



American  
Petroleum  
Institute



August 30, 2023

Alan K. Mayberry, P.E.  
Associate Administrator  
Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**Re: Petition for Reconsideration of Final Rule, “Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards: Technical Corrections”, PHMSA-2013-0255 (Aug. 1, 2023)**

Dear Mr. Mayberry:

Pursuant to 49 C.F.R. § 190.335, the GPA Midstream Association (GPA) and American Petroleum Institute (API) (collectively, the Petitioners) respectfully submit this petition for reconsideration of the final rule (Technical Corrections Rule) that the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) published in the *Federal Register* on August 1, 2023, in the above-captioned proceeding. In the Technical Corrections Rule, PHMSA made certain changes to an earlier final rule (RMV Rule) that the Agency published in the *Federal Register* on April 8, 2022, in this proceeding. Some of the changes that PHMSA made in the Technical Corrections Rule address a recent decision from the U.S. Court of Appeals for the District of Columbia Circuit, which vacated the provisions in the RMV Rule for gathering lines, *GPA Midstream v. U.S. Dept. of Transportation*, 67 F.4th 1188 (D.C. Cir. 2023).

The Petitioners support the Agency’s action in issuing the Technical Corrections Rule but have identified certain provisions that require further clarification. Specifically,

- Although PHMSA amended 49 C.F.R. § 192.9(c) in the Technical Corrections Rule to provide an exception for Type A gathering lines from the requirements in § 192.617(b) through (d), the Agency did not eliminate the corresponding references to Type A gathering lines in § 192.617(c) and (d). The Petitioners request PHMSA remove these references.
- Although the definition of “Notification of a potential rupture” in § 192.3 and § 195.2 was amended to exclude gathering lines, that exclusion is not explicit in § 192.635(a). The Petitioners recommend aligning the latter section with the revised definition, making clear that it does not apply to gathering lines.

- In §§ 192.9, 195.260, and 195.402, PHMSA references rules from October 4, 2022. The Agency directs operators to a National Archives' web page, which contains historical versions of regulations. Petitioners note, however, that the web page only allows users to view regulations that were in place or issued after January 3, 2017. As such, the Petitioners recommend PHMSA take steps to ensure the relevant rules from October 4, 2022, are adequately accessible for future compliance.

GPA and API appreciate PHMSA's consideration of this Petition. Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,



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**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**PETITION FOR RECONSIDERATION  
OF  
Petition for Reconsideration of Final Rule, “Pipeline Safety: Requirement of Valve  
Installation and Minimum Rupture Detection Standards: Technical Corrections”  
PHMSA-2013-0255  
(Aug. 1, 2023)**

**FILED BY  
  
GPA MIDSTREAM ASSOCIATION  
AND  
AMERICAN PETROLEUM INSTITUTE**

August 30, 2023

## I. INTRODUCTION

On April 8, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) published a final rule in the *Federal Register*, titled “Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standard,” (RMV Rule).<sup>1</sup> The RMV Rule, which went into effect on October 5, 2022, required operators of certain gas transmission, Type A gas gathering lines, and hazardous liquid pipelines to, among other things, install rupture mitigation valves that meet certain performance standards, and implement certain emergency response procedures.

On May 16, 2023, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) granted a petition for judicial review of the RMV Rule and vacated the provisions for gathering lines.<sup>2</sup> In response to the D.C. Circuit’s decision, PHMSA published another final rule in the *Federal Register* on August 1, 2023, that made certain technical corrections (Technical Corrections Rule) to the RMV Rule.<sup>3</sup> Pursuant to 49 C.F.R. § 190.335, the GPA Midstream Association (GPA) and American Petroleum Institute (API) (collectively, the Petitioners) are respectfully requesting that the Agency reconsider the Technical Corrections Rule for the following reasons.

## II. RELIEF REQUESTED

- a. PHMSA should amend § 192.617(c) and (d) to clarify that the requirements do not apply Type A gathering lines.

In the Technical Corrections Rule, PHMSA amended § 192.9(c) to provide an exception for Type A gathering lines from the requirements in § 192.617(b) through (d).<sup>4</sup> However, the Agency did not make any corresponding changes to the references to Type A gathering lines in § 192.617(c) and (d). As a result, the language originally adopted in the RMV Rule remains codified at § 192.617(c) and (d), and that language suggests that Type A gathering lines are still subject to the requirements. The Petitioners request that PHMSA amend § 192.617(c) and (d) as follows to eliminate any uncertainty as the applicability of those requirements to Type A gathering lines:

### **§ 192.617 Investigation of failures and incidents.**

**(a) . . .**

- (c) *Analysis of rupture and valve shut-offs.*** If an incident on an onshore gas transmission pipeline ~~or a Type A gathering pipeline~~ involves the closure of a rupture-mitigation valve (RMV), as defined in § 192.3, or

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<sup>1</sup> Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards, 87 Fed. Reg. 20,940 (Apr. 8, 2022) (hereinafter, “Valve Rule”).

<sup>2</sup> See *GPA Midstream v. U.S. Dept. of Transportation*, 67 F.4th 1188 (D.C. Cir. 2023) (vacating the final rule as it applies to gathering pipeline facilities).

<sup>3</sup> Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards: Technical Corrections, 88 Fed. Reg. 50,056 (Aug. 1, 2023) (hereinafter, “Technical Corrections Rule”).

<sup>4</sup> *Id.* at 50,061.

the closure of alternative equivalent technology, the operator of the pipeline must also conduct a post-incident analysis of all of the factors that may have impacted the release volume and the consequences of the incident and identify and implement operations and maintenance measures to prevent or minimize the consequences of a future incident. The requirements of this paragraph (c) are not applicable to distribution pipelines or Types A, B and C gas gathering pipelines. The analysis must include all relevant factors impacting the release volume and consequences, including, but not limited to, the following:

(1) . . .

(d) ***Rupture post-failure and incident summary.*** If a failure or incident on an onshore gas transmission pipeline ~~or a Type A gathering pipeline~~ involves the identification of a rupture following a notification of potential rupture, or the closure of an RMV (as those terms are defined in § 192.3), or the closure of an alternative equivalent technology, the operator of the pipeline must complete a summary of the post-failure or incident review required by paragraph (c) of this section within 90 days of the incident, and while the investigation is pending, conduct quarterly status reviews until the investigation is complete and a final post-incident summary is prepared. The final post-failure or incident summary, and all other reviews and analyses produced under the requirements of this section, must be reviewed, dated, and signed by the operator's appropriate senior executive officer. The final post-failure or incident summary, all investigation and analysis documents used to prepare it, and records of lessons learned must be kept for the useful life of the pipeline. The requirements of this paragraph (d) are not applicable to distribution pipelines or Types A, B and C gas gathering pipelines.

b. PHMSA should amend § 192.635(a) to explicitly exclude gathering lines.

In the Technical Corrections Rule, PHMSA amended the definition of “Notification of a potential rupture” in § 192.3 and § 195.2 to exclude gathering lines.<sup>5</sup> The Agency also made a corresponding amendment to the requirements in § 195.417 that apply to notifications of potential rupture for hazardous liquid and carbon dioxide pipeline facilities, stating that “[t]he requirements of this section do not apply to gathering lines.”<sup>6</sup>

However, PHMSA did not add a comparable exception in the Technical Corrections Rule to the requirements in § 192.635 that apply to notifications of potential ruptures for gas pipeline facilities. To provide clarity and align with the comparable requirements in § 195.417, the Petitioners request PHMSA add the same exception to § 192.635 as follows:

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<sup>5</sup> *Id.* at 50,060.

<sup>6</sup> *Id.* at 50,063.

## **§ 192.635 Notification of potential rupture.**

**(a)** As used in this part, a “notification of potential rupture” refers to the notification of, or observation by, an operator (e.g., by or to its controller(s) in a control room, field personnel, nearby pipeline or utility personnel, the public, local responders, or public authorities) of one or more of the below indicia of a potential unintentional or uncontrolled release of a large volume of gas from a pipeline:

**(1)** An unanticipated or unexplained pressure loss outside of the pipeline's normal operating pressures, as defined in the operator's written procedures. The operator must establish in its written procedures that an unanticipated or unplanned pressure loss is outside of the pipeline's normal operating pressures when there is a pressure loss greater than 10 percent occurring within a time interval of 15 minutes or less, unless the operator has documented in its written procedures the operational need for a greater pressure-change threshold due to pipeline flow dynamics (including changes in operating pressure, flow rate, or volume), that are caused by fluctuations in gas demand, gas receipts, or gas deliveries; or

**(2)** An unanticipated or unexplained flow rate change, pressure change, equipment function, or other pipeline instrumentation indication at the upstream or downstream station that may be representative of an event meeting paragraph (a)(1) of this section; or

**(3)** Any unanticipated or unexplained rapid release of a large volume of gas, a fire, or an explosion in the immediate vicinity of the pipeline.

**(b)** A notification of potential rupture occurs when an operator first receives notice of or observes an event specified in paragraph (a) of this section.

**(c)** The requirements of this section do not apply to gathering lines.

- c. PHMSA should ensure that the October 4, 2022 rules referenced in the Final Rule are adequately accessible.

The Technical Corrections Rule amends §§ 192.9, 195.260, and 195.402, directing operators of gathering lines to comply with rules in effect as of October 4, 2022, thereby excluding gathering lines from the requirements in those sections established in the RMV Rule. The Petitioners believe that PHMSA’s reference to an older version of the code is burdensome for operators and are concerned about the accessibility of these rules in the future.

In Footnote 5 of the Technical Corrections Rule, “PHMSA notes that, where the regulatory text of a provision requires compliance with the language in effect on October 4, 2022 (immediately before the October 5, 2022 effective date of the [RMV Rule]), that historical regulatory text can be found by using the ‘view historical versions’ link on the National Archives’ web page for the current version of parts 192 and 195 of the Code of Federal Regulations.”<sup>7</sup>

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<sup>7</sup> Technical Corrections Rule at 50,058 n.5.

Petitioners note, however, that the web page only allows users to view regulations that were in place or issued after January 3, 2017. As such, Petitioners are concerned about the future accessibility of the October 4, 2022 rules.

The Petitioners offer two suggestions that PHMSA might consider to ensure the October 4, 2022 rules are adequately accessible. The Agency might consider embedding a hyperlink in the rule text or in a note. PHMSA has taken this approach in other parts of the code.<sup>8</sup> Alternatively, the Agency might consider creating a new Appendix to Parts 192 and 195 that contains relevant sections of the older code. Both approaches would provide quick and easy access to the October 4, 2022 rules both now and in the future.

### **III. Conclusion**

For the foregoing reasons, the Petitioners respectfully request that the Agency grant the petition and amend the Technical Corrections Rule.

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<sup>8</sup> See e.g., 49 C.F.R. § 191.29(a) (“Acceptable formats and additional information are specified in the NPMS Operator Standards Manual available at [www.npms.phmsa.dot.gov](http://www.npms.phmsa.dot.gov) or by contacting the PHMSA Geographic Information Systems Manager at (202) 366-4595”); see also 49 C.F.R. § 192.3 (the definition of “Transmission line” contains a note on large volume customers).