



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA-2016-0002; Amdt. No. 192-137]

RIN 2137-AF13

Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Additional Technical Amendments; Response to Petition for Reconsideration.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule; technical amendments; response to petition for reconsideration.

SUMMARY: PHMSA is issuing technical amendments to regulations promulgated in its April 29, 2024, final rule titled “Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments.” These technical amendments address the incorporation by reference of an updated edition of industry standard, ASME B31.8S, into specific provisions that the final rule did not update due to then-pending litigation. These technical amendments also respond to a Petition for Reconsideration filed on May 29, 2024.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION in the FEDERAL REGISTER]. The incorporation by reference of certain material listed in the rule was approved by the Director of the Federal Register as of June 28, 2024.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background and Need for Technical Amendments

This final rule updates the edition of an industry standard that is incorporated by reference into certain specific regulations in 49 CFR Part 192. PHMSA previously declined to update a handful of those references due to litigation challenging the underlying regulatory provisions. The recent resolution of that litigation now allows PHMSA to update the standard referenced in those regulations.

On April 29, 2024, PHMSA published a final rule, titled “Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments” (Periodic Standards Update 1 Rule).¹ The Periodic Standards Update 1 Rule amended the Pipeline Safety Regulations (PSR, 49 CFR Parts 190-199) at 49 CFR Parts 192 and 195 to incorporate by reference all or parts of more than 20 new or updated industry standards.

One of the industry standards that the Periodic Standards Update 1 Rule incorporated by reference was the 2018 edition of ASME B31.8S, “Supplement to B31.8 on Managing System Integrity of Gas Pipelines” (2018 ASME B31.8S).² Although PHMSA had previously asked for public comment on whether to incorporate the 2018 ASME B31.8S throughout the PSRs—and the Gas Pipeline Advisory Committee (GPAC) had endorsed that proposal during an October 2021 public meeting, 49 U.S.C. § 60115—PHMSA did not do so in the Periodic Standards Update 1 Rule. Instead, PHMSA only updated some of the PSR references to the 2018 ASME B31.8S because of a then-pending legal challenge to another final rule, titled “Pipeline Safety: Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements,

¹ 89 FR 33264 (Apr. 29, 2024).

² ASME/ANSI, B31.8S–2004, “Supplement to B31.8 on Managing System Integrity of Gas Pipelines” (Jan. 2005) (ASME B31.8S).

Catholic Protection, Management of Change, and Other Related Amendments” (2022 final rule).³

Specifically, as PHMSA explained in the preamble to the Periodic Standards Update 1 Rule, the challenge to the 2022 final rule involved amendments to certain specific regulations—namely, §§ 192.714 and 192.933—that referenced the 2004 edition of ASME B31.8S.⁴ Citing the uncertainty created as a result of the litigation, PHMSA declined to incorporate the 2018 ASME B31.8S into §§ 192.714 and 192.933 in the Periodic Standards Update 1 Rule.⁵ PHMSA explained that it would consider such an update in a future rulemaking action.

On May 29, 2024, Interstate Natural Gas Association of America (INGAA), the American Public Gas Association (APGA), the American Gas Association (AGA), the American Fuel and Petrochemical Manufacturers (AFPM), the Liquid Energy Pipeline Association (LEPA), and the American Petroleum Institute (API) (collectively, the Petitioners) submitted a Petition for Reconsideration of the Periodic Standards Update 1 Rule.⁶ The Petitioners asked PHMSA to reconsider its decision not to incorporate the 2018 ASME B31.8S by reference into §§ 192.714(d)(1), 192.933(d)(1), and 192.933(d)(2)(iv), which they argued was not supported by the record, created a regulatory conflict at § 192.714(d)(1), and limited the ability of gas pipeline operators to use certain technologies. The Petitioners also filed a parallel motion to stay the effective date of the Periodic Standards Update 1 Rule.⁷

³ PHMSA, “Pipeline Safety: Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments—Final Rule,” 87 FR 52224 (Aug. 24, 2022).

⁴ Specific sub-paragraphs challenged in the 2022 final rule litigation were §§ 192.714(d) and 192.933(d)(1) and (d)(2)(iv)).

⁵ 89 FR at 33270.

⁶ INGAA *et al.*, Doc. No. PHMSA-2016-0002-0014, “Joint Trade Petition for Reconsideration IBR Rule” (May 29, 2024) (Petition for Reconsideration). On May 29, 2024, GPA Midstream Association (GPA) and the American Petroleum Institute (API) also filed a separate Petition for Reconsideration of the Final Rule. GPA and API, Doc. No. PHMSA-2016-0002-0016, “Petition for Reconsideration” (May 29, 2024) (“GPA-API Petition”). The GPA-API Petition asked PHMSA to give operators more time to comply with the updated welding standards under API 1104 and API 2350.

⁷ INGAA *et al.*, Doc. No. PHMSA-2016-0002, “Petitioners’ Motion to Stay Final Rule (May 29, 2024). The Petitioners requested a stay of the Final Rule or, in the alternative, a stay of enforcement. Petitioners’ Motion to Stay at 4. On May 29, 2024, GPA and API also filed a parallel motion to stay the effective date of the Final Rule.

On June 20, 2024, PHMSA issued a Notice of Limited Enforcement Discretion (Notice) in response to the Petitioner's stay motion. The Notice advised regulated entities that PHMSA would not take any action to enforce the provisions in Periodic Standards Update 1 Rule until January 1, 2025.⁸ On December 18, 2024, shortly before that enforcement discretion expired, the 2022 final rule litigation ended, effectively resolving the uncertainty surrounding the regulatory status of §§ 192.714(d) and 192.933(d)(1) and (d)(2)(iv).⁹

Now that the 2022 final rule litigation is complete, PHMSA is amending §§ 192.714(d) and 192.933(d)(1) and (d)(2)(iv) to incorporate the 2018 ASME B31.8S, which was previously approved by the Director of the Federal Register for incorporation by reference in those sections. PHMSA is also making conforming amendments to § 192.7. PHMSA notes that these amendments are supported by the record and consistent with the GPAC's recommendations in the Periodic Standards Update 1 Final Rule. This document also responds to the Petitioners' May 29, 2024, Petition for Reconsideration.

II. Regulatory Analyses and Notices

A. Statutory/Legal Authority

This final rule is published under the authority of the Secretary of Transportation delegated to the PHMSA Administrator under 49 CFR § 1.97. Among the statutory authorities vested in the Secretary under the Federal Pipeline Safety Statutes (49 U.S.C. § 60101 *et seq.*), section 60102(l) authorizes, to the extent appropriate and practicable, the Secretary to update incorporated, voluntary, consensus industry technical standards that were adopted as part of the PSRs to protect public safety and the environment.

⁸ The Notice, which expired by its terms on January 1, 2025, is available in the docket for this rulemaking at Doc. No. PHMSA-2016-0002-0018.

⁹ *Interstate Natural Gas Association of America v. Pipeline and Hazardous Materials Safety Administration and United States Department of Transportation*, No. 23-1173 (D.C. Cir. Dec. 18, 2024); *Interstate Nat. Gas Ass'n of Am. v. Pipeline & Hazardous Materials Safety Admin.*, 114 F.4th 744 (D.C. Cir. 2024).

PHMSA finds it has good cause to make these amendments without notice and comment pursuant to section 553(b) of the Administrative Procedure Act (APA, 5 U.S.C. § 551 *et seq.*). Section 553(b)(B) of the APA provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. This final rule contains editorial and technical amendments, including revision to or codification of regulatory language not adopted in the Periodic Standards Update 1 Rule due to then-pending litigation, consistent with statements in the administrative record. The technical amendments align the regulatory text with the October 2021 GPAC discussions, the GPAC's recommendation, and public comments received on the proposed rule.¹⁰ Furthermore, the technical and editorial amendments herein ensure consistency within, and intended effect of the Periodic Standards Update 1 Rule. These amendments will also help alleviate potential confusion created by incorporating by reference in the PSR two different editions of the same voluntary, industry standard. Because these amendments are the product of an extensive administrative record with numerous opportunities for public comment, including through written comments and the GPAC, PHMSA finds that additional comment on the amendments herein are unnecessary.

The immediate effective date of the amendments contained in this document is authorized under 5 U.S.C. § 553(d)(3) of the APA. Section 553(d)(3) provides that a rule should take effect “not less than 30 days” after publication in the Federal Register, except for when good cause is found by the agency and published within the rule, thus allowing for earlier effectiveness. 5 U.S.C. § 553(d)(3). “[T]he purpose of the thirty-day waiting period is to give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. F.C.C.*, 78 F.3d 620, 630 (D.C. Cir. 1996). PHMSA finds that good cause under section

¹⁰ PHMSA explained in the Periodic Standards Update 1 Rule Final Rule that it originally understood, mistakenly, that the updated 2018 edition of ASME B31.8S removed certain particular safety enhancing provisions elements, and thus, proposed incorporation by reference of the 2016 edition. However, commenters explained that the standards were merely relocated and were not deleted. PHMSA explicitly sought comment on potential incorporation by reference of the 2018 edition of ASME B31.8S; the Petitioners urged PHMSA to incorporate by reference the 2018 edition.

553(d)(3) of the APA supports making the revisions effective upon publication in the Federal Register because the editorial and technical amendments at §§ 192.7(c)(6), 192.714(d)(1), 192.933(d)(1), and 192.933(d)(2)(iv) are consistent with statements in the administrative record, GPAC discussions and recommendations, and advance public interest.

B. Executive Order 12866; Regulatory Planning and Review

This document has been evaluated in accordance with existing policies and procedures and is considered not significant under each of Executive Order (E.O.) 12866 (“Regulatory Planning and Review”)¹¹ and DOT Order 2100.6B (“Policies and Procedures for Rulemaking”). Therefore, this document has not been reviewed by the Office of Management and Budget (OMB). PHMSA finds that the editorial and technical amendments herein, in all respects are consistent with the Final Rule, impose no incremental compliance costs nor adversely affect safety. These amendments are merely updates to the edition of ASME B31.8S incorporated by reference in the PSR that could not be updated at issuance of the Final Rule due to then-pending 2022 final rule litigation. These amendments also are consistent with the intent of the Periodic Standards Update 1 Final Rule as discussed within comments on the proposed rule, the GPAC meeting, and the supporting administrative record.

C. Executive Orders 14192 and 14219

This final rule will be a deregulatory action pursuant to E.O. 14192 (“Unleashing Prosperity Through Deregulation”).¹² PHMSA estimates that the total costs of the rule on the regulated community will be less than zero. Nor does this rule implicate any of the factors identified in section 2(a) of E.O. 14219 (“Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative”) indicative that a regulation is “unlawful . . . [or] that undermine[s] the national interest.”¹³

¹¹ 58 FR 51735 (Oct. 4, 1993).

¹² 90 FR 9065 (Feb. 6, 2025).

¹³ 90 FR 10583 (Feb. 25, 2025).

D. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) requires agencies to review regulations to assess their impact on small entities unless the agency head certifies that a rulemaking will not have a significant economic impact on a substantial number of small entities including small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where possible to do so and still meet the objectives of applicable regulatory statutes. E.O. 13272 (“Consideration of Small Entities in Agency Rulemaking”)¹⁴ requires agencies to establish procedures and policies to promote compliance with the Regulatory Flexibility Act and to “thoroughly review draft rules to assess and take appropriate account of the potential impact” of the rules on small businesses, governmental jurisdictions, and small organizations. The DOT posts its implementing guidance on a dedicated web page.

As explained in the Final Regulatory Flexibility Analysis (FRFA) discussion in the Final Rule, PHMSA found that the Final Rule would not have a significant impact on a substantial number of small entities. Therefore, PHMSA expects that these amendments—like the amendments in the Final Rule—will not have a significant economic impact on a substantial number of small entities. Because the technical amendments herein will impose no new incremental compliance costs, PHMSA understands its analysis in the Final Rule regarding compliance with the Regulatory Flexibility Act remains unchanged.

In addition, the analytical requirements of the Regulatory Flexibility Act do not apply when the agency finds good cause under the APA to adopt a rule without prior notice and

¹⁴ 68 FR 7990 (Feb. 19, 2003).

comment.¹⁵ Because PHMSA has “good cause” under the APA to forego comment on the corrections herein, no Regulatory Flexibility Act analysis is required.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), no individual is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Pursuant to 44 U.S.C. § 3506(c)(2)(B) and 5 CFR § 1320.8(d), PHMSA must provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests.

The technical amendments in this document impose no new or revised information collection requirements beyond those discussed in the Final Rule. The changes being made in this document will require no change to the current reporting requirements.

F. Unfunded Mandates Reform Act of 1995

PHMSA analyzed the technical amendments in this document under the Unfunded Mandates Reform Act of 1995 (UMRA, 2 U.S.C. § 1501 *et seq.*) and determined that the amendments herein do not impose enforceable duties of \$100 million or more, adjusted for inflation, in any one year, on State, local, or Tribal governments, or on the private sector. Because the amendments herein will impose no new incremental compliance costs, the analysis in that UMRA discussion for the Final Rule remains unchanged.

G. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. § 4321 *et seq.*) requires Federal agencies to prepare a detailed statement on major Federal actions significantly affecting the quality of the human environment. PHMSA has determined that the amendments in this document have no effect on its earlier NEPA analysis, as the amendments merely update

¹⁵ 5 U.S.C. §§ 603–604. *See also* Small Business Administration, “A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act” 55 (2017).

incorporated by reference standards for particular provisions that were subject to then-pending litigation that has now concluded.

H. Executive Order 13132 (Federalism)

PHMSA analyzed the amendments in accordance with the principles and criteria contained in E.O. 13132 (“Federalism”).¹⁶ The amendments herein are consistent with the Periodic Standards Update 1 Final Rule, and does not have any substantial direct effect on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government beyond what was accounted for in the Final Rule. This document does not contain any provision that imposes any substantial direct compliance costs on State or local governments, nor any new provision that preempts State law. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

I. Energy-Related Executive Orders 13211, 14154, and 14156

E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”)¹⁷ requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” Under E.O. 13211, a “significant energy action” is defined as any action by an agency (normally published in the Federal Register) that promulgates, or is expected to lead to the promulgation of, a final rule that (1)(i) is a significant regulatory action under E.O. 12866 or any successor order and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy (including a shortfall in supply, price increases, and increased use of foreign supplies); or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action. These editorial and technical corrections in this document are not a “significant energy action” under E.O. 13211, as they are not a significant regulatory action, and they are not likely to have a significant adverse effect on supply, distribution, or use of energy. These amendments are also not likely to impose

¹⁶ 64 FR 43255 (Aug. 10, 1999).

¹⁷ 66 FR 28355 (May 22, 2001).

an undue burden on the identification, development, or use of domestic energy resources pursuant to E.O. 14154 (“Unleashing American Energy”).¹⁸ Similarly, these amendments are not likely to inhibit the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources pursuant to E.O. 14156 (“Declaring a National Energy Emergency”).¹⁹

J. Executive Order 13175

This document was analyzed in accordance with the principles and criteria contained in E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”)²⁰ and DOT Order 5301.1A (“Department of Transportation Tribal Consultation Policies and Procedures”). E.O. 13175 and DOT Order 5301.1A require DOT Operating Administrations to assure meaningful and timely input from Native American tribal government representatives in the development of rules that significantly or uniquely affect tribal communities by imposing “substantial direct compliance costs” or “substantial direct effects” on such communities, or the relationship and distribution of power between the Federal Government and Native American tribes. Because the amendments herein do not have Tribal implications or impose substantial direct compliance costs on Indian Tribal governments, the funding and consultation requirements of E.O. 13175 do not apply.

K. Executive Order 13609 and International Trade Analysis

Under E.O. 13609 (“Promoting International Regulatory Cooperation”),²¹ agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can

¹⁸ 90 FR 9065 (Feb. 6, 2025).

¹⁹ 90 FR 10583 (Feb. 25, 2025).

²⁰ 65 FR 67249 (Nov. 6, 2000).

²¹ 77 FR 26413 (May 4, 2012).

identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The amendments herein do not impact international trade.

L. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. § 272 note) directs federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies. The Final Rule adopted more than 20 new or updated voluntary, consensus industry technical standards. The amendments herein do not change the Periodic Standards Update 1 Final Rule's analysis.

M. Severability

The technical amendments herein focus on specific provisions. Therefore, PHMSA finds that each correction in this rule is severable and able to function independently from the others. Further, these provisions are severable from the Periodic Standards Update 1 Final Rule. In the event a court were to invalidate one or more of the amendments in this rule, the remaining provisions should stand, thus allowing their continued effect.

List of Subjects

49 CFR Part 192

Incorporation by reference, Natural gas, Pipeline safety.

In consideration of the foregoing, PHMSA amends 49 CFR part 192 as follows:

**PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE:
MINIMUM FEDERAL SAFETY STANDARDS**

1. The authority citation for part 192 continues to read as follows:

Authority: 30 U.S.C. 185(w)(3), 49 U.S.C. 5103, 60101 et seq., and 49 CFR 1.97.

2. Amend § 192.7 as follows:

- a. Revise paragraph (c)(5);
- b. Revise paragraph (c)(6); and
- c. Remove and reserve paragraph (c)(7).

The revisions read as follows:

§ 192.7 What documents are incorporated by reference partly or wholly in this part?

* * * * *

(c) * * *

(5) ASME B31.8-2018, Gas Transmission and Distribution Piping Systems, Issued November 20, 2018, (ASME B31.8); IBR approved for §§ 192.112(b); 192.619(a); and 192.911(m).

(6) ASME B31.8S-2018, Managing System Integrity of Gas Pipelines, Issued November 28, 2018, (ASME B31.8S); IBR approved for §§ 192.13(d); 192.714(c); 192.714(d); 192.903 note to Potential impact radius; 192.907(b); 192.911 introductory text, (i), and 192.913(a) through (c); 192.917(a) through (e); 192.921(a); 192.923(b); 192.925(b); 192.933(c) and (d); 192.935(b); 192.937(c); 192.939(a); 192.945(a).

* * * * *

3. Amend § 192.714 by revising the introductory text of paragraph (c), introductory text of paragraph (d)(1), and paragraph (d)(2)(iv) to read as follows:

§ 192.714 Transmission lines: Repair criteria for onshore transmission pipelines.

* * * * *

(c) *Schedule for evaluation and remediation.* An operator must remediate conditions according to a schedule that prioritizes the conditions for evaluation and remediation. Unless paragraph (d) of this section provides a special requirement for remediating certain conditions, an operator must calculate the predicted failure pressure of anomalies or defects and follow the schedule in ASME B31.8S (incorporated by reference, see § 192.7), section 7, Figure 7.2.1-1. If an operator cannot meet the schedule for any condition, the operator must document the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety. Each condition that meets any of the repair criteria in paragraph (d) of this section in an onshore steel transmission pipeline must be —

* * * * *

(d) * * *

(1) *Immediate repair conditions.* An operator's evaluation and remediation schedule for immediate repair conditions must follow section 7 of ASME B31.8S (incorporated by reference, see § 192.7). An operator must repair the following conditions immediately upon discovery:

* * * * *

(2) * * *

(iv) For metal loss anomalies, a calculation of the remaining strength of the pipe shows a predicted failure pressure, determined in accordance with § 192.712(b) at the location of the anomaly, of less than 1.39 times the MAOP for Class 2 locations, or less than 1.50 times the MAOP for Class 3 and 4 locations. For metal loss anomalies in Class 1 locations with a predicted failure pressure greater than 1.1 times MAOP, an operator must follow the remediation schedule

specified in ASME B31.8S (incorporated by reference, see § 192.7), section 7, Figure 7.2.1-1, as specified in paragraph (c) of this section.

* * * * *

4. Amend § 192.933 by revising paragraphs (d)(1) introductory text and (d)(2)(iv) to read as follows:

§ 192.933 What actions must be taken to address integrity issues?

(d) * * *

(1) *Immediate repair conditions.* An operator's evaluation and remediation schedule must follow ASME B31.8S, section 7 (incorporated by reference, *see* § 192.7) in providing for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure in accordance with paragraph (a) of this section or shut down the pipeline until the operator completes the repair of these conditions. An operator must treat the following conditions as immediate repair conditions:

(2) * * *

(iv) Metal loss anomalies where a calculation of the remaining strength of the pipe at the location of the anomaly shows a predicted failure pressure, determined in accordance with § 192.712(b), less than 1.39 times the MAOP for Class 2 locations, and less than 1.50 times the MAOP for Class 3 and 4 locations. For metal loss anomalies in Class 1 locations with a predicted failure pressure greater than 1.1 times MAOP, an operator must follow the remediation schedule specified in ASME B31.8S (incorporated by reference, *see* § 192.7), section 7, Figure 7.2.1-1, in accordance with paragraph (c) of this section.

* * * * *

Issued in Washington, DC, on June 26, 2025, 2025, under authority delegated in 49 CFR 1.97.

Keith Coyle,

Chief Counsel.

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