



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 190

[Docket No. PHMSA-2026-1555]

RIN 2137-AF63

Administrative Rulemaking: Regulatory Procedures

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: PHMSA proposes to adopt regulatory amendments to align procedures governing post-issuance administrative challenges of final rules issued by its Office of Pipeline Safety (OPS) with those governing post-issuance administrative challenges of final rules issued by its Office of Hazardous Materials Safety (OHMS).

DATES: Written comments on this NPRM must be submitted by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

ADDRESSES: You may submit comments identified by the Docket Number PHMSA-2026-1555 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 S.E., 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 S.E., 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: Saylor Palabrica, Transportation Specialist,
1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-744-0825,
saylor.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

PHMSA regulations governing its hazardous materials safety and pipeline safety programs provide procedures for informal rulemaking under the Administrative Procedure Act (APA, 5 U.S.C. § 551 *et seq.*). Each of the informal rulemaking procedures for OHMS (at 49 CFR part 106) and OPS (at 49 CFR part 190) also provide procedural mechanisms for post-issuance administrative challenges of PHMSA final rules.

However, those post-issuance administrative challenge procedures differ significantly between each of PHMSA's program offices. OHMS post-issuance administrative challenge procedures at § 106.110 *et seq.* contemplate a single round of post-issuance administrative "appeal" challenging PHMSA's issuance of an OHMS final rule; that administrative appeal process concludes once PHMSA issues a decision on the administrative appeal. OHMS regulations also provide for a single, consistent review path regardless of the content of the challenged final rule.

In contrast, OPS regulations at § 190.335 *et seq.* contemplate as many as two rounds of post-issuance administrative challenges to OPS final rules: an initial "petition for reconsideration" for decision by the Associate Administrator for Pipeline Safety or the Chief Counsel, potentially followed by an "appeal" to the PHMSA Administrator in the event of the denial of the petition for reconsideration. OPS procedures also contemplate different review paths for petitions for reconsideration based on the nature of the final rule being challenged:

petitions for reconsideration of final rules pertaining to “procedural” regulations are submitted to, and decided by, the PHMSA Chief Counsel, but petitions for reconsideration of final rules pertaining to “substantive” regulations are submitted to, and decided by, the PHMSA Associate Administrator for Pipeline Safety. This distinction between “procedural” regulations and “substantive” regulations is ambiguous and provides little clarity to stakeholders as to which PHMSA personnel will be reviewing petitions for reconsideration.

To improve consistency between its two safety programs regarding procedures for post-issuance administrative challenges of rulemakings, PHMSA now proposes to amend its part 190 regulations to (1) remove procedures contemplating second-round “appeals” to the PHMSA Administrator of denials of petitions for reconsideration of OPS final rules, and (2) consolidate the review path for all petitions for reconsideration of OPS final rules. PHMSA also proposes to delete as unnecessary procedures contemplating appeals to the Administrator of denials of petitions for rulemaking pursuant to § 190.333. PHMSA would apply any new procedural requirements to final rules issued after the effective date of a final rule in this proceeding.

Commenting Instructions: Please include the docket number PHMSA-2026-1555 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 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 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 § 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 Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue S.E., Washington, D.C. 20590-0001, or by e-mail 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 Analyses and Notices:

A. Legal Authority

This proposed rule is published under the authority of the Secretary of Transportation as 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. The amendments adopted herein affect provisions in part 190 governing PHMSA’s informal rulemaking procedures and therefore pertain to “rules of agency organization, procedure, or practice” that could be published as a final

rule without notice and comment and with an immediate effective date as permitted by 5 U.S.C. § 553(b)(A). However, as a matter of discretion, PHMSA has decided to first publish this notice of proposed rulemaking and provide an opportunity for public comment before adopting a final rule.

B. Statutory Requirement and Executive Order 12866

The Federal Pipeline Safety Laws (49 U.S.C. § 60102(b)) require that PHMSA prepare a risk assessment that identifies the costs and benefits associated with a proposed regulatory change. E.O. 12866, *Regulatory Planning and Review*, as implemented by DOT Order 2100.6B (“Policies and Procedures for Rulemaking”) and DOT Order 2100.7 (“Ensuring Reliance upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities”), 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.” 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. DOT Order 2100.6B also specifies that regulations should generally “not be issued unless their benefits are expected to exceed their costs.” DOT Order 2100.7 requires that “all rulemaking activities shall be based on sound economic principles and analysis supported by rigorous cost-benefit requirement.”

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

NPRM is not a significant regulatory action pursuant to E.O. 12866; OMB 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 and DOT Order 2100.7, as well as the requirements in 49 U.S.C. § 60102(b), and preliminarily determined that this proposed rule would not impose new burdens as it only streamlines a legal process and does not impose new requirements on pipeline operators. PHMSA also preliminarily determined that the proposed rule would not have any adverse safety effects for the same reason.

C. Executive Orders 14192 and 14219

This proposed rule, if finalized as proposed, is expected to be a deregulatory action pursuant to E.O. 14192, *Unleashing Prosperity Through Deregulation*. PHMSA estimates that the total costs of the rule on the regulated community will be *de minimis*, as the non-substantive changes of this rulemaking do not impose any new requirements on pipeline operators, and the changes therein should improve the clarity and compliance with PHMSA regulations. Nor does this proposed 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.”

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

The President has declared in E.O. 14156, *Declaring a National Energy Emergency*, a National emergency to address America’s inadequate energy development production, transportation, refining, and generation capacity. Similarly, E.O. 14154, *Unleashing American Energy*, 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

gases and hazardous liquids. PHMSA preliminarily finds this proposed rule is consistent with each of E.O. 14156 and E.O. 14154. The provisions of this proposed rule are non-substantive and will not impose new requirements on pipeline operators.

This proposed rule is not a “significant energy action” under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*, 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*, and the Presidential Memorandum (“Preemption”) published in the *Federal Register* on May 22, 2009. E.O. 13132 requires agencies to assure 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.”

Though the proposed rule may operate to preempt some State requirements, it would 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 the Federal Pipeline Safety Laws prohibits certain State safety regulation of interstate pipelines. Under the 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 (RFA, 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 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*, obliges agencies to establish procedures promoting compliance with the RFA. DOT posts its implementing guidance on a dedicated webpage.¹ This proposed rule was developed in accordance with E.O. 13272 and DOT implementing guidance to ensure compliance with the RFA and that the potential impacts of the rulemaking on small entities has been properly considered. PHMSA does not expect any operator will incur significant costs from the regulatory amendments proposed here, which only affect procedures governing petitions for reconsideration of final rules — a procedural mechanism few operators utilize, and which entails relatively low costs. 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 (\$203 million in 2024 dollars) in any given year, the agency must prepare,

¹ DOT, *Rulemaking Requirements Concerning Small Entities*, <https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities>.

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 because it does not 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

PHMSA has analyzed this proposed rule pursuant to the National Environmental Policy Act (NEPA, 42 U.S.C. § 4321 *et seq.*) and has preliminarily determined that it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Under section 9 of DOT Order 5610.1D (“DOT’s Procedures for Considering Environmental Impacts”), PHMSA may apply a categorical exclusion (CE) established in another Operating Administration’s (OA) procedures. PHMSA followed the requirements outlined in DOT Order 5610.1D to apply the Federal Highway Administration’s (FHWA) CE to this proposed deregulatory action. PHMSA does not anticipate any adverse environmental impacts from this proposed rule, and PHMSA has determined no unusual circumstances are present under § 771.117(b). PHMSA is soliciting comments on the environmental and safety impacts of the proposed rule. Following the public comment period, if determined appropriate, PHMSA will prepare a Categorical Exclusion Determination memo to be posted on PHMSA’s website.²

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*, 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

² See PHMSA, *Environmental Compliance-Implementing Procedures*, <https://www.phmsa.dot.gov/planning-and-analytics/environmental-analysis-and-compliance/implementing-procedures>.

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*, 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. No. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. No. 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 proposed regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028, *Improving the Nation's Cybersecurity*, directs 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 proposed regulatory amendments will not materially affect the cybersecurity risk profile for pipeline facilities.

List of Subjects in 49 CFR Part 190

Administrative practice and procedure, Penalties, Pipeline safety.

In consideration of the foregoing, PHMSA proposes to revise 49 CFR part 190 as follows:

PART 190—PIPELINE SAFETY ENFORCEMENT AND REGULATORY PROCEDURES

1. The authority citation for part 190 continues to read as follows:

Authority: 33 U.S.C. 1321(b); 49 U.S.C. 60101 *et seq.*

2. Revise § 190.335 to read as follows:

§ 190.335 Petitions for reconsideration.

(a) Except as provided in § 190.339(d), any interested person may petition PHMSA for reconsideration of any regulation issued under this part. The petition must be received not later than 30 days after publication of the rule in the *Federal Register*. Petitions filed after that time will be considered as petitions filed under § 190.331. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, the petitioner must state the reason they were not presented to PHMSA within the prescribed time.

(c) PHMSA does not consider repetitious petitions.

(d) Unless PHMSA otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

3. Revise § 190.337 to read as follows:

§ 190.337 Proceedings on petitions for reconsideration.

(a) PHMSA may grant or deny, in whole or in part, any petition for reconsideration without further proceedings, except where a grant of the petition would result in issuance of a new final rule. In the event PHMSA determines to reconsider any regulation, a final decision on reconsideration may be issued without further proceedings, or an opportunity to submit comment or information and data as deemed appropriate, may be provided. PHMSA may consolidate petitions for reconsideration relating to the same rules.

(b) It is the policy of PHMSA to issue notice of the action taken on a petition for reconsideration within 90 days after the date on which the regulation in question is published in the *Federal Register*, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact and the date by which it is expected that action is issued to the petitioner and published in the *Federal Register*.

§ 190.338 [Removed]

4. Remove § 190.338.

Issued in Washington, D.C. on April 22, 2026, under authority delegated in 49 CFR 1.97.

Paul J. Roberti

Administrator.

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