



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

Docket No. PHMSA-2025-0113

RIN 2137-AF83

Pipeline Safety: Codify Enforcement Discretion on Incidental Gathering Lines

ACTION: Notice of proposed rulemaking (NPRM).

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

SUMMARY: PHMSA proposes to codify a statement of limited enforcement discretion applicable to “incidental gathering” lines. The proposed rule completes PHMSA’s commitment within its response to a petition for reconsideration of a 2021 final rule affecting the regulation of onshore gas gathering pipelines.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by the Docket Number PHMSA-2025-0113 using any of the following methods:

E-Gov Web: <https://www.regulations.gov>. This site allows the public to enter comments on any Federal Register notice issued by any agency. Follow the online instructions for submitting comments.

Mail: Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, D.C. 20590–0001.

Hand Delivery: U.S. DOT Docket Management System: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 1-202-493-2251.

For commenting instructions and additional information about commenting, see

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Sayler Palabrica, Transportation Specialist, 1200 New Jersey Avenue, SE Washington, D.C. 20590, 202-744-0825, or by email at sayler.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION:

I. GENERAL DISCUSSION:

On November 15, 2021, PHMSA published a final rule titled “Pipeline Safety: Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments” in the Federal Register (86 FR 63266 (Nov. 15, 2021)) establishing new reporting and safety requirements for gas gathering pipelines in Class 1 locations. One of the regulatory amendments adopted in that final rule (at § 192.8) imposed a 10-mile limitation on the historical exception from certain part 192 requirements applicable to gas transmission lines for “incidental gathering” pipeline segments. Operators are required to identify gas gathering pipelines and regulated onshore gathering lines based on the function of that pipeline in accordance with §§ 192.3 and 192.8, and the first edition of American Petroleum Institute (API) Recommended Practice (RP) 80, “Guidelines for the Definitions of Onshore Gas Gathering Lines.” Under these provisions, the endpoint of an onshore gathering line and the beginning of a transmission or distribution line is the furthestmost downstream endpoint of gathering described in section 2.2(a)(1) of API RP 80, subject to the limitations in § 192.8(a). The possible endpoints defined in API RP 80(a)(1)(A)–(D) and § 192.8(a) include a natural gas processing plant, gas gathering treatment facility, point of comingling from separate fields, or a gathering-related compressor station. API RP 80(a)(1)(E) also includes an “incidental gathering” designation for piping downstream of the furthestmost downstream functional endpoint of gathering that is used to connect to “another pipeline.” The 2021 Gas Gathering Final Rule

imposed a new, 10-mile limitation on the use of the incidental gathering line designation in API RP 80. That limitation applies to gathering lines that are “new, replaced, relocated, or otherwise changed” after May 16, 2022, and, if exceeded, requires that the entire length of the pipeline be classified as a gas transmission line under part 192.

On December 15, 2021, the American Petroleum Institute (API) and the GPA Midstream Association submitted a petition for reconsideration (Petition) of the 2021 Gathering Gas Final Rule (Docket No. PHMSA-2011-0023-0493). In their Petition, API and GPA Midstream noted that applying the 10-mile limitation to existing gas gathering lines could require an operator to redesignate the entire length of the line as a gas transmission line in certain scenarios. On April 1, 2022, PHMSA issued a response (Petition Response, Docket No. PHMSA-2011-0023-0504) acknowledging that concern and noting that some incidental gathering line operators would respond by deferring safety-enhancing repairs to avoid the change of regulatory status. To provide PHMSA with the opportunity to consider the issue more closely, PHMSA issued a limited exercise of enforcement discretion providing relief from the 10-mile limitation for existing incidental gathering lines (87 FR 26926 (May 4, 2022)).

PHMSA is now proposing to codify the relief provided in the enforcement discretion at § 192.8(a)(5). As a result of this proposed regulatory amendment, the 10-mile restriction on use of the “incidental gathering” designation would no longer apply to portions of an existing pipeline that had been designated as “incidental gathering” on or before May 16, 2022, which are subsequently relocated, replaced, or otherwise changed. Pipelines newly installed after May 16, 2022, would remain subject to the 10-mile limitation on the “incidental gathering” designation at § 192.8(a)(5).

PHMSA is not aware of any incidents or safety related conditions on gathering lines currently subject to the enforcement discretion. As explained in the Regulatory Impact Analysis for the 2021 Gas Gathering Final Rule, PHMSA also believes that the aggregate length of pipe

affected by the 10-mile limitation on the use of the incidental gathering designation is small.¹ However, the compliance costs for existing incidental gathering lines affected by the 10-mile limitation could be significant for some operators. As noted in the Petition Response, the incidental gathering limitation as written could trigger substantially more burdensome regulatory requirements when an operator replaces, relocates, or otherwise changes an existing incidental gathering line. This could incentivize the delay of safety-enhancing maintenance activity. Eliminating regulatory uncertainty regarding existing incidental gas gathering lines could therefore enhance safety to the extent that it encourages operators to perform such maintenance.

Commenting

Instructions: Please include the docket number PHMSA-2025-0113 at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <https://www.regulations.gov>.

Note: Comments are posted without changes or edits to <https://www.regulations.gov>, including any personal information provided. There is a privacy statement published on <https://www.regulations.gov>.

Privacy Act: In accordance with 5 United States Code (U.S.C.) 553(c), DOT solicits comments from the public to inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.dot.gov/privacy>.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA, 5 U.S.C. 552), CBI is exempt from public disclosure. It

¹ PHMSA, Doc. No. PHMSA-2011-0023-0488, “Regulatory Impact Analysis for the Gas Gathering Final Rule” at 23 (Nov. 2021).

is important that you clearly designate the comments submitted as CBI if: your comments responsive to this document contain commercial or financial information that is customarily treated as private; you actually treat such information as private; and your comment is relevant or responsive to this notice. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to provide confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential”; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information that you are submitting is CBI. Submissions containing CBI should be sent to Sayler Palabrica, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue SE, Washington, D.C. 20590-0001, or by email at sayler.palabrica@dot.gov. Any materials PHMSA receives that is not specifically designated as CBI will be placed in the public docket.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the docket.

Alternatively, you may review the documents in person at the street address listed above.

II. REGULATORY ANALYSIS AND NOTICES:

A. Legal Authority

This proposed rule is published under the authority of the Secretary of Transportation set forth in the Federal Pipeline Safety Laws (49 U.S.C. 60101 *et seq.*) and delegated to the PHMSA Administrator pursuant to 49 CFR 1.97.

B. Executive Order 12866; Regulatory Planning and Review

Executive Order (E.O.) 12866 (“Regulatory Planning and Review”; 58 FR 51735 (Oct. 4, 1993)), as implemented by DOT Order 2100.6B (“Policies and Procedures for Rulemaking”), requires agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop

regulations that “impose the least burden on society.” DOT Order 2100.6B specifies that regulations should generally “not be issued unless their benefits are expected to exceed their costs.” In arriving at those conclusions, E.O. 12866 requires that agencies should consider “both quantifiable measures . . . and qualitative measures of costs and benefits that are difficult to quantify” and “maximize net benefits . . . unless a statute requires another regulatory approach.” E.O. 12866 also requires that “agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.” DOT Order 2100.6B directs that PHMSA and other Operating Administrations must generally choose the “least costly regulatory alternative that achieves the relevant objectives” unless required by law or compelling safety need.

E.O. 12866 and DOT Order 2100.6B also require that PHMSA submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President’s Office of Management and Budget (OMB) for review. This proposed rule is a not significant regulatory action pursuant to E.O. 12866; it also has not designated this rule as a “major rule” as defined by the Congressional Review Act (5 U.S.C. 801 *et seq.*).

PHMSA has complied with the procedural and analytical requirements in E.O. 12866 as implemented by DOT Order 2100.6B. In so doing, PHMSA expects that this proposed rule would result in cost savings by reducing regulatory burdens and regulatory uncertainty for pipeline facility operators by codifying PHMSA’s existing exercise of its enforcement discretion to provide that an operator is not required to redesignate existing incidental gathering lines as transmission lines as a result of replacement, relocation, or other changes. While PHMSA exercised enforcement discretion for such lines, this change results in cost savings to the extent that operators would otherwise reclassify incidental gathering lines due to regulatory uncertainty or action by State regulators. Those cost savings may also result in reduced costs for the public

to whom pipeline operators generally transfer a portion of their compliance costs. The cost savings of this rulemaking could not be quantified.

C. Executive Orders 14192 and 14219

This NPRM is expected to be a deregulatory action pursuant to E.O. 14192 (“Unleashing Prosperity Through Deregulation”; (90 FR 9065 (Feb. 6, 2025))). PHMSA estimates that the total costs of the NPRM on the regulated community will be less than zero. Nor does this rulemaking 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.” (90 FR 10583 (Feb. 25, 2025)).

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

The President has declared in E.O. 14156 (“Declaring a National Energy Emergency”; (90 FR 8353 (Jan. 29, 2025))) a national emergency to address America’s inadequate energy development production, transportation, refining, and generation capacity. Similarly, E.O. 14154 (“Unleashing American Energy,” (90 FR 8353 (Jan. 29, 2025))) asserts a Federal policy to unleash American energy by ensuring access to abundant supplies of reliable, affordable energy from (inter alia) the removal of “undue burden[s]” on the identification, development, or use of domestic energy resources such as PHMSA-jurisdictional gasses and hazardous liquids. PHMSA preliminarily finds this proposed rule is consistent with each of E.O. 14156 and E.O. 14154. The proposed rule will give affected pipeline operators regulatory certainty and cost savings by clarifying that operators of lines designated as “incidental gathering” lines as of May 16, 2022, would not need to redesignate those existing lines as transmission lines following replacement, relocation, or other changes on those lines. PHMSA therefore expects the regulatory amendments in this proposed rule will in turn increase national pipeline transportation capacity and improve pipeline operators’ ability to provide abundant, reliable, affordable natural gas in response to residential, commercial, and industrial demand.

However, this proposed rule is not a “significant energy action” under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”; (66 FR 28355 (May 22, 2001))), which requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” Because this proposed rule is not a significant action under E.O. 12866, it will not have a significant adverse effect on supply, distribution, or energy use; OIRA has therefore not designated this proposed rule as a significant energy action.

E. Executive Order 13132: Federalism

PHMSA analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13132 (“Federalism”; 64 FR 43255 (Aug. 10, 1999)) and the Presidential Memorandum (“Preemption”) published in the Federal Register on May 22, 2009 (74 FR 24693). E.O. 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may have “substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.”

While the proposed rule may (when finalized) operate to preempt some State requirements, it will not impose any regulation that has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. Section 60104(c) of Federal Pipeline Safety Laws prohibits certain State safety regulation of interstate pipelines. Under Federal Pipeline Safety Laws, States that have submitted a current certification under section 60105(a) can augment Federal pipeline safety requirements for intrastate pipelines regulated by PHMSA but may not approve safety requirements less stringent than those required by Federal law. A State may also regulate an intrastate pipeline facility that PHMSA does not regulate. The preemptive effect of the regulatory amendments in this proposed rule is limited to the minimum

level necessary to achieve the objectives of the Federal Pipeline Safety Laws. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to conduct an Initial Regulatory Flexibility Analysis (IRFA) for a proposed rule subject to notice-and-comment rulemaking under the Administrative Procedure Act unless the agency head certifies that the proposed rule in the rulemaking will not have a significant economic impact on a substantial number of small entities. E.O. 13272 (“Proper Consideration of Small Entities in Agency Rulemaking”; 67 FR 53461 (Aug. 16, 2002)) obliges agencies to establish procedures promoting compliance with the Regulatory Flexibility Act. DOT posts its implementing guidance on a dedicated webpage. This proposed rule was developed in accordance with E.O. 13272 and DOT implementing guidance to ensure compliance with the Regulatory Flexibility Act. The proposed rule is expected to reduce regulatory burdens. Therefore, PHMSA certifies the proposed rule (if finalized) will not have a significant impact on a substantial number of small entities.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMRA, 2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. For any proposed or final rule that includes a Federal mandate that may result in the expenditure by state, local, and Tribal governments, in the aggregate of \$100 million or more (in 1996 dollars) in any given year, the agency must prepare, amongst other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the Federal mandate.

This proposed rule does not impose unfunded mandates under UMRA. PHMSA does not expect the proposed rule will result in costs of \$100 million or more (in 1996 dollars) per year for either State, local, or Tribal governments, or to the private sector.

H. National Environmental Policy Act

The National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et. seq.) requires that Federal agencies assess and consider the impact of major Federal actions on the human and natural environment.

PHMSA analyzed this proposed rule in accordance with NEPA and has preliminarily determined that the rulemaking will not adversely affect safety and therefore will not significantly affect the quality of the human and natural environment. The public is invited to comment on the impact of the proposed action.

I. Executive Order 13175

PHMSA analyzed this proposed rule according to the principles and criteria in E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”; 65 FR 67249 (Nov. 9, 2000)) and DOT Order 5301.1A (“Department of Transportation Tribal Consultation Policies and Procedures”). E.O. 13175 requires agencies to assure meaningful and timely input from 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 or distribution of power between the Federal Government and Tribes.

PHMSA assessed the impact of the proposed rule and determined that it will not significantly or uniquely affect Tribal communities or Indian Tribal governments. The rulemaking’s regulatory amendments have a broad, national scope; therefore, this proposed rule will not significantly or uniquely affect Tribal communities, much less impose substantial compliance costs on Native American Tribal governments or mandate Tribal action. For these reasons, PHMSA has concluded that the funding and consultation requirements of E.O. 13175 and DOT Order 5301.1A do not apply.

J. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d) requires that PHMSA provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This rulemaking will not create, amend, or rescind any existing information collections.

K. Executive Order 13609 and International Trade Analysis

E.O. 13609 (“Promoting International Regulatory Cooperation”; 77 FR 26413 (May 4, 2012)) requires agencies 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 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.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA engages with international standards setting bodies to protect the safety of the American public. PHMSA has assessed the effects of the proposed rule and has determined that its regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028 (“Improving the Nation's Cybersecurity”; 86 FR 26633 (May 17, 2021)) directed the Federal Government to improve its efforts to identify, deter, and respond to “persistent and increasingly sophisticated malicious cyber campaigns.” PHMSA has considered the effects of the proposed rule and has determined that its regulatory amendments will not materially affect the cybersecurity risk profile for pipeline facilities.

List of Subjects in 49 CFR Part 191

Pipeline Safety

For the reasons set forth above, PHMSA proposes to amend 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 49 CFR 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.

§ 192.8 [Amended]

2. In § 192.8(a)(5), remove the phrase, “new, replaced, relocated, or otherwise changed gas gathering pipelines installed” and add in its place the phrase “new gas gathering pipelines installed entirely”.

Issued in Washington, D.C., on June 26, 2025, under the authority delegated in 49 CFR 1.97.

Benjamin D. Kochman,

Acting Administrator.