



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191 and 192

[Docket No. PHMSA-2018-0046]

RIN 2137-AF36

Pipeline Safety: Gas Pipeline Regulatory Reform

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule; withdrawal of enforcement discretion; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled “Regulatory Freeze Pending Review,” PHMSA delays the effective date of the final rule, “Pipeline Safety: Gas Pipeline Regulatory Reform,” until March 21, 2021. PHMSA also delays until March 21, 2021, its withdrawal of the March 26, 2019, “Exercise of Enforcement Discretion Regarding Farm Taps” and the unpublished October 27, 2015, letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels.

DATES: *Delayed effective date:* As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of the final rule amending 49 CFR parts 191 and 192 published at 86 FR 2210 on January 11, 2021, is delayed to March 21, 2021.

Incorporation by reference date: The incorporation by reference of certain publications listed in the final rule published at 86 FR 2210 on January 11, 2021, is delayed to March 21, 2021.

Enforcement discretion withdrawal date: The document published at 84 FR 11253 on March 26, 2019, is withdrawn as of March 21, 2021.

FOR FURTHER INFORMATION CONTACT: Sayler Palabrica, Transportation Specialist, by telephone at 202-366-0559. Office hours are from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the notice of proposed rulemaking (NPRM) (85 FR 35240, June 9, 2020), all comments received, the final rule, and all background material may be viewed online at <http://www.regulations.gov> using the docket number listed above. A copy of this document will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at <http://www.ofr.gov> and the Government Publishing Office's website at <http://www.gpo.gov>.

Background

On January 20, 2021, the Assistant to the President and Chief of Staff issued a memorandum titled, "Regulatory Freeze Pending Review." The memorandum requested that the heads of executive departments and agencies (agencies) take steps to ensure that the President's appointees or designees have the opportunity to review any new or pending rules. With respect to rules published in the Federal Register, but not yet effective, the memorandum asked that agencies consider postponing the rules' effective dates for 60 days from the date of the memorandum (i.e., until March 21, 2021) for the purpose of reviewing any questions of fact, law, and policy the rules may raise.

In accordance with this direction, PHMSA has decided to delay the effective date of the final rule, Pipeline Safety: Gas Pipeline Regulatory Reform (RIN 2137-AF36), until March 21, 2021. PHMSA likewise delays the withdrawal of the March 26, 2019, "Exercise of Enforcement Discretion Regarding Farm Taps" (84 FR 11253) and the

unpublished October 27, 2015, letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels, each of which are available in the docket for the final rule. The final rule amends part 191 and 192 to reduce regulatory burdens on operators on the construction, maintenance, and operation of gas transmission, gas distribution, and gas gathering pipeline systems. The amendments include changes to requirements for distribution integrity management, reporting, corrosion control, design, welding, and testing. The delay in the final rule's effective date will afford the President's appointees or designees an opportunity to review the final rule and will allow for consideration of any questions of fact, law, or policy that the final rule may raise before it becomes effective.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), PHMSA generally offers interested parties the opportunity to comment on proposed regulations and publish final rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking and may delay effective dates when the agency, for good cause, finds that each requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as they are impracticable. A delay in the effective date of the final rule, "Pipeline Safety: Gas Pipeline Regulatory Reform", is necessary for the President's appointees and designees to have adequate time to review the rule before it takes effect, and neither the notice and comment process nor the delayed effective date could be implemented in time to allow for this review.

List of Subjects

49 CFR Part 191

Gas gathering, Integrity management, Pipeline reporting requirements, Pipeline safety.

49 CFR Part 192

Fire prevention, Incorporation by reference, Pipeline safety, Security measures.

Issued in Washington, DC on March 1, 2021, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,

Acting Administrator.

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