

rate(s) of pay for the employee(s), plus 16 percent).

(b) *Electronic searches.* Fees shall reflect the direct cost of conducting the search. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for and printing records responsive to the FOIA request and operator/programmer salary attributable to the search.

(c) *Record reviews.* Time devoted to reviewing records shall be charged on the same basis as under paragraph (a) of this section, but shall only be applicable to the review of records located in response to commercial use requests.

(d) *Duplication.* Fees for copying paper records or for printing electronic records shall be assessed at a rate of \$.15 per page. For other types of copies such as disks or audio visual tapes, CEQ shall charge the direct cost of producing the document(s). If total costs are expected to exceed \$25, the FOIA Officer shall provide the requester with an estimate in writing and, in return, obtain from the requester a commitment to pay the estimated fee. This does not apply if the requester has indicated in advance a willingness to pay fees as high as those anticipated. If a requester wishes to limit costs, the FOIA Officer shall provide the requester an opportunity to reformulate the request in order to reduce costs. If the requester reformulates a request, it shall be considered a new request and the 20-day period described in § 1515.6(a) shall be deemed to begin when the FOIA Officer receives the request.

(e)(1) *Advance payments required.* The FOIA Officer may require a requester to make an advance deposit of up to the amount of the entire anticipated fee before the FOIA Officer begins to process the request if:

- (i) The FOIA Officer estimates that the fee will exceed \$250; or
- (ii) The requester has previously failed to pay a fee in a timely fashion.

(2) When the FOIA Officer requires a requester to make an advance payment, the 20-day period described in § 1515.6(a) shall begin when the FOIA Officer receives the payment.

(f) *No assessment of fee.* CEQ shall not charge a fee to any requester if:

- (1) The cost of collecting the fee would be equal to or greater than the fee itself; or

(2) After the effective date of these regulations CEQ fails to comply with a time limit under the Freedom of Information Act for responding to the request for records where no unusual or exceptional circumstances apply.

§ 1515.13 *Fees for categories of requesters.*

CEQ shall assess fees for certain categories of requesters as follows:

(a) *Commercial use requesters.* In responding to commercial use requests, CEQ shall assess fees that recover the full direct costs of searching for, reviewing, and duplicating records.

(b) *Educational and non-commercial scientific institutions.* CEQ shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages. To qualify for inclusion in this fee category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scholarly research, not an individual goal.

(c) *Representatives of the news media.* CEQ shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages.

(d) *All other requesters.* CEQ shall charge requesters who do not fall within paragraphs (a) through (c) of this section fees that recover the full direct cost of searching for and duplicating records, excluding charges for the first 100 pages of reproduction and the first two hours of search time.

§ 1515.14 *Other charges.*

CEQ may apply other charges, including the following:

(a) *Special charges.* CEQ shall recover the full cost of providing special services, such as sending records by express mail, to the extent that CEQ elects to provide them in that manner.

(b) *Interest charges.* CEQ may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the FOIA Officer sent the billing. Interest shall be charged at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of billing.

(c) *Aggregating requests.* When the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of avoiding fees, the FOIA Officer shall aggregate those requests and charge accordingly.

§ 1515.15 *Payment and waiver.*

(a) *Remittances.* Payment shall be made in the form of check or money order made payable to the Treasury of the United States. At the time the FOIA Officer notifies a requester of the applicable fees, the Officer shall inform the requester of where to send the payment.

(b) *Waiver of fees.* CEQ may waive all or part of any fee provided for in §§ 1515.12 and 1515.13 when the FOIA Officer deems that disclosure of the information is in the general public's interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In determining whether a fee should be waived, the FOIA Officer may consider whether:

- (1) The subject matter specifically concerns identifiable operations or activities of the government;
- (2) The information is already in the public domain;
- (3) Disclosure of the information would contribute to the understanding of the public-at-large as opposed to a narrow segment of the population;
- (4) Disclosure of the information would significantly enhance the public's understanding of the subject matter;
- (5) Disclosure of the information would further a commercial interest of the requester; and
- (6) The public's interest is greater than any commercial interest of the requester.

§ 1515.16 *Other rights and services.*

Nothing in this subpart will be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

§§ 1515.17–1515.19 [Reserved]

Dated: August 5, 2010.

Nancy H. Sutley,

Chair, Council on Environmental Quality.

[FR Doc. 2010-19841 Filed 8-10-10; 8:45 am]

BILLING CODE 3125-W0-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192, 193, and 195

[Docket No. PHMSA-2008-0301; Amdt. Nos. 192-114; 193-22; 195-94]

RIN 2137-AE41

Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Edits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: PHMSA is amending the Federal pipeline safety regulations to incorporate by reference all or parts of 40 new editions of voluntary consensus technical standards. This action allows pipeline operators to use current technologies, improved materials, and updated industry and management practices. Additionally, PHMSA is clarifying certain regulatory provisions and making several editorial corrections. These amendments do not require pipeline operators to take on any significant new pipeline safety initiatives.

DATES: The effective date of this final rule is October 1, 2010.

Incorporation by reference. The incorporation by reference of the publications listed in these amendments has been approved by the Director of the Federal Register as of October 1, 2010.

FOR FURTHER INFORMATION CONTACT:

For technical information: Mike Israni by phone at (202) 366-4571, or by e-mail at mike.israni@dot.gov.

For regulatory information: Cheryl Whetsel by phone at (202) 366-4431 or by e-mail at cheryl.whetsel@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) directs Federal agencies to use technical standards and design specifications developed by voluntary consensus standard bodies instead of government-developed technical standards, when practicable. The Office of Management and Budget (OMB) Circular A-119: "Federal Participation in the Development and Use of Voluntary Consensus Standards," sets the policies on Federal use of voluntary consensus standards. As defined in OMB Circular A-119, voluntary consensus standards are technical standards developed or adopted by organizations, both domestic and international. These organizations use agreed upon procedures to update and revise their published standards every three to five years to reflect modern technology and best technical practices.

PHMSA's Office of Pipeline Safety employees participate in more than 25 national voluntary consensus standards committees. PHMSA reviews, and may adopt, standards that are applicable to pipeline design, construction, maintenance, inspection, and repair. Prior to adopting any standard, PHMSA reviews each new edition to determine whether it should be incorporated in whole or in part into the pipeline safety regulations. When PHMSA believes some aspect of a standard does not meet

this directive, it will not incorporate the new edition. PHMSA has the ultimate responsibility to ensure the best interests of public safety are served. There are more than 60 standards and specifications incorporated by reference in 49 CFR part 192, Transportation of Natural and Other Gas by Pipeline; Minimum Federal Safety Standards; 49 CFR part 193, Liquefied Natural Gas Facilities: Federal Safety Standards; and 49 CFR part 195, Transportation of Hazardous Liquids by Pipeline.

Previous updates to incorporate industry standards by reference were published May 24, 1996, (61 FR 26121), June 6, 1996, (61 FR 2877), February 17, 1998, (63 FR 7721), June 14, 2004, (69 FR 32886), June 9, 2006, (71 FR 33402), February 1, 2007, (72 FR 4657), and April 14, 2009, (74 FR 17099).

II. Notice of Proposed Rulemaking

On July 22, 2009, PHMSA published a Notice of Proposed Rulemaking (NPRM) to incorporate by reference new, updated, or reaffirmed editions of voluntary consensus standards into the Federal pipeline safety regulations. PHMSA proposed to incorporate by reference all or parts of 40 technical standards and make editorial corrections to certain regulations. PHMSA did not propose to incorporate four new editions of ASTM International (ASTM) standards (ASTM D638, D2513, D2517, and F1055). Therefore, the gas pipeline safety regulations continue to reference standards found in ASTM D638 (2003 edition), ASTM D 2513 (1987 edition), ASTM D2513 (1999 edition), ASTM 2517 (2000 edition) and ASTM F1055 (1998 edition). In addition, PHMSA did not propose to incorporate the 2008 editions of the National Fire Protection Association (NFPA) NFPA 58: "Liquefied Petroleum Gas Code" (LP-Gas Code) and NFPA 59: "Utility Liquefied Petroleum Gas Plant Code (Utility LP-Gas Plant Code). Therefore, PHMSA will continue to reference the 2004 editions of NFPA 58 and 59 in part 192 of the Federal pipeline safety regulations.

III. Summary of Comments

PHMSA received a total of 19 comments in response to the NPRM. Several comments were from trade and standards associations including: The American Gas Association (AGA); the Interstate Natural Gas Association of America (INGAA); the National Propane Gas Association (NPGA); the American Petroleum Institute (API); the Oklahoma Independent Petroleum Association (OIPA); the Southern California Gas Association (SCGA); the National Fire Protection Association (NFPA) and the

Gas Piping Technology Committee (GPTC). One state agency, the Iowa Utilities Board, filed a comment as well as the National Association of Pipeline Safety Representatives (NAPSR), an organization of state agency pipeline safety managers responsible for the administration of their state's pipeline safety programs. Five operators, Southern California Gas Company and San Diego Gas & Electric, Baltimore Gas and Electric Company, CenterPoint Energy Resources Corporation, and Distrigas of Massachusetts LLC submitted comments. Three private citizens also submitted comments.

PHMSA also met with representatives from NFPA during the comment period. A summary of this September 8, 2009, meeting is available in the docket (PHMSA-2008-0301).

The majority of the comments received were in opposition to a proposed change to § 192.11(c) altering the primacy of the NFPA 58 and 59 standards over part 192. The comments are summarized and discussed under each issue area below:

Comment Topic 1: Primacy of Part 192 over NFPA 58 and 59

Under the current version of § 192.11(c), if a conflict arises between NFPA 58 and 59 and part 192, NFPA 58 and 59 would prevail. However, since this primacy was established in 1996, some operators have been misinterpreting the meaning of "conflict." Operators are complying with the NFPA standards when the requirements of these NFPA standards and part 192 are in direct conflict; however, the misinterpretation arises when NFPA is silent or nonspecific on a subject covered in part 192. In these situations, some operators have misinterpreted § 192.11(c) to mean they do not need to comply with these additional requirements listed in part 192.

The NPRM had proposed to reverse this primacy so that part 192 would prevail if the two conflict. In the NPRM, PHMSA explained that NFPA 58 was originally developed as a design and installation code and, as such, did not cover ongoing corrosion control issues or operations and maintenance (O&M) activities. Recently, NFPA 58 adopted several O&M requirements; however, they are significantly less stringent than the requirements found in part 192. PHMSA believes that NFPA 58 currently fails to sufficiently address damage prevention, odorization, distribution valve maintenance, leak surveys, emergency plans, failure investigation, and public awareness. Because NFPA 58 and 59 currently

prevail, when there is a conflict in one of these areas with part 192, operators would be allowed to comply with a less stringent requirement. Additionally, propane gas does not safely dissipate when it leaks and as a result can represent a greater potential hazard to the public than natural gas. Therefore, it would be inappropriate to impose weaker standards on propane distribution facilities than on natural gas distribution facilities. Without a change to § 192.11(c), PHMSA believes that the NFPA's O&M requirements would actually decrease safety in areas where they conflict with part 192 requirements.

Nine commenters objected to this proposed change. Commenters requested an explanation of the misinterpretations referred to in the NPRM and suggested that the proposed change is substantive and therefore inappropriate for this type of rulemaking. Commenters maintained that petroleum gas systems are often installed by plumbers who may not be aware of part 192 requirements but are familiar with NFPA 58.

Commenters also stated that the NFPA 58 and NFPA 59 consensus standards were developed by industry, manufacturers, listing agencies, state and Federal regulators, and insurance professionals and that these standards are specific to the installation and utilization of liquefied petroleum gas (LPG). Commenters stated there are extensive differences between propane-air plants and pipeline transportation facilities and the physical properties of LPG are not compatible with the current regulations for natural gas systems.

One commenter supported the change noting that the O&M requirements are clearer in part 192 than NFPA 58 and, therefore, the primacy of part 192 over NFPA 58 and 59 would be beneficial.

According to the NFPA, the proposed change would create conflicts between NFPA 58 or 59 and part 192. The proposed change would affect inspection of pressure vessel relief valves, process piping design standards, welding standards and the use of threaded connections, polyethylene (PE) pipe in LPG systems above 30 psig, gray cast iron, and regulator configuration for smaller LPG systems. NFPA recommended that the reference to NFPA 58 and NFPA 59 in § 192.11 be revised to clarify that these NFPA standards are applicable to propane storage systems only and not to underground gas distribution systems. NFPA also recommended that § 192.11 specify which operating requirements of part 192 are applicable to propane storage systems, including operations,

maintenance, qualification of pipeline personnel, and public awareness planning. NFPA suggested that the conflicts between its NFPA 58 and 59 standards and part 192 can be resolved through the NFPA standards updating process.

NPGA asserted that NFPA is better suited than PHMSA to develop petroleum gas regulations.

PHMSA response: Petroleum gas transportation requirements need to achieve the same level of safety as natural gas transportation requirements. PHMSA continues to have concerns regarding the level of safety required in NFPA 58 and 59 standards in certain subject areas. The newer editions of NFPA 58 have expanded the scope of covered facilities and have more conflicting requirements than the currently incorporated editions. PHMSA believes that the NFPA 58 and 59 committees should analyze the following topics in consideration of public safety: Internal valves on tank penetrations transporting propane, relief valves, equipment separation and location distances, facility cathodic protection, and requirements for "retroactive" application of the standards.

PHMSA will address the subject of NFPA 58 and 59 primacy under a separate rulemaking. In the interim, compliance with part 192 requirements has not changed. When a requirement exists in part 192 that does not exist in NFPA 58 or 59, operators are required to comply with it. A conflict only exists when an operator cannot comply with a requirement in NFPA 58 and 59 because it conflicts with a requirement in part 192. When a conflict exists, NFPA 58 or 59 continue to prevail.

Comment Topic 2: GPTC petition to amend § 192.557(c).

PHMSA proposed to amend § 192.557(c) in response to a petition by the GPTC to clarify that a previous pressure test would allow for a pipeline to operate at the higher maximum allowable operating pressure (MAOP). Several commenters stated that this explanation misstated the purpose of the change. Many commenters objected that this is a substantive change and therefore inappropriate for this type of rulemaking.

The Iowa Utilities Board (IUB) and the NAPSR stated that the amendment will not accomplish the purpose of the GPTC petition. The proposed change occurs in a section of the code that addresses pressure increments (§ 192.557(c)). The requirements of § 192.553(d) ("*Limitation on increase in maximum allowable operating*

pressure"), would not be counteracted. To accomplish the purpose of the GPTC petition, additional code sections would need to be amended.

Sempra Energy and GPTC stated that they support the proposed change to § 192.557(c) but the language of the NPRM misstates the GPTC intent which is to clarify that a pressure test is not required to validate the new MAOP.

PHMSA response: PHMSA has removed the proposed change to § 192.557(c) from the final rule. PHMSA agrees that the proposed change may cause confusion with the requirements of § 192.553(d) which were amended after the GPTC petition was submitted. PHMSA may consider a revised GPTC petition in a separate rulemaking action.

Comment Topic 3: NFPA 58 and NFPA 59

Three commenters expressed concern regarding the proposal to not adopt the 2008 edition of NFPA 58. These commenters surmised that PHMSA's decision to not adopt the 2008 edition stemmed from concerns with Section 14.4 Small LP-Gas Systems and recommended that PHMSA adopt the 2008 edition of NFPA 58 excluding Section 14.4.

There were also objections to PHMSA's proposal to not adopt the latest edition of NFPA 59. These commenters believe the 2008 edition is superior to the 2004 edition. They stated that the 2008 edition included reorganization of the document to conform to the NFPA Manual of Style. This edition eliminated confusing language, reorganized the standard to logically group requirements, and expanded use of excerpts from NFPA 58 instead of referencing NFPA 58. The commenters stated that many stakeholders have worked extensively to develop the 2008 edition of the NFPA 59 consensus standard. They noted that the AGA Supplemental Gas Committee task force performed a great deal of work to review the NFPA standard and that NFPA ultimately adopted 62 of the 72 proposals the AGA task force submitted to the technical committee. The commenters asserted that safety measures are not decreased in the areas of damage prevention, odorization, distribution valve maintenance, operation and maintenance, and emergency and public awareness planning by moving from the 2004 edition to the 2008 edition.

NFPA encouraged PHMSA to work with the NFPA 59 committee in a manner similar to its work with the NFPA 58 committee to address relevant issues through the normal course of scheduled revisions or, for unforeseen

issues, through the Tentative Interim Amendment process.

PHMSA response: PHMSA appreciates the work of the NFPA 58 and 59 committees and their responsiveness to PHMSA's concerns. However, PHMSA is not changing the editions currently incorporated by reference (2004 editions of NFPA 58 and 59). The 2008 edition of NFPA 58 included changes in the requirements for small LPG operators which are in conflict with part 192 requirements. Further, the 2008 edition of NFPA 59 references NFPA 58. If we were to adopt the 2008 edition of NFPA 59, the referenced sections of NFPA 58 would also be incorporated by reference unless we were to prescribe otherwise. Therefore, PHMSA has decided not to adopt either of the new editions. PHMSA looks forward to working with the committees to improve public safety and resolve issues which may lead to the adoption of the newest editions in the next Periodic Updates of Regulatory References to Technical Standards.

Comment Topic 4: NFPA 59A

The NFPA maintained that incorporating both the 2001 and 2006 editions of NFPA 59A by reference would create confusion for operators. NFPA recommends that to address PHMSA's concern with Section 5.3 of the 2006 edition, PHMSA should adopt the 2006 edition and reference the 2001 edition solely for the requirements applicable to those specific subjects. This approach would recognize and capture the other improvements in the 2006 edition.

NFPA further stated that the 2001 edition of NFPA 59A incorporates by reference 70 other technical standards of which all but three have been superseded or removed. Some of the standards were discontinued and are no longer for sale. During the generation of an updated edition, the technical committee does not consider the interrelation of a provision in one edition with related provisions in a prior edition. Each edition stands on its own. Since 2006, when PHMSA incorporated NFPA 59A by reference in the pipeline safety regulations, PHMSA has incorporated different editions of the standards that are cross-referenced within NFPA 59A. This rulemaking does not address this conflict.

PHMSA response: PHMSA wishes to remind all who commented on proposed changes to NFPA 59A and part 193 that the process for changing a regulation is significantly different than developing a consensus standard process. PHMSA must assess the impact of new editions of NFPA 59A on the

public and the environment. When revised safety standards are clearly an improvement to the public, the environment, and pipeline safety, the adoption of a standard may be more easily justified.

After NFPA 59A's 2006 edition was published, PHMSA noted that revisions to NFPA 59A lacked sufficient justification. In some instances, the historical basis for adopting a safety standard could not be explained. In these cases, PHMSA observed NFPA's committee work and concluded it would be premature to adopt revisions that were incomplete or could not be appropriately justified. For these reasons, PHMSA has infrequently adopted new provisions within NFPA 59A and has not changed its decision to not adopt the new edition in response to these comments.

PHMSA is supportive of NFPA's efforts on standards and safety research and believes its work is beneficial to the public. We encourage NFPA and its members to continuously improve its NFPA 59A standard and ensure that new revisions are complete, properly justified, and adequately explained to the public.

Comment Topic 5: ASTM D2513-87 and ASTM D2513-99

PHMSA proposed not to incorporate by reference ASTM D2513: Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings (2007) edition at this time but will continue to reference the 1987 & 1999 editions. Southwest Gas and AGA commented that the 2007 edition of ASTM D2513 incorporates changes which occurred since 1999 including advances in manufacturing and installation of polyethylene (PE) pipe, recognition of applicability of more recent ASTM standards for fittings, and provisions for updated storage requirements. If the 2007 edition is not incorporated, both commenters recommended that PHMSA provide a Stay of Enforcement from Section A.1.5.7 in the 1999 edition of ASTM D2513 to recognize the safe, longer storage time of PE pipe. AGA noted that gas utility operators and their state regulators have already sought waivers to take advantage of the new standard. If they are not granted the waiver, they may have to dispose of a significant amount of polyethylene (PE) pipe that was purchased in response to the shortages that operators experienced in the aftermath of hurricane Katrina.

Southwest Gas recommended deleting the reference in § 192.7 to the 1987 edition of ASTM D2513 for § 192.63(a)(1). A 1993 amendment to

§ 192.63 stated that the reference was retained due to temperature marking of fittings. The 1999 edition of ASTM D2513 restored the temperature marking requirements for fittings.

PHMSA response: PHMSA has made no change in the response to these comments. PHMSA appreciates the work of the ASTM Committee F-17 and D20.10. There are important issues that are being finalized including the subject of NAPS Resolution SR-2-01, marking of materials. The resolution of these issues will impact ASTM D638, D2513-87, D2513-99, D2517, and F1055 standards. These issues include but are not limited to the review of:

- Revisions of material categories.
- PENT test duration for PA-11 and PA-12 materials.
- Development process for new materials.
- Review of existing standards for re-grind, quality assurance, and quality control due to recent failures.
- Cyclic fatigue and long-term cyclic fatigue testing of plastic mechanical appurtenances.
- Need for new or modified regulations or standards due to the impact of new materials.
- Impact of findings from Standard Dimension Ratio and side wall fusion Research and Development programs.

PHMSA will address Southwest Gas and AGA's request for a Stay of Enforcement separately from this rulemaking. The special permit process offers operators an existing mechanism to request an extension from the current storage requirements for polyethylene (PE) pipe.

PHMSA has considered these comments but has not changed its decision to not adopt the more recent edition of ASTM D2513.

Comment Topic 6: LNGFIRE3

Technology & Management Systems commented on the proposal to replace GRI-89/0176 "LNGFIRE: A Thermal Radiation Model for LNG Fires" (June 29, 1990) with GTI-04/0032 LNGFIRE3: A Thermal Radiation Model for LNG Fires (2004). The commenter recommended that in consideration of fire research conducted in the past three years, PHMSA should reevaluate performance criteria for fire models and consider alternate models that have been scientifically assessed, verified, and validated to the Administrator's approval.

PHMSA response: The Gas Technology Institute (GTI) (formerly the Gas Research Institute) changed the title of this material. The contents of the software and the report have not changed. PHMSA's purpose for this

amendment is solely to reference the new title. The commenter's statements regarding performance criteria are beyond the scope of this rulemaking. PHMSA is updating the title of this standard in the regulation to reflect the title currently used by GTI.

Comment Topic 7: Web accessibility of standards.

The Oklahoma Independent Petroleum Association stated that the costs to smaller oil and gas operators to purchase the updated standards and to identify and assess all regulatory compliance requirements are burdensome. They requested that PHMSA place the applicable reference documents on its web site for easy access.

PHMSA response: PHMSA regrets that we are prohibited from posting the technical standards to our web site as most standards have copyright protection. All incorporated materials are available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC, 20590-0001, 202-366-4595, or at the National Archives and Records Administration (NARA), 202-741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

The incorporated materials are available from the respective organizations listed in § 192.7 (c)(1).

IV. Advisory Committee

On December 9, 2009, PHMSA discussed the proposed rule with the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC). These are statutorily-mandated advisory committees that advise PHMSA about the technical feasibility, reasonableness and cost-effectiveness of its proposed regulations. At the meeting, PHMSA discussed the comments received in response to the NPRM. NFPA emphasized that small operators have difficulty determining which requirements of part 192 or NFPA 59A apply to them. The committee urged PHMSA to take action to work out the issues presented by NFPA, ASME, GPTC, and/or State Industry Regulatory Review Committee (SIRRC), a committee comprised of state and federal pipeline safety regulators, AGA and APGA formed to coordinate issues pertaining to part 192.

With the exception of NFPA's abstention, the committees voted

unanimously that the NPRM was technically feasible, reasonable, practicable, and cost effective. Since the NPRM included proposed changes to the NFPA standards, the NFPA abstained from voting in accordance with its bylaws. A transcript of the meeting is available in the docket for this rulemaking.

V. Summary of Final Rule

This final rule accepts the following updated editions of technical standards in parts 192, 193, 195. PHMSA is also amending titles, dates, and references as applicable. Before describing each newly incorporated standard, PHMSA is providing additional information regarding the partial incorporation of NFPA 59A and the full incorporation of several API standards.

PHMSA will incorporate only those sections of NFPA 59A, "Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)" (2006 edition) relating to ultrasonic inspection and seismic design requirements. PHMSA believes the NFPA 59A committee needs to reconcile differences relating to dispersion analyses for vapor releases from process and safety equipment; containers with liquid penetrations at grade; design spill cases for full and double containment containers; standards for impoundment sizing for snow accumulation, severe weather, emergency depressurization, and fuel bunkering. Therefore, except for specified sections in the 2006 edition mentioned above, PHMSA will continue to reference NFPA 59A (2001 edition).

ANSI/API Specification 5L and API Standard 1104

In a Direct Final Rule (74 FR 17099) published on April 14, 2009, PHMSA incorporated by reference the 2007 editions of ANSI/API Specification 5L, "Specification for Line Pipe" and API Standard 1104, "Welding of Pipelines and Related Facilities." However, it did not eliminate the use of the previously referenced editions of these standards. In this final rule, PHMSA eliminates the use of the previous editions of these standards, API Specification 5L (43rd edition and errata, 2004) and API Standard 1104 (19th edition, 1999, including errata October 31, 2001).

API Recommended Practice 5L1/ISO 3183 & API Recommended Practice 5LW

PHMSA is incorporating by reference API Recommended Practice 5L1/ISO 3183 "Specification for Line Pipe" (6th edition, 2002) into the newly-created § 195.207. This standard provides a standard for hazardous liquid operators

for the transportation of certain API Specification 5L steel line pipe by railroad.

PHMSA is also incorporating API Recommended Practice 5LW (API RP 5LW), "Transportation of Line Pipe on Barges and Marine Vessels" (2nd edition, 1996) into Parts 192 and 195. This standard is referenced in § 192.65(a) and in the newly-created § 195.207(a). API RP 5LW provides a standard for transportation of certain API Specification 5L steel line pipe by ship or barge on both inland and marine waterways.

American Petroleum Institute (API)

- ANSI/API Specification 5L/ISO 3183, "Specification for Line Pipe" (44th edition, 2007), includes errata (January 2009) and addendum (February 2009).

Replaces incorporated by reference (IBR): API Specification 5L, "Specification for Line Pipe" (43rd edition and errata, 2004);

Referenced in 49 CFR 192.55(e); 192.112; 192.113; Item I, Appendix B to Part 192; 195.106(b)(1)(i); 195.106(e), 195.207(a).

- API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe," (6th Edition, 2002)

IBR for the first time in 49 CFR newly-created 195.207;
Referenced in 49 CFR 192.65(a)(1); 195.207.

- API Recommended Practice 5LW, "Transportation of Line Pipe on Barges and Marine Vessels" (2nd edition, 1996, effective March 1, 1997).

IBR for the first time;
Referenced in 49 CFR 192.65(b); 195.207(b).

- API Specification 6D/ISO 14313, "Specification for Pipeline Valves" (23rd edition (April 2008, effective October 1, 2008) and errata 3 (includes 1 & 2, February 2009).

Replaces IBR: API Specification 6D "Pipeline Valves" (22nd edition, January 2002);
Referenced in 49 CFR 192.145(a); 195.116(d).

- API Specification 12F, "Specification for Shop Welded Tanks for Storage of Production Liquids (11th edition, November 1, 1994, reaffirmed 2000, errata, February 2007).

Replaces IBR: 11th edition, 1994 (reaffirmed, 2000);
Referenced in 49 CFR 195.132(b)(1); 195.205(b)(2); 195.264(b)(1); 195.264(e)(1); 195.307(a); 195.565; 195.579(d).

- API Standard 510, "Pressure Vessel Inspection Code: In-Service Inspection,

- Rating, Repair, and Alteration” (9th edition, June 2006).
- Replaces IBR: 8th edition, 1997 including Addenda 1 through 4; Referenced in 49 CFR 195.205(b)(3); 195.432(c).
- API Standard 620, “Design and Construction of Large, Welded, Low-Pressure Storage Tanks,” (11th edition February 2008, addendum 1, March 2009).
- Replaces IBR: 10th edition, 2002 including addendum 1; Reference added in 49 CFR 193.2101(b), 193.2321(b)(2).
- Referenced in 49 CFR 195.132(b)(2); 195.205(b)(2); 195.264(b)(1); 195.264(e)(3); 195.307(b);
- API Standard 650, “Welded Steel Tanks for Oil Storage” (11th edition, June 2007, addendum 1, November 2008).
- Replaces IBR: 10th edition, 1998 including Addenda 1–3; Referenced in 49 CFR 195.132(b)(3); 195.205(b)(1); 195.264(b)(1); 195.264(e)(2); 195.307; 195.307(d); 195.565; 195.579(d).
- ANSI/API Recommended Practice 651, “Cathodic Protection of Aboveground Petroleum Storage Tanks” (3rd edition, January 2007).
- Replaces IBR: 2nd edition, December 1997; Referenced in 49 CFR 195.565; 195.579(d).
- ANSI/API Recommended Practice 652, “Linings of Aboveground Petroleum Storage Tank Bottoms” (3rd edition, October 2005).
- Replaces IBR: 2nd edition, December 1997; Referenced in 49 CFR 195.579(d).
- API Standard 653, “Tank Inspection, Repair, Alteration, and Reconstruction” (3rd edition, December 2001, includes addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008).
- Replaces IBR: 3rd edition, 2001 including addendum 1, 2003; Referenced in 49 CFR 195.205(b)(1); 195.432(b).
- API Standard 1104, “Welding of Pipelines and Related Facilities” (20th edition November 2005, errata/addendum (July 2007) and errata 2 (2008)).
- Replaces IBR: 19th edition, 1999, including errata October 31, 2001; Referenced in 49 CFR 192.225; 192.227(a); 192.229(c)(1); 192.241(c); Item II, Appendix B; 195.222(a); 195.228(b); 195.214(a).
- API Recommended Practice 1130, “Computational Pipeline Monitoring for Liquids Pipeline Segment” (3rd edition, September 2007).
- Replaces IBR: 2nd edition, 2002; Referenced in 49 CFR 195.134; 195.444.
- API Standard 2000, “Venting Atmospheric and Low-Pressure Storage Tanks Nonrefrigerated and Refrigerated” (5th edition, April 1998, errata, November 15, 1999).
- Replaces IBR: 5th edition, April 1998; Referenced in 49 CFR 195.264(e)(2); 195.264(e)(3).
- API Recommended Practice 2003, “Protection Against Ignitions Arising Out of Static, Lightning, and Stray Currents” (7th edition, January 2008).
- Replaces IBR: 6th edition, 1998; Referenced in 49 CFR 195.405(a).
- API Publication 2026, “Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service” (2nd edition, April 1998, reaffirmed, June 2006).
- Replaces IBR: 2nd edition, 1998; Referenced in 49 CFR 195.405(b).
- API Recommended Practice 2350, “Overfill Protection for Storage Tanks in Petroleum Facilities” (3rd edition, January 2005).
- Replaces IBR: 2nd edition, 1996; Referenced in 49 CFR 195.428(c).
- American Society of Civil Engineers (ASCE):
- ASCE/SEI 7–05, “Minimum Design Loads for Buildings and Other Structures” (2005 edition, includes supplement number 1 and errata) Replaces IBR: 2002 edition; Referenced in 49 CFR 193.2067(b)(1).
- American Society for Testing and Materials (ASTM):
- ASTM A53/A53M–07 (2007), “Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (September 1, 2007).
- Replaces IBR: 2004 edition; Referenced in 49 CFR 192.113; Item I, Appendix B to Part 192; 195.106(e).
- ASTM A106/A106M–08 (2008), “Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service” (July 15, 2008).
- Replaces IBR: 2004 edition; Referenced in 49 CFR 192.113; Item I, Appendix B to Part 192; 195.106(e).
- ASTM A372/A372M–03 (reapproved 2008), “Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels” (March 1, 2008).
- Replaces IBR: 2003 edition; Referenced in 49 CFR 192.177(b)(1).
- ASTM A381–96 (Reapproved 2005), “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (October 1, 2005).
- Replaces IBR: 1996 edition; reapproved 2001; Referenced in 49 CFR 192.113, Item I, Appendix B to Part 192; 195.106(e).
- ASTM A671–06, “Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures” (May 1, 2006).
- Replaces IBR: 2004 edition; Referenced in 49 CFR 192.113, Item I, Appendix B to Part 192; 195.106(e).
- ASTM A672–08, “Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (May 1, 2008).
- Replaces IBR: 1996 edition; reapproved 2001; Referenced in 49 CFR 192.113, Item I, Appendix B to Part 192; 195.106(e).
- ASTM A691–98 (reapproved 2007), “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures” (November 1, 2007).
- Replaces IBR: 1998 edition, reapproved 2002; Referenced in 49 CFR 192.113, Item I, Appendix B to Part 192; 195.106(e).
- ASME International (ASME)
- ANSI/ASME B16.1–2005, “Gray Iron Pipe Flanges and Flanged Fittings: (Classes 25, 125, and 250)” (August 31, 2006).
- Replaces IBR: ASME B16.1–1998 “Cast Iron Pipe Flanges and Flanged Fittings” 1998 edition; Referenced in 49 CFR 192.147(c).
- ANSI/ASME B16.9–2007, “Factory-Made Wrought Butt Welding Fittings” (December 7, 2007).
- Replaces IBR: 2003 edition (February 2004); Referenced in 49 CFR 195.118(a).
- ANSI/ASME B31.4–2006, “Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids” (October 20, 2006).
- Replaces IBR: 2002 edition (October 2002); Referenced in 49 CFR 195.452(h)(4)(i).
- ANSI/ASME B31.8–2007, “Gas Transmission and Distribution Piping Systems” (November 30, 2007).
- Replaces IBR: 2003 edition (February 2004); Referenced in 49 CFR 192.619(a)(1)(i); 195.5(a)(1)(i); 195.406(a)(1)(i).
- 2007 ASME Boiler & Pressure Vessel Code, Section I: Rules for Construction of Power Boilers (2007 edition, July 1, 2007).

Replaces IBR: 2004 edition, including addenda through July 1, 2005; Referenced in 49 CFR 192.153(b).

- 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 1: Rules for Construction of Pressure Vessels (2007 edition, July 1, 2007).

Replaces IBR: 2004 edition, including addenda through July 1, 2005; Referenced in 49 CFR 192.153 (a); 192.153(b); 192.165(b)(3); 193.2321; 195.307(e).

- 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 2: Alternative Rules, Rules for Construction of Pressure Vessels (2007 edition, July 1, 2007).

Replaces IBR: 2004 edition, including addenda through July 1, 2005; Referenced in 49 CFR 192.153(b); 192.165(b)(3); 193.2321; 195.307(e).

- 2007 ASME Boiler & Pressure Vessel Code, Section IX: Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators (2007 edition, July 1, 2007).

Replaces IBR: 2004 edition, including addenda through July 1, 2005; Referenced in 49 CFR 192.227(a); Item II, Appendix B to Part 192; 195.222(a).

Gas Technology Institute (GTI)

- GTI-04/0032 LNGFIRE3: A Thermal Radiation Model for LNG Fires (March 2004).

Replaces IBR: GRI-89/0176 "LNGFIRE: A Thermal Radiation Model for LNG Fires" (June 29, 1990); Referenced in 49 CFR 193.2057(a).

Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS)

- MSS SP-44-2006, Standard Practice, "Steel Pipeline Flanges" (2006 edition).

Replaces IBR: 1996 edition reaffirmed 2001; Referenced in 49 CFR 192.147(a).

NACE International (NACE)

- NACE SP0169-2007, Standard Practice, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (reaffirmed March 15, 2007).

Replaces IBR: NACE Standard RP0169-2002, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems;" Referenced in 49 CFR 195.571; 195.573(a)(2).

- NACE SP0502-2008, Standard Practice "Pipeline External Corrosion Direct Assessment Methodology" (reaffirmed March 20, 2008).

Replaces IBR: NACE Standard RP0502-2002 "Pipeline External Corrosion Direct Assessment Methodology;"

Referenced in 49 CFR 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); 195.588.

National Fire Protection Association (NFPA)

- NFPA 30, "Flammable and Combustible Liquids Code" (2008 edition, approved August 15, 2007).

Replaces IBR: 2003 edition; Referenced in 49 CFR 192.735(b); 195.264(b)(1).

- NFPA 59A, "Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG) (2006 edition, approved August 18, 2005).

Partially Replaces IBR: 2001 edition; Referenced in 49 CFR 193.2101(b); 193.2321(b).

- NFPA 70 (2008), "National Electrical Code" (NEC 2008) (Approved August 15, 2007).

Replaces IBR: 2005 edition; Referenced in 49 CFR 192.163(e); 192.189(c).

Plastics Pipe Institute, Inc. (PPI)

- PPI TR-3/2008 HDB/HDS/PDB/SDB/MRS Policies (2008), "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe" (May 2008).

Replaces IBR: 2004 edition; Referenced in 49 CFR 192.121.

VI. Editorial Corrections and Clarifications

Part 192

Section 192.3

Section 192.3 defines terms used throughout Part 192. PHMSA will move the definitions, "active corrosion," "electrical survey" and "pipeline environment" from § 192.465(e) to § 192.3. This revision provides a broader applicability of these terms to part 192 because these terms are also found in part 192, subparts I and O.

Section 192.63

PHMSA corrects the notation to ASTM D2513 to ASTM D2513-87 in § 192.63 (a)(1) to clarify the version incorporated is the 1987 version and

adds to the text "(incorporated by reference, *see* § 192.7)."

PHMSA also corrects the notation to ASTM D2513 to ASTM D2513-99 in §§ 192.123 (e)(2); 192.191(b); 192.281 (b)(2); 192.283 (a)(1)(i) and Item 1, Appendix B to clarify the version incorporated is the 1999 version and adds to the text "(Incorporated by reference, *see* § 192.7)."

Section 192.145

PHMSA revises paragraphs (d) and (e) to use the same language as ANSI/ASME B31.8, paragraph 831.11(c) in referring to shell components. The revisions to paragraph (d) clarify the elements of a "shell component."

PHMSA is also clarifying the materials allowed in certain valve components used in compressor stations in response to the GPTC petition. In paragraph (e), we clarify that cast iron, malleable iron, or ductile iron may be used in the valve ball or plug. These materials may not be used in the pressure holding shell components (*e.g.*, body, bonnet, cover, or end flange).

Section 192.711

When the repair time conditions were implemented for Pipeline Integrity Management in High Consequence Areas (HCA), this section was not modified to clarify that the repair times for pipelines covered by § 192.711 pertained only to non-integrity management repairs. We are revising this section to make that clearer.

Part 193

Section 193.2101

PHMSA revises § 193.2101 to incorporate by reference sections from the 2006 edition of NFPA 59A pertaining to the seismic design of stationary LNG storage tanks. Other sections from the 2001 edition of NFPA 59A continue to be incorporated by reference as designated in § 193.2013. Although NFPA 59A (2006) incorporates by reference the 1990 edition of API Standard 620 for seismic design PHMSA is instead incorporating by reference the most recent version of API Standard 620 (11th edition, addendum 1, 2009).

Section 193.2321

PHMSA clarifies the language in § 193.2321(a) to use the broader terminology for nondestructive testing. PHMSA revises § 193.2321(b) to incorporate the requirements in the 2006 edition of NFPA 59A's for the ultrasonic examination of LNG tank welds for storage tanks with an internal design pressure at or below 15 psig.

Part 195

Section 195.264

PHMSA adds to the text in 195.264(e)(2); 195.264(e)(3) “(Incorporated by reference, *see* § 195.3).”

Section 195.307

PHMSA revises paragraph (c) to reflect revised section numbering regarding pneumatic testing from 5.3 to 5.2 of API Standard 650.

Section 195.401

When the repair time conditions were implemented for Pipeline Integrity Management in High Consequence Areas (HCA), this section was not modified to clarify the repair times for pipelines covered by § 195.452 (pipelines that could affect an HCA). The requirement to repair a condition within a reasonable time period (unless an immediate hazard) applies to conditions on pipelines not covered by § 195.452. In this final rule, PHMSA revises this section to make those requirements clearer.

Section 195.432

PHMSA revises paragraph (b) to eliminate the reference to Section 4 of API Standard 653. All sections in API Standard 653 relating to inspection of in-service atmospheric and low-pressure steel aboveground breakout tanks are incorporated by reference.

Section 195.452

PHMSA revises paragraph (h)(4)(i) to reflect new section numbering as specified in the updated ANSI/ASME B31.4. The referenced section is changed from “451.7” to “451.6.2.2 (b)”.

VII. Rulemaking Analyses and Notices*Statutory/Legal Authority for This Rulemaking*

This final rule is published under the authority of the Federal Pipeline Safety Laws (49 U.S.C. 60101 *et seq.*). Section 60102 authorizes the Secretary of Transportation to issue regulations governing design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Section 60102(l) of the Federal Pipeline Safety Laws states that the Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulations.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. The Privacy Notice for comment submissions may be reviewed at <http://www.regulations.gov>. You may review DOT’s complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477) or you may visit <http://DocketsInfo.dot.gov>.

Executive Order 12866—Regulatory Planning and Review and DOT Regulatory Policies and Procedures

The final rule is not a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not subject to review by the Office of Management and Budget. This final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

PHMSA is incorporating by reference new editions of technical standards in the Federal pipeline safety regulations. The final rule is intended to enhance transportation safety and reduce the overall compliance burden on the regulated industry.

Industry standards developed and adopted by consensus generally are accepted and followed by the industry; thus, their incorporation by reference in the Federal pipeline safety regulations assures that the industry is not forced to comply with a different set of standards to accomplish the same safety goal. Requiring regulatory compliance with standards such as the ASME, ASTM and API takes advantage of established, well-defined and proven practices. Because we are adopting industry consensus standards we expect compliance costs associated with these regulatory changes to be minimal.

Executive Order 13132

PHMSA has analyzed this final rule under the principles and criteria in Executive Order 13132 (“Federalism”). The final rule does not have a substantial direct effect 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. The final rule does not impose substantial direct compliance costs on State and local governments. This final regulation does not preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13175

PHMSA analyzed this final rule according to Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). The final rule does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs; thus, the funding and consultation requirements of Executive Order 13175 do not apply.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities. This final rule ensures that pipeline operators are using the most current editions of technical standards incorporated by reference. The final rule also improves the clarity of several regulations. PHMSA believes that this final rule impacts a substantial number of small entities but that this impact will be negligible. Based on the facts available about the expected impact of this rulemaking, 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.

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 (adjusted for inflation currently estimated to be \$132 million) or more in any one year 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 final rule.

Paperwork Reduction Act

This final rule does not impose any new information collection requirements.

National Environmental Policy Act

PHMSA analyzed this final rule in accordance with the National Environmental Policy Act (42 U.S.C. 4321–4375), the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and DOT Order 5610.1C, and has determined that this action will not significantly affect the quality of the human environment. PHMSA examined alternatives in the NPRM and did not receive any comments on this preliminary analysis.

Executive Order 13211

Transporting gas affects the nation's available energy supply. However, 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, the Administrator of the Office of Information and Regulatory Affairs has not designated this rule as a significant energy action.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 192

Incorporation by Reference, Natural Gas, Pipeline safety.

49 CFR Part 193

Incorporation by Reference, Liquefied Natural Gas, Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon Dioxide, Incorporation by Reference, Petroleum Pipeline safety.

■ In consideration of the foregoing, PHMSA is amending 49 CFR parts 192, 193, and 195 as follows:

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, 60116, 60118 and 60137; and 49 CFR 1.53.

■ 2. In § 192.3, definitions for "Active corrosion", "Electrical survey" and "pipeline environment" are added in alphabetical order to read as follows:

§ 192.3 Definitions

* * * * *

Active corrosion means continuing corrosion that, unless controlled, could result in a condition that is detrimental to public safety.

* * * * *

Electrical survey means a series of closely spaced pipe-to-soil readings over pipelines which are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline.

* * * * *

Pipeline environment includes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion.

* * * * *

■ 3. In § 192.7, paragraph (c)(2) is revised to read as follows:

§ 192.7 What documents are incorporated by reference partly or wholly in this part?

* * * * *

(c) * * *

(2) Documents incorporated by reference.

Source and name of referenced material	49 CFR reference
<p>A. Pipeline Research Council International (PRCI):</p> <p>(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.</p>	<p>§§ 192.485(c); 192.933(a)(1); 192.933(d)(1)(i).</p>
<p>B. American Petroleum Institute (API):</p> <p>(1) ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe" (44th edition, 2007), includes errata (January 2009) and addendum (February 2009).</p> <p>(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe," (6th Edition, July 2002).</p> <p>(3) API Recommended Practice 5LW, "Transportation of Line Pipe on Barges and Marine Vessels" (2nd edition, December 1996, effective March 1, 1997).</p> <p>(4) ANSI/API Specification 6D, "Specification for Pipeline Valves" (23rd edition (April 2008, effective October 1, 2008) and errata 3 (includes 1 and 2, February 2009)).</p> <p>(5) API Recommended Practice 80, "Guidelines for the Definition of Onshore Gas Gathering Lines," (1st edition, April 2000).</p> <p>(6) API Standard 1104, "Welding of Pipelines and Related Facilities" (20th edition, October 2005, errata/addendum, (July 2007) and errata 2 (2008)).</p> <p>(7) API Recommended Practice 1162, "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003).</p> <p>(8) API Recommended Practice 1165 "Recommended Practice 1165 "Recommended Practice for Pipeline SCADA Displays," (API RP 1165) (First edition (January 2007)).</p>	<p>§§ 192.55(e); 192.112; 192.113; Item I, Appendix B to Part 192.</p> <p>§ 192.65(a)(1).</p> <p>§ 192.65(b).</p> <p>§ 192.145(a).</p> <p>§§ 192.8(a); 192.8(a)(1); 192.8(a)(2); 192.8(a)(3); 192.8(a)(4).</p> <p>§§ 192.225; 192.227(a); 192.229(c)(1); 192.241(c); Item II, Appendix B.</p> <p>§§ 192.616(a); 192.616(b); 192.616(c).</p> <p>§ 192.631(c)(1).</p>
<p>C. American Society for Testing and Materials (ASTM):</p> <p>(1) ASTM A53/A53M-07, "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless" (September 1, 2007).</p> <p>(2) ASTM A106/A106M-08, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (July 15, 2008).</p> <p>(3) ASTM A333/A333M-05 (2005) "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service".</p> <p>(4) ASTM A372/A372M-03 (reapproved 2008), "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (March 1, 2008).</p> <p>(5) ASTM A381-96 (reapproved 2005), "Standard Specification for Metal-Arc Welded Steel Pipe for Use With High-Pressure Transmission Systems" (October 1, 2005).</p> <p>(6) ASTM A578/A578M-96 (re-approved 2001) "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications."</p>	<p>§§ 192.113; Item I, Appendix B to Part 192.</p> <p>§§ 192.113; Item I, Appendix B to Part 192.</p> <p>§§ 192.113; Item I, Appendix B to Part 192.</p> <p>§ 192.177(b)(1).</p> <p>§§ 192.113; Item I, Appendix B to Part 192.</p> <p>§§ 192.112(c)(2)(iii).</p>

Source and name of referenced material	49 CFR reference
(7) ASTM A671–06, “Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures” (May 1, 2006).	§§ 192.113; Item I, Appendix B to Part 192.
(8) ASTM A672–08, “Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (May 1, 2008).	§§ 192.113; Item I, Appendix B to Part 192.
(9) ASTM A691–98 (reapproved 2007), “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures” (November 1, 2007).	§§ 192.113; Item I, Appendix B to Part 192.
(10) ASTM D638–03 “Standard Test Method for Tensile Properties of Plastics.”	§§ 192.283(a)(3); 192.283(b)(1).
(11) ASTM D2513–87 “Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings.”.	§ 192.63(a)(1).
(12) ASTM D2513–99 “Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings.”.	§§ 192.123(e)(2); 192.191(b); 192.281(b)(2); 192.283(a)(1)(i); Item 1, Appendix B to Part 192.
(13) ASTM D2517–00 “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings.”.	§§ 192.191(a); 192.281(d)(1); 192.283(a)(1)(ii); Item I, Appendix B to Part 192.
(14) ASTM F1055–1998, “Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controller Polyethylene Pipe and Tubing.”.	§ 192.283(a)(1)(iii).
D. ASME International (ASME):	
(1) ASME/ANSI B16.1–2005, “Gray Iron Pipe Flanges and Flanged Fittings: (Classes 25, 125, and 250)” (August 31, 2006).	§ 192.147(c).
(2) ASME/ANSI B16.5–2003, “Pipe Flanges and Flanged Fittings.” (October 2004)	§§ 192.147(a); 192.279.
(3) ASME/ANSI B31G–1991 (Reaffirmed, 2004), “Manual for Determining the Remaining Strength of Corroded Pipelines.”.	§§ 192.485(c); 192.933(a).
(4) ASME/ANSI B31.8–2007, “Gas Transmission and Distribution Piping Systems” (November 30, 2007).	§ 192.619(a)(1)(i).
(5) ASME/ANSI B31.8S–2004, “Supplement to B31.8 on Managing System Integrity of Gas Pipelines.”.	§§ 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)(1); 192.923(b)(2); 192.923(b)(3); 192.925(b) Introductory text; 192.925(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) 2007 ASME Boiler & Pressure Vessel Code, Section I, “Rules for Construction of Power Boilers 2007” (2007 edition, July 1, 2007).	§ 192.153(b).
(7) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 1, “Rules for Construction of Pressure Vessels 2” (2007 edition, July 1, 2007).	§§ 192.153(a); 192.153(b); 192.153(d); 192.165(b)(3).
(8) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 2, “Alternative Rules, Rules for Construction of Pressure Vessels” (2007 edition, July 1, 2007).	§§ 192.153(b); 192.165(b)(3).
(9) 2007 ASME Boiler & Pressure Vessel Code, Section IX, “Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators” (2007 edition, July 1, 2007).	§§ 192.227(a); Item II, Appendix B to Part 192.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP–44–2006, Standard Practice, “Steel Pipeline Flanges” (2006 edition) ... (2) [Reserved].	§ 192.147(a).
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2008 edition, August 15, 2007), “Flammable and Combustible Liquids Code” (2008 edition; approved August 15, 2007).	§ 192.735(b).
(2) NFPA 58 (2004), “Liquefied Petroleum Gas Code (LP-Gas Code).”	§§ 192.11(a); 192.11(b); 192.11(c).
(3) NFPA 59 (2004), “Utility LP-Gas Plant Code.”	§§ 192.11(a); 192.11(b); 192.11(c).
(4) NFPA 70 (2008), “National Electrical Code” (NEC 2008) (Approved August 15, 2007).	§§ 192.163(e); 192.189(c).
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR–3/2008 HDB/HDS/PDB/SDB/MRS Policies (2008), “Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe” (May 2008).	§ 192.121.
H. NACE International (NACE):	
(1) NACE Standard SP0502–2008, Standard Practice, “Pipeline External Corrosion Direct Assessment Methodology” (reaffirmed March 20, 2008).	§§ 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)(3)(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):	
(1) GRI 02/0057 (2002) “Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology.”.	§ 192.927(c)(2).

■ 4. In § 192.63, paragraph (a)(1) is revised to read as follows:

§ 192.63 Marking of materials.

(a) Except as provided in paragraph (d) of this section, each valve, fitting, length of pipe, and other component must be marked—

(1) As prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with ASTM D2513–87 (incorporated by reference, *see* § 192.7);

* * * * *

■ 5. Section 192.65 is revised to read as follows:

§ 192.65 Transportation of pipe.

(a) *Railroad.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by railroad unless:

(1) The transportation is performed in accordance with API Recommended Practice 5L1 (incorporated by reference, *see* § 192.7).

(2) In the case of pipe transported before November 12, 1970, the pipe is tested in accordance with Subpart J of this Part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Subpart J of this Part, the test pressure must be maintained for at least 8 hours.

(b) *Ship or barge.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by ship or barge on both inland and marine waterways unless the transportation is performed in accordance with API Recommended Practice 5LW (incorporated by reference, *see* § 192.7).

§ 192.121 [Amended].

■ 6. In § 192.121, under “S=”, the words “PPI TR–3/2004” are removed and the words “PPI TR–3/2008” are added in their place.

■ 7. In § 192.123, paragraphs (e) introductory text, (e)(1) and (2) are revised to read as follows:

§ 192.123 Design limitations for plastic pipe.

* * * * *

(e) The design pressure for thermoplastic pipe produced after July

14, 2004 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 D2513–99 (incorporated by reference, *see* § 192.7);

* * * * *

■ 8. In § 192.145, the first sentence in paragraph (d) introductory text and paragraph (e) are revised to read as follows:

§ 192.145 Valves.

* * * * *

(d) No valve having shell (body, bonnet, cover, and/or end flange) components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their listed temperature. * * *

(e) No valve having shell (body, bonnet, cover, and/or end flange) components made of cast iron, malleable iron, or ductile iron may be used in the gas pipe components of compressor stations.

■ 9. Section 192.191 is revised to read as follows:

§ 192.191 Design pressure of plastic fittings.

(a) Thermosetting fittings for plastic pipe must conform to ASTM D 2517, (incorporated by reference, *see* § 192.7).

(b) Thermoplastic fittings for plastic pipe must conform to ASTM D 2513–99, (incorporated by reference, *see* § 192.7).

■ 10. In § 192.281, paragraphs (a) and (b) are revised to read as follows:

§ 192.281 Plastic pipe

(a) *General.* A plastic pipe joint that is joined by solvent cement, adhesive, or heat fusion may not be disturbed until it has properly set. Plastic pipe may not be joined by a threaded joint or miter joint.

(b) *Solvent cement joints.* Each solvent cement joint on plastic pipe must comply with the following:

(1) The mating surfaces of the joint must be clean, dry, and free of material which might be detrimental to the joint.

(2) The solvent cement must conform to ASTM D2513–99, (incorporated by reference, *see* § 192.7).

(3) The joint may not be heated to accelerate the setting of the cement.

* * * * *

■ 11. In § 192.283, paragraph (a) is revised to read as follows:

§ 192.283 Plastic pipe: Qualifying joining procedures.

(a) *Heat fusion, solvent cement, and adhesive joints.* Before any written

procedure established under § 192.273(b) is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests:

(1) The burst test requirements of—

(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 D2513–99 (incorporated by reference, *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 (incorporated by reference, *see* § 192.7); or

(iii) In the case of electrofusion fittings for polyethylene (PE) 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 (incorporated by reference, *see* § 192.7).

(2) For procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use; and

(3) For procedures intended for non-lateral pipe connections, follow the tensile test requirements of ASTM D638 (incorporated by reference, *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.

* * * * *

■ 12. In § 192.465, paragraph (e) is revised to read as follows:

§ 192.465 External corrosion control: Monitoring

* * * * *

(e) After the initial evaluation required by §§ 192.455(b) and (c) and 192.457(b), each operator must, not less than every 3 years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator must determine the areas of active corrosion by electrical survey. However, on distribution lines and where an electrical survey is impractical on transmission lines, areas of active

corrosion may be determined by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment.

■ 13. Section 192.711 is revised to read as follows:

§ 192.711 Transmission lines: General requirements for repair procedures.

(a) *Temporary repairs.* Each operator must take immediate temporary measures to protect the public whenever:

(1) A leak, imperfection, or damage that impairs its serviceability is found in a segment of steel transmission line operating at or above 40 percent of the SMYS; and

(2) It is not feasible to make a permanent repair at the time of discovery.

(b) *Permanent repairs.* An operator must make permanent repairs on its pipeline system according to the following:

(1) Non integrity management repairs: The operator must make permanent repairs as soon as feasible.

(2) Integrity management repairs: When an operator discovers a condition on a pipeline covered under Subpart O—Gas Transmission Pipeline Integrity Management, the operator must remediate the condition as prescribed by § 192.933(d).

(c) *Welded patch.* Except as provided in § 192.717(b)(3), no operator may use a welded patch as a means of repair.

§§ 192.923, 192.925, 192.931, 192.935, and 192.939 [Amended]

■ 14. In 49 CFR part 192 the words “NACE RP0502–2002” or “NACE RP 0502–2002” are removed and the words “NACE SP0502–2008” are added in their place in the following places:

- a. Section 192.923(b)(1);
- b. Section 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, and 192.925(b)(4)(ii);
- c. Section 192.931(d);
- d. Section 192.935(b)(1)(iv); and
- e. Section 192.939(a)(2).

Appendix B to Part 192 [Amended]

■ 15. In Appendix B to Part 192, in section I, the phrase “ASTM D2513” is revised to read “ASTM D2513–99”

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

■ 16. The authority citation for Part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

■ 17. In § 193.2013, paragraph (c) is revised to read as follows:

§ 193.2013 Incorporation by reference.

* * * * *

(c) Documents incorporated by reference.

Source and name of referenced material	49 CFR Reference
A. American Gas Association (AGA): (1) “Purging Principles and Practices” (3rd edition, 2001)	§§ 193.2513; 193.2517; 193.2615.
B. American Petroleum Institute (API): (1) API Standard 620 “Design and Construction of Large, Welded, Low-Pressure Storage Tanks” (11th edition February 2008, addendum 1, March 2009).	§§ 193.2101(b); 193.2321(b)(2).
C. American Society of Civil Engineers (ASCE): (1) ASCE/SEI 7–05 “Minimum Design Loads for Buildings and Other Structures” (2005 edition, includes supplement No. 1 and Errata).	§ 193.2067(b)(1).
D. ASME International (ASME): (1) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 1, “Rules for Construction of Pressure Vessels” (2007 edition, July 1, 2007). (2) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 2, “Alternative Rules, Rules for Construction of Pressure Vessels” (2007 edition, July 1, 2007).	§ 193.2321(a). § 193.2321(a).
E. Gas Technology Institute (GTI) formerly the Gas Research Institute (GRI): (1) GTI–04/0032 LNGFIRE3: A Thermal Radiation Model for LNG Fires (March 2004). (2) GTI–04/0049 (April 2004) “LNG Vapor Dispersion Prediction with the DEGADIS 2.1: Dense Gas Dispersion Model For LNG Vapor Dispersion”. (3) GRI–96/0396.5 “Evaluation of Mitigation Methods for Accidental LNG Releases, Volume 5: Using FEM3A for LNG Accident Consequence Analyses” (April 1997).	§ 193.2057(a). § 193.2059. § 193.2059.
F. National Fire Protection Association (NFPA): (1) NFPA 59A, (2001) “Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)”. (2) NFPA 59A, “Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)” (2006 edition, Approved August 18, 2005).	§§ 193.2019; 193.2051; 193.2057; 193.2059; 193.2101(a); 193.2301; 193.2303; 193.2401; 193.2521; 193.2639; 193.2801. §§ 193.2101(b); 193.2321(b).

■ 18. In § 193.2057, paragraph (a) is revised to read as follows:

§ 193.2057 Thermal radiation protection.

* * * * *

(a) The thermal radiation distances must be calculated using Gas Technology Institute’s (GTI) report or computer model GTI–04/0032 LNGFIRE3: A Thermal Radiation Model for LNG Fires (incorporated by reference, *see* § 193.2013). The use of

other alternate models which take into account the same physical factors and have been validated by experimental test data may be permitted subject to the Administrator’s approval.

* * * * *

■ 19. In § 193.2067, paragraph (b)(1) is revised to read as follows:

§ 193.2067 Wind forces.

* * * * *

(b) * * *

(1) For shop fabricated containers of LNG or other hazardous fluids with a capacity of not more than 70,000 gallons, applicable wind load data in ASCE/SEI 7–05 (incorporated by reference, *see* § 193.2013).

* * * * *

■ 20. Section 193.2101 is revised to read as follows:

§ 193.2101 Scope.

(a) Each LNG facility designed after March 31, 2000 must comply with requirements of this Part and of NFPA 59A (2001) (incorporated by reference, *see* § 193.2013). If there is a conflict between this Part and NFPA 59A, this Part prevails. Unless otherwise specified, all references to NFPA 59A in this Part are to the 2001 edition.

(b) Stationary LNG storage tanks must comply with Section 7.2.2 of NFPA 59A (2006) (incorporated by reference, *see* § 193.2013) for seismic design of field fabricated tanks. All other LNG storage tanks must comply with API Standard 620 (incorporated by reference, *see* § 193.2013) for seismic design.

■ 21. Section 193.2321 is revised to read as follows:

§ 193.2321 Nondestructive tests.

(a) The butt welds in metal shells of storage tanks with internal design pressure above 15 psig must be nondestructively examined in accordance with the ASME Boiler and Pressure Vessel Code (Section VIII Division 1) (incorporated by reference,

see § 193.2013), except that 100 percent of welds that are both longitudinal (or meridional) and circumferential (or latitudinal) of hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures must be nondestructively examined in accordance with the ASME Boiler and Pressure Vessel Code (Section VIII Division 1) (incorporated by reference, *see* § 193.2013).

(b) For storage tanks with internal design pressures at 15 psig or less, ultrasonic examinations of welds on metal containers must comply with the following:

(1) Section 7.3.1.2 of NFPA 59A (2006) (incorporated by reference, *see* § 193.2013);

(2) Appendices Q and C of API 620 Standard (incorporated by reference, *see* § 193.2013);

(c) Ultrasonic examination records must be retained for the life of the facility. If electronic records are kept, they must be retained in a manner so that they cannot be altered by any means; and

(d) The ultrasonic equipment used in the examination of welds must be calibrated at a frequency no longer than eight hours. Such calibrations must verify the examination of welds against a calibration standard. If the ultrasonic equipment is found to be out of calibration, all previous weld inspections that are suspect must be reexamined.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

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

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118 and 60137; and 49 CFR 1.53.

■ 23. In § 195.3, paragraph (c) is revised to read as follows:

§ 195.3 Incorporation by reference.

* * * * *

(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. Pipeline Research Council International, Inc. (PRCI): (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)(i)(B); 195.452(h)(4)(iii)(D); 195.587.
B. American Petroleum Institute (API):	
(1) ANSI/API Specification 5L/ISO 3183, "Specification for Line Pipe" (44th edition, October 2007, including errata (January 2009) and addendum (February 2009)).	§§ 195.106(b)(1)(i); 195.106(e).
(2) API Recommended Practice 5L1, "Recommended Practice for Railroad Transportation of Line Pipe" (6th edition, July 2002).	§ 195.207(a).
(3) API Recommended Practice 5LW, "Transportation of Line Pipe on Barges and Marine Vessels" (2nd edition, December 1996, effective March 1, 1997).	§ 195.207(b).
(4) ANSI/API Specification 6D, "Specification for Pipeline Valves" (23rd edition, April 2008, effective October 1, 2008) and errata 3 (includes 1 & 2 (2009)).	§ 195.116(d).
(5) API Specification 12F, "Specification for Shop Welded Tanks for Storage of Production Liquids" (11th edition, November 1, 1994, reaffirmed 2000, errata, February 2007).	§§ 195.132(b)(1); 195.205(b)(2); 195.264(b)(1); 195.264(e)(1); 195.307(a); 195.565; 195.579(d).
(6) API Standard 510, "Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration" (9th edition, June 2006).	§§ 195.205(b)(3); 195.432(c).
(7) API Standard 620, "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (11th edition, February 2008, addendum 1 March 2009).	§§ 195.132(b)(2); 195.205(b)(2); 195.264(b)(1); 195.264(e)(3); 195.307(b).
(8) API Standard 650, "Welded Steel Tanks for Oil Storage" (11th edition, June 2007, addendum 1, November 2008).	§§ 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).
(9) ANSI/API Recommended Practice 651, "Cathodic Protection of Aboveground Petroleum Storage Tanks" (3rd edition, January 2007).	§§ 195.565; 195.579(d).
(10) ANSI/API Recommended Practice 652, "Linings of Aboveground Petroleum Storage Tank Bottoms" (3rd edition, October 2005).	§ 195.579(d).
(11) API Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, December 2001, includes addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008)).	§§ 195.205(b)(1); 195.432(b).
(12) API Standard 1104, "Welding of Pipelines and Related Facilities" (20th edition, October 2005, errata/addendum (July 2007), and errata 2 December 2008)).	§§ 195.222(a); 195.228(b); 195.214(a).
(13) API Recommended Practice 1130, "Computational Pipeline Monitoring for Liquids: Pipeline Segment" (3rd edition, September 2007).	§§ 195.134; 195.444.
(14) API Recommended Practice 1162, "Public Awareness Programs for Pipeline Operators" (1st edition, December 2003).	§§ 195.440(a); 195.440(b); 195.440(c).
(15) API Recommended Practice 1165, "Recommended Practice for Pipeline SCADA Displays," (API RP 1165 First Edition (January 2007)).	§ 195.446(c)(1).
(16) API Standard 2000, "Venting Atmospheric and Low-Pressure Storage Tanks Non-refrigerated and Refrigerated" (5th edition, April 1998, errata, November 15, 1999).	§§ 195.264(e)(2); 195.264(e)(3).

Source and name of referenced material	49 CFR reference
(17) API Recommended Practice 2003, "Protection Against Ignitions Arising Out of Static, Lightning, and Stray Currents" (7th edition, January 2008).	§ 195.405(a).
(18) API Publication 2026, "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, April 1998, reaffirmed June 2006).	§ 195.405(b).
(19) API Recommended Practice 2350, "Overfill Protection for Storage Tanks In Petroleum Facilities" (3rd edition, January 2005).	§ 195.428(c).
(20) API 2510, "Design and Construction of LPG Installations" (8th edition, 2001)	§§ 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).
(21) API Recommended Practice 1168 "Pipeline Control Room Management," (API RP1168) First Edition (September 2008).	§ 195.446(c)(5), (f)(1).
C. ASME International (ASME):	
(1) ASME/ANSI B16.9-2007, "Factory-Made Wrought Butt Welding Fittings" (December 7, 2007).	§ 195.118(a).
(2) ASME/ANSI B31.4-2006, "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids" (October 20, 2006).	§ 195.452(h)(4)(i).
(3) ASME/ANSI B31G-1991 (Reaffirmed; 2004), "Manual for Determining the Remaining Strength of Corroded Pipelines."	§§ 195.452(h)(4)(i)(B); 195.452(h)(4)(iii)(D).
(4) ASME/ANSI B31.8-2007, "Gas Transmission and Distribution Piping Systems" (November 30, 2007).	§ 195.5(a)(1)(i); 195.406(a)(1)(i).
(5) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels" (2007 edition, July 1, 2007).	§ 195.124; 195.307(e).
(6) 2007 ASME Boiler & Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules, Rules for Construction of Pressure Vessels" (2007 edition, July 1, 2007).	§ 195.307(e).
(7) 2007 ASME Boiler & Pressure Vessel Code, Section IX: "Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators," (2007 edition, July 1, 2007).	§ 195.222(a).
D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP-75-2004, "Specification for High Test Wrought Butt Welding Fittings."	§ 195.118(a).
(2) [Reserved]	
E. American Society for Testing and Materials (ASTM):	
(1) ASTM A53/A53M-07, "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (September 1, 2007).	§ 195.106(e).
(2) ASTM A106/A106M-08, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (July 15, 2008).	§ 195.106(e).
(3) ASTM A333/A 333M-05, "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service."	§ 195.106(e).
(4) ASTM A381-96 (Reapproved 2005), "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (October 1, 2005).	§ 195.106(e).
(5) ASTM A671-06, "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (May 1, 2006).	§ 195.106(e).
(6) ASTM A672-08, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (May 1, 2008).	§ 195.106(e).
(7) ASTM A691-98 (reapproved 2007), "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures."	§ 195.106(e).
F. National Fire Protection Association (NFPA):	
(1) NFPA 30, "Flammable and Combustible Liquids Code" (2008 edition, approved August 15, 2007).	§ 195.264(b)(1).
(2) [Reserved].	
G. NACE International (NACE):	
(1) NACE SP0169-2007, Standard Practice, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems" (reaffirmed March 15, 2007).	§§ 195.571; 195.573(a)(2).
(2) NACE SP0502-2008, Standard Practice, "Pipeline External Corrosion Direct Assessment Methodology" (reaffirmed March 20, 2008).	§ 195.588.

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■ 24. In § 195.116, paragraph (d) is revised to read as follows:

§ 195.116 Valves.

* * * * *

(d) Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 11 of API Standard 6D (incorporated by reference, *see* § 195.3).

* * * * *

■ 25. Add § 195.207 to subpart D to read as follows:

§ 195.207 Transportation of pipe.

(a) *Railroad.* In a pipeline operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by railroad unless the transportation is performed in accordance with API Recommended Practice 5L1 (incorporated by reference, *see* § 195.3).

(b) *Ship or barge.* In a pipeline operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to

wall thickness ratio of 70 to 1, or more, that is transported by ship or barge on both inland and marine waterways, unless the transportation is performed in accordance with API Recommended Practice 5LW (incorporated by reference, *see* § 195.3).

■ 26. In § 195.264, paragraph (e) is revised to read as follows:

§ 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

* * * * *

(e) For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks after October 2, 2000, compliance with paragraph (d) of this section requires the following for the tanks specified:

(1) Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specification 12F (incorporated by reference, *see* § 195.3) must be in accordance with Section 4, and Appendices B and C, of API Specification 12F (incorporated by reference, *see* § 195.3).

(2) Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000 (incorporated by reference, *see* § 195.3).

(3) Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Standard 620 (incorporated by reference, *see* § 195.3) must be in accordance with section 9 of API Standard 620 (incorporated by reference, *see* § 195.3) and its references to the normal and emergency venting requirements in API Standard 2000 (incorporated by reference, *see* § 195.3).

(4) Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 (incorporated by reference, *see* § 195.3) must be in accordance with sections 7 or 11 of API Standard 2510 (incorporated by reference, *see* § 195.3).

■ 27. In § 195.307, paragraphs (a) and (c) are revised to read as follows:

§ 195.307 Pressure testing aboveground breakout tanks.

(a) For aboveground breakout tanks built into API Specification 12F and first placed in service after October 2, 2000, pneumatic testing must be in accordance with section 5.3 of API Specification 12 F (incorporated by reference, *see* § 195.3).

(c) For aboveground breakout tanks built to API Standard 650 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, testing must be in accordance with Section 5.2 of API Standard 650 (incorporated by reference, *see* § 195.3).

■ 28. In § 195.401, paragraph (b) is revised to read as follows:

§ 195.401 General requirements.

(b) An operator must make repairs on its pipeline system according to the following requirements:

(1) *Non Integrity management repairs.* Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

(2) *Integrity management repairs.* When an operator discovers a condition on a pipeline covered under § 195.452, the operator must correct the condition as prescribed in § 195.452(h).

■ 29. In § 195.432, paragraph (b) is revised to read as follows:

§ 195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to API Standard 653 (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3).

■ 30. In § 195.452, paragraphs (h)(4)(i) introductory text is revised to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

(h) * * *

(4) * * *

(i) *Immediate repair conditions.* An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in Section 451.6.2.2 (b) of ANSI/ASME B31.4 (incorporated by reference, *see* § 195.3). An operator must treat the following conditions as immediate repair conditions:

■ 31. Section 195.571 is revised to read as follows:

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this Subpart must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2 and 6.3 of NACE SP 0169 (incorporated by reference, *see* § 195.3).

■ 32. In § 195.573, paragraph (a)(2) is revised to read as follows:

§ 195.573 What must I do to monitor external corrosion control?

(a) * * *

(2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, *see* § 195.3).

■ 33. In § 195.588, paragraphs (b)(1), (b)(2) introductory text, (b)(2)(iii), (b)(3) introductory text, (b)(4) introductory text, (b)(4)(ii), (b)(4)(iv), (b)(5) introductory text, and (b)(5)(ii) are revised to read as follows:

§ 195.588 What standards apply to direct assessment?

(b) * * *

(1) *General.* You must follow the requirements of NACE SP0502 (incorporated by reference, *see* § 195.3). Also, you must develop and implement a External Corrosion Direct Assessment (ECDA) plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment.

(2) *Pre-assessment.* In addition to the requirements in Section 3 of NACE SP0502 (incorporated by reference, *see* § 195.3), the ECDA plan procedures for pre-assessment must include—

(iii) If you utilize an indirect inspection method not described in Appendix A of NACE SP0502 (incorporated by reference, *see* § 195.3), you must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method.

(3) *Indirect examination.* In addition to the requirements in Section 4 of NACE SP0502 (incorporated by reference, *see* § 195.3), the procedures for indirect examination of the ECDA regions must include—

(4) *Direct examination.* In addition to the requirements in Section 5 of NACE

SP0502 (incorporated by reference, see § 195.3), the procedures for direct examination of indications from the indirect examination must include—

* * * * *

(ii) Criteria for deciding what action should be taken if either:

(A) Corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE SP0502 (incorporated by reference, see § 195.3) provides guidance for criteria); or

(B) Root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE SP0502 (incorporated by reference, see § 195.3) provides guidance for criteria);

* * * * *

(iv) Criteria that describe how and on what basis you will reclassify and re-prioritize any of the provisions specified in Section 5.9 of NACE SP0502 (incorporated by reference, see § 195.3).

(5) *Post assessment and continuing evaluation.* In addition to the requirements in Section 6 of NACE SP 0502 (incorporated by reference, see § 195.3), the procedures for post assessment of the effectiveness of the ECDA process must include—

* * * * *

(ii) Criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the pipeline segment at an interval less than that specified in Sections 6.2 and 6.3 of NACE SP0502 (see appendix D of NACE SP0502) (incorporated by reference, see § 195.3).

■ 34. In Appendix C to part 195, paragraph I. A. introductory text is revised to read as follows:

Appendix C to Part 195—Guidance for Implementation of an Integrity Management Program

* * * * *

I. * * *

A. The rule defines a High Consequence Area as a high population area, an other populated area, an unusually sensitive area, or a commercially navigable waterway. The Office of Pipeline Safety (OPS) will map these areas on the National Pipeline Mapping System (NPMS). An operator, member of the public or other government agency may view and download the data from the NPMS home page <http://www.npms.phmsa.gov/>. OPS will maintain the NPMS and update it periodically. However, it is an operator's responsibility to ensure that it has identified all high consequence areas that could be affected by a pipeline segment. An operator is also responsible for periodically evaluating its pipeline segments to look for population or environmental changes that may have occurred around the pipeline and to keep its

program current with this information. (Refer to § 195.452(d)(3).)

* * * * *

Issued in Washington, DC, on August 3, 2010, under authority delegated in 49 CFR part 1.

Cynthia L. Quarterman,
Administrator.

[FR Doc. 2010-19643 Filed 8-10-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2010-0035; Notice 2]

RIN 2127-AK70

Schedule of Fees Authorized by 49 U.S.C. 30141

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document adopts fees for Fiscal Year 2011 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS). These fees are needed to maintain the registered importer (RI) program.

We are increasing the fees for the registration of a new RI from \$760 to \$795 and the annual fee for renewing an existing registration from \$651 to \$670. The fee to reimburse Customs for conformance bond processing costs will decrease from \$10.23 to \$9.93 per bond. We are decreasing the fees for the importation of a vehicle covered by an import eligibility decision made on an individual model and model year basis. For vehicles determined eligible based on their substantial similarity to a U.S. certified vehicle, the fee will decrease from \$198 to \$158. For vehicles determined eligible based on their capability of being modified to comply with all applicable FMVSS, the fee will also decrease from \$198 to \$158. The fee for the inspection of a vehicle will remain \$827. The fee for processing a conformity package will increase to \$17 from \$14. If the vehicle has been entered electronically with Customs through the Automated Broker Interface (ABI) and the RI has an e-mail address, the fee for processing the conformity package will continue to be \$6, provided the fee is paid by credit card. However, if NHTSA

finds that the information in the entry or the conformity package is incorrect, the processing fee will be \$57, representing a \$9 increase in the fee that is currently charged when there are one or more errors in the ABI entry or omissions in the statement of conformity.

DATES: The amendments established by this final rule will become effective on October 1, 2010. Petitions for reconsideration must be received by NHTSA not later than September 27, 2010.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice numbers identified above and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590. It is requested, but not required, that 10 copies of the petition be submitted. The petition must be received not later than 45 days after publication of this final rule in the **Federal Register**. Petitions filed after that time will be considered petitions filed by interested persons to initiate rulemaking pursuant to 49 U.S.C. Chapter 301.

The petition must contain a brief statement of the complaint and an explanation as to why compliance with the final rule is not practicable, is unreasonable, or is not in the public interest. Unless otherwise specified in the final rule, the statement and explanation together may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. If it is requested that additional facts be considered, the petitioner must state the reason why they were not presented to the Administrator within the prescribed time. The Administrator does not consider repetitious petitions and unless the Administrator otherwise provides, the filing of a petition does not stay the effectiveness of the final rule.

FOR FURTHER INFORMATION CONTACT: Clint Lindsay, Office of Vehicle Safety Compliance, NHTSA (202-366-5291). For legal issues, you may call Nicholas Englund, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION:

Introduction

This rule was preceded by a notice of proposed rulemaking (NPRM) that NHTSA published on May 7, 2010 (75 FR 25169).

The National Traffic and Motor Vehicle Safety Act, as amended by the