May 8, 2025

Submitted via pipeline_interp_submittal@dot.gov

Mr. John Gale
Director, Standards & Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

RE: GPA Midstream Association's Comments on Louisiana Department of Energy and Natural Resources Interpretation Request
PI-25-0001

Dear Mr. Gale:

The GPA Midstream Association[1] (GPA or the Association) submits the following comments in response to the above-referenced interpretation request filed by the Louisiana Department of Energy and Natural Resources (LDENR). The Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) recently modified its process for informal regulatory interpretations issued under 49 C.F.R. § 190.11. The Agency now accepts written comments on requests for regulatory interpretation. LDENR recently filed an interpretation request which presents a potential opportunity for PHMSA to clarify long-standing policy positions regarding the delineation of gas in-plant piping.

LDENR's request asks PHMSA to evaluate how the Agency's in-plant gas piping policy applies to a piping system at a DuPont facility in Louisiana. DuPont has leased part of its plant to another

[1] GPA Midstream has served the U.S. energy industry since 1921 and represents more than 50 domestic corporate members that directly employ 57,000 employees engaged in the gathering, transporting, processing, treating, storage, and marketing of natural gas, natural gas liquids, crude oil and refined products, commonly referred to as "midstream activities." The work of our members indirectly creates or impacts an additional 400,000 jobs across the U.S. economy. In 2023, GPA Midstream members had an economic impact of $206.2 billion through operating more than 506,000 miles of pipelines miles of gas gathering pipelines, gathering more than 91 billion cubic feet per day of natural gas, and operating more than 365 natural gas processing facilities that delivered pipeline quality gas into markets across a majority of the U.S. interstate and intrastate pipeline systems.

operator. LDENR has requested that PHMSA determine if piping inside of the DuPont plant is subject to Part 192 up to the meter with the third party.

Through a series of interpretations in which it borrowed from Part 195 in-plant piping concepts, PHMSA has already recognized an unregulated in-plant piping classification for gas piping within plants, including for road crossings between plant facilities.[2] GPA respectfully requests that PHMSA use this interpretation as a vehicle to clarify the Agency's sometimes inconsistent gas in-plant piping policy and clearly align its approach with longstanding Part 195 exemptions for in-plant hazardous liquids piping systems and low-stress transfer lines.[3] Alignment between the gas and liquids in-plant piping approaches would maintain public safety, avoid overlap with other federal and state regulatory programs and reduce regulatory burdens and confusion.

Background

Many GPA members operate processing, refinery and other types of plant facilities. These facilities include gas piping on plant grounds that serves plant facilities, or transfers gas among adjacent or nearby plants. While Part 195 includes exemptions for hazardous liquid in-plant piping systems at production, refining, or manufacturing facilities,[4] Part 192 does not include similar exemptions, despite gas in-plant piping systems also being non-jurisdictional under the Pipeline Safety Act (PSA).[5] The PSA authorizes PHMSA to establish standards for pipelines engaged in the transportation of gas,[6] defined in the PSA, in relevant part, as "the gathering, transmission, or distribution of gas by pipeline…".[7] In-plant piping systems are not engaged in gathering, transmission, or distribution, and are, therefore, not subject to Part 192.[8]

In-plant piping systems are a low risk to the public, which supports their exemption from PHMSA regulation. The systems are mostly located within plant boundaries and often operate at lower pressures than cross-country, PHMSA regulated pipelines. Additionally, plant facilities are often subject to other safety regulatory programs, such as the Occupational Safety and Health Administration's (OSHA) Process Safety Management (PSM) requirements.[9]

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[2] *See, e.g.,* PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020 (Aug. 11, 2010).
[3] *See* 49 C.F.R. §§ 195.1(b)(3)(ii) and 195.1(b)(8).
[4] 49 U.S.C. §§ 60101(a)(22)(B)(ii)-(iii) & 60102(a)(2).
[5] *Id.* § 60101(a)(21) (defining transporting gas, in relevant part, as the gathering, transmission, or distribution of gas by pipeline); PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020 (Aug. 11, 2010).
[6] 49 U.S.C. § 60102(a); *see also* 49 U.S.C. § 60101(a)(19)(defining "pipeline transportation," in part, as "transporting gas.").
[7] *Id.* (a)(21).
[8] PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020, p.1 (Aug. 11, 2010).
[9] 29 C.F.R. § 1910.119.

Prior In-Plant Gas Piping Interpretations

PHMSA has issued interpretations on a case-by-case basis to determine whether pipelines at plants qualify as in-plant piping and to determine demarcation points between regulated and unregulated pipelines.[10] However, factual differences, requestor assumptions and limited PHMSA analysis make it difficult to derive a consistent gas in-plant piping framework from the interpretations. For example, in certain interpretations, PHMSA found that piping originating at a production or manufacturing process within the plant was subject to Part 192, while in-plant piping originating at Part 192-regulated lines was not.[11] There is no analysis in the interpretations to explain this distinction, and there is no safety or legal reason why a line that originates on plant grounds and serves plant facilities should be treated differently than piping originating at regulated lines.

These inconsistent determinations have resulted in regulators claiming jurisdiction over piping within plant boundaries, which causes confusion and results in unnecessary regulatory burdens. For GPA members, whose refining and processing facilities are generally subject to the OSHA PSM requirements[12] and other state regulatory programs, when PHMSA determines that piping within plants is subject to Part 192, OSHA PSM is preempted for the gas piping systems.[13] This requires plant operators to establish duplicative regulatory programs at the plants; a Part 192 program for gas piping, and an OSHA PSM program for the other plant facilities, including hazardous liquid in-plant piping systems. Standing up two programs is costly, burdensome, and provides no additional safety benefit.

PHMSA has previously acknowledged similar jurisdictional issues and the overlapping regulatory requirements specifically at midstream processing facilities, and published draft FAQs in 2020 that proposed points of demarcation between OSHA and PHMSA-jurisdictional gas and liquids piping.[14] Additionally, the working group that developed the FAQs found that OSHA PSM and PHMSA's Part 190-199 requirements provided an equivalent level of safety for midstream processing facilities.[15] But, the Agency has never released final FAQs.

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[10] *See, e.g.,* PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020 (Aug. 11, 2010); PHMSA Letter of Interpretation to Mr. Michael Strong, Senior Regulatory Affairs Specialist, Wacker Chemical Corporation, PI-15-0002 at 1 (April 2, 2015); PHMSA Letter of Interpretation to Ms. Stacie Campbell-Eckhoff, Superintendent, Olin, PI-18-0012 at 1 (April 29, 2019); PHMSA Letter of Interpretation to Mr. Brannen McElmurray, New Fortress Energy, PI-22-0007 at 1 (July 7, 2022).

[11] PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020, p. 1-2 (Aug. 11, 2010).

[12] 29 C.F.R. § 1910.119.

[13] The Occupational Safety and Health Act includes a provision, 29 U.S.C. § 653(b)(1), that preempts the application of OSHA safety standards to working conditions where another regulatory agency prescribes or enforces standards or regulations that apply to those working conditions.

[14] Pipeline and Hazardous Materials Safety Administration, "Pipeline Safety: Midstream Facilities Frequently Asked Questions," 85 Fed. Reg. 70,124 (Nov. 4, 2020).

[15] *Id.* 70,125.

Alignment of Part 192 and 195 In-Plant Piping Frameworks

To respond to the LDENR request and generally clarify its gas in-plant piping framework, PHMSA should explicitly align its Part 192 in-plant piping approach with the exceptions for hazardous liquids in-plant piping systems in Part 195. As addressed below, this would be an incremental and clarifying step on a path that PHMSA has already taken.

Points of Demarcation

PHMSA should use the same points of demarcation for in-plant gas piping that it uses for in-plant hazardous liquid piping. For hazardous liquids lines, PHMSA allows operators to use the last pressure control device necessary to control pressure on an outbound regulated pipeline as the point of demarcation between unregulated in-plant piping and regulated off grounds liquid piping, or, if there is no such device, the plant boundary.[16] Similarly, for inbound liquids lines serving a plant, PHMSA allows operators to use the first pressure control device necessary to protect the off-ground portions of that line as the demarcation point. If there is no such device, operators may use the plant boundary.[17] These points are also consistent with PHMSA's Part 195 regulations defining in-plant piping.[18] These points are easily determined and reflect a safe point of demarcation because they recognize the fact that operators control access to plants. In response to the LDENR interpretation request, PHMSA should make clear that these pressure control device and boundary line concepts apply to gas in-plant piping.

No Connection to a Regulated Pipeline is Required for an In-Plant Piping Designation

Additionally, the in-plant piping concept does not require a connection to a regulated Part 195 or 192 pipeline to apply. Specifically, for plants that do not have a connection to an in or outbound PHMSA-regulated pipeline but instead produce and move gas or hazardous liquids within a plant or adjacent plants, that piping is never used in transportation and is therefore not subject to the PSA.[19] PHMSA staff have at times, counterintuitively, suggested that in-plant piping is less likely to apply in the context where there is no regulated in or outbound pipeline. If anything, where there is no regulated line serving a plant or adjacent plants, it is more evident (not less) that an in-plant piping classification is appropriate. GPA supports a clarification regarding this point and asks that PHMSA confirm this concept in its interpretation to LDENR.

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[16] *See* PHMSA Letter of Interpretation to Ms. Kim Gerold, Flint Hills Resources at p.2, PI-19-0017 (June 2, 2021).
[17] *Id.*
[18] *See* 49 C.F.R. § 195.2 (defining in-plant piping system to **not** include any device or associated piping that are necessary to control pressure in the Part 195-regulated pipeline).
[19] 49 U.S.C. § 60101(a)(21). Pipeline located at a plant or adjacent plants and which only serves plant operations and is not connected to Part 192 regulated inbound or outbound piping is not gathering, transmission or distribution piping pursuant to the definition of the "transporting gas" in this section of the PSA. Similarly, liquid in-plant piping has long been exempt under 49 U.S.C. § 60101(a)(22).

Off-Plant Transfer Lines

PHMSA has found that gas piping that leaves plant grounds which is less than a mile in length, operated by plant personnel, and run between plant buildings are not subject to Part 192.[20] This position borrows from the low-stress transfer line exception for hazardous liquids piping in Sec. 195.1(b)(3)(ii). GPA supports this approach to off-plant transfer lines and asks the Agency to affirm the use of this concept for gas piping in its interpretation to LDENR.

Road and Railway Crossings

PHMSA has also found that in-plant lines that leave plant grounds and cross a public road are not subject to Part 192.[21] This concept is drawn from the regulatory history and interpretations related to the in-plant piping exception in Sec. 195.1(b)(8), where PHMSA has determined that in-plant piping may cross a single public thoroughfare or railroad crossing.[22] GPA supports this approach to gas in-plant piping, and asks the Agency to reconfirm the use of this concept in its interpretation to LDENR.

Divided Plant Ownership

In certain interpretations, PHMSA has found that the in-plant piping exception does not apply if the operator of the piping is not the end user of the gas.[23] This approach does not align well with the configuration of industrial plants, where commercial arrangements make it common that there are different owners of different facilities within a single or adjacent plants. Further, the use of ownership to classify in-plant piping departs from the PSA and Part 192's functional approach to classify pipelines. The PSA and Part 192 apply to facilities "transporting gas," and do not reference ownership as a consideration to determine if a line is jurisdictional or subject to Part 192.[24] Indeed,

[20] PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020, p. 2 (Aug. 11, 2010); PHMSA Letter of Interpretation to Ms. Amy Ng, Attorney, Conoco, Inc., PI-91-008 (Mar. 25, 1991).
[21] PHMSA Letter of Interpretation to Mr. Darin R. Burke, Manager, Ill. Com. Comm'n, PI-09-0020, p. 2 (Aug. 11, 2010).
[22] Research and Special Programs Administration, "Regulatory Review: Hazardous Liquid and Carbon Dioxide Pipeline Safety Standards," 59 Fed. Reg. 33,388, 33,389(Jun. 28, 1994); PHMSA Letter of Interpretation to Ms. Gweneyette Broussard, Shell Oil Products Company, PI-98-05-29 (Nov. 18, 1998); PHMSA Letter of Interpretation to Ms. Kim Gerold, Manager of Pipeline Safety, Flint Hills Resources, PI-19-0017 (Jun. 2, 2021).
[23] PHMSA Letter of Interpretation to Ms. Stacie Campbell-Eckhoff, Superintendent, Olin, PI-18-0012 at 1 (April 29, 2019); PHMSA Letter of Interpretation to Mr. Brannen McElmurray, New Fortress Energy, PI-22-0007 at 1 (July 7, 2022).
[24] 49 U.S.C. §§ 60101(a)(21) & 60102(a)(2); 49 C.F.R. § 192.1(a).

one standard incorporated into Part 192, API RP 80, expressly rejects using ownership as a mechanism for classifying a line.[25]

The Part 195 definition of "in-plant piping system"[26] and the exception in Sec. 195.1(b)(8) provides a better approach for classifying in-plant piping. The Part 195 exceptions apply to in-plant piping systems that serve production, refining, and manufacturing facilities, regardless of whether multiple operators have facilities within the plant boundaries. This aligns with the PSA's functional approach to classifying pipelines and determining their jurisdictional status.[27] The functional approach has been safely implemented at plants with hazardous liquid in-plant piping systems, and there is no safety reason to depart from a functional approach for gas in-plant piping systems. Therefore, for gas in-plant piping systems, regulatory status should not change, and OSHA PSM requirements should not be displaced,[28] because an operator transfers gas to a different operator within the plant or transfers gas to adjacent plants.

Summary Request

GPA asks PHMSA to use this opportunity to align its Part 192 and 195 in-plant piping exceptions and confirm that all piping within a plant boundary qualifies as in-plant piping regardless of whether different operators own facilities at the plant. Additionally, GPA requests that PHMSA continue to use the concepts outlined above to establish gas in-plant piping demarcations and classify off-plant transfer lines.

Finally, GPA asks that PHMSA move to formalize the gas in-plant piping policy by initiating a Part 192 rulemaking to include an in-plant piping exemption based on the concepts discussed in this letter. By amending Part 192 to address in-plant piping, it will provide clarity on the exemption to all parties and reduce the need to determine what constitutes in-plant piping on a case-by-case basis. GPA recently filed comments similar to those with the U.S. Department of Transportation (DOT) urging that DOT and PHMSA address this issue through a rulemaking.[29]

Conclusion

GPA appreciates the opportunity to provide comments on LDENR's interpretation request. PHMSA's determination on what classifies as gas in-plant piping will have a significant impact on

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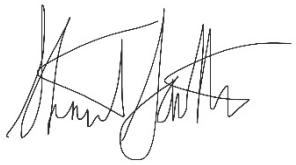
[25] API RP 80, § 2.6.2.2 ("Custody transfer-whether defined in terms of ownership or physical custody-was another factor judged unsuitable for representing pipeline function. This factor has become inherently unstable and unreliable for such purposes due to the rapidly evolving nature of transactions in the gas transportation industry…").
[26] 49 C.F.R. § 195.2.
[27] *See, e.g.,* 49 U.S.C. §§ 60101(a)(21)-(22) (defining transportation of gas and hazardous liquid by the function of the facilities, without referencing changes in ownership).
[28] *Supra.* FN 16.
[29] Comments on Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs, Docket No. DOT-OST_2025-0026 (Regulatory Reform RFI), filed May 5, 2025.

many plant operators and requires careful consideration. GPA believes PHMSA can leverage the existing Part 195 exceptions to develop a gas in-plant piping framework that provides regulatory clarity, is consistent with the PSA and maintains pipeline safety.

Sincerely,



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