

PHMSA proposes significant changes to gas gathering line regulations

ON March 17, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) released a pre-publication version of its long-awaited notice of proposed rulemaking (NPRM) for gas transmission and gathering pipelines. Under development for more than four years, the NPRM proposes significant changes to the regulations for gas pipeline facilities in 49 C.F.R. Part 192.

Of particular importance to midstream operators, PHMSA is proposing to amend its regulations for onshore gas gathering lines. Adopted a decade ago, the current regulations rely in large part on American Petroleum Institute (API) Recommended Practice 80, Guidelines for the Definition of Onshore Gas Gathering Lines (1st ed., April 2000) (RP 80), a voluntary consensus standard for classifying onshore production operations and gas gathering lines. Those regulations also contain an exemption that applies to gas gathering lines in rural, class 1 locations, i.e., areas where 10 or fewer buildings intended for human occupancy are located in the vicinity of a gathering line. As explained in more detail below, the NPRM proposes to change these regulations by (1) modifying the requirements for determining whether a pipeline qualifies as an onshore gas gathering line, (2) applying portions of the Part 192 regulations to certain previously unregulated, class 1 gas gathering lines and (3) applying the federal reporting requirements to all gas gathering lines (whether regulated or not).

New gathering line definition

PHMSA is proposing to create a new definition for gathering line (onshore), as well as supplementary definitions for onshore production facilities or production operations, gas treatment facilities and gas processing plants. While the text of the proposed amendments suggests that PHMSA is seeking to codify many of the basic concepts embodied in the existing regulations, the NPRM would eliminate the reference to and depart from RP 80's functional approach in at least two significant ways.

First, the proposed definition of "onshore production facility or onshore production operation" would start the gathering

function at the furthestmost downstream point of measurement for purposes of calculating mineral severance or where the flow stream from two or more wells commingles. Under the current federal rules, RP 80 generally allows operators to extend the production function much farther downstream.

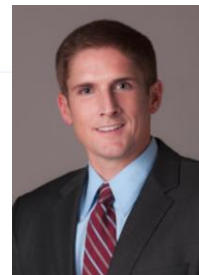
Second, it appears that the proposed definition of "gathering line (onshore)" would restrict the use of the incidental gathering designation to (1) pipelines that do not leave property under the control of either the incidental gathering line operator or the operator of an adjacent pipeline where custody transfer takes place, or (2) pipelines that do not exceed one mile in length and which do not cross a state or federal highway or active railroad. RP 80 does not impose any property, mileage or crossing restrictions on the use of the incidental gathering line designation under the current federal rules.

If adopted as proposed, these changes could substantially narrow the scope of unregulated production operations and bring the range of potentially regulated gathering operations to points much closer to the wellhead. The use of the incidental gathering line designation could also be significantly restricted, requiring operators to reclassify many of these lines as fully regulated transmission lines.

New safety standards for higher-stress, larger-diameter class 1 gas gathering lines

PHMSA is also proposing to apply the federal pipeline safety standards to certain gas gathering lines in class 1 locations. Specifically, the NPRM would partially repeal the current exemption and apply a limited set of Part 192 safety standards to class 1 gas gathering lines that have a maximum allowable operating pressure (MAOP) that produces a hoop stress of 20 percent or more of specified minimum yield strength (SMYS) for metallic lines, or more than 125 psig for non-metallic lines, and which are at least 8 inches in outside diameter. Operators of these "Type A, Area 2" gathering lines would have to comply with the same safety standards that currently apply to lower-stress, "Type B" gathering lines. That includes implementing damage prevention and public awareness programs, establishing MAOP, installing line markers, conducting leak surveys for all

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lines, and providing corrosion control for metallic lines. The requirements for design, installation, construction, initial inspection and initial testing would apply to any new, replaced, relocated or otherwise changed lines. To address a recent U.S. Government Accountability Office recommendation, operators of Type A, Area 2 gathering line would also be required to comply with the emergency response requirements in Part 192.

Extending the federal reporting requirements to all gas gathering lines

Finally, PHMSA is proposing to apply the federal reporting requirements to all gas gathering lines, including class 1 gas gathering lines that do not meet the stress-level and outside diameter criteria to qualify as regulated, Type A, Area 2 lines. To comply with a statutory limitation in the federal Pipeline Safety Act, gathering line operators would not be required to submit any information to the National Pipeline Mapping System. PHMSA intends to use the information collected in these reports to determine if additional gas gathering line regulations are necessary in the future.

Next Steps

Once the NPRM is published in the Federal Register, the public will be afforded the opportunity to submit comments on the proposed changes to the gathering line regulations, as well as the other significant changes proposed in the NPRM. PHMSA is requiring that any comments be submitted within 60 days of publication, although several pipeline industry trade organizations recently filed a request to extend that deadline. After the comment period closes, PHMSA must consider the information provided and present the NPRM to a federal pipeline safety advisory committee for its consideration. The final step in the rulemaking process would be the issuance of a final rule containing new federal safety standards that have the force and effect of law. ■

If you would like additional information about developments described in this article, please contact James Curry (202-853-3461 or jcurry@babstcalland.com) or Keith Coyle at (202-853-3460 or kcoyle@babstcalland.com). Curry and Coyle lead Babst Calland's Pipeline and Hazardous Materials Safety Practice in Washington, D.C., counseling pipeline and midstream companies, gas utilities, terminal operators, investors, trade associations, and other stakeholders. They both served previously as attorneys for PHMSA.