of § 192.223 is relocated in § 192.225 and contains the same requirements. Paragraph (b) of § 192.223 is covered by incorporation by reference of section 3 of API 1104 and section IX of the ASME Code in § 192.227, and would be a duplication of the requirements of that section if retained. Section 192.227 remains as it is with the exceptions of reversal of order of reference to the industry standards to reflect the amount of usage on pipelines, and the deletion of paragraph (b), which, to the best of our knowledge, has never been invoked. Incorporation by reference of the industry standards for qualification of welding procedures under § 192.225 has been replaced by performance standards as explained in the NPRM. No effect on safety is anticipated from this change because

essentially the same testing requirements, or their equivalents, will continue to be specified by operators to meet the acceptability standards of the regulations.

Therefore, with the exception of the two comments that RSPA believes are based on a misunderstanding, all commenters agreed with the intent of the rulemaking. Two others suggested further clarification by iterating the effect of the changes, and four additionally suggested a re-wording of the proposed §§ 192.225 and 195.214. These four are the API, AWI, the Northern Natural Gas Company, and the Interstate Natural Gas Association of America (INGAA) whose comments are discussed here because of the possible impact of the changes on the relatively large organizations. INGAA and Northern Natural recommended that these sections on qualification of welding procedures be limited to requirements on developing, documenting, and maintaining the procedures, and that the requirement for performance by qualified welders be moved to § 192.229, Limitations on welders. The API recommended that the word "acceptability" be deleted from the phrase "to meet the acceptability standards of this subpart," while INGAA would modify that phrase by changing the word "to" to "and." Both INGAA and the AWI recommended changing the wording of paragraph (b), INGAA again reflecting the intention to limit the requirements of the sections to that implied by the title. The AWI commented that both the original language and the proposed language cause problems in interpretation, defining the reasons as follows:

It is customary to make test weldments to qualify a welding procedure. The welding parameters of this test assembly, along with the destructive test results, are recorded and this record becomes the Procedure, Qualification Record (PQR). In applying that procedure to a production weld, a Welding Procedure Specification (WPS) is written. The WPS includes tolerances and other variations from the PQR which are allowed by code rules or other engineering judgment. The "record" (PQR) is not the specific document used by the welder in making his production welds. The WPS is the document with instructions for the welder.

The AWI suggested a wording change to refer to the welding procedure specification as the document that must be followed whenever the procedure is used.

Considering that conformity between Parts 192 and 195 is an objective of this rulemaking and that most of the comments are directed at the proposed

§§ 192.255 and 195.214 as a result of conforming the two, and also incorporating the requirements of § 192.223, RSPA recognizes a possible impasse in resolving the differences between the various comments. Because more commenters addressed the changes to § 192.225 and because the existing title of the section is "Qualification of welding procedures," it appears that the intent to include the general provisions of §§ 192.223 and 195.214 may have been overlooked because of the similarity of the proposed title, "Welding procedures." As proposed, the section does cover aspects of welding performance that would not normally be in a section on welding procedures, offering a reasonable explanation for the INGAA and Northern Natural comments. In order to clarify that the section is intended to cover other aspects as well as welding procedures, RSPA has reconsidered the title and feels that the problems may be more appropriately resolved by using the title, "Welding: General" as presently for § 195.214. Therefore, this final rule contains the title "Welding: General" for both §§ 192.225 and 195.214. Thus, the general nature of § 192.223 is included, including performance of welding, and the general and performance nature of § 195.214 is also retained.

To address the API comment to delete the word "acceptability," RSPA is replacing the term "acceptability standards" with the word "requirements" as presently in § 195.214 and as commonly used to denote any mandatory rule. The basis for the API comment is that the word "acceptability" would likely lead the reader to section 6 of API 1104 because of the title of that section, "Standards of Acceptability—Nondestructive Testing." The intent of the proposed language for §§ 192.225 and 195.214 is to require destructive testing of test weldments to qualify the welding procedure such that the weld soundness as governed by the acceptability standards would be met in production welding as determined by nondestructive testing. Therefore, RSPA considers that meeting the acceptability standards (or, more broadly, "requirements" of the subpart) is an objective of establishment and qualification of the procedure as well as of qualification of the welder. The final rule is editorially changed to reflect this. There is no intent to require nondestructive testing as a part of welding procedure qualification. Hence, RSPA does not accept the INGAA recommendation to change the word "to" to "and." The final phrase is "to

meet the requirements of this subpart," meaning to meet all that follows in the subpart, including the standards of acceptability.

Similarly, RSPA feels that no change is necessary to acknowledge the AWI comment because, although using different language, the AWI had demonstrated that it understands the requirement and has specified the means that the industry uses to implement the requirement. AWI suggested the following for §§ 192.255(b) and 195.214(b):

Each welding procedure test must be recorded in detail, including the results of the qualifying test. A welding procedure specification shall be prepared using the qualifying test record as justification and shall be followed whenever the procedure is used.

Although informative with regard to the use of a welding procedure specification, this wording is unacceptable to RSPA because it omits the requirement to record the entire procedure, including all variables of the procedure, such as the welding process, the material, size, joint design, type, class of consumables, preheating, stress relieving, and other characteristics. RSPA does not limit recording of the procedure to the tests, although the qualifying tests must be included. Further, once a welding procedure is qualified (referred to by AWI as the Procedure Qualification Record), that procedure may not change in ways that have an effect on the welds produced. Tolerances in prescribing instructions for the welder, as pointed out by the AWI, are understandable. However, in terms of enforcement, when, for example, the welding procedure is established in a way that preheating may be necessary but may not be adequately prescribed in the welding procedure specification, RSPA will enforce the need for adequate preheating, especially in cases where an unusual number of related weld defects are occurring. The phrase "to meet the requirements of this subpart" also means that no cracks are permitted in pipeline girth welds, and that if cracks occur, the entire welds must be removed or must be repaired using detailed, welding procedures developed for that purpose (§§ 192.245 and 195.230).

Northern Natural suggested substituting performance standards for welder qualification as proposed for qualification of welding procedures. Northern Natural commented in part:

The stated purpose of this NPRM was to ". . . conform the two" (Parts 192 and 195) "by using the same *performance language* . . ." (emphasis added). This has been

completed in 192.225, Welding Procedures, by removing the references to API 1104 Section 2 and ASME Section IX for destructive testing of the test welds when qualifying a procedure. We suggest that similar action be taken in 192.227(a) for welder qualification, namely the statement of requirements in performance language and the deletion of specification references.

RSPA has several problems with the Northern Natural suggestion. First, we do not find the quoted language in the NPRM. Second, RSPA had no intention of substituting performance language for the existing welder qualification requirements. As the summary of the NPRM stated:

MTB proposes to amend Parts 192 and 195 by generally conforming requirements for welding procedure qualification and for welder qualification. Identical performance standards are proposed for qualification of welding procedures under both regulations, except for retained provisions for low stress level gas pipelines in Part 192. Industry standards incorporated by reference would be retained for qualification of welders and for weld acceptability.

Although we recognize that removing reference to the industry standards for welder qualification could potentially provide greater flexibility, RSPA has not proposed to do this, having limited the proposal to conforming the two regulations with a minimal change in both. This rulemaking is complete with regard to conformity of the welding procedure qualification and welder qualification requirements of Parts 192 and 195. Further change would have to be based on supportable petition and demonstration of need. RSPA presently believes that qualification of welders in accordance with the industry standards is an essential part of pipeline safety. Petitions for change would have to present convincing arguments as to why this may not be so.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) require that each proposed amendment to a safety standard established under these statutes be submitted to a 15-member advisory committee for its consideration. The Technical Pipeline Safety Standards Committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendment to §§ 192.223, 192.225, 192.227, 192.237, and 192.239 in a meeting on December 10, 1985, in Washington, D.C. The Technical Hazardous Liquid Pipeline Safety Standards Committee considered the

proposed amendment to §§ 195.214 and 195.222 in a meeting on November 18, 1985, in Washington, D.C. Both committees found the proposed amendments to be technically feasible, reasonable, and practicable.

Classification

This final rule is considered to be nonmajor under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule merely conforms the requirements of 49 CFR Parts 192 and 195 with regard to welding procedures and welder qualification.

Since the impact of this final rule is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 192

Pipeline safety, Welding requirements, Incorporation by reference

49 CFR Part 195

Pipeline safety, Welding requirements, Incorporation by reference

In view of the foregoing, RSPA amends 49 CFR Parts 192 and 195 as follows:

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

§ 192.223 [Removed]

2. By removing § 192.223 in its entirety.

3. By revising § 192.225 to read:

§ 192.225 Welding—General.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify the procedure shall be determined by destructive testing.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

4. By removing paragraph (b) of § 192.227, redesignating the existing paragraph (c) as (b), and by revising paragraph (a) to read:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 3 of

API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in Appendix A may weld but may not requalify under that earlier edition.

* * * * *

§ 192.237 [Removed]

5. By removing § 192.237 in its entirety.

§ 192.239 [Removed]

6. By removing § 192.239 in its entirety.

7. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53, and Appendix A of Part 1.

8. By revising § 195.214 to read:

§ 195.214 Welding: General.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify the procedure shall be determined by destructive testing.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

9. By revising the title of § 195.222 to read:

§ 195.222 Welding: Qualification of welders.

Issued in Washington, DC, on May 29, 1986.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86-12352 Filed 6-3-86; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 630

[Docket No. 60593-6093]

Foreign Fishing, and Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement portions of the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). This rule (1) prohibits nighttime longlining during a closure, and (2) establishes a data collection program to monitor the

fishery. The intended effect of the final rule is to maintain high landings in the form of larger fish that are preferred in the market, prevent growth overfishing, provide a buffer against possible recruitment overfishing, obtain the information necessary to monitor the fishery and refine the management regime, and minimize the impacts of foreign fishing on the domestic swordfish fishery.

EFFECTIVE DATE: June 29, 1986. This rule is being issued prior to approval by the Office of Management and Budget (OMB) of the information collection requirements in § 630.5 (b) and (c). When the OMB control number is received, a notice will be published in the Federal Register making these sections effective on date of filing for public inspection with the Office of the Federal Register.

ADDRESSES: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION:

The South Atlantic Fishery Management Council (Council) prepared the Fishery Management Plan for Atlantic Swordfish in cooperation with the Caribbean, Gulf of Mexico, Mid-Atlantic, and New England Fishery Management Councils (Councils). The original Swordfish FMP submitted on April 29, 1985 was partially disapproved. The Council, on behalf of the Councils, resubmitted the disapproved measures. A notice of availability of the revised FMP was published in the Federal Register on March 21, 1986 (51 FR 9869). Proposed regulations to implement the resubmitted measures were published March 31, 1986 (51 FR 10890). The proposed rule presented supporting rationale for the resubmitted management measures and they are not repeated here.

Comments and Responses

Eleven comments were received addressing seven issues. The sources of the comments were a fishery management council, a foreign fishing association, two foreign governments, a commercial fisheries association, three conservation organizations, a commercial fisherman, an individual, the Department of State, the Office of Management and Budget, and the U.S. Coast Guard.