

understanding this proposed rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539-3900, extension 2378.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an

environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this proposed regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From 7 a.m., December 15, 2004 until 8 a.m. March 15, 2005, temporarily add new § 117.T394 to read as follows:

#### § 117.T394 Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois, need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: October 1, 2004.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 04-23545 Filed 10-20-04; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket No. RSPA-04-16855; Notice 1]

RIN 2137-AD97

#### Pipeline Safety: Standards for Direct Assessment of Gas and Hazardous Liquid Pipelines

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes regulations that would require pipeline operators to meet certain standards if they use direct assessment to evaluate the threat of corrosion on regulated onshore gas, hazardous liquid, and carbon dioxide pipelines. The standards, which are already in effect for gas transmission lines in high-consequence areas, involve processes of data collection, indirect inspection, direct examination, and evaluation. Congress has directed DOT to prescribe standards for inspection of pipelines by direct assessment. The proposed regulations should advance the use of direct assessment as a method of

managing the impact of corrosion on regulated pipelines.

**DATES:** Persons interested in submitting written comments on the rules proposed in this document must do so by December 6, 2004. Late filed comments will be considered so far as practicable.

**ADDRESSES:** You may submit written comments to the docket by any of the following methods:

- Mail: Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., 20590-0001. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard.

- Hand delivery or courier: Room PL-401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

- Web site: Go to <http://dms.dot.gov>, click on "Comments/Submissions" and follow instructions at the site.

All written comments should identify the docket number and notice number stated in the heading of this notice.

**Docket access.** For copies of this document or other material in the docket, you may contact the Dockets Facility by phone (202-366-9329) or visit the facility at the above street address. For Web access to the dockets to read and download filed material, go to <http://dms.dot.gov/search>. Then type in the last four digits of the docket number shown in the heading of this document, and click on "Search."

Anyone can search the electronic form of all comments filed in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the April 11, 2000 issue of the **Federal Register** (65 FR 19477) or go to <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** L. M. Furrow by phone at 202-366-4559, by fax at 202-366-4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590, or by e-mail at [buck.furrow@rspa.dot.gov](mailto:buck.furrow@rspa.dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Many operators of gas, hazardous liquid, and carbon dioxide pipelines do more to assure the integrity of their systems than RSPA's pipeline safety regulations in 49 CFR Parts 192 and 195 require. For example, §§ 192.465 and 195.573 require operators to use electrical tests to identify places where buried pipe may not be protected

adequately from external corrosion. But, in addition to electrical tests, many operators have historically used internal inspection devices or hydrostatic testing to find external corrosion. They have also used these methods to look for other pipeline defects.

RSPA has long recognized the safety and environmental advantages of these additional inspection and test methods. In recent years, it became apparent that they are particularly beneficial when used as part of a comprehensive risk-based program to assure system integrity.

In 2000, RSPA issued regulations requiring hazardous liquid and carbon dioxide pipeline operators to conduct integrity management programs using internal inspection, pressure testing, or other equally effective assessment means (§ 195.452).

##### Congressional Directives

Congress also saw the need for operators to do more to assure the integrity of their pipelines. In 2002, Congress directed DOT to issue regulations on managing gas pipeline integrity in high-density population areas with a program involving internal inspection, pressure testing, and direct assessment.<sup>1</sup> Congress further directed DOT to issue regulations prescribing standards for inspecting pipeline facilities by direct assessment.<sup>2</sup>

In the pipeline transportation industry, "direct assessment" is a process of data gathering, inspection, examination, and evaluation used to determine if external corrosion, internal corrosion, or stress-corrosion cracking is adversely affecting the physical integrity of ferrous pipelines. The process serves not only to locate and repair corrosion defects but also to prevent future corrosion problems.

##### Standards for Direct Assessment

In response to Congress' first directive, RSPA published regulations in Subpart O of Part 192 that require operators to follow detailed programs in managing the integrity of onshore gas transmission lines in high-consequence areas (69 FR 69816; Dec. 15, 2003). The definition of "high-consequence area" in § 192.903 describes places where transmission lines pose an increased risk because of their size and operating pressure and the nature or density of the nearby population.

The newly published Subpart O regulations include standards for using direct assessment to evaluate the threats

of external corrosion, internal corrosion, and stress-corrosion cracking. The standards are stated in §§ 192.925, 192.927, and 192.929. The standard on external corrosion direct assessment (§ 192.925) requires operators to integrate data on physical characteristics and operating history, conduct indirect aboveground inspections, directly examine pipe surfaces, and evaluate the effectiveness of the assessment process. Under the standard for direct assessment of internal corrosion (§ 192.927), operators must predict locations where electrolytes may accumulate in normally dry-gas pipelines, examine those locations, and validate the assessment process. The standard for direct assessment of stress-corrosion cracking (§ 192.929) involves collecting data relevant to stress-corrosion cracking, assessing the risk of pipeline segments, and examining and evaluating segments at risk.

Although these standards only affect gas transmission lines included in a Subpart O integrity management program, RSPA believes they are suitable for other gas pipelines that fall under Congress' second directive. Each standard incorporates by reference relevant provisions of the American Society of Mechanical Engineers' consensus standard, ASME B31.8S-2001, "Managing System Integrity of Gas Pipelines," which applies to any onshore gas pipeline made of ferrous material. In addition, § 192.925 incorporates by reference a consensus standard published by NACE International, NACE Standard RP0502-2002, "Pipeline External Corrosion Direct Assessment Methodology." This NACE standard applies broadly to buried onshore ferrous pipelines. Requirements in § 192.925 apart from the ASME and NACE standards merely assure the use of appropriate decision-making criteria.

In addition, RSPA believes §§ 192.925 and 192.929 would provide suitable standards for direct assessment of external corrosion and stress-corrosion cracking on hazardous liquid pipelines that fall under the second congressional directive. Although §§ 192.925 and 192.929 cross-reference provisions of ASME B31.8S-2001, which was intended for use on gas pipelines, we think the referenced provisions are appropriate for pipelines transporting hazardous liquid.

We do not believe, however, that the standard in § 192.927 is suitable for direct assessment of internal corrosion in hazardous liquid pipelines. This standard applies specifically to pipelines that transport dry gas.

<sup>1</sup> Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355; Dec. 17, 2002), Sec. 14(a).

<sup>2</sup> *Ibid.*, Sec. 23.

Therefore, it does not apply to pipelines that transport liquids. At present, there is no consensus standard available for the direct assessment of internal corrosion in hazardous liquid pipelines.

### Proposed Rules

Given that RSPA's existing direct assessment standards are suitable for pipelines besides gas transmission lines in high-consequence areas, RSPA is making the following rulemaking proposals to meet the second congressional directive. For onshore ferrous pipelines subject to Part 192, proposed § 192.490 would require that if operators use direct assessment to evaluate the threat of corrosion or to meet any requirement of Subpart I—Requirements for Corrosion Control, the direct assessment must be carried out according to the applicable standards in §§ 192.925, 192.927, and 192.929. A similar regulation, proposed § 195.588, would be established for hazardous liquid pipelines covered by Part 195, except that § 192.927 would not apply. Because Congress has directed DOT to ensure the safe transportation of carbon dioxide through standards related to hazardous liquid pipelines,<sup>3</sup> proposed § 195.588 also applies to carbon dioxide pipelines covered by Part 195.

### Regulatory Analyses and Notices

*Executive Order 12866 and DOT Policies and Procedures.* RSPA does not consider this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this proposed rulemaking to review. RSPA also does not consider this proposed rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

RSPA prepared a draft Regulatory Evaluation of the proposed rulemaking and a copy is in the docket. The evaluation concludes operators would incur only a minimum amount of cost, if any, to comply with the proposed rulemaking. If you disagree with this conclusion, please provide information to the public docket described above.

*Regulatory Flexibility Act.* Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities. Based on the facts available about the anticipated impacts of this proposed rulemaking, I certify that this proposed rulemaking will not have a significant

impact on a substantial number of small entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket described above.

*Executive Order 13175.* RSPA has analyzed this proposed rulemaking according to the principles and criteria contained in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Because the proposed rulemaking would not significantly or uniquely affect the communities of the Indian tribal governments nor impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

*Paperwork Reduction Act.* Operators have just recently begun to use direct assessment to evaluate the effect of corrosion on buried pipelines. Under Parts 192 and 195, the use of direct assessment is voluntary, except as required by the transmission integrity management rules. The proposed rulemaking would not change this status. Because direct assessment is a new process and its use is largely voluntary, RSPA is unable to develop a reasonable estimate of the number of operators the proposed rulemaking may affect. Therefore, we have not estimated the paperwork burden of the proposed rulemaking.

RSPA invites comments on (1) how many operators plan to use direct assessment, other than to meet the transmission integrity management rules, and (2) the average paperwork burden of complying with the proposed rulemaking (in hours and cost per hour). In estimating the burden, note that each standard requires preparation of plans and procedures, and records are required by section 7 of NACE Standard RP0502–2002.

*Unfunded Mandates Reform Act of 1995.* This proposed rulemaking does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rulemaking.

*National Environmental Policy Act.* RSPA has analyzed the proposed rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the proposed rulemaking would affect only those operators that voluntarily use direct assessment and because it largely involves processes of data collection and evaluation, we have preliminarily

determined that the proposed rulemaking is unlikely to significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket. A final determination on environmental impact will be made after the end of the comment period. If you disagree with our preliminary conclusion, please submit your comments to the docket as described above.

*Executive Order 13132.* RSPA has analyzed the proposed rulemaking according to the principles and criteria contained in Executive Order 13132 ("Federalism"). None of the proposed rules (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) impose substantial direct compliance costs on State and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

*Executive Order 13211.* This proposed rulemaking is not a "Significant energy action" under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this proposed rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

### List of Subjects

#### 49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

#### 49 CFR Part 195

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

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

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

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

2. Add § 192.490 to read as follows:

#### § 192.490 Direct assessment.

Each operator that uses direct assessment on an onshore ferrous pipeline to evaluate the effects of a threat in the first column or to meet any requirement of this subpart regarding that threat must carry out the direct

<sup>3</sup> 49 U.S.C. 60102(i) (2000).

assessment according to the standard listed in the second column.

| Threat  | Standard  |
|---|-----------|
| External corrosion .....                                | § 192.925 |
| Internal corrosion in pipelines that transport dry gas. | § 192.927 |
| Stress-corrosion cracking.                              | § 192.929 |

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

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

4. Add § 195.588 to read as follows:

**§ 195.588 What standards apply to direct assessment?**

If you use direct assessment on an onshore pipeline to evaluate the effects of a threat in the first column or to meet any requirement of this subpart regarding that threat, you must carry out the direct assessment according to the standard listed in the second column.

| Threat                     | Standard                   |
|----------------------------|----------------------------|
| External corrosion .....   | § 192.925 of this chapter. |
| Stress-corrosion cracking. | § 192.929 of this chapter. |

Issued in Washington, DC, on October 14, 2004.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 04-23551 Filed 10-20-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AH44

#### Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population for Two Fishes (Boulder Darter and Spotfin Chub) in Shoal Creek, Tennessee and Alabama

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), in cooperation with the States of Tennessee and Alabama and with Conservation Fisheries, Inc., a nonprofit organization, propose to reintroduce one federally listed endangered fish, the boulder darter (*Etheostoma wapiti*), and one federally listed threatened fish, the

spotfin chub (*Cyprinella (=Hybopsis) monacha*), into their historical habitat in Shoal Creek, Lauderdale County, Alabama, and Lawrence County, Tennessee. Based on the evaluation of species' experts, these species currently do not exist in this reach or its tributaries. These two fish are being reintroduced under section 10(j) of the Endangered Species Act of 1973, as amended (Act), and would be classified as a nonessential experimental population (NEP).

The geographic boundaries of the proposed NEP would extend from the mouth of Long Branch, Lawrence County, Tennessee (Shoal Creek mile (CM) 41.7 (66.7 kilometers (km)), downstream to the backwaters of the Wilson Reservoir at Goose Shoals, Lauderdale County, Alabama (approximately CM 14 (22 km)), and would include the lower 5 CM (8 km) of all tributaries that enter this reach.

These proposed reintroductions are recovery actions and are part of a series of reintroductions and other recovery actions that the Service, Federal and State agencies, and other partners are conducting throughout the species' historical ranges. This proposed rule provides a plan for establishing the NEP and provides for limited allowable legal taking of the boulder darter and spotfin chub within the defined NEP area.

**DATES:** We will consider comments on this proposed rule that are received by December 20, 2004. Requests for a public hearing must be made in writing and received by December 6, 2004.

**ADDRESSES:** You may submit comments and other information, identified by RIN 1018-AH44, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail or Hand Delivery: Field Supervisor, U.S. Fish and Wildlife Service, Tennessee Field Office, 446 Neal Street, Cookeville, Tennessee, 38501.
- Fax: (931) 528-7075.
- E-mail: [timothy\\_merritt@fws.gov](mailto:timothy_merritt@fws.gov).

Include "Attn: Shoal Creek NEP" in the subject line of the message.

**Instructions:** All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. Please include your name and return address in the body of your message. Please see the Public Comments Solicited section below for file format and other information about electronic filing. In the event that our internet connection is not functional, please contact the Service by the alternative methods mentioned above.

The comments and materials we receive during the comment period will be available for public inspection, by appointment, during normal business hours at our Tennessee Field Office: U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, Tennessee, 38501. If you wish to request a public hearing, you may mail or hand deliver your written request to the above address.

**FOR FURTHER INFORMATION CONTACT:**

Timothy Merritt, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, Tennessee 28801, telephone (931) 528-6481, Ext. 211, facsimile (931) 528-7075, or e-mail at [timothy\\_merritt@fws.gov](mailto:timothy_merritt@fws.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

##### 1. Legislative

Congress made significant changes to the Act in 1982 with the addition of section 10(j), which provides for the designation of specific reintroduced populations of listed species as "experimental populations." Previously, we had authority to reintroduce populations into unoccupied portions of a listed species' historical range when doing so would foster the species' conservation and recovery. However, local citizens often opposed these reintroductions because they were concerned about the placement of restrictions and prohibitions on Federal and private activities. Under section 10(j) of the Act, the Secretary of the Department of the Interior can designate reintroduced populations established outside the species' current range, but within its historical range, as "experimental." Based on the best scientific and commercial data available, we must determine whether experimental populations are "essential," or "nonessential," to the continued existence of the species. Regulatory restrictions are considerably reduced under a Nonessential Experimental Population (NEP) designation.

Without the "nonessential experimental population" designation, the Act provides that species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 and the requirements of section 7. Section 9 of the Act prohibits the take of an endangered species. "Take" is defined by the Act as harass, harm, pursue, hunt, shoot, wound, trap, capture, or collect, or attempt to engage in any such conduct. Service regulations (50 CFR 17.31) generally extend the prohibitions of take to threatened wildlife. Section 7 of the Act outlines the procedures for