



**Comments on Pipeline and Hazardous Materials Safety Administration
49 CFR Parts 191 and 192
Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines; Proposed
Rule, Docket No.: PHMSA-2011-0023**

Thank you for the opportunity to provide comments on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) proposed rule on the safety of gas transmission and gathering pipelines, 49 CFR Parts 191 and 192.

Please accept these comments on behalf of Earthworks, a nonprofit organization dedicated to protecting communities and the environment from the impacts of mineral and energy development while seeking sustainable solutions. For more than 25 years, we have worked to advance policy reforms, safeguard land and public health, and improve corporate practices. Our Oil & Gas Accountability Project works with local communities, partner organizations, public agencies, and elected officials to advance these goals nationwide.

Background

Several years into the nationwide increase in shale development, our work increasingly focuses on the infrastructure used to process, transport, and deliver oil, gas, and related products. In this context, we believe that oil and gas operators that profit from the movement of their products must be held accountable for any accidents, pollution, and harm to property and people that occur as a result.

It is particularly important to strengthen oversight, reporting, and regulations related to the estimated 240,000 miles of gathering lines nationwide, only a small percentage of which are currently regulated. As gas separation and processing facilities expand, operators are installing more and more gathering lines to move gas from well sites—many of which are as large as pipelines and operate at equal or even higher pressures.

General Comments

We express our support for the detailed comments submitted on this docket by the Pipeline Safety Trust (PST), which has long called for regulation of both transmission and gathering lines. We agree with PST that PHMSA has taken a step forward with the proposed rule, including requirements for recordkeeping, location identification, risk evaluation, and mechanical integrity.

However, as detailed below, Earthworks believes that PHMSA's proposed rule does not go nearly far enough to address the risks of high-pressure, large-diameter gathering lines that are proliferating near the nation's many shale plays. This proposal fails to offer the level of regulation needed to protect safety and the environment.

For instance, PHMSA has deferred or not acted on some of the most important, long overdue safety protections for communities, and the environment. In particular, PHMSA should expand as soon as possible the definition of High Consequence Areas (HCA), strengthen Leak Detection And Repair (LDAR) requirements, create rules for underground storage, and improve data collection and assessment methods.

Some of PHMSA's proposals do represent a modest step forward. However, what is most remarkable is the inexcusable amount of time that has passed before requiring even the simplest common sense measures. PHMSA's seeming inability or unwillingness to act in the face of repeated tragedies and a rapidly expanding and aging infrastructure reflect an abject abdication of the agency's responsibility.

Specific Comments

49 CFR § 191.1 Scope

We support PHMSA's proposal to require operators of onshore gathering lines to submit reports on incidents, safety-related conditions, and additional data. Current law exempts onshore gathering lines from these reporting requirementsⁱ. Ending this exemption will provide essential information PHMSA will need to support additional safety regulations that the agency has long promised to develop.

We further urge PHMSA to require operators to submit reports and data to the National Pipeline Mapping System and one-call (call before you dig) systems, which will help ensure the transparency of information directly related to public safety.

49 CFR § 191.23 and § 191.25 Reporting and filing of safety-related conditions

We support PHMSA fulfilling its statutory obligations to require reporting and filing for each exceedance of a pipeline's maximum allowable operating pressure (MAOP)ⁱⁱ.

49 CFR § 192.3 Definitions

PHMSA proposes to expand certain Integrity Management (IM) requirements beyond High Consequence Areas (HCA) by creating a new subset of Moderate Consequence Areas (MCA). Earthworks supports expanding IM requirements to additional pipeline segments.

However, PHMSA should not view this proposal as a substitute for revisiting the definition of HCA. As Earthworks noted in comments to PHMSA in January 2016 on onshore hazardous liquids pipelinesⁱⁱⁱ, the number of HCA-eligible places and the criteria for defining HCAs should be expanded to protect rural communities and sensitive environmental areas from the risk that pipelines everywhere pose to people, land, water, wildlife, and air.

We disagree with PHMSA's proposal to only require three IM program elements (assessment, periodic reassessment, and remediation of discovered defects) to this newly created MCA category. Even then, PHMSA should move quickly to implement in line inspection (ILI) tools and shorten re-inspection intervals (see our below comments at 49 CFR § 192.710).

PHMSA should apply the full suite of IM tools to MCAs including risk analysis and preventive and mitigation measures. Without proper threat identification and risk analysis, operators, regulators, and the public risk losing potentially valuable information vital to improving overall safety.

49 CFR § 192.5(d) Class locations

Class locations help set safety standards commensurate with the risks associated with higher population densities along pipeline routes. The classes reflect a variety of requirements including design, MAOP, test pressure, and valve spacing^{iv}.

PHMSA proposes to require operators of transmission pipelines to create and maintain records demonstrating how operators determined the appropriate class locations. PHMSA has correctly determined that completeness and accuracy of these records will help ensure compliance. Recordkeeping is fundamental to any safely operated system.

49 CFR § 192.8 and § 192.9 Gathering line requirements

Earthworks supports PHMSA's proposal to clarify the definition of gathering lines to cover thousands of miles of previously unregulated lines mostly for shale development that often have larger diameters and operate at higher pressures than typical gathering lines.

PHMSA also proposes to extend requirements for emergency planning, corrosion protection, and damage prevention to gathering lines greater than eight inches in diameter in Class 1 rural areas. Earthworks supports these additional protections. Yet, without expanding HCAs and LDAR, this proposal does not go nearly far enough.

49 CFR § 192.478 Internal corrosion control: Monitoring

Sixteen years ago, a transmission pipeline near Carlsbad, NM ruptured resulting in a fire killing twelve people and causing nearly \$1 million in damage^v. Between 2002 and 2012, operators reported 206 incidents of the kind of internal corrosion that led to the Carlsbad tragedy^{vi}. Each of these was preventable and solely within the control of the operator.

Now, PHMSA proposes requiring operators to monitor deleterious gas stream constituents and semi-annually review their corrosion mitigation and monitoring program. While Earthworks supports monitoring, the sheer number of post Carlsbad incidents illustrates that PHMSA should impose much more aggressive and frequent

monitoring requirements. Furthermore, the long delay in promulgating this proposal is wholly unacceptable.

49 CFR § 192.710 Pipeline assessments

PHMSA proposes to require operators of MCA pipeline segments that can accommodate ILI tools to assess structural integrity within 15 years, and then only once each subsequent 20-year interval. This is insufficient to provide any tangible safety improvement. Worse, this rule does not require the operator to first identify threats and develop plans to manage risks. Thus, an operator can simply run an ILI once every 20 years without ever determining what the risks are or which tool best assesses them.

Conclusion

This rule only modestly improves pipeline safety. Basic recordkeeping, reporting, and monitoring should form the backbone of any safety protocol. Nor can PHMSA effectively require integrity management without first assessing the relevant risks.

The public still awaits more substantive improvements. PHMSA should therefore act expeditiously to expand HCAs, improve LDAR requirements, and regulate underground storage, among other things. Long implementation times for some of these proposals exacerbate this problem. Without real safety improvements, we face increasing dangers to our communities, health, and environment.

ⁱ See 49 CFR § 191.1(b)(4)

ⁱⁱ See Section 23 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Public Law 112-90 (January 3, 2012.)

ⁱⁱⁱ See Earthworks comments [PHMSA 2010-0229](#)

^{iv} See PHMSA's Report to Congress: Evaluation of Expanding Pipeline Integrity Management Beyond High-Consequence Areas and Whether Such Expansion Would Mitigate the Need for Class Location Requirements (April 2016) page 11

^v See [National Transportation Safety Board Safety Recommendation](#) from the Carlsbad, NM incident (February 27, 2003)

^{vi} Federal Register 81, No. 68 (April 8, 2016): 20810