

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: May 11, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 192 and 195**

[Docket ID PHMSA-2007-27954; Amdt. Nos. 192-117; 195-97]

RIN 2137-AE64

**Pipeline Safety: Control Room Management/Human Factors**

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

**ACTION:** Final rule.

**SUMMARY:** This rule expedites the program implementation deadlines in

the Control Room Management/Human Factors regulations in order to realize the safety benefits sooner than established in the original rule. The deadline for pipeline operators to implement the procedures for roles and responsibilities, shift change, change management, and operating experience, fatigue mitigation education and training is now October 1, 2011, 16 months sooner than the original regulation. The deadline for pipeline operators to implement the other procedures for adequate information, shift lengths, maximum hours-of-service, and alarm management is now August 1, 2012, six months sooner than the original regulation. In general, training procedures must also be implemented by August 1, 2012, with certain exceptions.

**DATES:** This rule is effective August 15, 2011.

**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:**

**I. Executive Summary**

This final rule amends the program implementation deadlines originally

published by PHMSA on December 3, 2009, in 49 CFR 192.631 and 195.446 (74 FR 63310), as corrected February 3, 2010 (75 FR 5536). By this amendment to the Control Room Management/Human Factors (CRM) rule, an operator must implement the procedures required by the rule according to the following schedule. The procedures required by Paragraphs (b) (roles and responsibilities), (c)(5) (shift change), (d)(2)-(3) (fatigue mitigation education and training), (f) (change management), and (g) (operating experience) of the rule must now be implemented no later than October 1, 2011. The procedures required by Paragraphs (c)(1)-(4) (adequate information), (d)(1) (shift lengths), (d)(4) (maximum hours-of-service), and (e) (alarm management) must now be implemented no later than August 1, 2012. The training procedures required by the remaining Paragraph (h) must now be implemented no later than August 1, 2012, except that any training required as a condition of compliance with another paragraph of the rule must be implemented no later than the corresponding deadline for implementing that part of the rule. Table 1 shows program implementation deadlines for different paragraphs.

**TABLE 1—PROGRAM IMPLEMENTATION DEADLINE FOR DIFFERENT PARAGRAPHS**

Paragraph	(b) Roles & responsibilities	(c) Adequate information	(d) Fatigue mitigation	(e) Alarm management	(f) Change management	(g) Operating experience	(h) Training
Current Regulations.	Feb 1, 2013 .....	Feb 1, 2013 .....	Feb 1, 2013 .....	Feb 1, 2013 .....	Feb 1, 2013 .....	Feb 1, 2013 .....	Feb 1, 2013.
NPRM .....	Aug 1, 2011 .....	C5 Aug 1, 2011 ... C1-4 Aug 1, 2012	Aug 1, 2011 .....	Aug 1, 2012 .....	Aug 1, 2011 .....	Aug 1, 2011 .....	Aug 1, 2011.
Final Rule .....	Oct 1, 2011 .....	C5 Oct 1, 2011 ... C1-4 Aug 1, 2012	D2 & D3 Oct 1, 2011. D1 & D4 Aug 1, 2012.	Aug 1, 2012 .....	Oct 1, 2011 .....	Oct 1, 2011 .....	Training elements aligned to due date of each element.

Executive Orders 12866 and 13563 require agencies to regulate in the "most cost-effective manner," to make a "reasoned determination that the benefits of the intended regulation

justify its costs," and to develop regulations that "impose the least burden on society." The expected benefit of this rulemaking action is an expedited implementation deadline of

the CRM rule that realizes the safety benefit to the public, property, and the environment sooner.

	Low (\$ millions)	High (\$ millions)	Average (\$ millions)
Total Cost of Rule .....	\$8.8	13.5	11.1
Total Benefit of Rule .....	\$13.9	13.9	13.9
Net Benefit of Rule .....	\$5.1	0.4	2.8

**II. Background**

On September 17, 2010, PHMSA published a Notice of Proposed Rulemaking (NPRM) proposing to expedite the program implementation deadlines in the CRM rule at §§ 192.631 and 195.446 (75 FR 56972). The NPRM proposed to expedite the deadline for

implementing all the procedures required by the rule to August 1, 2011, except that procedures required by Paragraphs (c)(1)-(4) (adequate information) and (e) (alarm management) would have a program implementation deadline of August 1, 2012.

PHMSA received requests from several pipeline trade associations and pipeline operators to extend the comment period until after PHMSA's public workshop on pipeline control room management, which was held on November 17, 2010, in Houston, Texas (75 FR 67450). So, PHMSA extended the

comment period deadline from November 16, 2010, to December 3, 2010 (75 FR 69912).

### III. Advisory Committees Meeting

On March 24, 2011, the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) met jointly in Arlington, Virginia. The TPSSC and THLPSSC are statutorily-mandated advisory committees that advise PHMSA on proposed safety standards, risk assessments, and safety policies for natural gas pipelines and for hazardous liquid pipelines. Both committees were established under the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1) and the pipeline safety law (49 U.S.C. Chap. 601). Each committee consists of 15 members, with membership evenly divided among the Federal and state governments, the regulated industry, and the public. The committees advise PHMSA on technical feasibility, practicability, and cost-effectiveness of each proposed pipeline safety standard.

During the meeting, the committees considered the NPRM to expedite the program implementation deadline of the CRM regulations. To assist the TPSSC and THLPSSC in their deliberations, PHMSA presented three options of program implementation deadlines. These included the program implementation deadlines as proposed in the NPRM, the program implementation deadline of February 1, 2013, in the original rule, and a third option that reflected the comments received on the proposed rule, comments received at the November 17, 2010, workshop, and PHMSA's internal discussions. PHMSA provided these options to facilitate the TPSSC and THLPSSC members' discussion of the rule and to provide a process by which the members could recommend a certain course of action by PHMSA with regard to the rule. Members were not limited to discussing these three options.

After discussions, both the TPSSC and THLPSSC separately voted unanimously to recommend that PHMSA implement the NPRM with the changes reflected in the third option. Specifically, the TPSSC and THLPSSC recommended that the deadline for implementing Paragraphs (b) (roles and responsibilities), (c)(5) (shift change), (d)(2)–(3) (fatigue mitigation education and training), (f) (change management), and (g) (operating experience) be amended to August 1, 2011, the deadline for implementing Paragraphs (c)(1)–(4) (adequate information), (d)(1)

(shift lengths), (d)(4) (maximum hours-of-service), and (e) (alarm management) be amended to August 1, 2012, and the deadline for training in Paragraph (h) be amended to August 1, 2012, except that any training required as a condition of compliance with another paragraph of the rule be implemented no later than the corresponding deadline for implementing that part of the rule. This final rule effectively adopts the recommendations of the TPSSC and THLPSSC except that the earliest date that any element must be implemented is October 1, 2011 and not August 1, 2011. This extra time is provided to provide operators proper notice after the publication of the final rule.

### IV. Summary and Response to Public Comments

PHMSA received a total of 16 comments on the NPRM: five comments from pipeline trade associations, nine comments from individual hazardous liquid and gas pipeline operators, one comment from a pipeline consultant, and one comment from an anonymous private citizen. In addition to the 16 comments, on March 1, 2011, the American Petroleum Institute (API) and the Association of Oil Pipe Lines (AOPL) submitted revised comments.

#### A. General Comments

In their revised comments API & AOPL stated that they did not oppose the proposed accelerated deadlines, except that acceleration of the deadline for Paragraphs (d) (fatigue mitigation) and (h) (training) was not appropriate.

CenterPoint Energy, Panhandle Energy, Sunoco Pipeline LP (Sunoco), Texas Pipeline Association, and Williston Basin Interstate Pipeline Company opposed the proposed accelerated deadlines.

Many of the same commenters and El Paso Pipeline Group (El Paso), Interstate Natural Gas Association of America (INGAA), and Northeast Gas Association (NGA), stated that the timing of PHMSA's release of Frequently Asked Questions (FAQs) guidance, inspection guidelines, and compliance criteria would affect their ability to meet the proposed accelerated deadlines if the content of the guidance differed significantly from their expectations.

INGAA and El Paso also stated that while they previously supported the accelerated implementation schedule, the anticipated timing for PHMSA to release guidance material as stated at the public workshop, along with their uncertainty about the content of the guidance, has caused them to reconsider their support.

Sunoco requested that the deadline for compliance be extended beyond those proposed because field control rooms cannot reasonably be included in PHMSA's assumption that the industry is largely ready now.

American Gas Association (AGA), Avista, El Paso, NGA, Paiute Pipeline Company, and Southwest Gas Corporation (SWG) opposed the proposed accelerated deadlines for Paragraphs (d) (fatigue mitigation) and (h) (training). In addition, Paiute and SWG requested that Paragraph (f) (change management) be given an implementation deadline of August 1, 2012.

NGA requested that if the proposed accelerated deadlines are implemented, PHMSA should consider modifying its review process during the first inspection cycle to include only recommended improvements, rather than Notices of Probable Violation and monetary penalties for companies that make efforts to implement their plans within the accelerated deadlines.

Northern Natural Gas requested that the deadline for implementing all the procedures required by the rule only be accelerated to February 1, 2012, instead of August 1, 2011, as proposed, except that the procedures required by Paragraphs (c)(1)–(4) (adequate information), (e) (alarm management), and (f) (change management), should not be accelerated at all.

Thomas Lael Services, L.P, a pipeline consultant, supported the proposed accelerated deadlines. He agreed with the statement in the NPRM that most if not all work associated with each requirement contained within the regulation has more than likely already been performed during the program development stage which already has a regulatory deadline of August 1, 2011. He agreed that due to the significance of this regulation and the potential for the increased safe operation of pipelines, an accelerated implementation deadline to August 1, 2012, is desirable and reasonable, but it is not clear whether he supported the August 1, 2012, deadline for all paragraphs. He added that recent pipeline incidents have initially pointed to control room issues as possible factors in the cause and, therefore, an accelerated deadline is prudent.

The anonymous private citizen's comments were not deemed appropriate for consideration.

In general, while some commenters argued the NPRM should be withdrawn and the implementation deadlines in the current rule be kept, PHMSA did not find the general comments justified withdrawing the NPRM in order to leave in place the current program

implementation deadlines for the reasons specified in more detail below. Some trade associations and pipeline operators stated that PHMSA has not released the FAQs document, inspection guidelines and compliance criteria. To address this concern, PHMSA released draft FAQs on February 3, 2011, and plans to release inspection forms and guidelines by early June 2011.

*B. Roles and Responsibilities, §§ 192.631(b) and 195.446(b)*

Paragraph (b) of the rule requires operators to define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures instead by August 1, 2011. The TPSSC and THLPSSC recommended that PHMSA amend the regulation as proposed.

We received no comments specifically directed at the implementation deadline for this paragraph. Based on only the general comments we received and the TPSSC's and THLPSSC's recommendation, and in order to provide operators proper notice we are adopting the new implementation date of October 1, 2011.

*C. Provide Adequate Information, §§ 192.631(c) and 195.446(c)*

Paragraph (c) of the rule 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. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures required by Paragraph (c)(1)–(4) instead by August 1, 2012, and the procedures required by Paragraph (c)(5) by August 1, 2011. The TPSSC and THLPSSC recommended that PHMSA amend the regulation as proposed.

In addition to the general comments specified above, CenterPoint Energy stated that at a minimum, 12 months is needed from program development to full implementation in order to give operators an opportunity to assess their plans for one complete heating season and to make any necessary adjustments prior to actual implementation of the plan before the 2012 heating season.

CenterPoint Energy agrees with PHMSA that the proposed 12 months is sufficient for program implementation deadline, but it is not clear that the

operator agrees, as proposed, or for all sections in Paragraph (c). Based on this, other general comments received, the TPSSC's and THLPSSC's recommendation, the program implementation deadline for this paragraph is amended to October 1, 2011, for section (c)(5), and to August 1, 2012, for sections (c)(1)–(4).

*D. Fatigue Mitigation, §§ 192.631(d) and 195.446(d)*

Paragraph (d) of the rule 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. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures by August 1, 2011.

The TPSSC and THLPSSC recommended that PHMSA amend the deadlines for Paragraphs (d)(2) and (d)(3) as proposed, but to establish an implementation deadline of August 1, 2012, for Paragraphs (d)(1) and (d)(4).

In addition to the general comments specified above, INGAA believes that if PHMSA's guidance concerning controller scheduling and hours-of-service departs significantly from a paper on the subject published by the Southern Gas Association, it would severely jeopardize operators' ability to comply with the proposed deadlines, because operators would not be able to revise their implementation plans, increase their staffs, and complete the necessary process development in time. INGAA suggested, however, that operators could meet the expedited deadlines if their current understanding of the CRM regulations is implemented without major changes. INGAA estimated a minimum of six months would be needed for operators to implement their fatigue mitigation plans, including training, evaluation and revisions. Several individual operators agreed with these sentiments.

AGA had concerns with PHMSA's proposal to accelerate the fatigue mitigation requirements by 18 months, because many operators have to hire new gas control personnel, and extensive time and effort are required to identify and train new personnel. AGA suggested that accelerating the implementation deadlines for these provisions could have the unintended consequence of moving individuals into gas controller positions with limited qualifications. Several individual operators agreed with this sentiment.

API & AOPL similarly stated that the accelerated timeline would not allow operators the appropriate time for implementation of human resources directives addressing the hiring and relocating of controllers. API & AOPL also stated that a lack of guidance from PHMSA may cause uncertainty as to what will be considered as an acceptable limit on hours-of-service. API & AOPL estimated a proper implementation period between eight and 12 months, although the comment appeared to be related more to training in general, rather than fatigue mitigation specifically.

Avista was similarly concerned with the impact of the accelerated schedule for fatigue mitigation if enough time is not provided for operators to develop course material, create tests, arrange for subject matter experts to instruct courses, hire, and train new personnel.

CenterPoint Energy supported the proposed accelerated deadlines for Paragraphs (d)(1) and (d)(4), but stated that Paragraphs (d)(2) and (d)(3) require additional time to implement, because training and education are ongoing activities that require flexibility and adjustment based on feedback from the trainees. CenterPoint Energy suggested 12 months for proper implementation of the required training and education requirements.

Sunoco stated that a singular point of emphasis within the CRM is fatigue management, which clearly necessitates that the current 24/7 work schedules be analyzed to ensure that those shift designs mitigate, as much as possible, the fatigue that is associated with working around the clock. At PHMSA's Workshop, Sunoco stated that a PHMSA speaker stated that to complete analysis, the affected pipeline companies would have to have any modified/proposed shift schedule "verified" by a fatigue expert. Sunoco believes this would create a high demand for a relatively few fatigue experts within a very compressed timeframe. Sunoco stated that this verification would take much longer than the proposed implementation time.

After reviewing these comments and considered the TPSSC's and THLPSSC's recommendation, PHMSA believes many of the concerns are justified and that there should be some additional time between development and implementation of certain procedures related to fatigue mitigation. Based on the substantive comments provided, including estimated time frames, PHMSA believes that an implementation period of 12 months is reasonable for Paragraphs (d)(1) and (d)(4), which makes the amended

deadline August 1, 2012. This would allow for an accelerated safety benefit in accordance with the intent of the NPRM, while also allowing operators additional time to conduct internal pilot testing, hiring and training of any new controllers, and other modifications to their schedule rotations and maximum hours-of-service, as needed.

With regard to Paragraphs (d)(2) and (d)(3), PHMSA does not find the comments justify delaying the education and training of controllers and supervisors about fatigue mitigation strategies, how off-duty activities contribute to fatigue, and how to recognize the effects of fatigue. PHMSA believes the education and training of controllers and supervisors on the fundamental aspects of fatigue mitigation strategies can be undertaken upon program development and completed by August 1, 2011. However, due to the short time operators would have after the issuance of this rule, PHMSA is extending the program implementation deadline by two months to October 1, 2011. Of course, as operators develop more experience in fatigue mitigation strategies, they would be expected to update and improve their education and training program as necessary. Therefore, consistent with the recommendation of the TPSSC and THLPSSC, and the expected short time after issuance of this rule, the implementation deadline for Paragraphs (d)(2) and (d)(3) is amended to October 1, 2011.

*E. Alarm Management, §§ 192.631(e) and 195.446(e)*

Paragraph (e) of the rule requires operators that use SCADA systems to have written alarm management plans to provide for effective controller response to alarms. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures by August 1, 2012. The TPSSC and THLPSSC recommended that PHMSA amend the regulation as proposed.

In addition to the general comments specified above, CenterPoint Energy stated that the full 18 months should be retained so that operators would be able to test their alarm management systems, modify their programs based on operator feedback, and repeat testing.

Sunoco also requested that the original 18-month implementation period be retained because the company's ongoing efforts to install a new SCADA system and software program to help manage alarms will not be completed in its control rooms until 2013.

PHMSA has reviewed these comments and considered the TPSSC's and THLPSSC's recommendation, and does not find that the full 18 months is necessary for program implementation, but that 12 months is sufficient for operators to implement this paragraph. Therefore, the program implementation deadline is amended, as proposed, to August 1, 2012.

*F. Change Management, §§ 192.631(f) and 195.446(f)*

Paragraph (f) of the rule requires operators to assure that changes that could affect control room operations are coordinated with the control room personnel. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures by August 1, 2011. The TPSSC and THLPSSC recommended that PHMSA amend the regulation as proposed.

In addition to the general comments specified above, CenterPoint stated that PHMSA should allow six months for program implementation because the paragraph will require coordination across operator's organizations, which will be difficult to establish efficiently without an implementation period to educate the involved employees and make adjustments as necessary.

Paiute Pipeline Company and SWG requested at least 12 months for implementing this requirement because it requires integration with existing processes and procedures, training of both controllers and field personnel, and evaluation of any other issues that can only be determined during an adequate implementation period.

PHMSA has reviewed these comments and considered the TPSSC's and THLPSSC's recommendation, and does not find that an additional program implementation period is necessary for this requirement. This paragraph requires operators to assure that changes that could affect control room operations are coordinated with the control room personnel. Any changes that affect control room operations, including field changes, should be coordinated with controllers without delay once the program procedures are developed. Operators may still update and improve their change management procedures, if during implementation potential improvements are recognized. For these reasons, the program implementation deadline is amended to October 1, 2011.

*G. Operating Experience, §§ 192.631(g) and 195.446(g)*

Paragraph (g) of the rule requires operators to assure that lessons learned from their operating experiences are incorporated, as appropriate, into their control room management procedures. The original rule established a deadline for operators to implement the procedures requiring the incorporation of operating experience by February 1, 2013. The NPRM proposed that operators implement the procedures by August 1, 2011. The TPSSC and THLPSSC recommended that PHMSA amend the regulation as proposed.

In addition to the general comments specified above, CenterPoint Energy stated that at a minimum PHMSA should allow six months for implementation because the regulation will require coordination across operator's organizations and would be difficult to establish efficiently without an implementation period to educate the involved employees and make adjustments as necessary.

PHMSA has reviewed the comments and the TPSSC's and THLPSSC's recommendation, and does not find an additional program implementation period is necessary for this requirement. Ensuring that lessons learned from operating experiences are incorporated, as appropriate, into operators' control room management procedures should be implemented once the program procedures are developed. Because incorporating lessons learned is a continuing process, operators can review accidents and incidents to determine if control room actions contributed to the event and correct issues, where necessary, while still updating and improving their change process during implementation if potential improvements are recognized. For these reasons, the program implementation deadline is amended, as proposed, to October 1, 2011.

*H. Training, §§ 192.631(h) and 195.446(h)*

Paragraph (h) of the rule 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 fifteen months. The original rule established a deadline for operators to implement the procedures by February 1, 2013. The NPRM proposed that operators implement the procedures by August 1, 2011. The TPSSC and THLPSSC recommended that PHMSA establish an implementation deadline of August 1,

2012, for training, except that for any training required under one of the other paragraphs of the rule, that training must still be implemented in accordance with the corresponding deadline for that part of the rule.

In addition to the general comments specified above, AGA stated that operators already have training methods, but many operators still need to formalize their processes, which takes extensive time and effort. In addition, AGA explained that new controllers that will be hired will not have time to complete the new training procedures by August 1, 2011. AGA stated that operators will be able to develop a training program that meets the control room management requirements by August 2011, but they will not be able to fully implement those training procedures with all controllers by that time.

API & AOPL estimated that training and qualification takes between eight and 12 months and additional time could be required to recruit capable and qualified candidates. They stated that the accelerated timeline does not allow enough time to complete training and, therefore, would lead to additional costs. Avista agreed with the sentiment that additional time is required to develop course material, create tests, arrange for subject matter experts to instruct courses, hire, and train new personnel, and suggested that PHMSA retain the 18-month implementation period in the original rule.

CenterPoint Energy stated that at a minimum PHMSA should allow six months for implementation because the regulation will require coordination across operator's organizations that would be difficult to establish efficiently without an implementation period to educate the involved employees and make adjustments as necessary.

El Paso stated that it has taken a leadership role in formulating joint industry training to meet the requirements of the final rule, but its effort is not expected to be completed until the middle of 2011. El Paso requested additional time beyond that proposed in the NPRM because they stated that they need to formalize the training program, have that program adopted within each operating company, and have all the controllers trained, including those not yet hired.

Paiute Pipeline Company and SWG requested to keep the original 18-month implementation period, because the identification, hiring, training, as well

as the period of supervised work experience and qualification of new controllers is a time consuming process. In addition, they stated some training requirements may go beyond controllers, such as training field employees impacting SCADA points, information services employees making changes to SCADA screens, and supervisors and managers being trained in fatigue mitigation strategies.

Panhandle Energy also opposed the proposed amendment, stating that it typically takes upward of one year to provide the training and experience to be able to confidently utilize a new staff member as a gas controller.

PHMSA has reviewed the comments and considered the TPSSC's and THLPSSC's recommendations concerning the time necessary to implement the new training procedures. PHMSA finds these comments justify an additional implementation period and that the proposed amendment could create an undue burden on operators to achieve compliance with Paragraph (h). While PHMSA still finds the original 18 months is not necessary, an implementation period of 12 months is reasonable, which makes the amended deadline August 1, 2012. This would allow for an accelerated safety benefit in accordance with the intent of the NPRM, while also allowing operators additional time to implement the new training procedures specified in Paragraph (h).

It must be clarified, however, that the training required by other paragraphs of the GRM rule (*e.g.*, fatigue mitigation) must still be implemented in accordance with the corresponding deadline for that part of the rule (*e.g.*, October 1, 2011).

#### *I. Other Paragraphs, §§ 192.631(i)-(j) and 195.446(i)-(j)*

Paragraph (i) of the rule 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. Paragraph (j) of the rule requires operators to maintain records that demonstrate compliance with the requirements of the rule, and documentation to demonstrate that any deviation from the procedures required by the rule was necessary for the safe operation of a pipeline facility. These requirements are self-executing and the NPRM did not propose to amend them. PHMSA received no comments on these paragraphs.

## V. Regulatory Analysis and Notice

### *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, Executive Order 13563, and DOT Regulatory Policies and Procedures*

This final rule is a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was reviewed by the Office of Management and Budget. This final rule is significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). PHMSA has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required to meet principles established by Executive Orders 12866 and 13563. PHMSA finds that, within the range of impacts analyzed in this rulemaking, the Control Room Management/Human Factors rule expediting the program implementation deadlines in the Control Room Management/Human Factors regulations is consistent with EO 12866 and 13563.

In this analysis we estimate that the average costs of this final rule are \$11.15 million. We also estimate that the benefits of this final rule are \$13.9 million. Two observations of note are (1) that the estimated annual benefits, \$13.9 million, exceed the average estimated costs \$11.15 million, by \$2.75 million; (2) since the benefits do not include the non-quantified benefits, such as improved health and well-being of controllers and improved productivity for the reasons we discussed above it is likely that the actual benefits of the rule could be higher. A full Regulatory Analysis has been provided in the docket, while the chart below summarizes the estimated costs and benefits of this final rule.

	Low (\$ millions)	High (\$ millions)	Average (\$ millions)
Total Cost of Rule .....	\$8.8	\$13.5	\$11.1
Total Benefit of Rule .....	13.9	13.9	13.9
Net Benefit of Rule .....	5.1	0.4	2.8

*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. The original CRM rule included certain accommodations in consideration of small businesses. PHMSA estimated that the costs of those substantive requirements would be significantly less than one percent of revenues for most firms and there was not likely to be a significant economic impact on a substantial small number of operators, as explained in the original rule. PHMSA went on to say that the economic impact of the original CRM final rule on small entities will be minor and certified that that final rule will not have a significant economic impact on a substantial number of small entities. Since this final rule only expedites program implementation deadlines and does not establish any new substantive requirements, we likewise certify that this rule would not have a significant economic impact on a substantial number of small entities.

*Executive Order 13175*

PHMSA has analyzed this rulemaking according to Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Because the 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 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 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 rule for purposes of the National Environmental

Policy Act (42 U.S.C. 4321 *et seq.*). If pipeline operators comply with the technical elements of this rule within a shorter time, environmental benefits could be realized sooner and may reduce the number and severity of pipeline releases. PHMSA has concluded this rule would not have any significant impacts to the quality of the human environment under the National Environmental Policy Act.

*Executive Order 13132*

PHMSA has analyzed this rule according to Executive Order 13132 ("Federalism"). The rule 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 rule does not impose substantial direct compliance costs on state and local governments. This 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 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 rule as a significant energy action.

**List of Subjects**

*49 CFR Part 192*

Gas, Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

*49 CFR Part 195*

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

For the reasons provided in the preamble, 49 CFR Parts 192 and 195 are amended 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 removing the last sentence in paragraph (a)(2) and adding four sentences in its place to read as follows:

**§ 192.631 Control room management.**

- (a) \* \* \*
  - (2) \* \* \* An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.
- \* \* \* \* \*

**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 removing the last sentence in paragraph (a) and adding four sentences in its place to read as follows:

**§ 195.446 Control room management.**

- (a) \* \* \* An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by

paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training

required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

\* \* \* \* \*

Issued in Washington, DC, on June 10, 2011 under authority delegated in 49 CFR part 1.

**Cynthia L. Quarterman,**  
*Administrator.*

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