DOT Docket Operations Facility

Docket # PHMSA-2016-0002

COMMENTS

submitted by the

AMERICAN PETROLEUM INSTITUTE

INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

GPA MIDSTREAM

AMERICAN GAS ASSOCIATION

AMERICAN PUBLIC GAS ASSOCIATION

on

"Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments"

Notice of Proposed Rulemaking Published by the Pipeline and Hazardous Materials Safety Administration

U.S. DEPARTMENT OF TRANSPORTATION

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Docket Operations Facility (M-30)
U.S. Department of Transportation
West Building
1200 New Jersey Avenue, SE
Washington, D.C. 20590

RE: Docket No. PHMSA-2016-0012, "Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments"

INTRODUCTION

On January 15, 2021, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice of proposed rulemaking (NPRM) in the Federal Register in the above captioned proceeding.[1] In the NPRM, PHMSA proposed to incorporate by reference more than 20 new, updated, or reaffirmed consensus standards into the Federal pipeline safety regulations. PHMSA also proposed to make non-substantive corrections to clarify regulatory language in certain provisions.

The American Petroleum Institute (API),[2] Interstate Natural Gas Association of America,[3] GPA Midstream,[4] American Gas Association,[5] and American Public Gas Association[6]

[1] Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments, 85 Fed. Reg. 3,938 (January 15, 2021) (hereinafter "NPRM").

[2] API is the national trade association representing all facets of the oil and natural gas industry, which supports 10.3 million U.S. jobs and 8 percent of the U.S. economy. API's more than 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 25 million Americans.

[3] INGAA is a trade association that advocates regulatory and legislative positions of importance to the interstate natural gas pipeline industry. INGAA is comprised of 26 members, representing the vast majority of the U.S. interstate natural gas transmission pipeline companies. INGAA's members operate nearly 200,000 miles of pipelines and serve as an indispensable link between natural gas producers and consumers.

[4] GPA has served the U.S. energy industry since 1921 and is composed of nearly 100 corporate members that are engaged in the gathering and processing of natural gas into merchantable pipeline gas, commonly referred to in the industry as "midstream activities." Such processing includes the removal of impurities from the raw gas stream produced at the wellhead as well as the extraction for sale of natural gas liquid products (NGLs) such as ethane, propane, butane, and natural gasoline or in the manufacture, transportation, or further processing of liquid products from natural gas. GPA Midstream membership accounts for more than 90% of the NGLs produced in the United States from natural gas processing.

[5] AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 73 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — over 69 million customers — receive their gas from AGA members. Today, natural gas meets more than one-fourth of the United States' energy needs.

[6] APGA is the national, non-profit association of publicly owned natural gas distribution systems. APGA was formed in 1961 as a non-profit, non-partisan organization, and currently has over 740 members in 37 states. Overall, there are nearly 1,000 municipally owned systems in the U.S. serving more than five million customers. Publicly owned gas systems are not-for-profit retail distribution entities that are owned by, and accountable to, the citizens

(collectively "the Associations") appreciate the opportunity to submit written comments in response to the NPRM. While the Associations generally support PHMSA's decision to update regulatory references to technical standards, the proposals in the NPRM can be improved as outlined below:

- PHMSA should update regulatory references to technical standards at least biennially.
- PHMSA should clarify the requirements for cathodic protection on double-bottom breakout tanks by referencing ANSI/API RP 651, which precludes the use of cathodic protection.
- PHMSA should consider incorporating by reference the second edition of API RP 80: "Guidelines for the Definition of Onshore Gas Gathering Lines," currently referenced in 49 C.F.R. 192.7(b)(4).
- PHMSA should consider incorporating by reference API RP 1181: "Pipeline Operational Status Determination," to implement Section 109 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020 (2020 PIPES Act).
- PHMSA should continue to allow operators to install pipe that is compliant with the 45th Edition of API 5L and flanges that are compliant with the 2010 Edition of MSS SP-44 until January 1, 2022.
- 49 C.F.R. § 195.3(b)(7) incorrectly references a non-existent edition of API RP 1130 and should be amended.
- PHMSA should incorporate the 2018 edition of ASME B31.8S.

REGULATORY REFERENCES TO TECHNICAL STANDARDS

PHMSA should update regulatory references to technical standards at least biennially.

There are many regulatory references to outdated technical standards in the pipeline safety regulations. Previous updates to incorporate consensus standards by reference were published on August 6, 2015,[7] January 5, 2015,[8] August 11, 2010,[9] February 1, 2007,[10] June 9, 2006,[11] June 14, 2004,[12] February 17, 1998,[13] and May 24, 1996.[14] There does not appear to be much consistency in the frequency of updates to PHMSA's regulatory references to technical standards. The Associations recommend that PHMSA consider updating its regulatory references at least biennially. More frequent updates will ensure that the latest technical standards are incorporated by reference, which will result in more up-to-date pipeline safety regulations.

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they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

[7] 80 FR 46847
[8] 80 FR 168
[9] 75 FR 48593
[10] 72 FR 4655
[11] 71 FR 33402
[12] 69 FR 32886
[13] 63 FR 7721
[14] 61 FR 26121

PHMSA should clarify that double-bottom tank designs preclude the use of cathodic protection and allow operators to protect double-bottom tanks using other methods.

There is currently an inconsistency among state and federal regulators on how to enforce 49 C.F.R. § 195.563, which requires cathodic protection on breakout tank areas, and 49 C.F.R. § 195.565, which requires operators to install a cathodic protection system in accordance with ANSI/API RP 651.[15] The RP states that double-bottom tank designs preclude the use of cathodic protection.[16]

A recent enforcement action has been interpreted by some inspectors to extend cathodic protection requirements to double-bottom tanks.[17] The enforcement action, however, concerns a single-bottom tank containing an impervious liner. Tanks of this nature have bottoms that are in contact with soil, which may influence the external corrosion rate. In contrast, the active floor in a double-bottom tank is not in direct contact with soil.

Double-bottom tanks provide a number of safety and leak prevention benefits over single-bottom tanks. By their design, however, double-bottom tanks inherently preclude the application of cathodic protection or significantly limit its effectiveness. Systems installed outside of double bottom tanks only protect the bottom, dead-shell floor and are shielded from protecting the active floor. Further, systems installed in the interstitial space between the floors cannot attain proper current distribution to adequately protect the active floor in such limited space.

In practice, cathodic protection systems on double bottom tanks may actually cause a decreased level of safety. Double bottom floors flex, which could short the system and lead to accelerated metal loss. From operator-provided data, there does not appear to be significant external corrosion rates on double-bottom tanks without cathodic protection. Additionally, according to PHMSA data, there have been no reportable releases on double-bottom tanks due to external corrosion in the past 10 years.

The Associations request that PHMSA clarify the cathodic protection requirements for double-bottom tanks, allowing operators to ensure asset integrity for these tanks using methods other than cathodic protection, which includes risk-based assessments, API 653 inspection, API 653 monthly tank inspections, and interstitial space tank monitoring.

PHMSA should consider incorporating by reference the second edition of API RP 80: Definition of Onshore Gas Gathering Lines.

The first edition of API RP 80 is currently incorporated by reference in 49 C.F.R. § 192.7(b)(4). The first edition was published in mid-2000 and has recently been revised. The second edition of RP 80 was published in March 2020 in response to a PHMSA proposed rulemaking.[18]

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[15] The third edition of ANSI/API RP 651 is incorporated by reference in 49 C.F.R. § 195.3(b)(5).
[16] See API RP 651 Sections 5.3.3, 5.4.2, 7.2.2, and 7.2.4.3.
[17] See CPF No. 4-2013-5007.
[18] Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines, 81 Fed. Reg. 20,722 (Apr. 8, 2016).

The updating of API RP 80, concluding with the publication of the second edition, was an exhaustive, multi-year undertaking by a diverse group of stakeholders including individuals from industry, public interest groups, and state and federal regulatory bodies such as PHMSA. .

The new edition provides the pipeline industry with more concise language focusing on clarity, as well as addressing unconventional gathering applications – such as those prevalent in shale production fields. The new edition also recognizes that gathering lines have different configurations and uses depending on the operator and the region.

The updated standard enhances operators' understanding of, and therefore compliance with, federal and state safety requirements. The new edition of the standard addresses incidental gas gathering lines, which are limited to 20 miles or less for newly constructed pipelines. This ensures that regulatory and industry resources are focused on the highest priority lines, supporting safety and sustainability. The second edition of API RP 80 also contains other important clarifications that improves user understanding of the concepts behind the definition of a gathering line.

PHMSA should consider incorporating by reference API RP 1181: Pipeline Operational Status Determination to fulfill a 2020 congressional mandate.

In August 2016, PHMSA issued an advisory bulletin specifying that its regulations do not recognize an "idle" status for hazardous liquids or gas pipelines.[19] Currently, pipeline safety regulations consider pipelines either active and fully subject to all relevant parts of the regulation or abandoned and not needing to comply with 49 C.F.R. Part 195 or 192. The advisory bulletin did note, however, that pipeline operators of purged pipelines may defer certain operations and maintenance activities, but they must coordinate in advance with the regulator.

Section 109 of the 2020 PIPES Act directs PHMSA to promulgate regulations prescribing the applicability of the pipeline safety requirements to idled pipelines. In October 2019, API published RP 1181: Pipeline Operational Status Determination. RP 1181 provides guidance for operations, inspection, and maintenance activities based on the operational status of a pipeline and was drafted by a diverse group of stakeholders including federal and state regulators, pipeline operators, and members of public interest groups. RP 1181 recognizes different types of pipeline status, including idled pipelines. The Associations encourage PHMSA to consider incorporating by reference API RP 1181 to fulfill its idled pipe mandate.

PHMSA Should Continue to Allow Operators to Install Pipe that is Compliant with the 45th Edition of API 5L and Flanges that are Compliant with the 2010 Edition of MSS SP-44 Until January 1, 2022

The Associations strongly support PHMSA incorporating the 46th edition of API 5L and the 2019 edition of MSS SP-44 by reference. However, since these editions are relatively recent, the supply chain is not yet fully stocked with complaint materials. The Associations believe that these supply concerns will generally be resolved by January 1, 2022.

[19] Pipeline Safety: Clarification of Terms Relating to Pipeline Operational Status, 81 FR 54,512 (Aug. 16, 2016).

Therefore, the Associations recommend that PHMSA allow operators to continue to install pipe that is compliant with the 45th edition of API 5L and flanges that are compliant with the 2010 edition of MSS SP-44, which are the editions currently incorporated by reference, until January 1, 2022. Providing for this transition period will ensure that important pipeline work is not delayed while the pipe and flange supply chain is being stocked with materials that comply with the new editions. PHMSA could allow for this transition period by providing a "voluntary" compliance date for the 46th edition of API 5L and the 2019 edition of MSS SP-44 shortly after publication of the final rule and a mandatory compliance date on January 1, 2022.

PHMSA should amend 49 C.F.R. § 195.3(b)(7) to reference the first edition of API RP 1130.

49 C.F.R. § 195.3(b)(7) currently references the third edition of API RP 1130, which the Associations believe is an incorrect reference to the current edition. The most recent version of API RP 1130 is the first edition. Prior to the issuance of API RP 1130, there was a publication titled API 1130 which had a first (1995) and second (2002) edition – this is referenced in section 1.5 of the current API RP 1130. Put differently, the first edition of API 1130 was issued in 1995, the second edition of API 1130 was issued in 2002, and the first edition of API **RP** 1130 was issued in 2007. Thus, the language in § 195.3(b)(7) should be amended as follows to reference the latest edition of the document:

> API Recommended Practice 1130, "Computational Pipeline Monitoring for Liquids: Pipeline Segment," ~~3rd edition~~ 1st edition, September 2007, (API RP 1130), IBR approved for §§ 195.134 and 195.444.

PHMSA Should Incorporate the 2018 Version of ASME B31.8S

The Associations support the incorporation by reference of ASME B31.8S-2016 but encourage PHMSA to incorporate the more recent edition, ASME B31.8S-2018, instead. The Associations agree with the position of the ASME B31.8 Gas Transmission and Distribution Piping Systems Section Committee on this matter, as summarized below.

In the NPRM preamble, PHMSA states that it is incorporating ASME B31.8S-2016 instead of B31.8S-2018 because the Communications Plan requirements referenced in § 192.911(m) were removed from Section 10 in the 2018 edition while the 2016 edition retains the Communications Plan requirements.[20] This is incorrect. The Communication Plan requirements were relocated to ASME B31.8, which is a companion standard to B31.8S, and B31.8S-2018 now cross-references those relocated requirements. Thus, ASME B31.8S-2018 still retains and mandates a Communications Plan, like the 2016 edition.

The Communications Plan requirements, formerly in Section 10 of ASME B31.8S-2016, were moved to ASME B31.8-2018 Chapter V, Paragraph 850.9. A reference to ASME B31.8 Paragraph 850.9 was added to Section 10 of B31.8S-2018, pointing the user to B31.8-2018 for the Communications Plan requirements. The wording in ASME B31.8S-2018 Section 10 is provided below. ASME B31.8S-2018 requires an operator to develop and implement a

[20] NPRM at 3,944.

Communications Plan in accordance with ASME B31.8, para. 850.9, which now contains all the requirements formerly in ASME B31.8S Section 10.

> **10 COMMUNICATIONS PLAN**
> The operator shall develop and implement a communications plan in order to keep appropriate company personnel, jurisdictional authorities, and the public informed about their integrity management efforts and the results of their integrity management activities. The information may be communicated as part of other required communications. ASME B31.8, para. 850.9 provides guidance for a communications plan.

Prior to the 2018 revisions, some Communications Plan requirements (including liaison, education, and damage prevention program) were contained in ASME B31.8 Section 850, while other requirements were contained in ASME B31.8S Section 10. The revisions simply combined all Communications Plan requirements into ASME B31.8 for clarity. This avoids unnecessary duplication of requirements, and possible conflicting requirements, between the two documents and assures that a user of B31.8 will also be aware of good communications practices.

This change reflects common practice. ASME B31.8S already includes numerous references to ASME B31.8 to avoid unnecessary duplication of language. For example, ASME B31.8S Section 6.3 includes references to the pressure testing requirements in ASME B31.8 rather than duplicating these requirements.

For the above reasons, the Associations recommend that PHMSA incorporate ASME B31.8S-2018 by reference. Since PHMSA also proposes to incorporate ASME B31.8-2018 by reference, PHMSA could also address the concerns stated in the NPRM by revising § 192.911(m) to directly reference the Communications Plan requirements in ASME B31.8-2018 Paragraph 850.9.

Other technical standard updates PHMSA should consider in its rulemaking:

The following are updates to API standards listed in the January 15, 2021 NPRM, which should be included in the final rule:

- API Standard 620 (Design and Construction of Large, Welded, Low-Pressure Storage Tanks), 12th Edition – Addendum 2 to the 12th edition was published April 2018;
- API Standard 650 (Welded Tanks for Oil Storage), 13th Edition – Errata published in January 2021; and
- API Standard 653 (Tank Inspection, Repair, Alteration, and Reconstruction), 5th Edition along with its Addendum 1 dated April 2018 and Addendum 2 dated May 2020.

CONCLUSION

The Associations appreciate the opportunity to provide comments on "Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments" concerning PHMSA's proposed amendments to the Federal Pipeline Safety Regulations. The Associations applaud PHMSA for its diligent efforts to update regulatory references to technical standards and look forward to future collaboration as changes are made.

Respectfully Submitted,

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Erin Kurilla
Vice President, Operations and Pipeline Safety
American Public Gas Association
201 Massachusetts Avenue, NE
Washington, D.C. 20002
(202) 905-2904
ekurilla@apga.org

Matthew Hite
Vice President of Government Affairs
GPA Midstream Association
Sixty Sixty American Plaza, Suite 700
Tulsa, OK 74135
(202) 279-1664
mhite@GPAMidstream.org

Dave Murk
Pipeline Manager American
Petroleum Institute 1220 L
Street, NW Washington, D.C.
20005
(202) 682-8000
murkd@api.org

Christina Sames
Vice President, Operations and Engineering
American Gas Association
400 North Capitol Street, NW
Washington, D.C. 20001
(202) 824-7214
csames@aga.org

C.J. Osman
Vice President, Government Affairs
Interstate Natural Gas Association of America 20
F Street, NW
Washington, D.C. 20001
(202) 216-5912
cjosman@ingaa.org

Sonal Patni, Director, Operations and
Engineering Services
American Gas Association
400 North Capitol Street, NW
Washington, D.C. 20001
(202) 824-7328
spatni@aga.org