

■ 2. Revise section 528.202 to read as follows:

**528.202 Acceptability of corporate sureties.**

Corporate surety bonds must be manually signed by the Attorney-in-Fact or officer of the surety company and the corporate seal affixed. The contracting officer may waive failure of the surety to affix the corporate seal as a minor informality. (See B-184120, July 2, 1975, 75-2 CPD 9.)

■ 3. Revise section 528.310 to read as follows:

**528.310 Contract clause for work on a Government installation.**

Insert the clause at 552.228-5, Government as Additional Insured, in each solicitation and contract that meets all the following conditions:

(a) The contract amount is expected to exceed the simplified acquisition threshold; and

(b) The contract will require work to be performed on Government property.

■ 4. Add sections 528.311 and 528.311-1 to read as follows:

**528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.**

**528.311-1 Contract clause.**

Use the clause at FAR 52.228-7, Insurance—Liability to Third Persons, in solicitations and contracts, other than those for construction and those for architect-engineer services, when a cost-reimbursement contract is contemplated, unless the head of the contracting activity waives the requirement for use of the clause.

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 5. The authority citation for 48 CFR part 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

■ 6. Add section 552.228-5 to read as follows:

**552.228-5 Government as Additional Insured.**

As prescribed in 528.310, insert the following clause:

GOVERNMENT AS ADDITIONAL INSURED (MAY 2009)

(a) This clause supplements the requirements set forth in FAR clause 52.528-5, Insurance—Work on a Government Installation.

(b) Each insurance policy required under this contract, other than workers' compensation insurance, shall contain an endorsement naming the United States as an additional insured with respect to operations performed under

this contract. The insurance carrier is required to waive all subrogation rights against any of the named insured.

(End of clause)

**552.228-70 [Removed]**

■ 7. Remove section 552.228-70.

[FR Doc. E9-8402 Filed 4-13-09; 8:45 am]

BILLING CODE 6820-61-S

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 192 and 195**

[Docket No. PHMSA-2008-0334.]

RIN 2137-AE42

**Pipeline Safety: Incorporation by Reference Update: American Petroleum Institute (API) Standards 5L and 1104**

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

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule incorporates by reference the most recent editions of API Specification 5L "Specification for Line Pipe" and API 1104 "Welding of Pipelines and Related Facilities." The purpose of this update is to enable pipeline operators to utilize current technology, materials, and practices to help maintain a high level of safety relative to their pipeline operations. PHMSA is not eliminating the use of the current referenced standards but simply allowing the additional use of these new standards. PHMSA may in the future propose to eliminate the incorporation of the existing referenced standards.

**DATES:** *Effective Date:* This rule is effective April 14, 2009 without further action, unless adverse comment is received by June 15, 2009. If adverse comment is received, PHMSA will publish a timely withdrawal of the rule in the **Federal Register**.

*Incorporation by Reference Date:* The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 14, 2009.

**ADDRESSES:** Comments should reference DOT Docket ID Number PHMSA-2008-0334 and may be submitted by any of the following methods:

- *E-Gov Web:* <http://www.regulations.gov>. This web site allows the public to enter comments on any **Federal Register** notice issued by

any agency. Follow the online instructions for submitting comments.

- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* DOT Docket Management System, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

*Instructions:* Identify the docket ID, PHMSA 2008-0334, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>.

**Note:** All comments received will be posted without edits to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** For information about the technical standards contact Mike Israni, (202) 366-4571, or by e-mail at [mike.israni@dot.gov](mailto:mike.israni@dot.gov). For all other information contact John Gale by phone at (202) 366-4046 or by e-mail at [john.gale@dot.gov](mailto:john.gale@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This direct final rule adopts the most recent editions of two consensus technical standards, the American Petroleum Institute (API) 5L (44th edition) and API 1104 (20th edition). Through use of these consensus standards, pipeline operators will be able to use current technology, materials, and practices. The incorporation of the most recent

editions of these standards improves clarity, consistency, and accuracy, reduces unnecessary burdens on the regulated community and will provide, at minimum, an equivalent level of safety. PHMSA is not eliminating the use of the current referenced standards but simply allowing the additional use of these new standards. PHMSA may in the future propose to eliminate the incorporation of the existing referenced standards.

#### *Standards Incorporated by Reference*

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) directs Federal agencies to use voluntary consensus standards in lieu of government-written standards whenever possible. Voluntary consensus standards are standards developed or adopted by voluntary bodies that develop, establish, or coordinate technical standards using agreed upon procedures.

PHMSA's Office of Pipeline Safety participates in more than 25 national voluntary consensus standards committees. PHMSA's policy is to adopt voluntary consensus standards when they are applicable to pipeline design, construction, maintenance, inspection, and repair. PHMSA has the ultimate responsibility to ensure the best interests of public safety are being served. PHMSA reviews and approves for incorporation by reference updated versions based on this directive. When PHMSA believes some aspect of the standard does not meet this directive, it will not incorporate the new edition, or that part of the standard that it believes is contradictory with the directive. In recent years, PHMSA has adopted dozens of new and revised voluntary consensus standards into its gas pipeline (49 CFR Part 192) regulations, its liquefied natural gas (LNG) (49 CFR Part 193) regulations, and its hazardous liquid pipeline (49 CFR Part 195) regulations.

Parts 192, 193, and 195 incorporate by reference all or parts of more than 60 standards and specifications developed and published by technical organizations, including the American Petroleum Institute, American Gas Association, American Society of Civil Engineers, American Society of Mechanical Engineers, American Society for Testing and Materials, Manufacturers Standardization Society of the Valve and Fittings Industry, National Fire Protection Association, Plastics Pipe Institute, and Pipeline Research Council International. These organizations update and revise their published standards every 3 to 5 years to reflect modern technology and best technical practices. PHMSA has

reviewed the revised voluntary consensus standards being incorporated in this final rule.

#### *New Editions of Standards*

The following new editions of currently referenced standards are being incorporated by reference (IBR) in part 192 and 195. These new editions refine and clarify existing material in the standard and generally do not introduce new topics.

American Petroleum Institute (API):

- ANSI/API Spec 5L/ISO 3183

“Specification for Line Pipe” (44th edition, 2007) Referenced by 49 CFR 192.55(e); 192.112; 192.113; Item I, Appendix B to part 192; 195.106(b)(1)(i); 195.106(e)

Amendments to API 5L in the 44th edition include:

1. High default toughness criteria for PSL 2 pipe previously not specified, ensuring a higher toughness baseline for most critical product in the field.

2. Restrictive dimensional limits (including wall thickness, diameter, out-of-round, pipe end geometric irregularities) ensuring better field fit up and welding.

3. More comprehensive description of ultrasonic and radiographic methods and documentation testing providing a more consistent weld and body inspection and pipe traceability is improved through key inspection step.

4. New sour service and offshore requirements including restrictive documentation, processing, chemical composition, inspection and mechanical property controls ensuring well suited product applied to these critical applications.

- API 1104 “Welding of Pipelines and Related Facilities” (20th edition, errata, 2008) Referenced in 49 CFR 192.227(a); 192.229(c)(1); and 192.241(c); Item II, Appendix B; 195.222; 195.228(b) and 195.214(a)

The 20th edition of API 1104 includes a new Appendix A. Appendix A describes the method to determine the maximum height and length of a weld imperfection that can remain in a girth weld and not be a threat to the integrity of a pipeline. Appendix A in the 19th edition is an old standard that was developed in the 1970s and at that time X 60 material was the strongest pipe available. Now X 80 is common place.

By letters dated September 26, 2008 and December 4, 2008, EVRAZ, Inc. and California Steel Industries, Inc., petitioned PHMSA to allow the immediate use of the 44th edition of API 5L. The petitioners explained that the failure to allow the use of the newer standard would adversely impact the metallurgy and tolerances of the pipe

manufactured in their plants and that the impact was industry-wide. Due to the lead time of ordering steel pipe for major infrastructure projects, the petitioners urgently requested that PHMSA allow the use of the newer standard in order to avoid adverse impacts on their customers' projects involving thousands of tons of pipe and hundreds of workers.

This direct final rule is issued under the procedures set forth in 49 CFR 190.339. That provision allows for incorporation by reference of industry standards by direct final rule. If an adverse comment or notice of intent to file an adverse comment is received, a timely document will be published in the **Federal Register** withdrawing this direct final rule in whole or in part. Interested parties should refer to 49 CFR 190.339(c) for discussion of what constitutes an adverse comment.

## **II. Regulatory Analyses and Notices**

### *Statutory/Legal Authority for Rulemaking*

This final rule is published under the authority of 49 U.S.C. 60101 *et seq.* Section 60102(a) of 49 U.S.C. authorizes the Secretary of Transportation to prescribe regulations related to pipeline safety.

### *Executive Order 12866 and DOT Policies and Procedures*

This direct 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 direct final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

In this final rule we are updating references to standards that are incorporated in the pipeline safety regulations. These updates will enhance safety while reducing the compliance burden on the regulated industry. We invite public comment on any impacts of these amendments.

### *Executive Order 13132*

PHMSA has analyzed the direct final rule according to Executive Order 13132 (64 FR 43255, August 10, 1999). The direct 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 direct final rule does not impose substantial direct compliance costs on State and local

governments. This direct final rule does not preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 does 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 direct final rule ensures that operators are able to use the most current editions of technical standards incorporated by reference. PHMSA concludes this rule does not have a significant negative economic impact on any small entity. 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 rulemaking will not have a significant economic impact on a substantial number of small entities.

*Executive Order 13175*

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

*Paperwork Reduction Act*

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

*Unfunded Mandates Reform Act of 1995*

This direct final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or

tribal governments, in the aggregate, or to the private sector, and is least burdensome alternative that achieves the objective of the rulemaking.

*National Environmental Policy Act*

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on any action significantly affecting the quality of the human environment. Since these new standards provide, at minimum, an equivalent level of protection to the currently referenced standards, it is unlikely that the adoption of these standards will have any significant impacts on the environment. We welcome comment on this conclusion.

*Executive Order 13211*

Transporting gas impacts the nation's available energy supply. However, this direct final rule is not a "significant energy action" under Executive Order 13211. It also 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 is not likely to identify this direct final rule as a significant energy action.

*Privacy Act Statement*

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

*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*

Pipeline safety, reporting, and recordkeeping requirements.

*49 CFR Part 195*

Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, and Reporting and recordkeeping requirements.

■ In consideration of the foregoing, PHMSA amends 49 CFR parts 192 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. and 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, and 60118; and 49 CFR 1.53.

■ 2. In § 192.7 paragraph (c)(2) the documents incorporated by reference under B. American Petroleum Institute (API) entries (1) and (5) are 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.

*	*	*	*	*	*	*
B. American Petroleum Institute (API):						
(1)	ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe"	§§ 192.55(e); 192.112; 192.113; Item I of Appendix B.				
	(43rd edition and errata, 2004, and 44th edition, 2007).					
*	*	*	*	*	*	*
(5)	API 1104 "Welding of Pipelines and Related Facilities" (19th edition 1999, including errata October 31, 2001; and 20th edition 2007, including errata 2008).	§§ 192.227(a); 192.229(c)(1); 192.241(c); Item II, and Appendix B.				
*	*	*	*	*	*	*

**PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE**

■ 3. The authority citation for part 195 continues to read as follows:

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

■ 4. In § 195.3 paragraph (c) the documents incorporated by reference under B. American Petroleum Institute (API) entries (1) and (10) are revised to read as follows:

**§ 195.3 Incorporation by reference.**

(c) \* \* \*

\* \* \* \* \*

\* \* \* \* \*

B. American Petroleum Institute (API): (1) ANSI/API Specification 5L/ ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004; and 44th edition, 2007). §§ 195.106(b)(1)(i); 195.106(e).

\* \* \* \* \*

(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition 1999, including errata October 31, 2001; and 20th edition 2007, including errata 2008). §§ 195.222; 195.228(b); 195.214(a).

\* \* \* \* \*

Issued in Washington, DC, on April 6, 2009 under the authority delegated in part 1.

**Cynthia Douglass,**

*Acting Deputy Administrator.*

[FR Doc. E9-8376 Filed 4-13-09; 8:45 am]

**BILLING CODE 4910-60-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060525140-6221-02]

RIN 0648-XO46

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; Trip Limit Reduction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, April 21, 2009, through December 31, 2009, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone 727-824-5305, fax 727-824-5308, e-mail [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery

Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2)(ii), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish from 4,000 lb (1,814 kg) to 300 lb (136 kg) per trip when 75 percent of the fishing year quota is met, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before April 10, 2009. To provide the commercial fishery participants adequate advance notice of the trip limit reduction, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, April 21, 2009, until the quota is reached and the fishery closes or through December 31, 2009, whichever occurs first.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to implement this action in a timely manner to protect the fishery because the capacity of the fishing fleet allows for rapid harvest of the quota.

Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to provide less than the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3). However, to provide reasonable notice of the trip limit reduction to the commercial fishery participants and allow them to adjust fishing practices accordingly, NMFS is providing a 7-day delay in the effectiveness of this trip limit reduction.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 8, 2009.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-8530 Filed 4-13-09; 8:45 am]

**BILLING CODE 3510-22-S**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No.090122047-9252-02]

RIN 0648-XM11

#### Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2009 Georges Bank Cod Hook Sector Operations Plan and Agreement, and Allocation of Georges Bank Cod Total Allowable Catch

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the Georges Bank (GB) Cod Hook Sector