

**NOTICE TO GAS AND HAZARDOUS LIQUID PIPELINE, UNDERGROUND
NATURAL GAS STORAGE AND LIQUEFIED NATURAL GAS FACILITY
OPERATORS AND PHMSA STATE PARTNERS REGARDING THE NATIONAL
EMERGENCY RELATING TO THE NOVEL
CORONAVIRUS DISEASE (COVID-19) OUTBREAK**

**RE: Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators
Affected by the Coronavirus (COVID-19) Outbreak**

In light of the March 13, 2020, the President’s Declaration of a National Emergency (National Emergency) Relating to the Novel Coronavirus Disease (COVID-19) Outbreak, the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, recognizes that operators (including hazardous liquid and gas pipeline, underground natural gas storage and liquefied natural gas operators) impacted by recent events may be faced with resource constraints due to COVID-19. Limited personnel resources and the ongoing need to meet operational and maintenance needs may necessitate actions by personnel that may not fully meet federal operator qualification (OQ), control room management (CRM), and employment drug testing requirements.

Federal regulations in Title 49 Code of Federal Regulations (C.F.R.) Subpart N of Part 192, Subpart H of Part 193, and Subpart G of Part 195, require operators to ensure, through evaluation or training, that each worker performing operation or maintenance activities is either qualified under the operator's written OQ program or has demonstrated capability to perform assigned functions. Sections 192.631(d)(4) and 195.446(d)(4) and (h) of the regulation also require operators with controllers working in control rooms to implement programs to establish and follow certain hours-of-service and to conduct specialized training programs for pipeline controllers. Furthermore, Part 199 of the regulation requires pre-employment and random drug testing for workers who perform certain activities known as “covered functions.” See 49 C.F.R. § 199.105(a) and (c).

PHMSA understands that some pipeline operators are finding it extremely difficult to meet one or more of these regulatory requirements because of personnel and resource constraints due to the National Emergency and have sought temporary relief as they develop strategies and alternatives for maintaining normal operations and protecting the health and safety of their personnel and the public.

This Notice advises operators affected by the National Emergency that PHMSA does not intend to take any enforcement action with regard to OQ and CRM requirements, and will consider exercising its enforcement discretion with regard to Part 199 drug testing requirements. PHMSA is taking into consideration the exigent circumstances that may drive operators regulated by PHMSA to be unable able to comply with the following: (1) OQ requirements found in 49 C.F.R. §§ 192.801-192.809, 193.2707-2709, 193.2713-2717, and 195.501-195.509; and (2) control room requirements found in 49 C.F.R. §§ 192.631(d)(4) and 195.446(d)(4) and (h) due to COVID-19.

Operators are encouraged to fully use the flexibilities already afforded by part 199 regarding pre-employment and random drug testing. Operators are permitted under the part 199 regulations to schedule the date, time, and location of the pre-employment drug test. Moreover, the regulations allow for random drug testing to be spread reasonably throughout the calendar year. PHMSA will consider using its enforcement discretion with regard to requirements found in 49 C.F.R. § 199.105(a) and (c). Operators who are unable to comply with these regulations should maintain documentation explaining what specific requirements are not being met, how the non-compliance is related to COVID-19, and what alternative measures are being taken to ensure safety. Operators should also communicate with their regulator as indicated in this notice.

In addition to these three specific areas, PHMSA realizes there may be other regulatory requirements under the Federal pipeline safety laws in 49 C.F.R. Parts 190 through 199 that pose compliance challenges for operators during this National Emergency. In such cases, it is important that operators adequately document any such issues and communicate promptly with their regulator about them. PHMSA will exercise discretion in its overall enforcement of other parts of the pipeline safety regulations with the intent of providing operators with the flexibility to maintain normal operations while ensuring public safety and protection of the environment.

For intrastate operators regulated by State authorities, PHMSA will not object to waivers, special permits, stays of enforcement or similar measures granted by State authorities to pipeline operators for noncompliance due to COVID-19 with State regulations equivalent to the Federal regulations.

Operators who determine that they cannot comply with the regulations described in this Notice because of challenges due to COVID-19 should promptly notify the following:

- For operators Regulated by PHMSA: Please contact PHMSA's Office of Pipeline Safety by email at Pipeline-COVID-19-notices@dot.gov; and
- For Intrastate operators Regulated by State Authorities: Please contact your State Program Manager – State Program Manager contacts available at: <http://www.napsr.org/state-program-managers.html>.

This Notice is effective on March 20, 2020, and will remain in effect until further notice or modification by the Associate Administrator for Pipeline Safety, PHMSA. Nothing in this Notice prohibits PHMSA from rescinding this stay of enforcement or enforcing the regulations outline above if it determines that a significant safety issue or other circumstance warrants doing so.

Please be advised that this Notice applies only to operators faced with limited resources as a result of the impacts of the National Emergency and does not relieve them from complying with any other applicable provisions of the Federal pipeline safety regulations and acting reasonably to use trained, non-impaired workers to perform operations, maintenance and control-room tasks. Furthermore, pipeline operators subject to this Notice remain fully responsible for the safe operation of their systems and maintaining the capability to detect and respond to critical pipeline safety issues and adequately respond to pipeline emergencies.

ISSUED THIS 20th DAY OF MARCH, 2020, IN WASHINGTON, D.C.



Alan K. Mayberry
Associate Administrator for Pipeline Safety