

1804.470-3 Responsibilities.

(a) * * *

(b) The requiring activity is also responsible for determining to what extent a contractor security plan for unclassified automated information resources will be required and evaluating and recommending approval of prospective contractors' automated information security plans.

1804.470-4 [Amended]

b. In section 1804.470-4, the existing paragraph is designated as paragraph (a), the word "The" of newly designated paragraphs (a) is removed and the word "Except as provided in paragraph (b) of this section, the" are added in its place, and a new paragraph (b) is added to read as follows:

1804.470-4 Contract clause.

(a) * * *

(b) The clause prescribed in paragraph (a) of this section may be excluded from any contract when the requiring activity, in consort with its computer security manager, recommends that a security plan for unclassified automated information resources be submitted by the apparently successful offeror after notification of selection but before contract award. Under these circumstances, the contracting officer shall insert the provision at 1852.204-77, Submission of Security Plan for Unclassified Automated Information Resources, in solicitations and the clause at 1852.204-78, Security Plan for Unclassified Automated Information Resources, in contracts. The provision may be modified to identify specific information that is to be included in the plan. The contracting officer shall incorporate the approved plan into the contract by reference as provided for in the provision and the clause. The clause may be modified to omit reference to the provision when the solicitation did not include the provision.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Part 1852 is amended as set forth below:

1852.204-76 [Amended]

a. In the introductory paragraph of section 1852.204-76, the citation "1804.470-4" is revised to read "1804.470-4(a)."

1852.204-77 [Added]

b. Section 1852.204-77 is added to read as follows:

1852.204-77 Submission of Security Plan for Unclassified Automated Information Resources.

As prescribed in 1804.470-4(b), insert the following provision:

Submission of Security Plan for Unclassified Automated Information Resources (XXX 1991)

(a) The apparently successful offeror shall provide a plan, for Contracting Officer approval prior to award, that describes its automated information security program. The plan shall be submitted no later than thirty days after receipt of the Contracting Officer's written request. The plan shall address the security measures and program safeguards which will be provided to ensure that all information systems and resources acquired and utilized in the performance of the contract by contractor and subcontractor personnel:

- (1) Operate effectively and accurately;
- (2) Are protected from unauthorized alteration, disclosure, or misuse of information processed, stored, or transmitted;
- (3) Can maintain the continuity of automated information support for NASA missions, programs, and functions;
- (4) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the system's integrity and accuracy; and
- (5) Have appropriate technical, personnel, administrative, environmental, and access safeguards.

(b) This plan, as approved by the Contracting Officer, will be included in any resulting contract for contractor compliance. (End of provision)

1852.204-78 [Added]

c. Section 1852.204-78 is added to read as follows:

1852.204-78 Security Plan for Unclassified Automated Information Resources.

As prescribed in 1804.470-4(b), insert the following clause:

Security Plan For Unclassified Automated Information Resources (XXX 1991)

In addition to complying with any functional and technical security requirements set forth in the Schedule and the clauses of this contract, the Contractor shall comply with the Unclassified Automated Information Resources Security Plan submitted pursuant to provision 1852.204-77, Submission of Security Plan for Unclassified Automated Information Resources, as approved by the Contracting Officer.

(End of clause)

[FR Doc. 91-10032 Filed 4-26-91; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 190, 191, 192, and 195**

[Docket No. PS-120, Notice 1]

RIN 2137-AB 96

Inspection and Burial of Offshore Gas and Hazardous Liquid Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Natural gas and hazardous liquid pipelines buried in shallow offshore waters in the Gulf of Mexico have been involved in accidents with fishing and other vessels. Public Law 101-599 was enacted to determine the extent to which pipelines in shallow waters in the Gulf of Mexico may be a hazard to fishing vessels. These proposed rules would implement the immediate provisions of Public Law 101-599 amending the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979. As proposed in this Notice, operators of natural gas and hazardous liquid pipelines would be required to do the following: (1) Conduct an underwater inspection of pipelines in the Gulf of Mexico and its inlets located in water less than 15-feet deep, within 1 year of the issuance of the final rule or May 16, 1992, whichever comes first; (2) report to the Coast Guard those pipelines which have become exposed or otherwise present a hazard to navigation and mark such pipelines with a buoy; and (3) bury those pipelines identified under (2) above, or by any other person, within 6 months after discovery. Other proposals necessary to implement Public Law 101-599 would provide for reporting of the results of the underwater inspection to the Department, as well as providing for criminal penalties for damaging, removing, defacing, or destroying a pipeline marker buoy.

DATES: Interested persons are invited to submit written comments on this proposal by May 29, 1991. Late filed comments will be considered to the extent practicable. A short comment period is necessary in order to try to meet the statutory deadline.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice number stated in the

heading of this notice. All comments and docketed material will be available for inspection and copying in room 8419 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Cesar De Leon, (202) 366-1640, regarding the subject matter of this proposed rule or the Dockets Unit, (202) 366-4148, regarding copies of this proposed rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1987 a fishing vessel struck and ruptured an 8-inch diameter natural gas liquid pipeline while maneuvering in shallow waters in the Gulf of Mexico off the coast of Louisiana. The released gas ignited, resulting in the deaths of two crewmen. The pipeline was originally installed in 1968 and buried onshore, parallel to the shoreline. In the intervening years, the shoreline underwent substantial erosion, and at the time of the accident, the pipeline reportedly was exposed on the seabed in open water approximately 1 mile offshore.

On October 3, 1989, a 160-foot menhaden fishing vessel, the Northumberland, struck a Natural Gas Pipeline Co. 16-inch diameter offshore gas transmission pipeline about a 1/2 nautical mile offshore in the gulf of Mexico near Sabine Pass, Texas. Natural gas under a pressure of 835 psig was released. An undetermined source on board the vessel ignited the gas and engulfed the vessel in flames. Eleven of fourteen crew members died as a result of the accident. An investigation of the accident determined that the pipeline had been exposed above the seabed for 1 or more years.

In February 1990, at the request of RSPA, a joint task force was formed, made up of five Federal agencies and two state agencies to develop solutions to the risks posed in the Gulf of Mexico by the co-existence of pipelines and vessel operations. The agencies represented were RSPA, the Minerals Management Service (MMS) of the Department of the Interior, the National Ocean Service of the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, the U.S. Army Corps of Engineers, the Texas Railroad Commission, and the Louisiana Office of Conservation. A report on offshore pipelines prepared by the joint task force is available in the docket.

On April 9, 1990, the RSPA sent an alert notice to all operators of natural gas and hazardous liquid pipelines located in offshore waters. A copy of the alert notice is available in the docket.

The purpose of this alert notice was to advise pipeline operators of recurring safety problems involving marine vessel operations and to alert them that exposed pipelines pose a threat to the safety of the crews of fishing vessels in shallow coastal waters. It also advised pipeline operators to identify and correct any conditions which would violate applicable pipeline safety requirements. RSPA also sent the Alert Notice to the Louisiana Shrimp Association, Texas Shrimp Association, Southeastern Fisheries Association, National Fish Meal & Oil Association, and Concerned Shrimpers of America to alert the commercial fishing industry to the potential hazards of unburied offshore pipelines.

In addition, on May 18, 1990, the Coast Guard issued a safety notice which was published in the Local Notice to Mariners by the Coast Guard district offices in the Gulf of Mexico. A copy of the safety notice is available in the docket. The Coast Guard safety notice advised mariners regarding the risks posed by submerged offshore pipelines that may have become exposed and thereby may endanger fishing vessels. The safety notice requested that mariners discovering an exposed pipeline report the location immediately to the Coast Guard.

The RSPA pipeline safety regulations require that all newly constructed gas and hazardous liquid offshore pipelines located in water less than 12 feet in depth must have a minimum of 36 inches of cover or 18 inches in consolidated rock (49 CFR 192.327 and 195.248). Newly constructed gas and hazardous liquid pipelines in offshore waters from 12 feet to 200 feet deep must be installed so that the top of the pipe is below the seabed unless the pipe is protected by other equivalent means (§§ 192.319 and 195.246). The MMS issues rights-of-way permits for pipelines on the Outer Continental Shelf (OCS) and requires that newly constructed pipelines be buried 36 inches (30 CFR 250.153). The Corps of Engineers issues permits for burial of offshore pipelines and normally requires that newly constructed pipelines be buried to a depth of 36 inches in water less than 200 feet deep. However, none of the three agencies currently require that pipeline operators conduct an underwater inspection or maintain the burial of those pipelines.

As a result of the alert notice issued by RSPA, many of the major gas transmission companies initiated inspection of offshore pipelines in water less than 22 feet deep. This was the depth of water originally proposed by the fishing associations in the spring of 1990 in which pipelines should be buried

for safe navigation of vessels. In a survey of the member gas transmission pipeline companies conducted by the Interstate Natural Gas Association of America (INGAA), regarding offshore pipelines, 11 major gas transmission pipeline companies responded. Those companies reported that they had 126 pipelines consisting of 723 miles of pipelines in offshore waters less than 22 feet deep. By June 23, 1990, 22 of these pipelines totaling 59 miles in length had been inspected underwater to determine if those pipelines were still buried. One pipeline segment of 1320 feet was found to be exposed.

On February 26, 1990, and May 16, 1990, the Department testified on offshore pipeline safety before the Subcommittee on Coast Guard and Navigation of the House Committee on Merchant Marine and Fisheries and on September 11, 1990 before a joint hearing of the House Public Works and Transportation and the Energy and Commerce Committees. As a result of these hearings and meetings between Congressional staff members and representatives of the pipeline industry and the commercial fishing industry, Congress passed H.R. 4888, which was signed by the President on November 16, 1990. That legislation, Public Law 101-599, is available in the docket.

Public Law 101-599

Public Law 101-599 amended the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1671 *et seq.*) and the Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA) (49 U.S.C. 2001 *et seq.*), which are administered by the RSPA. The law requires that not later than 18 months after the enactment of this legislation or 1 year after issuance of regulations, whichever occurs first, the operator of each offshore gas or hazardous liquid pipeline facility in the Gulf of Mexico and its inlets shall inspect such pipeline facility and report to the Department on any portion of a pipeline facility which is exposed or is a hazard to navigation. Therefore, this initial inspection must be completed by May 16, 1992 or 1 year after issuance of regulations, whichever comes first. This requirement shall apply to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water. In accordance with Public Law 101-599, hazardous liquid gathering lines of 4 inch nominal diameter and smaller are excepted from this inspection. The Department may extend the time period for compliance with this inspection requirement for an additional period of up to 6 months for

gas transmission pipeline facilities, or up to 1 year for hazardous liquid pipeline facilities. The law provides that any inspection of a pipeline facility which has occurred after October 3, 1989 (the date of the Northumberland accident) may satisfy the inspection requirements if it complies with the pertinent requirements proposed in this Notice.

Public Law 101-599 requires the Department to establish standards by May 16, 1991, on what constitutes an "exposed pipeline facility," and what constitutes a "hazard to navigation." The law requires that pipeline operators report to the Department, through the appropriate Coast Guard offices, potential or existing navigational hazards involving pipeline facilities. As result of the inspection, an operator of a pipeline facility who discovers any pipeline facility which is a hazard to navigation in water 15 feet deep or less as measured from mean low water, shall mark the location with a Coast Guard approved buoy or marker and notify the Department. The law provides that the marine buoy or marker is considered a pipeline sign or right-of-way marker for purposes of section 11(c)(3) of the NGPSA or section 208(c)(3) of the HLPSEA. These sections provide for criminal penalties for persons who willfully and knowingly damage, deface, remove, or destroy any pipeline sign or marker. Public Law 101-599 also requires the Secretary of Transportation to issue regulations requiring each gas and hazardous liquid pipeline facility that has been inspected and found to be exposed or that constitutes a hazard to navigation, be buried within 6 months after the condition is reported to the Department.

Furthermore, Public Law 101-599 requires that not later than May 16, 1993, the Secretary shall, on the basis of experience with the initial inspection program, establish a mandatory, systematic, and, where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets. This will be addressed in a future rulemaking.

In addition, Public Law 101-599 amends the Ports and Waterways Safety Act (33 U.S.C. 1221 at seq.), which is administered by the Coast Guard, to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipeline facilities to the Department through the appropriate Coast Guard field office. Upon notification by the pipeline operator or by any other person of a hazard to navigation, the Department will notify the Coast Guard, the Office

of Pipeline Safety, other affected Federal and state agencies, and vessel owners and operators in the vicinity of the pipeline facility.

Advisory Committees

The Technical Pipeline Safety Standards Committee met in Washington, DC, on February 20, 1991 and the Technical Hazardous Liquid Pipeline Safety Standards Committee met in Washington, DC, on February 21, 1991. These advisory committees were established by statute to consider the feasibility, reasonableness, and practicability of proposed pipeline safety regulations.

The advisory committees informally discussed a draft notice of proposed rulemaking, which proposed revisions to the regulations in parts 192 and 195 regarding offshore pipelines. The draft notice considered by the advisory committees addressed the requirements in Public Law 101-599 as well as additional requirements that were not included in the law but which had been developed by the multi-agency task force formed after the Northumberland accident, including: applicability to all offshore areas, inclusion of abandoned pipelines in the monitoring requirements, requiring 36 inch burial of pipelines in water depths up to 200 feet deep, and a discussion of possibly proposing underwater inspection requirements of offshore pipelines after a major storm.

Staff representatives of the Subcommittee on Coast Guard and Navigation of the House Committee on Merchant Marine and Fisheries that participated in the drafting of Public Law 101-599 appeared before each pipeline advisory committee to urge that the Department issue more narrow regulations limited to the requirements of that law. As a result of the unanimous opinion of the advisory committees and the valuable assistance of subcommittee staff representatives, this proposed rule addresses only the immediate requirements of Public Law 101-599. The longer-term mandates of Public Law 101-599, as well as other offshore and underwater pipeline proposals that may merit consideration, will be addressed in a future proposed rulemaking.

Discussion of Proposed Revisions

The RSPA is proposing similar requirements for both gas transmission and hazardous liquid pipeline facilities, and these regulations would be applicable to interstate and intrastate offshore pipelines. In accordance with §§ 192.1 and 195.1, these proposed rules would be applicable to offshore pipeline facilities on the OCS as that term is

defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). Further, in accordance with §§ 192.9 and 195.1, these proposed rules would also be applicable to all gas and hazardous liquid gathering lines subject to part 192 or part 195 in the Gulf of Mexico and its inlets; except, as provided in the law, those hazardous liquid gathering lines of 4 inch nominal diameter and smaller. Gathering lines, if they are exposed in shallow water, can be equally as unsafe as transmission pipelines. It should be noted that under the current regulations, gathering lines located in the inlets of the Gulf of Mexico may be defined as onshore gathering lines and consequently not be currently subject to the regulations in part 192 or part 195. This proposed regulation would make those gathering lines in the inlets of the Gulf of Mexico subject to the proposed inspection, marking, and re-burial requirements in §§ 192.612 and 195.413.

In accordance with §§ 192.1(b)(1) and 195.1(b)(5), these proposed rules would not apply to the offshore gathering of gas or hazardous liquids upstream from the outlet flange of each facility on the OCS where hydrocarbons are produced or where hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. It should also be noted that gathering lines do not include production flow lines. The extent of production flow lines will be better defined in an upcoming NPRM proposing to revise the definition of a gathering line.

Proposals

This proposed rulemaking incorporates all of the immediate requirements of this legislation administered by RSPA. The proposed rule would apply to pipelines which, in accordance with the definition of "pipeline" in §§ 192.3 and 195.2, means all parts of those physical facilities through which gas or hazardous liquids move in transportation, including pipe, valves, and other appurtenances attached to a pipe. For the purpose of this rulemaking, we are not using the term "pipeline" facilities" as set forth in Pub. L. 101-599. "Pipeline facilities" is defined by RSPA regulations (§§ 192.3 and 195.2) to include such facilities as offshore platforms that are not intended to be buried. These structures were not intended to be addressed by the statute.

Section 190.229(d), which is applicable to both gas and hazardous liquid pipelines, would be revised in accordance with Public Law 101-599 to include a provision that if a person willfully and knowingly defaces,

damages, removes, or destroys a pipeline marine buoy, such a person shall, upon conviction, be subject to a fine of not more than 5,000, imprisonment for a term not to exceed 1 year, or both. The use of pipeline marine buoys is regulated in 33 CFR part 64 which is referenced in the proposed §§ 192.612 and 195.415.

A new § 191.27, which is applicable to both gas and hazardous liquid pipelines, would be added to require the filing of offshore pipeline condition reports required by the underwater inspection of pipelines proposed in §§ 192.612 and 195.413. These reports would have to be submitted to RSPA within 60 days after the completion of the inspection of all pipelines subject to the underwater inspection. This information will be used to later develop regulations for the mandatory, systematic, and, where appropriate, periodic inspection of offshore pipelines in the Gulf of Mexico and its inlets. The law requires that such regulations be established within 30 months after enactment of the legislation, or May 16, 1993.

Sections 192.1(b)(2) and 195.1(b)(4) are proposed to be revised to clarify that gathering lines that are located in the inlets of the Gulf of Mexico, which currently may be defined as onshore gathering lines, will be subject to the proposed inspection, marking, and re-burial requirements in §§ 192.612 and 195.413. However, such gathering lines in the inlets of the Gulf of Mexico would not be subject to other regulations in parts 192 or 195.

Definitions of "exposed pipeline," "Gulf of Mexico and its inlets," and "hazard to navigation" are proposed to be added to §§ 192.3 and 195.2.

With regard to the definition of "exposed pipeline," a pipeline is considered to be exposed on the seabed when the top of the pipeline protrudes above the seabed, or protrudes above the silty bottom if the bottom of the ocean is not firm. RSPA recognizes that many offshore areas in the Gulf of Mexico do not have an easily definable seabed but believes that establishing a qualitative measurement of the ocean bottom, such as silt density, would be difficult because of shifting and varying silt density on the ocean bottom.

With regard to the definition of "Gulf of Mexico and its inlets," it would include the waters from the mean high water mark of the Gulf including its inlets, seaward to a depth of 15 feet, as measured from the mean low water. The term "mean low water" is used in this regulation to comport with that term as used in Public Law 101-599. "Mean low water" can be considered to denote "mean lower low water" as used in the

nautical chart datum of the National Ocean Service. The inlets that are open to the Gulf and subject to the navigation of vessels, such as Barataria or Timbalier Bay, are included in the definition to assure that pipelines in these inlets do not pose a hazard to vessels.

With regard to the definition of "hazard to navigation," it is proposed to mean that the top of a pipeline is buried less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water. Because fishing vessels navigate frequently in offshore waters that are less than 15 feet deep, it is important that a pipeline be sufficiently buried in these locations. These fishing vessels frequently navigate in a manner that their hulls touch the seabed. As a result, it is important that the pipelines be buried to protect the fishing vessels and the pipelines. We have consulted with the Coast Guard concerning these proposed definitions. RSPA urges the operators currently conducting underwater inspections to note the depth of burial of their pipelines pending the issuance of a final rule that establishes a final definition of an "exposed pipeline" and a pipeline that is a "hazard to navigation." Although the law uses the terms as mutually exclusive, in fact, for the purposes of this statute and its implementing regulations, "hazard to navigation" subsumes "exposed pipeline" and the proposed definitions reflect this.

New §§ 192.612 and 195.415 would be added to require that each operator conduct an underwater inspection of its offshore pipelines in the Gulf of Mexico and its inlets, which are located in water less than 15 feet deep, as measured from the mean low water, within 1 year after the issuance of a final rule or May 16, 1992, whichever occurs first. As proposed, the inspection may be conducted by any means that will detect the location of the pipeline and the depth to which it is buried.

In lieu of the initial inspection proposed in this Notice pursuant to Public Law 101-599, the regulation would give credit to an initial inspection by an operator if it was conducted after October 3, 1989 (the date on which the Northumberland accident occurred) and completed in accordance with the final inspection requirements in this rulemaking. Many pipeline operators have already conducted underwater inspections of their pipelines advised in the ALERT Notice issued by RSPA on April 9, 1990.

Under proposed §§ 192.612 and 195.413, if a required inspection reveals, or a third party reports, that a pipeline

located in water less than 15 feet deep, as measured from the mean low water, is exposed on the seabed or otherwise constitutes a hazard to navigation, the operator of that pipeline would be required to do the following: (1) Promptly notify the U.S. Coast Guard, but not later than 24 hours after discovery; (2) promptly mark the pipeline with a buoy in accordance with the Coast Guard regulations in 33 CFR part 64, "Marking of Structures, Sunken Vessels, and Other Obstructions," but no later than 7 days after discovery; and (3) within 6 months after discovery, bury the pipeline below the seabed to a depth of 36 inches for normal excavation or 18 inches for rock excavation. We have consulted with the Coast Guard concerning these reporting and marking proposals.

Impact Assessment

The proposed rules are considered to be non-major under Executive Order 11591, and are not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This proposed rulemaking is required by law. The costs of conducting the underwater inspections are averaging \$8,000 per mile using recently developed technology. Some of the variables that impact the costs of conducting an underwater inspection are the amount of pipeline to be inspected, weather, mobilization costs, and location. There are about 1,000 miles of offshore gas and hazardous liquid pipelines in the Gulf of Mexico and its inlets in water less than 15 feet deep, so that it will cost about \$8 million to conduct the initial inspection of these pipelines as mandated by Public Law 101-599. Costs are expected to drop as better technology is developed and underwater inspections become more common. Assuming the information provided by INGAA regarding the underwater inspections that have been conducted as of June 23, 1990 is representative of the findings in future underwater pipeline inspection, it appears that less than 1 percent of the offshore pipelines may be exposed above the seabed. However, information is not yet available to determine the percentage of the pipelines that may be a hazard to navigation (i.e., those pipelines buried less than 12 inches). Current pipeline technology can be used in re-burying pipelines. The cost of re-burying a pipeline also varies significantly depending on similar variable factors set forth above.

A Draft Regulatory Evaluation has been prepared and it is available in the docket. This evaluation estimates the

present value of the benefits to be \$17.6 million and the present value of the costs to be \$8.7 million. The agency requests comments on these estimates. Based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant impact on a substantial number of small entities, because small entities do not operate pipelines offshore.

Paperwork Reduction Act

The final rule requires that pipeline operators report to RSPA pipelines in the Gulf of Mexico and its inlets that are exposed or a hazard to navigation. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), these information collection requirements will be submitted to the Office of Management and Budget for approval. Persons desiring to comment on these information collection requirements should submit their comments to: Desk Officer, Research & Special Programs Administration, Office of Regulatory Policy, Office of Management and Budget, 728 Jackson Place, NW., Washington, DC 20503.

Persons submitting comments to OMB are requested to submit a copy of their comments to RSPA as indicated above under "ADDRESSEE."

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. RSPA has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 190

Buoy, Penalties, Pipeline.

49 CFR Part 191

Pipeline, Report, Underwater inspection.

49 CFR Parts 192 and 195

Exposed, Gulf of Mexico, Hazard to navigation, Pipeline, Underwater inspection.

In consideration of the foregoing, RSPA proposes to amend 49 CFR parts 190, 191, 192, and 195 as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 continues to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. Section 190.229 would be amended by revising paragraph (d) to read as follows:

§ 190.229 Criminal penalties generally.

(d) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign, right-of-way marker, or marine buoy required by the NGPSA, the HLPESA, or the HMTA, or any regulation or order issued thereunder shall, upon conviction, be subject, for each offense, to a fine of not more than \$5,000, imprisonment for a term not to exceed 1 year, or both.

PART 191—[AMENDED]

1. The authority citation for part 191 continues to read as follows:

Authority: 49 App. U.S.C. 1681(b) and 1808(b); §§ 191.23 and 191.25 also issued under 49 App. U.S.C. 1672(a); and 49 CFR 1.53.

2. Section 191.27 would be added to read as follows:

§ 191.27 Filing offshore pipeline condition reports.

(a) Each operator shall, within 60 days after completion of the underwater inspection of all pipelines subject to §§ 192.612(a) or 195.415(a), report the following information:

(1) Name and principal address of operator.

(2) Date of report.

(3) Name, job title, and business telephone number of person submitting the report.

(4) Total number of miles of pipeline inspected.

(5) Length and date of installation of each exposed pipeline segment, and location according to the Minerals Management Service or state offshore area and block number tract.

(6) Length and date of installation of each pipeline segment, if different from a pipeline segment identified under paragraph (a)(5) of this section, that is a hazard to navigation, and the location according to the Minerals Management Service or state offshore area and block number tract.

(b) The report shall be mailed to the Information Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

PART 192—[AMENDED]

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

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.1 would be amended to add paragraph (b)(2)(iii) to read as follows:

§ 192.1 Scope of part.

(b) * * *

(2) * * *

(iii) Inlets of the Gulf of Mexico except as provided in § 192.612.

3. In section 192.3, definitions of *Exposed pipeline*, *Gulf of Mexico and its inlets*, and *Hazard to navigation* would be added in appropriate alphabetical order as follows:

§ 192.3 Definitions.

Exposed pipeline means a pipeline that is protruding above the seabed in water less than 15 feet deep, as measured from the mean low water.

Gulf of Mexico and its inlets means the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet, as measured from the mean low water.

Hazard to navigation means, for the purpose of this part, a pipeline that is buried less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water.

4. Section 192.612 would be added to subpart L to read as follows:

§ 192.612 Inspection and re-burial of pipelines in the Gulf of Mexico and its inlets.

(a) Each operator shall conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before (12 months after issuance of the final rule).

(b) If, as a result of an inspection under paragraph (a) of this section, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall—

(1) promptly, but not later than 24 hours after discovery, notify the U.S. Coast Guard;

(2) promptly, but not later than 7 days after discovery, mark the location of the pipeline in accordance with 33 CFR part 64; and

(3) within 6 months after discovery, bury the pipeline below the seabed to a depth of 36 inches for normal excavation or 18 inches for rock excavation.

PART 195—[AMENDED]

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

Authority: 49 App. U.S.C. 2001 et seq.; 49 CFR 1.53.

2. Section 195.1 would be amended by revising paragraph (b)(4) to read as follows:

§ 195.1 Applicability.

* * * * *

(b) * * *

(4) Transportation of petroleum in onshore gathering lines in rural areas except gathering lines in the inlets of the Gulf of Mexico would be subject to § 195.413.

* * * * *

3. In section 195.2, definitions of *Exposed pipelined, Gulf of Mexico and its inlets*, and *Hazard to navigation* would be added in appropriate alphabetical order as follows:

§ 195.2 Definitions.

* * * * *

Exposed pipeline means a pipeline that is protruding above the seabed in water less than 15 feet deep, as measured from the mean low water.

* * * * *

Gulf of Mexico and its inlets means the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet, as measured from the mean low water.

* * * * *

Hazard to navigation means, for the purpose of this part, a pipeline that is buried less than 12 inches below the seabed in water less than 15 feet deep, as measured from the mean low water.

* * * * *

4. Section 195.413 would be added to subpart F to read as follows:

§ 195.413 Inspection and re-burial of pipelines in the Gulf of Mexico and its inlets.

(a) Except for gathering lines of 4 inch nominal diameter or smaller, each operator shall conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before (12 months after issuance of final rule).

(b) If, as a result of an inspection under paragraph (a) of this section, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall—

(1) promptly, but not later than 24 hours after discovery, notify the U.S. Coast Guard;

(2) promptly, but not later than 7 days after discovery, mark the location of the pipeline in accordance with 33 CFR part 64; and

(3) within 6 months after discovery, bury the pipeline below the seabed to a depth of 36 inches for normal excavation or 18 inches for rock excavation.

Issued in Washington, DC, on April 22, 1991.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 91-9850 Filed 4-26-91; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Finding on a Petition to List Five Comal Springs Invertebrates**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petition has been found to present substantial information indicating that listing two of the Comal Springs invertebrates (*Heterelmis comalensis* and a new genus and species of beetle in the family Dryopidae) as threatened or endangered may be warranted. A status review is initiated on these two species. Substantial information was not provided on the taxonomic status and validity of *Hexagenia* sp. and *Microcylloepus* sp. to make a positive finding on these two taxa. The current petition represented a second petition for *Stygonectes* (= *Stygobromus*) *pecki*. Since 1984 the Service has annually made a "warranted but precluded" finding for *Stygonectes* (= *Stygobromus*) *pecki*. A "warranted but precluded" finding is determined when the petition action is warranted, but the immediate proposal and timely promulgation of a regulation to implement the petitioned action is precluded because of other pending proposals to list, delist, or reclassify species.

DATES: The finding announced in this notice was made on December 14, 1990. Comments and information should be submitted by May 29, 1991.

ADDRESSES: Information, comments, or questions should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, Stadium Centre Building, 711 Stadium Drive East, Suite 252, Arlington, Texas 76011. The petition, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Alisa Shull, Endangered Species Biologist, at the above address (817-885-7830 or FTS 334-7830).

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the *Federal Register*. If the finding is positive, the Service is also required to promptly commence a status review of the species.

Mr. David Whatley, Director of Parks and Recreation for the City of New Braunfels, Texas, submitted a petition to the Service to list five Comal Springs invertebrates as endangered or threatened species. The petition was dated June 20, 1990, and received by the Service on June 21, 1990.

The five invertebrates are endemic to the Comal Springs in New Braunfels, Texas. *Heterelmis comalensis* is an aquatic insect in the family Elmidae. It belongs to a group known as "riffle beetles." A new genus and species of beetle belonging to the family Dryopidae is presently being described by Dr. Cheryl Barr of California State University and Dr. Paul Spangler of the National Museum of Natural History (Whatley, *in litt.*). This beetle is the first and only known underground-water-inhabiting, eyeless member of the family (Spangler, *in litt.*). *Hexagenia* sp. is an aquatic insect belonging to a group known as "burrowing mayflies" (Insecta: Ephemeroptera). *Microcylloepus* sp. is an aquatic insect in the "riffle beetle" group. *Stygonectes* (= *Stygobromus*) *pecki* is a crustacean (family Gammaridae) whose common name is Peck's cave amphipod. These five species are known only from Comal Springs in New Braunfels, Texas. The