

site). With this action, this proceeding is terminated.

EFFECTIVE DATE: July 22, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-359, adopted April 5, 1988, and released June 7, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of the decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Oklahoma is amended by revising the entry for Mangum to delete Channel 221A and add Channel 249A and for Marlow to delete Channel 221A and add Channel 221C2.

Federal Communications Commission.

Steve Kaminer,

*Deputy Chief, Policy and Rules Division,
Mass Media Bureau.*

[FR Doc. 88-14808 Filed 6-30-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-356; RM-5871]

Radio Broadcasting Services; Alamo, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 226A to Alamo, Tennessee, as that community's first FM service, at the request of Charles C. Allen. The allotment can be made in compliance with the Commission's minimum spacing requirements using the center city coordinates (35-47-06 and 89-07-06). With this action, this proceeding is terminated.

DATES: Effective August 8, 1988; the window period for filing applications

will open on August 9, 1988, and close on September 8, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-356, adopted May 13, 1988, and released June 23, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Tennessee, by adding Channel 226A to Alamo.

Steve Kaminer,

*Deputy Chief, Policy and Rules Division,
Mass Media Bureau.*

[FR Doc. 88-14809 Filed 6-30-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-415; RM-5654]

Radio Broadcasting Services; West Lafayette, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 294A to West Lafayette, Indiana, as that community's first local FM service. In response to an expression of continuing interest filed on behalf of David L. Stevenson. The reference coordinates utilized for the allotment are 40-27-06 and 86-55-06. With this action, the proceeding is terminated.

DATES: Effective July 25, 1988; The window period for filing applications on Channel 294A at West Lafayette, Indiana, will open on July 26, 1988, and close on August 25, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530, regarding the allocation.

Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-415, adopted May 9, 1988, and released June 8, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Indiana, by adding West Lafayette, Channel 294A.

Federal Communications Commission.

Steve Kaminer,

*Deputy Chief, Policy and Rules Division,
Mass Media Bureau.*

[FR Doc. 88-14805 Filed 6-30-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-395; RM-5962; RM-6194]

Radio Broadcasting Services; Brownsville, OR, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of P-N-P Broadcasting, Inc., allots Channel 272A to Brownsville, Oregon, as the community's first local FM service. In addition, Channel 274C1 is substituted for Channel 273C1 at Newport, Oregon, and the license of Central Coast Broadcasting Co., Inc. for Station KYQT, Newport, Oregon, is modified to specify operation on the new channel. Channel 272A can be allotted to Brownsville in compliance with the Commission's minimum distance separation requirements

without the imposition of a site restriction. The coordinates for this allotment are North Latitude 44-23-48 and West Longitude 122-59-06. Channel 274C1 can be allotted to Newport in compliance with the Commission's minimum distance separation requirements and can be used at Station KYQT's present transmitter site. The coordinates for this allotment are North Latitude 44-45-24 and West Longitude 124-02-47. The counterproposal filed by School District 4J, Lane County, Oregon, requesting the substitution of Channel 272C1 for Channel 221A at Oakridge, Oregon, and the substitution of Channel 277A for Channel 221A at Reedsport, Oregon, as well as the substitution of Channel 274C1 for Channel 273C1 at Newport, is denied. With this action, this proceeding is terminated.

DATES: Effective August 8, 1988. The window period for filing applications for Channel 272A at Brownsville, Oregon, will open on August 9, 1988, and close on September 8, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-395, adopted May 17, 1988, and released June 24, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Oregon is amended by adding Brownsville, Channel 272A, and by revising the entry for Newport by removing Channel 273C1 and adding Channel 274C1.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 88-14806 Filed 6-30-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-131; DA 88-875]

AM Radio; Correction of an Earlier Decision Concerning Presunrise and Postsunset AM Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: This action corrects an error associated with the *Report and Order* in MM Docket No. 87-131 (53 FR 1030, January 15, 1988) concerning presunrise and postsunset AM radio operation.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rita S. McDonald, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Erratum* in Docket 87-131, released June 15, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 1919 M Street NW., Room 246, Washington, DC.

SUMMARY: 1. The Commission amends the regulatory text of its decision in Docket 87-131, to correct the designation of newly added paragraph (1) to paragraph (m) in 47 CFR 73.99, as described below.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

2. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

3. 47 CFR 73.99 is corrected by redesignating newly added paragraph (1) published January 15, 1988, 53 FR 1030 as paragraph (m).

§ 73.99 Presunrise service authorization (PSRA) and Postsunset service authorization (PSSA).

The Note in paragraph (k) is moved to paragraph (l) (published December 30, 1987, 52 FR 49162) and paragraph (l) and (m) are republished to read as follows:

(l) A station having an antenna monitor incapable of functioning at the authorized PSRA and PSSA power when using a directional antenna shall take the monitor reading using unmodulated

carrier at the authorized daytime power immediately prior to commencing PSRA or PSSA operations. Special conditions as the FCC may deem appropriate may be included for PSRA or PSSA to insure operation of the transmitter and associate equipment in accordance with all phases of good engineering practice.

Note.—Extended hours of operations are subject to international agreements governing all operations. These agreements are in the process of revision, but until this process is completed it will not be possible to allow full operation as outlined above.

(m) The authorization of unlimited-time operation by daytime-only stations that are reclassified as Class II-S or Class III-S stations will not affect their right to operate during prescribed presunrise and postsunset hours in accordance with PSRA's and PSSA's issued pursuant to this section.

Federal Communications Commission.

Alex D. Felker,

Chief, Mass Media Bureau.

[FR Doc. 88-14203 Filed 6-30-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 191, 192, 193, and 195

[Docket No. PS-96; Amdts. 191-6, 192-59, 193-5, 195-39]

Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines and Liquefied Natural Gas Facilities

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

ACTION: Final rule.

SUMMARY: Operators of gas pipelines, associated liquefied natural gas (LNG) facilities, and hazardous liquid pipelines are required to begin reporting certain safety-related conditions in addition to the incidents and accidents they currently are required to report. They also must revise their operating and maintenance (O&M) plans to enhance discovery of the conditions. These new requirements were mandated by the 99th Congress in the pipeline safety authorization act for fiscal year 1987, Pub. L. 99-516 (October 22, 1986). The reports are intended to prevent known hazardous conditions from going uncorrected by prompting government intervention, if needed, to avoid the occurrence of an incident or accident.

EFFECTIVE DATE: This final rule takes effect September 29, 1988. Operators are

given more than 30 days to prepare for compliance because additional time is needed to revise O&M plans, instruct personnel, and otherwise prepare for this first instance of reporting safety-related conditions.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 366-2392, regarding the subject matter of this document, or the Dockets Unit, (202) 366-5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Section 3 of Pub. L. 99-516 directs the Secretary of Transportation to issue regulations requiring operators of gas and hazardous liquid pipeline facilities (other than operators of master meter systems) to report certain safety-related conditions, and to provide for discovery of such conditions in their inspection and maintenance plans.

More specifically, the following new reporting requirements were added to section 3(a) of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 App. U.S.C. 1672(a)):

(3) Not later than 12 months after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring each person who operates pipeline facilities, not including master meters, to report to the Secretary—

(A) any condition that constitutes a hazard to life or property, and

(B) any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

Reports submitted under this paragraph shall be in writing and shall be received by the Secretary within 5 working days after any representative of a person subject to the reporting requirements of this paragraph first determines that such condition exists. Notice of any such condition shall concurrently be supplied to appropriate State authorities.

In conjunction with these new reporting requirements, section 13 of the NGPSA (49 App. U.S.C. 1680) was amended by adding the following requirement concerning inspection and maintenance plans: "Such plan(s) shall include terms designed to enhance the ability to discover safety-related conditions described in section 3(a)(3)."

Substantially identical amendments were made respectively to section 203(a) and section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA) (49 App. U.S.C. 2002(a) and 2009).

Currently, RSPA requires operators of gas and hazardous liquid pipeline facilities to report gas "incidents" and liquid "accidents." Generally speaking, these events involve releases of gas or hazardous liquid that have had serious consequences. Operators have not had

to report conditions that may be precursors of these events. Public Law 99-516 changed this situation by mandating that operators also be required to report conditions that potentially could cause "incidents" or "accidents."

Because the statutory language broadly describes the conditions to be reported, RSPA has exercised administrative discretion to determine through this proceeding precisely what conditions are to be reported and under what circumstances.

For insight into the conditions Congress thought should be reported, RSPA looked at the situation that led the House Committee on Energy and Commerce to include the new reporting requirements in Pub. L. 99-516. An earlier investigation of one major pipeline incident in Kentucky revealed that an employee had discovered on the pipeline a seriously corroded area that eventually failed, but the employee's internal report of the matter was not acted on promptly. The Committee apparently reasoned that had there been a legal obligation to report the corrosion condition to the government, the information might have prompted government intervention in time to assure correction and thus avoid the eventual major incident. (132 Cong. Rec. H6935).

The legislative history of Pub. L. 99-516 in the Senate indicates that the primary purpose of the reports is to permit State and Federal pipeline inspection officials to review the reported information and investigate the problem to assure that appropriate remedial action is taken (132 Cong. Rec. 515587).

To avoid a flood of routine reports, however, operators were expected to disclose only "glaring, hazardous conditions which might, if left to linger, constitute an imminent danger," or "potentially cause an incident." (132 Cong. Rec. H6935).

Additional information about the conditions to be reported is contained in "Pipeline Safety Reauthorization," a report by the House Committee on Energy and Commerce to accompany H.R. 4426 (H.R. Rept. 99-779, Part 1, 99th Cong., 2d Sess., 10). The Committee indicated that the reports are for "near accident" or "severe" conditions that are not subject to reporting under 49 CFR Part 191 (and by implication Part 195), and not for "routine replacement, repair or other types of maintenance."

Based on this legislative history, RSPA's Office of Pipeline Safety published a notice of proposed rulemaking in the *Federal Register* on September 25, 1987 (52 FR 36068). The

Notice set forth various unsafe conditions that were proposed to be made subject to the new reporting requirements. The Notice also proposed a few reporting limitations, or exceptions from reporting; the information to be submitted; and certain changes that operators would have to make to their existing plans for pipeline operation and maintenance (O&M).

Ninety-five persons submitted comments on the Notice, and RSPA has considered them all in developing this final rule, even those that were received well after the November 9 deadline for filing comments. The following discussion explains RSPA's disposition of significant comments, including many changes to the final rule made as a result of those comments.

Conditions Subject to Reporting

The statute divides conditions that are subject to reporting in two categories:

(A) Any condition that constitutes a hazard to life or property, and

(B) Any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

In the Notice, the proposed §§ 191.23(a)(1)-(7) and 195.55(a)(1)-(6) described specific conditions on pipelines and LNG facilities that RSPA considered hazards under the statute's category A. More broadly stated conditions related to category B were proposed under §§ 191.23(b) and 195.55(b).

A large number of commenters objected to labeling the conditions under §§ 191.23(a) and 195.55(a) "hazardous." Some recommended the term, "unsafe," for it would be less inflammatory and consistent with a designation used elsewhere in the Notice. Others recommended using the term, "reportable," instead of "hazardous." In the final rule, all conditions subject to reporting are called "safety-related," recognizing that this is the general term of reference used in the heading of Section 3 of Pub. L. 99-516.

RSPA proposed in § 191.23(a)(1) that gas operators report "[g]eneral or localized corrosion on a pipeline that operates at a hoop stress of 20 percent or more of its specified minimum yield strength [SMYS] requiring pipe replacement or reduction in operating pressure." A similar requirement was proposed under § 195.55(a)(1), but without regard to hoop stress because pipelines operating at a hoop stress of 20 percent or less of SMYS are not regulated by Part 195. The primary response to this proposal was that more

exact criteria are needed to distinguish severe corrosion that demands immediate corrective action from a lesser degree of corrosion that usually is treated routinely. Suggestions to this end ranged from general, such as "corrosion where rupture is imminent," to the specific, involving the application of algebraic formulas. RSPA agrees that the degree of corrosion should be stated precisely, but believes that, for uniformity, language used in existing regulations to describe the degree of corrosion should be used instead of new terms. Therefore, in keeping with the degree of corrosion specified by §§ 192.485, RSPA has changed § 191.23(a)(1) so that "general corrosion" is subject to reporting if it has reduced the pipe wall thickness to less than that needed to support the pipeline's maximum allowable operating pressure, and "localized corrosion pitting" is subject to reporting if it exists to a degree where leakage might result. A similar amendment has been made to § 195.55(a)(1) based on § 195.416. The *ASME Guide for Gas Transmission and Distribution Piping Systems* provides criteria for evaluating the pressure strength of corroded areas. These criteria are found as well in the *ANSI B31.4 Code* for liquid pipelines and the *B31.8 Code* for gas pipelines.

Another significant comment frequently made about the proposed § 191.23(a)(1) was that 20 percent of SMYS was too low to indicate a severe condition on gas pipelines, such as an imminent rupture, whether due to corrosion or other defects. Several of these commenters advised increasing the threshold to 30 or 40 percent of SMYS. RSPA proposed the 20 percent limit for both paragraphs (a) (1) and (4) in recognition of the lesser threat of imminent danger posed by corrosion and other defects on low stress level gas pipelines. The comments were not persuasive that this proposed threshold for reporting stress related hazards should be increased. Thus, the final rule remains as proposed.

Under §§ 191.23(a)(2) and 195.55(a)(2), RSPA proposed that operators report any environmentally induced movement or abnormal loading that impairs a pipeline's structural integrity or the integrity or reliability of certain LNG facilities. Almost all the comments on this proposal objected to the phrase "impairs the structural integrity" as a measure of the severity of pipeline damage. Many commented that guidelines would be needed to detect such impairment and metallurgical analyses would have to be performed. Others felt the phrase would not

necessarily reflect a severe pipeline hazard, since a slight defect, such as a small dent, could potentially impair structural integrity yet not affect safe pipeline operations. These objections were not raised with respect to LNG facilities, however, because of the higher level of risk LNG poses. The most often offered substitute for "impairs structural integrity" was "impairs serviceability," in light of the frequent use of this latter term in RSPA's pipeline safety standards to refer to damage that could adversely affect safe operations. (See §§ 192.307, 192.309, 192.311, 192.325, 192.711, 192.713, 195.206, and 195.212). Because it is desirable to use the same terms throughout the regulations when the same meaning is intended, RSPA has amended the final rule to substitute the phrase "impairs the serviceability" for "impairs the structural integrity" wherever it was proposed to describe a degree of pipeline damage.

Comments generally had two themes with respect to the proposed reporting of material defects under §§ 191.23(a)(3) and 195.55(a)(3). The first was that for simplification all pipeline material problems should be set forth as a single item in the new reporting rules. (I.e., cracks and other defects mentioned in paragraph (a)(3) should be included with the physical damage problem (dents and gouges) covered by the proposed §§ 191.23(a)(4) and 195.55(a)(4)). This approach would limit § 191.23(a)(3) to LNG facilities without substantive change. The second was that, as discussed above, the term "impairs the structural integrity" is not an appropriate measure of pipeline hazards, and should be replaced by some other qualifier, such as "impairs the serviceability."

With respect to physical damage problems under the proposed §§ 191.23(a)(4) and 195.55(a)(4), most commenters remarked that the mere existence of physical damage without regard for the degree of damage would not necessarily indicate a hazardous condition. Many of these commenters noted that the Part 192 construction requirements (§ 192.309) and the steel pipe manufacturing specification, "API 5L," referenced in Part 192 both permit small sizes of dents and gouges that would be reportable under the proposal. To indicate the degree of physical damage that should be reported, commenters offered such terms as "creates an unsafe condition," "adversely affects serviceability," or "requires repair, replacement or reduction in operating pressure."

RSPA has no objection to placing all conditions involving pipeline material

problems in a single item as suggested; and this is done under the revised §§ 192.23(a)(4) and 195.55(a)(3). Moreover, RSPA agrees that the requirements should specify the degree of damage that is subject to reporting. Because, as has been discussed, the phrase "impairs serviceability" is a suitable qualifier to describe pipeline damage that poses a hazard, it is also used in the revised §§ 191.23(a)(4) and 195.55(a)(3) to modify material and physical damage. Operators will be able to determine whether an observed condition involving a material defect or physical damage meets the test of "impairs serviceability" by applying sound engineering criteria.

Almost all the commenters who addressed the proposed §§ 191.23(a)(5) and 195.55(a)(5) disliked describing an overpressure condition in terms of relief capacity. A majority urged RSPA to set a more easily measured upper pressure limit, such as 110 percent of maximum operating pressure. Others noted that small liquid pipelines may not have relief devices. Still others said that pressure in excess of relief capacity would not necessarily indicate a hazardous condition, since pipelines are pressure tested to much higher levels.

By this proposal RSPA did not intend to imply that pressure above relief capacity was by itself a hazardous condition, even though the wording created this impression. Rather such overpressure was viewed as an indication of a possible severe malfunction or operating error in the system. It is the cause of an overpressure condition that needs prompt corrective action. Therefore, the final rule is revised to make reportable any malfunction or operating error that results in pressure exceeding an amount equal to the maximum operating pressure (or working pressure for LNG facilities) permitted for the pipeline or LNG facility concerned plus the build-up allowed for operation of pressure limiting or control devices. In general, the allowable build-up is 10 percent, as provided by §§ 195.406(b) and 193.2429. However, greater build-ups are permitted for some gas pipelines under § 192.201.

There were many comments suggesting that the proposed §§ 191.23(a)(6) and 195.55(a)(6), concerning severe leaks that require prompt repair, be deleted. Commenters suggesting deletion noted that almost all such leaks would be excepted from reporting by the proposed §§ 191.23(c) and 195.55(c), because they either would constitute a reportable "incident" or "accident" or be permanently repaired

before the deadline for reporting. RSPA recognized this likelihood, but still thought it important to require reports for leaks that are large enough and close enough to people to threaten imminent harm if left to linger, yet do not meet the criteria for incident or accident reporting. Generally, these would be gas pipeline leaks that have not resulted in at least \$50,000 in property damage or any deaths or injuries; or liquid pipeline leaks smaller than 50 barrels (5 barrels a day for highly volatile liquids) without any ensuing deaths, injuries, property damage above \$5,000, fire, or explosion.

Most of the other comments on this proposal indicated that it would greatly impact large gas distribution companies. Commenters said their pipelines have numerous leaks that require prompt repair but cannot be precisely located and repaired in time to qualify under the limitation on reporting proposed in § 191.23(c)(4). One large gas company said it had over 5,000 such leaks a year. To lessen the reporting burden, many commenters suggested that condition reports be required only if leaks are not made safe in advance of permanent repair, as by venting or aerating, or if they require "immediate emergency action" rather than prompt action as proposed.

Upon further consideration, RSPA believes the proposed leak reporting requirement potentially could have an impact far broader than intended, because it would encompass leaks that while of a serious nature are not "glaring, hazardous conditions." To narrow the proposal but still keep within the statutory intent, the final rule is changed so that leaks are subject to reporting only when they constitute an emergency. Emergencies are characterized by the need for immediate operator corrective action to protect the public or property. Examples of leaks that may constitute an emergency are those that occur in residential or commercial areas in conjunction with a natural disaster, those where a flammable vapor is detected inside a building, and those that involve response by police or fire departments.

In §§ 191.23(b) and 195.55(b), RSPA proposed the following as a general reportable condition: "any safety-related condition . . . that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator) a reduction in operating pressure or shutdown of operation . . ." This proposal was put forth to clarify by regulation the statutory requirement that operators report "any safety-related condition that causes or has caused a significant

change or restriction in the operation of pipeline facilities." (Section 3, Pub. L. 99-516).

Most commenters felt the proposed language should be modified to remove any implication that reports would be required for temporary shutdowns or reductions in pressure in connection with routine maintenance or construction, including hot taps, live line welding, and tests of emergency shutdown capability. Likewise, these commenters felt that temporary shutdowns or pressure reductions done as a precaution to facilitate inspection for potential problems, to avoid problems related to external loading from blasting or subsidence, or to provide for safe line movement should not have to be reported. In this same vein, a few commenters argued that reports should not be required when operating pressure is reduced to conform with the pressure limitation of § 192.619(a)(6), which requires an evaluation of operating history in setting a safe maximum allowable operating pressure.

RSPA agrees that except for actions taken under § 192.619(a)(6), none of these conditions should be reported. The focus of the proposal was on shutdown or pressure reduction in reaction to a known unsafe condition. Shutdown or pressure reduction as a precaution to avoid an unsafe condition was of no concern for reporting purposes. RSPA believes that almost all temporary pressure reductions or shutdowns to facilitate routine maintenance or construction or to avoid potential problems would be scheduled or planned in advance by operators. Therefore, they clearly would not come within either the proposed or final reporting requirement. By comparison, § 192.619(a)(6) requires reduction in reaction to a known unsafe condition. Such reductions would be subject to reporting if they amount to 20 percent or more of operating pressure (as discussed hereafter) and are done in reaction to a safety-related condition that could lead to an imminent hazard.

A few commenters argued that the proposed § 191.23(b) should be changed to exempt service lines because they are beyond the limits of Pub. L. 99-516. They also argued that customer-owned service lines which are hazardous may be shutdown for unpredictable periods until customers effect repairs, and that causing the repair is outside the operator's control. In response, RSPA believes there is no sound legal basis from which to conclude that Congress intended to exclude service lines from the reach of Pub. L. 99-516.

Nevertheless, it would be senseless for distribution operators to report the shutdown of service lines whose repair is the responsibility of customers, since RSPA does not regulate customer activities. Therefore, the final rule is changed by adding a further limitation under § 191.23 that excepts from the reporting requirements safety-related conditions on customer-owned service lines. Operators are still responsible to assure that customer-owned service lines that are shutdown for repair meet all applicable safety standards upon their return to operation.

An additional concern raised about the proposed §§ 191.23(b) and 195.55(b) was whether reports would be required when lines are shutdown preceding abandonment. This concern is valid because government intervention to oversee corrective action is not needed for lines that operators will not return to service. Therefore, the proposal is modified in the final rule to except shutdowns done to effect abandonment.

One commenter noted a possible substantive discrepancy between the language of Pub. L. 99-516 and the proposed §§ 191.23(b) and 195.55(b). The statute requires reports for safety-related conditions that cause "a significant change or restriction in operation," while the proposal was to require reports of conditions that cause "a reduction in operating pressure." This commenter argued the proposal was more stringent than the statute because small pressure reductions are not "significant" changes or restrictions in operation. No specific amount of pressure reduction was said to be significant, but the commenter suggested that it should be an amount significantly below MAOP.

In the Notice, RSPA interpreted a "significant" change or restriction in the sense of how long it persists, without regard to the amount of change or restriction. In accordance with the proposed limitations on reporting under §§ 191.23(c)(4) and 195.55(c)(3), temporary pressure reductions in conjunction with prompt permanent repair of the safety-related condition that gave rise to the reduction were not considered a "significant" change or restriction in operation for which Pub. L. 99-516 requires reports. Upon further consideration, RSPA believes that it is also appropriate to interpret "significant" to mean there is an amount of pressure reduction below which a safety-related condition is not severe enough to be reportable. This is in keeping with a plain reading of the statute, and would foster uniform reporting of otherwise subjective

conditions. Therefore, in the final rule, RSPA has required that for a safety-related condition to be reportable due to pressure reduction, it must cause at least a 20 percent reduction in operating pressure. This amount corresponds to pressure reductions imposed on certain unsafe pipelines by hazardous facility orders issued under Part 190.

Because, as discussed above, all reportable conditions are identified as safety-related conditions in the final rule, there no longer is sufficient reason to segregate in two paragraphs the conditions proposed in §§ 191.23(b) and 195.55(b) (called "safety-related" in the Notice) and the conditions proposed in §§ 191.23(a) and 195.55(a) (called "hazardous" in the notice). Therefore, the final rule combines in paragraph (a) all safety-related conditions that are subject to reporting. The proposed §§ 191.23(b) and 195.55(b) are redesignated §§ 191.23(a)(8) and 195.55(a)(6).

Reporting Limitations

RSPA proposed three limitations on reporting based on the legislative history of Pub. L. 99-516. Only two of these proposals received significant comment.

Under §§ 191.23(c)(3) and 195.55(c)(1) (redesignated (b)(3) and (b)(1) in the final rule), RSPA proposed that reports not be required for pipeline conditions that occur "outside any railroad or public road right-of-way, or more than 220 yards from any building intended for human occupancy or outdoor place of assembly." In response to a specific inquiry in the Notice directing commenters' attention to this proposed limitation, only one commenter opposed the provision. This commenter said that reports should be submitted for pipelines on the Outer Continental Shelf due to the need to protect the environment. In this regard, many of RSPA's existing safety standards and reporting rules for liquid pipelines are aimed at preventing water pollution. (See, for example, §§ 195.52(a)(4) and 195.234(e)(1).) In view of these requirements and the need to prevent environmental damage, RSPA believes it is appropriate to amend the proposed limitation so that safety-related conditions that occur offshore or threaten to pollute inland waters would be subject to the new reporting requirements. This change is effected in § 195.55(b)(1).

Two commenters thought "public road" should be changed to "highway" to better indicate a location where special attention is needed to protect the public. RSPA agrees with the intent of this comment, but believes that the word

"highway" is too limiting to distinguish those roads where pipelines pose a greater risk to public safety. In the final rule, RSPA has adopted "paved road, street, or highway" to indicate a frequently traveled road where conditions could threaten imminent danger.

One commenter suggested that the proposed limitation be revised to clarify that reports are not required for conditions on inactive or abandoned railroad or public road rights-of-way. This point is clarified in the final rule by addition of the word "active" to describe "railroad, paved road, street, or highway."

Also in response to two comments and to improve clarity, editorial changes have been made in the final rule.

Under §§ 191.23(c)(4) and 195.55(c)(3) (redesignated (b)(4) and (b)(3) in the final rule), RSPA proposed that conditions other than corrosion not be reported if they are corrected by permanent repair or replacement before the filing deadline.

Most of the comments of this provision disputed the need to make "permanent" repairs to qualify under the reporting limitation. These commenters argued that prompt temporary repairs should be sufficient as long as the hazard is eliminated. They felt the status of the repair as temporary or permanent is unimportant, because it becomes a routine matter after the hazard is removed. Some pointed out that the distinction between a temporary and permanent repair is unclear, and that so-called permanent repairs may not be needed for safety. One commenter speculated that operators might rush the completion of permanent repairs just to avoid a report and thereby jeopardize safety.

The intent of this proposed reporting limitation was to exclude reports of certain conditions for which prompt corrective action is taken before the report is due. Reports are unnecessary in these cases because once the problem is corrected, there no longer is a need for government intervention to prevent the occurrence of an incident or accident. While repairs called "permanent" may be more desirable than repairs called "temporary" to achieve safety over the long run, the distinction between the two is not always discernable. More important, though, RSPA is persuaded by the comments that temporary repairs performed in accordance with applicable safety standards would meet the intent of the proposed limitation. Prompt temporary repairs adequately performed can be just as effective as permanent repairs in removing the

threat of imminent danger and thereby making government intervention unnecessary. Therefore, the final rule is amended by deleting "permanent" and requiring that repairs be in accord with applicable safety standards.

RSPA was not persuaded to broaden the limitation, as some suggested, to include the mitigating measures of pressure reduction and venting. Congress was particularly interested in reports of severe safety-related conditions that cause significant pressure reductions, as discussed above. Thus, such mitigating action could not be allowed as an exception to reporting. Venting leaks is done to mitigate a hazard. It does not remove the source of the problem, and thus there could be a continuing need for government involvement as Congress contemplated.

Many commenters contended that RSPA's rationale for excluding corrosion conditions from the proposed exception for prompt repair or replacement was faulty. They argued that in most cases corrosion is a localized condition, requiring only site-specific corrective action. They said it normally does not indicate a broader problem that might show up in later reports, as RSPA predicted in the Notice. RSPA agrees that for effectively coated and cathodically protected pipelines, the existence of localized corrosion pitting probably would not indicate a more extensive problem on the pipeline. Therefore, the final rule has been revised so that reports of localized corrosion pitting on effectively coated and cathodically protected pipelines are not required if the corroded pipe is promptly repaired and replaced.

Only two commenters objected to the proposed exception for conditions that are promptly repaired. They speculated that some conditions besides corrosion that are fixed promptly might indicate a more widespread pipeline problem involving for example, defective materials or equipment, improper construction methods, or inadequate O&M procedures. These commenters felt all conditions should be reported to give the government an opportunity to investigate both the adequacy of repairs and the need for further operator action. RSPA has not adopted this recommendation because the reporting requirements were not enacted primarily to enable government agencies to investigate the adequacy of repairs, but more importantly to see that hazardous conditions are corrected before an incident or accident results. Checking on the correctness of repair work is a function that Federal and State pipeline safety inspectors now handle through

routine inspection visits. Moreover, as many comments emphasized, the reporting burden on the industry would be vastly increased if the proposed exception were deleted in the final rule.

Filing Deadline

Most commenters who addressed §§ 191.25(a) and 195.56(a), objected to the proposed requirement that reports be filed within 5 working days after an operator's representative "discovers" a reportable condition. Basically, these commenters argued that the proposed filing deadline conflicts with the language of Pub. L. 99-516, which requires that reports be filed within 5 working days after a representative of the operator "first determines that such condition exists." The commenters asserted that this language allows operators a somewhat longer period to assess a potentially reportable condition and, if it fits the reporting criteria, to prepare and deliver the report.

In developing the Notice, RSPA assumed that members of field crews who are likely to discover potentially reportable conditions would have sufficient knowledge to determine whether those conditions are subject to reporting. Under this assumption, the time of "discovery" would be roughly equivalent to the time a representative "first determines" the existence and nature of the condition. Since the time of discovery would be easier to note than the time of first determination, RSPA proposed that it rather than time of first determination mark the beginning of the 5-day period.

Commenters pointed out, however, that field personnel could not be trained sufficiently to recognize on sight or by simple tests all the safety-related conditions that would be subject to reporting. They argued that in many cases engineering analyses would be required, as in assessing the effect of corrosion, and that these analyses would have to be done by more knowledgeable company personnel than those that normally make up field crews. They reasoned further that the additional time needed for a determination by an appropriate person could make it impossible or at least very difficult to meet the proposed 5-days-after-discovery filing deadline.

RSPA agrees that technical analysis may be needed to properly evaluate a potentially reportable condition to determine whether it is a condition that is subject to the reporting requirements. Given this consideration and the clear statutory language, modification of the proposed filing deadline is appropriate. However, the statute imposes no time limit on when determinations must be

made following discovery of a potentially reportable condition. Thus, requiring reports within 5 days of a determination would allow an unlimited amount of time to submit a report depending on how long it takes to determine that a reportable condition exists. To assure timely receipt of reports, while allowing a reasonable period for making determinations, RSPA has amended the final rule to require that reports be filed within 5 working days after a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition.

A few commenters asked that RSPA clarify the beginning of the 5-day period in connection with pig runs. Does the period begin when the operator learns from the results of a run that there is a potentially reportable condition on a pipeline? Given the current state-of-the-art, it is unlikely the results of a pig run would be definitive enough for a positive determination that a safety related-condition subject to reporting exists on a pipeline. To make such a determination, an operator would have to uncover the pipeline and visually inspect it or obtain confirmatory information by some other means. The 5-day period would begin to run for a given condition when the operator positively determines that the condition is subject to reporting.

Written Reports

RSPA received very few comments on §§ 191.25(b) and 195.56(b), which proposed information to be submitted about safety-related conditions.

Under the proposed paragraph (b)(4), operators were asked to provide the name and job title of the person who discovered the condition being reported. RSPA considered the identity of this person important for any follow-up investigation. Similar information is not required, however, in connection with incident or accident reports. As one commenter pointed out, the name of a company representative who can provide detailed information about the condition would be more useful. RSPA agrees and believes that such person would be the one who first determined that the condition exists. Therefore, RSPA has made this change in the final rule.

In paragraph (b)(6), RSPA proposed that operators give the location of the condition being reported, with reference to the nearest street address, station number, or landmark. Commenters suggested that the terms "milepost," "offshore platform," and "pipeline

name" be added to the list of possible reference points. These are included in the final rule.

Further, RSPA has amended paragraph (b)(5) of the Notice by adding "date condition was first determined to exist." This change is made to comport with the revised filing deadline discussed above.

Delivery of Reports

Public Law 99-516 requires that reports of safety-related conditions be in writing and received by the Secretary within 5 working days after any representative of the operator first determines that such condition exists. In addition, the statute requires that notice of the condition be supplied concurrently to appropriate State authorities.

In developing the Notice, RSPA contemplated that operators would utilize overnight mail services to meet these requirements. Consequently, the proposed §§ 191.7 and 195.58 provided a mailing address for receipt of the reports by the Department. As suggested by some commenters, the final rule sets forth a more complete address for use by express delivery services.

A substantial number of commenters expressed a desire to deliver written reports to DOT by telephone, using facsimile or computer transmission. They said that such reporting would allow more time to prepare reports within the 5-day period. Also, it would provide operators more direct control over filing reports than the use of delivery services.

In addition, some noted that the capability of reporting by telephone would lengthen the time available to complete repairs before the filing deadline, and perhaps reduce the number of reports that are filed.

RSPA does not dispute any of these presumed advantages. However, the change discussed above with regard to the reporting deadline effectively gives operators more time to prepare and submit reports than was indicated by the Notice. This change combined with others previously discussed that clarify the conditions to be reported reduce the urgency of establishing a means of filing written reports by telephone. In addition, RSPA is studying the need to provide for receipt of electrically transmitted incident and accident reports as part of an overall review of its data collection system. Therefore, RSPA has postponed a decision on providing an electronic means to receive reports of safety-related conditions until the results of this broader study become available later this year.

One commenter wanted operators to send the Minerals Management Service (MMS) of the Department of the Interior copies of reports that pertain to conditions on the Outer Continental Shelf (OCS). RSPA will make all OCS reports available to the MMS. However, to require operators to submit reports directly to MMS would exceed the agency's authority under Pub. L. 99-516.

Written Plans

Public Law 99-516 requires operators to adopt in accordance with DOT regulations, written plans "designed to enhance the ability to discover safety-related conditions" that are subject to the new reporting requirements.

In response to this directive, RSPA proposed amendments to §§ 192.605, 193.2605, and 195.402 to require that operators amend existing O&M plans to include "instructions enabling personnel who perform operation and maintenance activities to recognize the safety-related conditions that are subject to the reporting requirements."

One commenter questioned whether these instructions would have to be given to contractor personnel who engage in pipeline activities but are not employees of a pipeline operator. Because only pipeline operators and not their contractors are subject to the standards in Part 192, 193, and 195, the regulations do not require contractors to develop and carry out plans. Rather, it is the legal obligation of operators under Part 192, 193, and 195 to see that the O&M plans are fully executed. Operators cannot avoid this obligation by contracting with persons who are not their employees to conduct pipeline activities. Therefore, in carrying out the O&M plans, operators must see that appropriate contractor personnel are just as informed by the instructions as their own personnel.

Although there were only a few comments on the proposed plans, most of these focused on the impracticability or difficulty of instructing O&M personnel to recognize conditions that are subject to reporting. Commenters noted that further analysis of a potential condition by more informed personnel would, in most cases, be needed to determine whether that condition is subject to reporting. These commenters suggested that the instructions be limited to enabling personnel to recognize potential safety-related conditions that must be evaluated further. In light of the foregoing discussion regarding discovery of a potentially reportable condition and the subsequent determination of whether it is subject to reporting, RSPA has adopted the suggestion of these

commenters. Under the final rule, O&M personnel would have to be instructed to recognize safety-related conditions that are potentially subject to reporting.

Advisory Committee Review

At a meeting in Washington, DC on September 22, 1987, RSPA's gas pipeline safety advisory committee, the Technical Pipeline Safety Standards Committee, whose members represent industry, government, and the public, considered the notice of proposed rulemaking on reporting unsafe conditions. Likewise, a similarly composed committee, which provides advice on hazardous liquid pipeline safety matters, the Technical Hazardous Liquid Pipeline Safety Standards Committee, considered the Notice at a meeting in Washington, DC on September 24, 1987.

The gas committee voted to approve the proposed amendments to §§ 192.605 and 193.2605 regarding development of written O&M plans to facilitate discovery of safety-related conditions. The liquid committee did likewise with respect to the similar proposed amendment to § 195.402. The reasons RSPA adopted a final rule different from what was proposed and approved by the committees are discussed above under "Written Plans."

Although the gas committee took no formal action on the reporting aspects of the Notice, the committee's discussion brought out several significant recommendations for changes in the final rule. Also, the liquid committee voted to recommend that the final rule for reporting be changed from the Notice in several respects. RSPA took the advice of each committee into account in developing the final reporting rules.

A report of the meeting of each committee is available in the docket.

Impact Assessment

This final rule is considered to be nonmajor under E.O. 12291, but is a significant rule under DOT procedures (44 FR 11034) because it implements a safety statute passed in response to a serious gas pipeline incident. The economic impact of these final rules is not considered large enough to warrant production of a detailed economic evaluation.

In the Notice, RSPA estimated the proposed rules would add less than 2 percent to the existing paperwork burden imposed on pipeline operators. At the same time, commenters were asked to estimate the number of reports they would have to file under the proposed rules, and the time it would take to prepare the reports. The responses varied, ranging from none or a

few per year to several hundred or a thousand annually; and from a few hours to a few days per report. RSPA believes the estimates indicating large numbers of reports may be disregarded because they either failed to take into account the proposed limitations on reporting, or they were based on reporting what the gas distribution industry calls Class 1 (most serious) leaks. Under the final rule such leaks (which do not amount to an incident) would be subject to reporting only when they involve emergency situations. Even then such leaks would not be reportable if they are corrected by repair or replacement before the filing deadline, which would normally happen if the leak involves an emergency. Similarly, estimates of a few days to prepare reports may be considerably beyond the norm. RSPA believes this amount of time would be needed very infrequently, only when a detailed investigation is conducted to determine if a report is required.

After considering the responses on this issue, RSPA believes its original estimate of reporting burden (which assumed an average of one report per operator each year, taking an average of four hours to prepare and an average of 2 hours to respond to government inquiries) is as good an estimate as is available, particularly with the substantive changes and clarifications discussed above.

Because operators are currently required to prepare O&M plans, RSPA believes that the changes to regulations affecting the existing plans should have a minimal impact. While the comments on the Notice have caused RSPA to raise its original estimate of the burden of preparing plans from an average of 20 hours per operator to 40 hours per operator, the overall estimated increase in paperwork burden remains at about 2 percent of the existing burden.

Based on the facts available about the impact of this rulemaking action, I certify pursuant to Section 605 of the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains new information collection requirements in the following sections:

Sections 191.7, 191.23, 191.25, 192.605, 193.2605, 195.55, 195.56, 195.58, and 195.402. These requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The OMB approval number is 2137-0578 (expires June 30, 1991).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612. RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 191

Pipeline safety, Gas, Reporting and recordkeeping requirements.

49 CFR Part 192

Pipeline safety, Gas, Operation, Maintenance.

49 CFR Part 193

LNG Facility, Operation, Maintenance.

49 CFR Part 195

Pipeline safety, Hazardous liquids, Reporting and recordkeeping requirements, Operation, Maintenance.

In consideration of the foregoing RSPA amends 49 CFR Parts 191, 192, 193, and 195 as follows:

PART 191—[AMENDED]

1. The authority citation for Part 191 is revised to read as follows:

Authority: 49 App. U.S.C. 1631(b) and 1608(b); §§ 191.23 and 191.25 also issued under 49 App. U.S.C. 1672(a); and 49 CFR 1.53.

2. The title of Part 191 is revised to read as follows:

PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS

§ 191.1 [Amended]

3. In § 191.1(a) immediately after the word "incidents" the following is added: ", safety-related conditions."

4. Section 191.7 is revised to read as follows:

§ 191.7 Addressee for written reports.

Each written report required by this part must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street SW., Washington, DC 20590. However, incident and annual reports for intrastate pipeline transportation subject to the jurisdiction of a State agency pursuant to a certification under

section 5(a) of the Natural Gas Pipeline Safety Act of 1968 may be submitted in duplicate to that State agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt for incident reports and not later than March 15 for annual reports to the Information Resources Manager. Safety-related condition reports required by § 191.23 for intrastate pipeline transportation must be submitted concurrently to that State agency, and if that agency acts as an agent of the Secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency.

5. Section 191.23 is added to read as follows:

§ 191.23 Reporting safety-related conditions.

(a) Except as provided in paragraph (b) of this section, each operator shall report in accordance with § 191.25 the existence of any of the following safety-related conditions involving facilities in service:

(1) In the case of a pipeline (other than an LNG facility) that operates at a hoop stress of 20 percent or more of its specified minimum yield strength, general corrosion that has reduced the wall thickness to less than that required for the maximum allowable operating pressure, and localized corrosion pitting to a degree where leakage might result.

(2) Unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability of a pipeline or the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG.

(3) Any crack or other material defect that impairs the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG.

(4) Any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of 20 percent or more of its specified minimum yield strength.

(5) Any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas or LNG to rise above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices.

(6) A leak in a pipeline or LNG facility that contains or processes gas or LNG that constitutes an emergency.

(7) Inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of an LNG storage tank.

(8) Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline or an LNG facility that contains or processes gas or LNG.

(b) A report is not required for any safety-related condition that—

(1) Exists on a master meter system or a customer-owned service line;

(2) Is an incident or results in an incident before the deadline for filing the safety-related condition report;

(3) Exists on a pipeline (other than an LNG facility) that is more than 220 yards from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway; or

(4) Is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report, except that reports are required for conditions under paragraph (a)(1) of this section other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

6. Section 191.25 is added to read as follows:

§ 191.25 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 191.23(a) must be filed (received by the Secretary) in writing within 5 working days (not including Saturday, Sunday, or Federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related.

(b) The report must be headed "Safety-Related Condition Report" and provide 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) Name, job title, and business telephone number of person who determined that the condition exists.

(5) Date condition was discovered and date condition was first determined to exist.

(6) Location of condition, with reference to nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline, as appropriate.

(7) Description of the condition, including circumstances leading to its discovery and any significant effects of the condition on safety.

(8) The corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up future corrective action, including the anticipated schedule for starting and concluding such action.

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

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

8. Section 192.605 is amended by adding a new paragraph (f) and republishing the introductory text of the section to read as follows:

§ 191.605 Essentials of operating and maintenance plan.

Each operator shall include the following in its operating and maintenance plan:

(f) Instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 191.23 of this subchapter.

PART 193—[AMENDED]

9. The authority citation for Part 193 is revised to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; 49 CFR 1.53.

10. Section 193.2605 is amended by adding a new paragraph (c) to read as follows:

§ 191.2605 Maintenance procedures.

(c) Each operator shall include in the manual required by paragraph (b) of this section instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 191.23 of this subchapter.

PART 195—[AMENDED]

11. The authority citation for Part 195 is revised to read as follows:

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

12. The title of Subpart B of Part 195 is revised to read as follows:

Subpart B—Reporting Accidents and Safety-Related Conditions

13. The introductory text and title of § 195.50 are revised to read as follows:

§ 195.50 Reporting accidents.

An accident report is required for each failure in a pipeline system subject to this part in which there is a release of the hazardous liquid transported resulting in any of the following:

14. Section 195.54 is revised to read as follows:

§ 195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under § 195.50 shall as soon as practicable, but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.

(b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

15. Section 195.55 is added to read as follows:

§ 195.55 Reporting safety-related conditions.

(a) Except as provided in paragraph (b) of this section, each operator shall report in accordance with § 195.56 the existence of any of the following safety-related conditions involving pipelines in service:

(1) General corrosion that has reduced the wall thickness to less than that required for the maximum operating pressure, and localized corrosion pitting to a degree where leakage might result.

(2) Unintended movement or abnormal loading of a pipeline by environmental causes, such as an earthquake, landslide, or flood, that impairs its serviceability.

(3) Any material defect or physical damage that impairs the serviceability of a pipeline.

(4) Any malfunction or operating error that causes the pressure of a pipeline to rise above 110 percent of its maximum operating pressure.

(5) A leak in a pipeline that constitutes an emergency.

(6) Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20

percent or more reduction in operating pressure or shutdown of operation of a pipeline.

(b) A report is not required for any safety-related condition that—

(1) Exists on a pipeline that is more than 220 yards from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway, or that occur offshore or at onshore locations where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water;

(2) Is an accident that is required to be reported under § 195.50 or results in such an accident before the deadline for filling the safety-related condition report; or

(3) Is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filling the safety-related condition report, except that reports are required for all conditions under paragraph (a)(1) of this section other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

16. Section 195.56 is added to read as follows:

§ 195.56 Filling safety-related condition reports.

(a) Each report of a safety-related condition under § 191.55(a) must be filed (received by the Secretary) in writing within 5 working days (not including Saturday, Sunday, or Federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related.

(b) The report must be headed "Safety-Related Condition Report" and provide 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) Name, job title, and business telephone number of person who determined that the condition exists.

(5) Date condition was discovered and date condition was first determined to exist.

(6) Location of condition, with reference to nearest street address, offshore platform, survey station

number, milepost, landmark, or name of pipeline, as appropriate.

(7) Description of the condition, including circumstances leading to its discovery and any significant effects of the condition on safety.

(8) The corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up or future corrective action, including the anticipated schedule for starting and concluding such action.

17. Section 195.58 is revised to read as follows:

§ 195.58 Addressee for written reports.

Each written report required by this subpart must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street SW., Washington, DC 20590. However, accident reports for intrastate pipelines subject to the jurisdiction of a State agency pursuant to a certification under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 may be submitted in duplicate to that State agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resources Manager. Safety-related condition reports required by § 195.55 for intrastate pipelines must be submitted concurrently to the State agency, and if that agency acts as an agent of the Secretary with respect to interstate pipelines, safety-related condition reports for these pipelines must be submitted concurrently to that agency.

18. Section 195.402 is amended by adding a new paragraph (f) to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(f) *Safety-related condition reports.* The manual required by paragraph (a) of this section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 195.55.

Issued in Washington, DC, on June 27, 1988.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 88-14758 Filed 6-30-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Use of Steel Shot in Muzzleloading Shotguns; Migratory bird hunting

AGENCY: Migratory Bird Management Office, Fish and Wildlife Service, Interior.

ACTION: Notice of decision and availability of study results.

SUMMARY: The Fish and Wildlife Service (Service), Department of Interior, is providing in this notice the summary of a study report titled "Suitability, compatibility, limitations and safety of steel shot in 12 gauge black powder muzzleloading shotguns." Also, the Service has decided to remain with the September 1, 1988, effective date for all waterfowl and coot hunters, including those using loose shot, to comply with nontoxic shot requirements in nontoxic shot zones.

FOR FURTHER INFORMATION CONTACT: Keith A. Morehouse or Rollin D. Sparrowe at (202) 254-3207.

SUPPLEMENTARY INFORMATION: Concern was expressed in 1986 that muzzleloading hunters should also be included in the developing nationwide ban on lead shot to take waterfowl and coots. As a result, in 1987 in the proposed rule on "Zones in which lead shot will be prohibited for the taking of waterfowl, coots and certain other species in the 1988-89 season (52 FR 1636), the Service proposed inclusion of loose shot in the 50 CFR 20.21(j) restrictions on methods of taking. On the basis of response from the muzzleloading industry and community, the Service concluded that: (a) No unusually great health and safety problems exist for muzzleloading hunters using steel shot in modern construction muzzleloading shotguns; (b) shooting steel shot will not harm the modern muzzleloading shotgun that steel shot is used in (provided the appropriate loading components are used); and (c) steel shot is an effective tool for harvesting waterfowl when used in a muzzleloading shotgun at ranges commonly accepted by muzzleloading hunters as being effective for lead shot. The Service then published, as a final rule (52 FR 27352), the changes in § 20.21(j) that require all hunters of wild waterfowl and coots to use nontoxic shot in nontoxic shot zones. The inclusion of muzzleloading hunters becomes effective on September 1, 1988. This action is taken pursuant to the authority vested in the Secretary of the

Interior by the Migratory Bird Treaty Act, as amended (16 U.S.C. 703 *et seq.*; 40 Stat. 755).

Since the final rulemaking, the Service has funded a study on the use of steel shot in muzzleloaders. This two-part study, load data development and destruction testing, demonstrated that hunting waterfowl with steel shot in muzzleloaders can be safe and effective. The abstract of the study report is as follows:

The suitability, compatibility, limitations, and safety of steel shot when loaded in 12 gauge, black powder muzzleloading shotguns were assessed in field testing in North Dakota and Arkansas and in laboratory testing in Oregon and Maryland during 1987-88. Three successful 12-gauge 1 1/2 ounce (492 grains) and four successful 1 ounce (437 grains) steel shot loads were developed using GOEX FFG black powder and Non-Toxic Components steel shot wads. Destruction testing of four 12-gauge muzzleloading shotguns, using the highest pressure load of the successful loadings as a baseline load together with overcharge variations thereof, produced no significant damage to any of the guns tested. All seven of the black powder steel shot loads developed were found to be within the safe operating limits of each of the guns tested. Surmountable problems were encountered in effecting unhampered release of steel shot pellets from the one-piece plastic steel shot wads tested. Insurmountable problems were encountered in seating one-piece plastic steel shot wads on black powder charges in muzzleloading shotguns containing choke configurations of conical or parallel design and constrictions of any significant degree. Successful patterns were obtained from steel shot in unchoked (cylinder bored) muzzleloaders, but only with a very limited range of pellet sizes per firearm.

Results indicate that steel shot can be successfully loaded in unchoked muzzleloading shotguns of modern design, but safety can be absolutely assured only in the four specific models subjected to destruction testing. However, steel shot could not be successfully loaded in muzzleloading shotguns containing choke constrictions, except jug-choked muzzleloaders. If coarse-thread, screw-on choke devices can be developed and marketed for muzzleloaders, then there is a high likelihood that all problems with wad seating in choked, single-barreled muzzleloaders can be resolved. If sufficiently strong, coarse-thread, screw-in choke devices can be developed and marketed for muzzleloaders, then there

is a high likelihood that all problems with wad seating in choked, double-barreled muzzleloaders can be resolved. Additional research is necessary if it is desired that black powder steel shot loading data and the inventory of tested and proven-safe muzzleloading shotgun makes and models be expanded. Additional research is also necessary if it is desired that Pyrodex powder be included in steel shot muzzleloading data development efforts.

Recently, a survey was conducted by the Service regarding the regulatory and/or statutory actions that have been taken at the State level with regard to including muzzleloading hunters in the

requirement to use nontoxic shot for waterfowling in nontoxic shot zones. Of the 46 States affected by zoning, approximately 34 currently require muzzleloaders to shoot steel shot in nontoxic shot zones. The other 12 States are awaiting further Service actions and/or will simply adopt the Federal regulations. The results of the load development and destructive testing study indicate that some, but probably few, hunters will be inconvenienced by this decision. However, it has been demonstrated that shooting steel shot with some muzzleloaders can be both safe and effective.

In consideration of the positive results of the study and regulatory/statutory processes of both the States and the Federal government, the Service has decided not to delay the implementation of this rule.

For a copy of the full report referenced above, please send a request to the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 536, Matomic Building, Washington, DC 20240.

Dated: June 27, 1988.

Frank Dunkle,
Director.

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