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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket ID PHMSA-2007-27954]

RIN 2137-AE64

Pipeline Safety: Control Room Management/Human Factors

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA published the Control Room Management/Human Factors final rule in the Federal Register (74 FR 63310) on December 3, 2009, which became effective on February 1, 2010. The final rule established an 18-month program development deadline of August 1, 2011, and a subsequent 18-month program implementation deadline of February 1, 2013. This notice proposes to expedite the program implementation deadline to August 1, 2011, for most of the requirements, except for certain provisions regarding adequate information and alarm management, which would have a program implementation deadline of August 1, 2012.

DATES: Anyone interested in filing written comments on this proposed rule must do so by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION]**. PHMSA will consider late comments filed so far as practical.

ADDRESSES: Comments should reference Docket No. PHMSA-2007-27954 and may be submitted in the following ways:

- E-Gov Web site: <http://www.regulations.gov>. This web site allows the public to enter comments on any Federal Register notice issued by any agency. Follow the instructions for submitting comments.

- Fax: 1-202-493-2251.

- Mail: DOT Docket Management System: U.S. DOT, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington DC, 20590-0001.

- Hand Delivery: DOT Docket Management System; West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the Docket No. PHMSA-2007-27954 at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>.

Note: Comments are posted without changes or edits to <http://www.regulations.gov>, including any personal information provided. There is a privacy statement published on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For further information contact Byron Coy at 609-989-2180 or by e-mail at Byron.Coy@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

There are roughly 170,000 miles of hazardous liquid pipelines, 295,000 miles of gas transmission pipelines, and 1.9 million miles of gas distribution pipelines in the United States. These pipelines transport about 66 percent of the United States domestic energy supply. Hazardous liquid pipelines carry crude oil to refineries and refined products to locations where these products are consumed. Hazardous liquid pipelines also transport highly volatile liquids, other hazardous liquids such as anhydrous ammonia, and carbon dioxide. Gas transmission pipelines typically carry natural gas over long distances from gas gathering, supply, or import facilities to localities where it is used to heat homes, generate electricity, and fuel industry. Gas distribution pipelines take natural gas from transmission pipelines and distribute it to residential, commercial, and industrial customers. PHMSA's goal is to protect the general public and the environment by providing the most effective pipeline safety regulations and enforcement programs.

To fulfill certain mandates in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Pub. L. 109-468), and to address several recommendations of the National Transportation Safety Board, PHMSA published on December 3, 2009, a final rule in the Federal Register (74 FR 63310) titled: "Pipeline Safety: Control Room Management/Human Factors." The final rule amended the Federal pipeline safety regulations to address human factors and other aspects of control room management for certain pipelines where controllers use supervisory control and data acquisition (SCADA) systems. Under the final rule, pipeline operators must implement methods to reduce the risk associated with controller fatigue. In addition, certain operators must define the roles

and responsibilities of controllers and provide controllers with the necessary information, training, and processes to fulfill these responsibilities. Affected operators must also manage alarms, assure control room considerations are taken into account when changing pipeline equipment or configurations, and review reportable incidents or accidents to determine whether control room actions contributed to the event. The final rule established a program development deadline of August 1, 2011, and a program implementation deadline of February 1, 2013, for all substantive provisions in the rule.

Justification

PHMSA periodically reviews its pipeline safety regulations to protect people and the environment from the risks inherent in transportation of hazardous materials. Pipeline control rooms and controllers covered by the control room management rule are critical to the safe operation of pipeline systems. Control rooms and controllers facilitate and enable normal operations, and provide for prompt detection and appropriate response to abnormal conditions and to emergencies that may arise. The control room is the central location where controllers and computers receive data from field sensors. Commands from the control room can also be transmitted back to remotely controlled equipment as well as field personnel who may receive information from the control room necessary for operations and maintenance activities being conducted in the field.

After evaluating the substantive provisions in the control room management rule, as set forth in more detail below, including the fact that most of the effort to comply with many of the provisions will have already been completed by the August 1, 2011, deadline, PHMSA believes that the program implementation deadlines should be expedited to

realize the safety benefit to the public, property, and the environment sooner. Where PHMSA believes there is a need for additional program implementation time, the agency proposes to moderately shorten the time provided in the current rule by only six months. For these reasons, we do not believe expediting the implementation deadlines for the selected paragraphs will have significant impact to pipeline operators.

PHMSA proposes to amend the implementation deadlines in 49 CFR §§ 192.631 and 195.446 as follows:

(a) General – This paragraph establishes the scope of the rule and would be amended to reflect the revised implementation deadlines set forth below.

(b) Roles and Responsibilities – This paragraph requires operators to define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. Because most, if not all, of the effort to define controllers' roles and responsibilities will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline should be expedited to coincide with the program development deadline.

(c) Provide Adequate Information – This paragraph requires operators to provide their controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operators have defined. Paragraphs (c)(1) through (c)(4) may require certain physical changes and testing to an operator's SCADA system, backup system, and

communications. PHMSA believes the program implementation deadline for paragraphs (c)(1) through (c)(4) should be expedited by six months to August 1, 2012, to realize the safety benefit to the public, property, and the environment sooner, with minimal impact on regulated entities.

Paragraph (c)(5) requires the establishment of procedures for when a different controller assumes responsibility, including the content of information to be exchanged. Since this section is tied to shift change, and because most, if not all, of the work to comply with this requirement will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline for paragraph (c)(5) should be expedited to coincide with the program development deadline consistent with paragraph (d) for fatigue.

(d) Fatigue Mitigation – This paragraph requires operators to implement fatigue mitigation methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined. Since most, if not all, of the work to comply with this requirement will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline for this paragraph should be expedited to coincide with the program development deadline.

(e) Alarm Management – This paragraph requires operators that use a SCADA system to have a written alarm management plan to provide for effective

controller response to alarms. Some provisions in this paragraph may require physical changes to SCADA systems. PHMSA believes the program implementation deadline for this paragraph should be expedited by six months to August 1, 2012, to realize the safety benefit to the public, property, and the environment sooner, with minimal impact on regulated entities.

(f) Change Management – This paragraph requires operators to assure that changes that could affect control room operations are coordinated with the control room personnel. Since most, if not all, of the work to comply with this requirement will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline for this paragraph should be expedited to coincide with the program development deadline.

(g) Operating Experience – This paragraph requires operators to assure that lessons learned from its operating experience are incorporated, as appropriate, into its control room management procedures. Since most, if not all, of the work to comply with this requirement will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline for this paragraph should be expedited to coincide with the program development deadline.

(h) Training – This paragraph requires operators to establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15

months. Since most, if not all, of the work to comply with this requirement will be performed during the development stage and completed under the current rule by August 1, 2011, PHMSA believes the program implementation deadline for this paragraph should be expedited to coincide with the program development deadline.

(i) Compliance Validation – This paragraph requires operators to submit their procedures, upon request, to PHMSA or, in the case of an intrastate pipeline facility regulated by a state, to the appropriate state agency. This requirement is self-executing and would not be amended.

(j) Compliance and Deviation – This paragraph requires operators to maintain, for review during inspection, records that demonstrate compliance with the requirements of this section, and documentation to demonstrate that any deviation from the procedures required by this section was necessary for the safe operation of a pipeline facility. This requirement is self-executing and would not be amended.

Based on the above justification, PHMSA proposes to amend the control room management rule to require that operators develop and implement all paragraphs by August 1, 2011, with the exception of paragraphs (c)(1) through (c)(4) and (e), which we propose to require development by August 1, 2011, and implementation by August 1, 2012.

Regulatory Analyses and Notices

Privacy Act Statement

Anyone may search the electronic form of comments received in response to 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 Federal Register published on April 11, 2000 (65 FR 19477).

Executive Order 12866 and DOT Policies and Procedures

PHMSA considers this proposed rule a non-significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). The proposed rule is also non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26 1979).

The final rule's regulatory analysis did not consider specific costs for the program implementation deadlines because the costs associated with the rule were determined to be the first year program implementation costs, and were not dependent on the implementation deadline. PHMSA believes that the 18 months provided for program development is sufficient for pipeline operators to both develop and implement certain provisions of the rule. Where PHMSA believes there is a need for additional program implementation time, we propose to moderately shorten that time by only six months. Therefore, PHMSA does not believe there is additional cost for this proposed rule beyond what has already been evaluated in the original control room management final rule. The

final rule's regulatory analysis estimated first year average cost to be \$14.4 million for hazardous liquid pipeline operators and \$28.6 million for gas pipeline operators. The final rule estimated the quantifiable present value of the costs and benefits to be about \$6 million over a ten year period using a discount rate of seven percent after all of the requirements are implemented. The final rule also found the regulatory costs not to exceed an annual effect of more than \$100 million on the national economy, which is not an economically significant regulatory action within the meaning of Executive Order 12866.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities. While PHMSA does not collect information on the number of employees or revenues of pipeline operators, we do continuously seek information on the number of small pipeline operators to more fully determine any impacts our proposed regulations may have on small entities. The final rule requires most small firms only to comply with certain requirements mandated by law, namely fatigue mitigation (including training), and recordkeeping for compliance purposes. Therefore, based on our findings in the final rule, we do not believe this proposed rule would have a significant economic impact on small entities.

Executive Order 13175

PHMSA has analyzed this rulemaking according to Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Because the proposed

rule would not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act

The proposed rule does not require any additional paperwork burden on hazardous liquid and gas pipeline operators under the Paperwork Reduction Act of 1995.

Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$141.3 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector.

National Environmental Policy Act

PHMSA has examined the proposed rule for purposes of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and believes that expediting the program implementation deadlines may provide beneficial impacts on the quality of the environment. If pipeline operators comply with the technical elements of the proposed rule within a shorter time, environmental benefits would be realized sooner and may reduce the number and severity of pipeline releases. PHMSA has concluded this proposed rule would not add any significant negative or beneficial impacts to the quality of the human environment under the National Environmental Policy Act.

Executive Order 13132

PHMSA has analyzed the proposed rule according to Executive Order 13132 (“Federalism”). The proposal does not have a substantial direct effect 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. The proposed rule does not impose substantial direct compliance costs on state and local governments. This proposed rule would not preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

Transporting gas and hazardous liquids impacts the nation’s available energy supply. However, this proposed rule is not a “significant energy action” under Executive Order 13211 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, the Administrator of the Office of Information and Regulatory Affairs has not identified this proposal as a significant energy action.

List of Subjects

49 CFR Part 192

Incorporation by reference, Gas, Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For the reasons provided in the preamble, PHMSA proposes to amend 49 CFR Parts 192 and 195 as follows:

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

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

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118, and 60137; and 49 CFR 1.53.

2. Amend § 192.631 by deleting the last sentence in paragraph (a)(2) and inserting in its place the following:

§ 192.631 Control room management.

(a) General

* * * * *

(2) * * *

An operator must develop and implement the procedures no later than August 1, 2011, except the procedures required by paragraphs (c)(1) through (c)(4) and (e) must be developed no later than August 1, 2011, and implemented no later than August 1, 2012.

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PART 195 – TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

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

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118, and 60137; and 49 CFR 1.53.

4. Amend § 195.446 by deleting the last sentence in paragraph (a) and inserting in its place the following:

§ 195.446 Control room management.

(a) * * *

An operator must develop and implement the procedures no later than August 1, 2011, except the procedures required by paragraphs (c)(1) through (c)(4) and (e) must be developed no later than August 1, 2011, and implemented no later than August 1, 2012.

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Issued in Washington, DC on _____ .



Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.