

PHMSA FINALIZES RULE EXPANDING REGULATION OF GAS GATHERING

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Just as global leaders convened in Glasgow for COP26, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a prepublication copy of its new rule (Final Rule) on November 2, 2021, that significantly expands reporting and safety requirements for operators of gas gathering pipelines, including lines that were previously unregulated. The Final Rule was published in the Federal Register on November 15, 2021. This Final Rule, along with the Environmental Protection Agency's (EPA) proposed Clean Air Act rulemakings targeting the oil and gas sector issued the same day, serves to further demonstrate the Biden Administration's overall commitment to action on climate change. The Final Rule requires operators to implement Part 192 requirements for certain newly regulated gas gathering lines located in Class 1 locations and requires Part 191 incident and annual reporting for all onshore gas gathering pipelines, regardless of location. These new requirements will significantly increase PHMSA's oversight over more than 425,000 miles of previously unregulated onshore gas gathering lines.

Gas gathering pipelines are those that transport gas from production facilities to gas transmission lines. Historically, these pipelines have been smaller in diameter and have operated at lower pressures in largely rural areas. Based on the size and pressure of these lines, PHMSA initially concluded that they generally posed a lower risk to people and the environment, and as a result, when first regulating gas gathering pipelines in 2006, PHMSA did not require operators of these lines to comply with all of the federal pipeline safety requirements at Parts 191 and 192. At that time, PHMSA also determined that regulation of gas gathering lines located in rural Class 1 locations was unnecessary.

Since 2006, domestic gas production and consumer demand has increased reliance on gas gathering pipelines, resulting in the use of larger diameter pipelines at higher pressures. Based on these changes, PHMSA determined that the risks associated with gas gathering pipelines, including with respect to incidents and increased methane emissions, are increasing, warranting increased regulatory oversight. PHMSA's Final Rule expands upon its initial regulation of gas gathering lines and furthers PHMSA's reach beyond pipeline safety to the environment.

Expanded Scope of Regulations Applicable to Type C Gathering Lines

The Final Rule expands PHMSA's oversight of previously unregulated gathering lines. Historically, PHMSA required larger gathering lines located in Class 2, Class 3, or Class 4 locations that operated at higher stress levels (Type A lines) to comply with most of Part 192. For pipelines that operated in these locations (except for certain Class 2 locations) at lower pressures (Type B lines), PHMSA required operators to comply with a more limited set of the Part 192 requirements. Under this scheme, PHMSA excepted rural gas gathering lines in Class 1 locations.

In this Final Rule, PHMSA has now created a third category of regulated gas gathering lines — Type C lines. Type C lines are gathering lines in Class 1 locations that are 8.625 inches or

greater in diameter and are (1) metallic, with a maximum allowable operating pressure (MAOP), producing a hoop stress of 20% or more of specified minimum yield strength; (2) metallic, with an MAOP greater than 125 pounds per square inch gauge (psig) if the hoop stress is unknown; or (3) non-metallic, with an MAOP greater than 125 psig.

Within the category of Type C lines, PHMSA has imposed certain requirements for operators based on the “scale of risk associated with the particular characteristics of the pipeline.” Under this Final Rule, operators of Type C lines with an outside diameter of 8.625 inches or greater will be required to comply with the following requirements (unless excepted):

- Design, installation, construction, and initial inspection and testing for lines that are new, replaced, relocated, or otherwise changed after the applicable compliance date in § 192.13 per transmission line requirements in Part 192;
- Corrosion control (Part 192, Subpart I);
- Damage prevention program (§ 192.614);
- Emergency plans (§ 192.615);
- Public awareness (§ 192.616);
- Line markers (§ 192.707); and
- Leakage surveys (§ 192.706).

Operators of Type C lines with an outside diameter of 12.75 inches or greater will also be required to comply with these additional requirements (unless excepted):

- Applicable requirements at Part 192 for plastic pipe and components; and
- Establishment of MAOP (§ 192.619).

PHMSA created a notable exception to these requirements for gathering lines that have an outside diameter of less than 16 inches and that are not located near a building intended for human occupancy or other impacted site. When a gathering line falls within this exception, PHMSA only requires that the operator comply with design, installation, construction, and initial inspection and testing for lines that are new, replaced, relocated, or otherwise changed after the applicable compliance date in § 192.13 per transmission line requirements in Part 192, damage prevention, and emergency plan requirements. Any gas gathering pipeline with a diameter of less than 8.625 inches or operating below the pressure or stress level criteria in the regulations will remain unregulated under the Final Rule and be subject only to incident and annual reporting requirements.

Expanded Reporting Requirements to Include Type R Gathering Lines

Under the Final Rule, all operators of onshore gas gathering lines are now required to report incidents and file annual reports under Part 191. PHMSA defines a new category of reporting-only gathering lines, Type R lines, which include any onshore gas gathering lines in Class 1 or Class 2 locations that do not meet the definition of Type A, Type B, or the new Type C lines (addressed above). Type R line operators will be required to comply with certain incident and annual reporting requirements in Part 191.

According to PHMSA, these reporting requirements “are necessary to evaluate the safety risks on gas gathering systems and determine what, if any, additional measures may be warranted to reduce those risks.” These reporting requirements do not apply to offshore gathering lines. To assist operators with these new reporting requirements, PHMSA issued new annual report and incident report forms. Operators will be required to file annual reports for onshore gas gathering lines for 2022 and must submit these reports no later than March 15, 2023.

Compliance Deadlines

The Final Rule becomes effective within six months after publication, or May 15, 2022. At that time, Part 191 obligations will be in effect for both Type R and Type C gathering pipeline operators although, as a practical matter, annual reports will not be due until March 15, 2023. Accordingly, all operators will be required to have documented their methodology for determining the beginning and endpoints of onshore gas gathering lines within six months after the effective date of the Final Rule, or by November 15, 2022. Operators of Type C lines must achieve compliance with the Type C requirements within one year of the effective date of the Final Rule, or May 15, 2023.

In recognition that some operators may be unable to comply with all of the requirements within the six-month or one-year time frame, PHMSA has provided a procedure whereby operators can request an alternative compliance deadline by submitting a notification 90 days prior to the standard compliance deadline established under the Final Rule.

Overall, PHMSA’s Final Rule significantly expands the reporting and safety requirements for certain gas gathering lines and PHMSA’s oversight over previously unregulated gathering lines. Based on data gathered pursuant to the new reporting requirements, we anticipate that PHMSA will continue its efforts to increase requirements for gas gathering pipelines. Notably, PHMSA omitted several proposed definitional changes to the gas gathering pipeline regulations, and the Final Rule does not repeal the use of the existing definition of gathering line under API Recommended Practice (RP) 80 and 49 C.F.R. § 192.8. PHMSA will instead consider updating definitions associated with defining gathering and production lines in a separate rulemaking after evaluating the latest edition of API RP 80 and new API RP 1182, Safety Provisions for Large Diameter Rural Gas Gathering Lines. In addition, PHMSA established a 10-mile limit on the extent of “incidental gathering” from the furthestmost downstream endpoint of gathering for new, replaced, relocated, or otherwise changed pipelines after May 15, 2023.

In light of PHMSA’s focus on gas gathering lines, operators should review their processes and procedures for gas gathering lines to ensure compliance with PHMSA’s new requirements within the regulatory time frames and in anticipation of future increased regulation. Operators should also consider the potential implications of the integration of this rule with other PHMSA initiatives, including implementation of various directives under the PIPES Act of 2020.