



**VIA ELECTRONIC FILING**

July 24, 2017

U.S. Department of Transportation  
Attn: Michael Smith  
1200 New Jersey Ave, S.E.  
Washington, D.C. 20590

**Re: Docket No. OST-2017-0057: Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation; Federal Register Vol. 82, No. 109 (Thursday, June 8, 2017)**

Dear Madam Secretary,

On June 8, 2017, the Office of the Secretary of Transportation (OST) published a notice in the *Federal Register* asking for input on existing policy statements, guidance documents, and regulations that impose unnecessary obstacles to transportation infrastructure projects.<sup>1</sup> OST indicated that the comments should focus on non-statutory requirements that the Department of Transportation (DOT) has the discretion to remove or repeal, although potential legislative solutions could also be submitted for consideration if non-statutory changes would fail to address a particular obstacle to transportation infrastructure projects.<sup>2</sup> OST further indicated that DOT was interested in receiving comments pertaining to policy statements, guidance documents, or regulations issued by certain operating administrations, including the Pipeline and Hazardous Materials Safety Administration (PHMSA).<sup>3</sup>

GPA Midstream Association has served the U.S. energy industry since 1921 as an incorporated non-profit trade association. GPA Midstream 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.

---

<sup>1</sup> *Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation*, Docket No. OST-2017-0057, 82 Fed. Reg. 26,734 (June 8, 2017).

<sup>2</sup> 82 Fed. Reg. at 26,734-35.

<sup>3</sup> Id. at 26,735.

GPA Midstream applauds OST's effort to identify unnecessary obstacles to transportation infrastructure projects. The energy products that GPA Midstream's member companies gather and process are delivered to consumers located throughout the United States and beyond on a daily basis. The full benefit of those products—whether as a source of fuel for the nation's economy or as the feedstock for our growing petrochemical industry—cannot be realized without an efficient and effective transportation network.

GPA Midstream's member companies are particularly dependent on the nation's pipeline infrastructure. The safest and most reliable means of transporting energy products, pipelines are used to transport nearly all of the natural gas produced in the United States; most of the nation's crude oil, NGLs, and other petroleum products are transported by pipeline as well. GPA Midstream's member companies primarily operate what are known as gathering lines, *i.e.*, pipelines that transport oil and natural gas from production sites to central collection points. Although the characteristics of each pipeline system vary, gathering lines generally operate at low pressures and are smaller in diameter than transmission lines. GPA Midstream's member companies also operate the processing plants that are often located at these central collection points. Processing plants remove impurities and NGLs to make pipeline quality gas suitable for transportation in long-haul transmission lines.

PHMSA, the DOT agency charged with administering the Pipeline Safety Act, is responsible for prescribing and enforcing federal safety standards for gas gathering lines.<sup>4</sup> PHMSA established the current rules for onshore gas gathering lines in a 2006 final rule.<sup>5</sup> Under those rules, operators are generally required to follow an industry standard, American Petroleum Institute (API) Recommended Practice 80, Guidelines for the Definition of Onshore Gas Gathering Lines (1st ed., April 2000) (RP 80), to determine the extent of gas gathering operations. A two-tiered, risk-based regime of safety standards applies to regulated gas gathering lines that meet certain criteria. GPA Midstream and its member companies were very involved in the rulemaking proceeding that produced the current gathering line rules, providing PHMSA with safety data on gathering lines and participating on the standards development group that created RP 80.

In August 2011, PHMSA issued an advance notice of proposed rulemaking (ANPRM) asking for public comment on whether the regulations for onshore gas gathering lines should be changed to accommodate recent developments in the nation's shale plays.<sup>6</sup> GPA Midstream urged PHMSA to retain the existing, risk-based approach for regulating gas gathering lines in responding to the ANPRM.<sup>7</sup> GPA Midstream also recommended that PHMSA obtain additional data before making any changes to the current regulations. GPA Midstream noted that Congress had directed PHMSA in Section 21 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act) to conduct a review and provide recommendations on whether existing federal and state regulations were adequate to ensure the safety of gas and hazardous

---

<sup>4</sup> 49 U.S.C. § 60101 et seq.

<sup>5</sup> 49 C.F.R. §§ 192.8 to 192.9; Gas Gathering Line Definition: Alternative Definition for Onshore Lines and New Safety Standards, Final Rule, 71 Fed. Reg. 13,289,13,295 (Mar. 15, 2006).

<sup>6</sup> Pipeline Safety: Safety of Gas Transmission Pipelines, 76 Fed. Reg. 53,086 (Aug. 25, 2011).

<sup>7</sup> Attachment 1.

liquid gathering lines.<sup>8</sup> GPA Midstream explained that any effort to change the gathering line regulations would be premature until PHMSA completed that study.

Without adequately completing the study required in Section 21 of the 2011 Act or obtaining any new data on gas gathering lines, PHMSA issued a notice of proposed rulemaking (NPRM) in April 2016 with significant changes to the gathering line regulations.<sup>9</sup> PHMSA proposed new definitions for determining what qualifies as an onshore gas gathering line; new safety standards for regulated onshore gas gathering lines, including for certain historically-exempt rural gas gathering lines; and new reporting requirements for all gas gathering lines.<sup>10</sup> PHMSA also released a Preliminary Regulatory Impact Analysis (PRIA) with the NPRM that purportedly addressed the potential economic effects of the proposed gathering line regulations.<sup>11</sup> The PRIA estimated that the costs of the gathering line proposals would exceed the benefits by approximately \$1 million over the initial 15-year compliance period.

GPA Midstream submitted detailed comments in response to the NPRM.<sup>12</sup> Like many other industry commenters, GPA Midstream explained that PHMSA failed to comply with the rulemaking requirements in the Pipeline Safety Act and Administrative Procedure Act in developing the proposed gathering line regulations. GPA Midstream noted that the record did not contain the substantial evidence necessary to support PHMSA's proposals, and that the proposed changes generally lacked an adequate technical justification and supporting rationale. GPA Midstream also observed that the PRIA's economic analysis contained several fundamentally flawed assumptions, a point confirmed by a third-party analysis that another industry trade organization submitted showing that the costs of the proposed gathering line rules would exceed the benefits by more than \$28 billion during the initial 15-year compliance period.<sup>13</sup> GPA Midstream urged PHMSA to collect and analyze additional data before moving forward with any proposed changes to the gas gathering line regulations.

While the proposals in the NPRM are not yet final, GPA Midstream's member companies are extremely concerned with the approach that PHMSA is taking in the current rulemaking proceeding. PHMSA proposed extensive changes to the gathering line regulations without completing the study required by Section 21 of the 2011 Act or identifying any data that demonstrates that the existing regulations are inadequate. PHMSA acknowledged in webinars held during the public comment period that the NPRM's gathering line proposals contained significant drafting errors, a particularly troubling statement given the length of time that the

---

<sup>8</sup> Pub. L. 112-90, § 21 (Jan. 3 2012).

<sup>9</sup> Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines, Notice of Proposed Rulemaking, 81 Fed. Reg. 20,721 (Apr. 8, 2016). In May 2015, PHMSA delivered a report to Congress on the regulation of gas gathering lines in an effort to comply with Section 21 of the 2011 Act. That report, apparently completed in September 2013, summarized existing federal and state regulations for gathering lines, but did not provide any analysis of the adequacy of those regulations or make the required recommendations to Congress on the need for future action. PHMSA acknowledged in the NPRM that the report was not considered in developing any of the proposed modifications to the gathering rules.

<sup>10</sup> 81 Fed. Reg. at 20,801-20,808, 20,824-20,828.

<sup>11</sup> The PRIA is available in the docket at <https://www.regulations.gov/docket?D=PHMSA-2011-0023>.

<sup>12</sup> Attachment 2.

<sup>13</sup> ICF International, Cost and Benefit Impact Analysis of the PHMSA Natural Gas Gathering and Transmission Safety Regulation Proposal, Prepared for the American Petroleum Institute (July 1, 2016) (ICF Study) (available in the docket at <https://www.regulations.gov/document?D=PHMSA-2011-0023-0381>).

agency had to consider the proposed rules between the ANPRM and NPRM.<sup>14</sup> Finally, and perhaps most significantly, the PRIA overstated the potential benefits—and grossly underestimated the potential costs—of the proposed gathering line regulations, miscalculating the economic impact by nearly \$30 billion according to a third-party analysis.<sup>15</sup>

Despite the significant procedural defects and substantive flaws in the NPRM, PHMSA has indicated that the gathering provisions will be presented to the Gas Pipeline Advisory Committee (GPAC) for consideration in the coming months.<sup>16</sup> GPA Midstream does not support that course of action. PHMSA needs to collect and analyze additional data before moving forward with any proposed changes to the current gathering line regulations. GPA Midstream is willing to support PHMSA in that effort, but opposes any further consideration of the NPRM's gathering line provisions until that process is complete.

The midstream industry's ability to complete pipeline infrastructure projects will be significantly harmed if PHMSA adopts the gathering line rules proposed in the NPRM. The compliance costs associated with the proposed rules are staggering and would have a disproportionate economic impact on small operators, who would bear the burden of absorbing certain fixed compliance costs that do not vary based on company size, *e.g.*, rule analysis, program setup, and employee training. A third-party economic analysis submitted by another industry trade association concluded that the annual compliance costs of the NPRM would consume approximately 90% of the revenue generated by small gathering companies.<sup>17</sup> Large companies would also be adversely affected, particularly by PHMSA's efforts to retroactively apply design standards and recordkeeping requirements to existing gathering lines and to assert jurisdiction over historically-exempt production and gathering lines.

Attached to this correspondence are the comment letters that GPA Midstream submitted to PHMSA in response to the ANRPM and NPRM. Those letters provide a detailed description of the specific concerns that GPA Midstream's member companies have with the proposed changes to the gas gathering line regulations and the adverse impacts that the midstream industry would experience if PHMSA adopts those proposals in a final rule. GPA Midstream appreciates the opportunity to submit comments to DOT and participate in the dialogue on streamlining and improving regulation. We offer our continued assistance to DOT as it evaluates comments and remain available to provide additional data or answer questions that DOT may have. If you have questions please contact me at (202) 279-1664 or by email at [mhite@GPAglobal.org](mailto:mhite@GPAglobal.org).

Sincerely,

Matthew Hite  
Vice President of Government Affairs  
GPA Midstream Association

---

<sup>14</sup> Documents and other information about PHMSA's June 2016 webinars for the NPRM, including audio files of the public discussion, are available at <https://primis.phmsa.dot.gov/meetings/>.

<sup>15</sup> ICF Study at pp. 1-6, 11-123.

<sup>16</sup> 49 U.S.C. § 60115. GPAC is the federal advisory committee that reviews and provides recommendations on PHMSA's gas pipeline safety rulemaking proposals.

<sup>17</sup> ICF Study at pp. 5-6.

Enclosures (2)

**Attachment 1:**

Gas Processor's Association January 20, 2012 Comment Letter

Advance Notice of Proposed Rulemaking, Docket No. PHMSA-2011-0023

**Attachment 2:**

GPA Midstream Association July 7, 2016 Comment Letter

Notice of Proposed Rulemaking, Docket No. PHMSA-2011-0023