

(e) *Can a special permit be requested on an emergency basis? * * **

(f) *How do I apply for an emergency special permit? * * **

(g) *What must be contained in an application for an emergency special permit? * * **

(h) *In what circumstances will PHMSA revoke, suspend, or modify a special permit? * * **

(i) *Can a denial of a request for a special permit or a revocation of an existing special permit be appealed? * * **

(j) *Are documents related to an application for a special permit available for public inspection? * * **

(k) *Am I subject to enforcement action for non-compliance with the terms and conditions of a special permit? Yes.* PHMSA inspects for compliance with the terms and conditions of special permits and if a probable violation is identified, PHMSA will initiate one or more of the enforcement actions under subpart B of this part.

EFFECTIVE DATE NOTE: At 78 FR 58914, Sept. 25, 2013, subpart C was redesignated as new subpart D. A new subpart C was added. These amendments became effective Oct. 25, 2013. For the convenience of the user, the added text is set forth as follows:

Subpart C—Criminal Enforcement

§ 190.291 Criminal penalties generally.

(a) Any person who willfully and knowingly violates a provision of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder will upon conviction be subject to a fine under title 18, United States Code, and imprisonment for not more than five years, or both, for each offense.

(b) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility, any interstate pipeline facility, or any intrastate pipeline facility used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce (as those terms are defined in 49 U.S.C. 60101 *et seq.*) will, upon conviction, be subject to a fine under title 18, United States Code, imprisonment for a term not to exceed 20 years, or both, for each offense.

(c) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder will, upon conviction, be subject to a fine under title 18, United States Code, imprisonment for a term not to exceed 1 year, or both, for each offense.

(d) Any person who willfully and knowingly engages in excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or without considering location information or

markings established by a pipeline facility operator; and

(1) Subsequently damages a pipeline facility resulting in death, serious bodily harm, or property damage exceeding \$50,000;

(2) Subsequently damages a pipeline facility and knows or has reason to know of the damage but fails to promptly report the damage to the operator and to the appropriate authorities; or

(3) Subsequently damages a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product; will, upon conviction, be subject to a fine under title 18, United States Code, imprisonment for a term not to exceed 5 years, or both, for each offense.

(e) No person shall be subject to criminal penalties under paragraph (a) of this section for violation of any regulation and the violation of any order issued under §§ 190.217, 190.219 or 190.291 if both violations are based on the same act.

§ 190.293 Referral for prosecution.

If a PHMSA employee becomes aware of any actual or possible activity subject to criminal penalties under § 190.291, the employee reports it to the Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, and to his or her supervisor. The Chief Counsel may refer the report to OPS for investigation. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

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

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AUTHORITY: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

§ 191.1 Scope.

(a) This part prescribes requirements for the reporting of incidents, safety-related conditions, and annual pipeline summary data by operators of gas pipeline facilities located in the United States or Puerto Rico, including pipelines within the limits of the Outer Continental Shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(b) This part does not apply to—

(1) Offshore gathering of gas in State waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

(2) Pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into State waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the Administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9.

(3) Pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; or

(4) Onshore gathering of gas—

(i) Through a pipeline that operates at less than 0 psig (0 kPa);

(ii) Through a pipeline that is not a regulated onshore gathering line (as determined in §192.8 of this subchapter); and

(iii) Within inlets of the Gulf of Mexico, except for the requirements in §192.612.

[Amdt. 191-5, 49 FR 18960, May 3, 1984, as amended by Amdt. 191-6, 53 FR 24949, July 1, 1988; Amdt. 191-11, 61 FR 27793, June 3, 1996; Amdt. 191-12, 62 FR 61695, Nov. 19, 1997; Amdt. 191-15, 68 FR 46111, Aug. 5, 2003; 70 FR 11139, Mar. 8, 2005; 75 FR 72904, Nov. 26, 2010]

§ 191.3 Definitions.

As used in this part and the PHMSA Forms referenced in this part—

Administrator means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate

Gas means natural gas, flammable gas, or gas which is toxic or corrosive;

Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline, or of liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

(i) A death, or personal injury necessitating in-patient hospitalization;

(ii) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost;

(iii) Unintentional estimated gas loss of three million cubic feet or more;

(2) An event that results in an emergency shutdown of an LNG facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

(3) An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraphs (1) or (2) of this definition.

LNG facility means a liquefied natural gas facility as defined in §193.2007 of part 193 of this chapter;

Master Meter System means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a

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meter or by other means, such as by rents;

Municipality means a city, county, or any other political subdivision of a State;

Offshore means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters;

Operator means a person who engages in the transportation of gas;

Outer Continental Shelf means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

Pipeline or *Pipeline System* means all parts of those physical facilities through which gas moves in transportation, including, but not limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

State includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

[35 FR 320, Jan. 8, 1970, as amended by Amdt. 191-5, 49 FR 18960, May 3, 1984; Amdt. 191-10, 61 FR 18516, Apr. 26, 1996; Amdt. 191-12, 62 FR 61695, Nov. 19, 1997; 68 FR 11749, Mar. 12, 2003; 70 FR 11139, Mar. 8, 2005; 75 FR 72905, Nov. 26, 2010]

§ 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, each operator shall give notice in accordance

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with paragraph (b) of this section of each incident as defined in § 191.3.

(b) Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202 267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

(1) Names of operator and person making report and their telephone numbers.

(2) The location of the incident.

(3) The time of the incident.

(4) The number of fatalities and personal injuries, if any.

(5) All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages.

[Amdt. 191-4, 47 FR 32720, July 29, 1982, as amended by Amdt. 191-5, 49 FR 18960, May 3, 1984; Amdt. 191-8, 54 FR 40878, Oct. 4, 1989; 75 FR 72905, Nov. 26, 2010]

§ 191.7 Report submission requirements.

(a) *General.* Except as provided in paragraph (b) of this section, an operator must submit each report required by this part electronically to the Pipeline and Hazardous Materials Safety Administration at <http://opsweb.phmsa.dot.gov> unless an alternative reporting method is authorized in accordance with paragraph (d) of this section.

(b) *Exceptions.* An operator is not required to submit a safety-related condition report (§ 191.25) or an offshore pipeline condition report (§ 191.27) electronically.

(c) *Safety-related conditions.* An operator must submit concurrently to the applicable State agency a safety-related condition report required by § 191.23 for intrastate pipeline transportation or when the State agency acts as an agent of the Secretary with respect to interstate transmission facilities.

(d) *Alternative Reporting Method.* If electronic reporting imposes an undue burden and hardship, an operator may submit a written request for an alternative reporting method to the Information Resources Manager, Office of

Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, PHP-20, 1200 New Jersey Avenue, SE, Washington DC 20590. The request must describe the undue burden and hardship. PHMSA will review the request and may authorize, in writing, an alternative reporting method. An authorization will state the period for which it is valid, which may be indefinite. An operator must contact PHMSA at 202-366-8075, or electronically to informationresourcesmanager@dot.gov or make arrangements for submitting a report that is due after a request for alternative reporting is submitted but before an authorization or denial is received.

[75 FR 72905, Nov. 26, 2010]

§ 191.9 Distribution system: Incident report.

(a) Except as provided in paragraph (c) of this section, each operator of a distribution pipeline system shall submit Department of Transportation Form RSPA F 7100.1 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5.

(b) When additional relevant information is obtained after the report is submitted under paragraph (a) of this section, the operator shall make supplementary reports as deemed necessary with a clear reference by date and subject to the original report.

(c) Master meter operators are not required to submit an incident report as required by this section.

[Amdt. 191-5, 49 FR 18960, May 3, 1984, as amended at 75 FR 72905, Nov. 26, 2010]

§ 191.11 Distribution system: Annual report.

(a) *General.* Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system must submit an annual report for that system on DOT Form PHMSA F 7100.1-1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

(b) *Not required.* The annual report requirement in this section does not apply to a master meter system or to a petroleum gas system that serves fewer

than 100 customers from a single source.

[75 FR 72905, Nov. 26, 2010]

§ 191.12 Distribution Systems: Mechanical Fitting Failure Reports

Each mechanical fitting failure, as required by § 192.1009, must be submitted on a Mechanical Fitting Failure Report Form PHMSA F-7100.1-2. An operator must submit a mechanical fitting failure report for each mechanical fitting failure that occurs within a calendar year not later than March 15 of the following year (for example, all mechanical failure reports for calendar year 2011 must be submitted no later than March 15, 2012). Alternatively, an operator may elect to submit its reports throughout the year. In addition, an operator must also report this information to the State pipeline safety authority if a State has obtained regulatory authority over the operator's pipeline.

[76 FR 5499, Feb. 1, 2011]

§ 191.13 Distribution systems reporting transmission pipelines; transmission or gathering systems reporting distribution pipelines.

Each operator, primarily engaged in gas distribution, who also operates gas transmission or gathering pipelines shall submit separate reports for these pipelines as required by §§ 191.15 and 191.17. Each operator, primarily engaged in gas transmission or gathering, who also operates gas distribution pipelines shall submit separate reports for these pipelines as required by §§ 191.9 and 191.11.

[Amdt. 191-5, 49 FR 18961, May 3, 1984]

§ 191.15 Transmission systems; gathering systems; and liquefied natural gas facilities: Incident report.

(a) *Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit DOT Form PHMSA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5 of this part.

(b) *LNG.* Each operator of a liquefied natural gas plant or facility must submit DOT Form PHMSA F 7100.3 as soon as practicable but not more than 30

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days after detection of an incident required to be reported under §191.5 of this part.

(c) *Supplemental report.* Where additional related information is obtained after a report is submitted under paragraph (a) or (b) of this section, the operator must make a supplemental report as soon as practicable with a clear reference by date to the original report.

[75 FR 72905, Nov. 26, 2010]

§ 191.17 Transmission systems; gathering systems; and liquefied natural gas facilities: Annual report.

(a) *Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1. This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 re-

porting year the report must be submitted by June 15, 2011.

(b) *LNG.* Each operator of a liquefied natural gas facility must submit an annual report for that system on DOT Form PHMSA 7100.3–1 This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 reporting year the report must be submitted by June 15, 2011.

[75 FR 72905, Nov. 26, 2010]

§ 191.21 OMB control number assigned to information collection.

This section displays the control number assigned by the Office of Management and Budget (OMB) to the information collection requirements in this part. The Paperwork Reduction Act requires agencies to display a current control number assigned by the Director of OMB for each agency information collection requirement.

OMB CONTROL NUMBER 2137–0522

Section of 49 CFR Part 191 where identified	Form No.
191.5	Telephonic.
191.9	PHMSA 7100.1, PHMSA 7100.3.
191.11	PHMSA 7100.1–1, PHMSA 7100.3–1.
191.15	PHMSA 7100.2.
191.17	PHMSA 7100.2–1.
191.22	PHMSA 1000.1.

[75 FR 72905, Nov. 26, 2010]

§ 191.22 National Registry of Pipeline and LNG operators.

(a) *OPID Request.* Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility, LNG plant or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must complete an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Pipeline and LNG Operators in accordance with §191.7.

(b) *OPID validation.* An operator who has already been assigned one or more OPID by January 1, 2011, must validate the information associated with each OPID through the National Registry of

Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov>, and correct that information as necessary, no later than June 30, 2012.

(c) *Changes.* Each operator of a gas pipeline, gas pipeline facility, LNG plant or LNG facility must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60 day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable;

(ii) Construction of 10 or more miles of a new pipeline; or

(iii) Construction of a new LNG plant or LNG facility.

(2) An operator must notify PHMSA of any of the following events not later than 60 days after the event occurs:

(i) A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs.

(ii) A change in the name of the operator;

(iii) A change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, pipeline facility, or LNG facility;

(iv) The acquisition or divestiture of 50 or more miles of a pipeline or pipeline system subject to Part 192 of this subchapter; or

(v) The acquisition or divestiture of an existing LNG plant or LNG facility subject to Part 193 of this subchapter.

(d) Reporting. An operator must use the OPID issued by PHMSA for all reporting requirements covered under this subchapter and for submissions to the National Pipeline Mapping System.

[Amdt. No. 191-21, 75 FR 72906, Nov. 26, 2010]

§ 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 (200 meters) 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

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this section other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

[Amdt. 191-6, 53 FR 24949, July 1, 1988, as amended by Amdt. 191-14, 63 FR 37501, July 13, 1998]

§ 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 Associate Administrator, OPS) in writing within five 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. Reports may be transmitted by facsimile at (202) 366-7128.

(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 the State (and town, city, or county) or offshore site, and as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline.

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

(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 anti-

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ipated schedule for starting and concluding such action.

[Amdt. 191-6, 53 FR 24949, July 1, 1988; 53 FR 29800, Aug. 8, 1988, as amended by Amdt. 191-7, 54 FR 32344, Aug. 7, 1989; Amdt. 191-8, 54 FR 40878, Oct. 4, 1989; Amdt. 191-10, 61 FR 18516, Apr. 26, 1996]

§ 191.27 Filing offshore pipeline condition reports.

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

(1) Name and principal address of operator.

(2) Date of report.

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

(4) Total length of pipeline inspected.

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

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

(b) The report shall be mailed to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

[Amdt. 191-9, 56 FR 63770, Dec. 5, 1991, as amended by Amdt. 191-14, 63 FR 37501, July 13, 1998; 70 FR 11139, Mar. 8, 2005; 73 FR 16570, Mar. 28, 2008; 74 FR 2894, Jan. 16, 2009]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Subpart A—General

Sec.

192.1 What is the scope of this part?

192.3 Definitions.