

December 29, 2004

Charles R. Kenow
Administrator
Minnesota Department of Public
Safety Office of Pipeline Safety
444 Cedar Street, Suite 147
St. Paul, Minnesota 55101-5147

Dear Mr. Kenow:

We have considered your letter of October 15, 2004, notifying us that the Minnesota Department of Public Safety, Office of Pipeline Safety (MnOPS) has granted Aquila Inc., a waiver from the plastic pipe joining requirements of 49 CFR 192.285(a)(2) and (c).

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

The waiver would permit Aquila to requalify personnel once a year, but at intervals of not more than 15 months. In addition, in the case of mechanical and electrofusion joints, the waiver permits persons to requalify by reviewing and taking all steps leading up to joint production but without completing the joint.

The rationale for the waiver is that given the automated nature of electrofusion and mechanical joints, requalification by process review rather than by inspecting and testing a completed joint is considered a satisfactory measure of a person's ability to continue to make sound joints after initial qualification. Furthermore, all requalification shall be consistent with the requirements of the Operators Qualification Plan and demonstrate each individual's knowledge, skills, and ability to perform the covered task(s).

MnOPS reviewed Aquila's request and concluded that their request is consistent with pipeline safety. In addition to the requirement for personnel to requalify once a year at intervals of not more than 15 months, the waiver granted by MnOPS requires a person to requalify whenever that person has made one joint under a qualified procedure that is found unacceptable by testing under § 192.513.

We concur with the conclusion of MnOPS and have no objection to the waiver. If you need further assistance, please contact me or James Reynolds of my staff at (202) 3662786.

Sincerely,
Stacey L. Gerard
Associate Administrator for Pipeline Safety

Office of Pipeline Safety
444 Cedar Street, Suite 147
St. Paul, Minnesota 55101-5147

October 15, 2004

Stacey Gerard
Associate Administrator
Office of Pipeline Safety, Research and Special
Programs Administration, U.S. Department of Transportation
400 Seventh Street S.W., Rm. 2103
Washington D.C.20590-0001

Subject: Proposed waiver for 192.285(a)(2) and 192.285(c)

Dear Ms. Gerard:

The Minnesota Office of Pipeline Safety received a waiver request from Aquila. The waiver pertains to 192.285(a)(2) and 192.285(c).

Regulatory Requirement:

49 CFR Part 192. 285(a)(2) and 192.285(c)

§192.285 Plastic pipe; qualifying persons to make joints.

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

- (1) Appropriate training or experience in the use of the procedure; and
- (2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

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

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

CHAPTER 601 — SAFETY, Section 60118 — Compliance and Waivers

(d) Waivers by State Authorities. - If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

Waiver History:

Aquila has requested a waiver of Part 192.285(a)(2) and 192.285(c). The proposal is as follows:

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

The requalification period of once each calendar year not to exceed 15 months will allow for flexibility in scheduling and is consistent with the OQ Plan. The OQ Plan Section 12.6 #6 states "Any time an individuals job performance is indicating non competent work performed on the pipeline covered tasks, they will not be allowed to perform covered task(s) and this employee must be immediately requalified in task(s) of concern. (192.805(e)) Non-competent work performed is procedures not followed per standards or unsafe work practices being used." The waiver will also require each joiner to be requalified once each calendar year not to exceed 15 months regardless if they had any failures or did not make any joints under a procedure.

Each procedure for initial qualification of electrofusion and mechanical joining will be completed in it's entirety and will be examined by either ultrasonic or destructive testing. For requalification, all steps of the procedures for electrofusion will be reviewed and completed (i.e. pipe prep) up to activating the' machine. All steps of the procedures for mechanical joining will be completed when training fittings are available. If training fittings are not available, the procedures will be reviewed. All requalification shall be consistent with the requirements of the OQ Plan and demonstrate each individuals knowledge, skills and ability to perform the covered task(s). The proposal for electrofusion and mechanical joining would allow Aquila to not expend several hundred fittings during each requalification.

In June 2000 the State of Missouri Public Service Commission granted Aquila a waiver to 192.285(a)(2) and 192.285(c). In July 2000, OPS concurred with the waiver.

In April 2002 the State Corporation Commission of the State of Kansas granted Aquila a waiver to 192.285(a)(2) and 192.285(c). In May 2002 OPS concurred with the waiver.

MNOPS recommends approval of the request for waiver with the modification to 192.285(c)(2).

(2) Whenever that person has 1 joint made under that procedure that is found unacceptable by testing under §192.513.

Final Decision on granting the Waiver rests with the Secretary of Transportation:

The foregoing waiver is granted provided that the Secretary of Transportation or designee does not object to the waiver. The waiver will become effective 60 days after it is received by the Secretary, unless the Secretary makes a written objection before the effective date of the waiver and the waiver is stayed. After notifying the Minnesota Office of Pipeline Safety of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

Prepared by,
Lisa Kallberg, Engineering Specialist

For the Minnesota Office of Pipeline Safety,
Charles R. Kenow, Administrator

Memorandum
U.S. Department of Transportation
Research and
Special Programs
Administration

Central Region Office

Office of Pipeline Safety

Date: December 22, 2004

Reply to Attu. of:

Subject: Waiver Request Case # 4607-1 Received by MNOPS from Aquila

From: Ivan A. Huntoon , Regional Director, DPS-26

To: James Reynolds, Standards, Waivers and Case Management, DPS-20

The Central Region Staff has reviewed the waiver received by the Minnesota Office of Pipeline Safety (MNOPS) and Case Numbered 4607-1 from Aquila. We have no objection to the waiver as modified in the correspondence from MNOPS to the Associate Administrator dated October 15, 2004, and find it to be consistent with pipeline safety requirement 49CFR Part 192.285(a)(2) and 192.285(c) regarding re-qualifying individuals in joining plastic pipe by mechanical or electrofusion methods.

We concur with the conclusion of MNOPS and have no objections to the waiver granted by MNOPS.