



August 16, 2023

Submitted via <http://www.regulations.gov>

Mr. Alan K. Mayberry  
Associate Administrator for Pipeline Safety  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

RE: Docket ID No. PHMSA-2021-0039 – Pipeline Safety: Gas Pipeline Leak Detection and Repair

Dear Mr. Mayberry:

The Petroleum Alliance of Oklahoma (The Alliance) appreciates the opportunity to provide comments on the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) proposed rule — Pipeline Safety: Gas Pipeline Leak Detection and Repair, Docket ID No. PHMSA-2021-0039 (hereafter referred to as the Proposed Rule).

The Alliance represents more than 1,400 individuals and member companies and their tens of thousands of employees in the upstream, midstream, and downstream sectors and ventures ranging from small, family-owned businesses to large, publicly traded corporations. Our members produce, transport, process and refine the bulk of Oklahoma's crude oil and natural gas.

The Proposed Rule proposes to implement congressional mandates provided in the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020 (PIPES Act) to reduce methane emissions from new and existing gas transmission pipelines, distribution pipelines, regulated (Types A, B, C and offshore) gas gathering pipelines, underground natural gas storage facilities, and liquefied natural gas facilities. However, the Proposed Rule extends requirements beyond the authorities provided by Congress<sup>1</sup> by regulating additional gathering lines, it prevents the use of available, effective technologies that operators can use to conduct leak detection and repair (LDAR). Additionally, certain provisions appear to overlap or are inconsistent with other federal agency requirements, and it fails to provide a reasonable compliance timeframe.

We have significant concerns with the Proposed Rule, specifically related to gathering lines, and we request PHMSA reconsider key provisions discussed below. In addition, we support the detailed comments submitted by GPA Midstream Association, the American Petroleum Institute, the Independent Petroleum Association of America, and other trade groups.

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<sup>1</sup> Public Law 116–260, Dec. 27, 2020, Consolidated Appropriations Act, 2021, [website](#).



**I. The Proposed Rule fails to follow the law and the directives provided by Congress.**

- a. Sec. 113 of the PIPES Act<sup>2</sup>, among other requirements, requires PHMSA to promulgate LDAR standards for regulated gathering lines in Class 2, 3 or 4 locations<sup>3</sup>. The law does not allow PHMSA to extend these requirements to onshore gathering lines in Class 1 locations. PHMSA cannot disregard Congress' directive. In addition, PHMSA requests comments on whether it should extend its requirements to gathering lines identified as Type R lines. Again, PHMSA does not have statutory authority to extend the proposed requirements beyond gathering lines in Class 2, 3, or 4 locations.
  - **We request PHMSA revise the Proposed Rule and remove LDAR requirements for gathering lines that are not located in Class 2, 3, or 4 locations, in accordance with the PIPES Act.**
- b. PHMSA proposes to require gathering line operators to participate in in the National Pipeline Mapping System (NPMS); however, 49 U.S.C. Sec. 60132 specifically excludes distribution and gathering pipelines. Again, PHMSA does not have statutory authority to extend the proposed requirements beyond the law.
  - **We request PHMSA revise the Proposed Rule and remove the requirement for gathering line operators to participate in the NPMS.**

**II. PHMSA's Proposed Rule prevents operators from using available advanced leak detection technologies that are effective for pipeline application.** PHMSA proposes a performance standard for advanced leak detection equipment that requires a sensitivity of 5 parts per million or more within 5 feet of a pipeline or within a wall-to-wall paved area. PHMSA's proposed standard is greatly dependent on the environmental conditions (e.g., wind) and eliminates commonly used equipment to find and fix leaks (e.g., optical gas imaging, drones, and aircraft). This standard deviates from the Environmental Protection Agency's (EPA's) New Source Performance Standard (NSPS) OOOOa leak detection threshold and will only create confusion and regulatory uncertainty. This is not a practical or effective requirement, and it eliminates existing technologies that are effective and commonly used by operators to find and fix leaks. Additionally, it may stifle the development of new technologies.

- **We request PHMSA revise its proposed performance standard consistent with EPA's standard that will maximize the use of existing and emerging technologies that will allow operators to effectively find and fix leaks. Additionally, this would provide consistency and regulatory certainty for our members.**

**III. PHMSA's Proposed Rule is inconsistent with other federal agencies.**

- a. It is unclear if PHMSA's Proposed Rule overlaps with certain provisions of EPA's NSPS OOOO a/b/c regulatory requirements for pipelines (e.g., large emission events, equipment leaks, and

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<sup>2</sup> Id.

<sup>3</sup> Section 60102(q) states, "GAS PIPELINE LEAK DETECTION AND REPAIR.—“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate final regulations that require operators of regulated gathering lines (as defined pursuant to subsection (b) of section 60101 for purposes of subsection (a)(21) of that section) in a **Class 2 location, Class 3 location, or Class 4 location**, as determined under section 192.5 of title 49, Code of Federal Regulations...” (emphasis added).



blowdowns). It would be beneficial to the regulated community if PHMSA clearly identified how its Proposed Rule avoids duplication and inconsistencies with EPA's NSPS OOOOa/b/c rules.

- **We request PHMSA provide a table that “crosswalks” its Proposed Rule with EPA’s corresponding NSPS OOOO a/b/c rules for pipelines. We request PHMSA repropose the rule with this information to allow our members an opportunity to review and provide fully informed comments. PHMSA must ensure that its Proposed Rule avoids duplication or inconsistent requirements for pipelines with EPA’s NSPS OOOOa/b/c rules.**
- b. PHMSA’s proposed definition of confined space is inconsistent with the Occupational Safety and Health Administration’s (OSHA’s) definition of confined space. PHMSA defines “confined space” to mean any subsurface structure, other than a building, of sufficient size to accommodate a person, and in which gas could accumulate or migrate. These include, vaults, certain tunnels, catch basins, and manholes. OSHA defines a confined space as any space that is large enough and so configured that an employee can bodily enter and perform assigned work; has limited or restricted means for entry or exit (e.g., tanks, tankers, silos, storage bins, vaults and pits); and is not designed for continuous employee occupancy.
- **We request PHMSA align its proposed definition with OSHA’s confined space definition to avoid confusion and ensure consistency and regulatory certainty. This would ensure the safety of pipeline employees as well as the public.**

#### IV. Other

- a. PHMSA’s proposed definition of “leak or hazardous leak” is impractical and provides significant uncertainty. PHMSA proposes that a leak or hazardous leak means “**any release** of gas from a pipeline that is uncontrolled at the time of discovery and is an existing, **probable, or future hazard** to persons, property, or the environment, or any uncontrolled release of gas from a pipeline that is or can be discovered using equipment, sight, sound, smell, or touch.” (emphasis added). It is unclear as to what the terms “probably or future hazard” means as these are subjective terms and PHMSA fails to define them. Additionally, PHMSA should not characterize “any leak” as a “hazardous leak”. Clearly, they are not the same in a practical sense from an environmental or a safety perspective. In addition, PHMSA’s definition of “leak” and “hazardous leak” is inconsistent with Section 113<sup>4</sup> and EPA’s NSPS OOOOa/b/c rules. PHMSA should clearly distinguish the difference.
- **We request PHMSA provide practical terminology that follows the law and is consistent with EPA’s terminology. This would reduce confusion and provide regulatory certainty.**
- b. PHMSA’s Proposed Rule refers to emission data compiled by EPA for the oil and gas sector and makes several assumptions about its use. EPA’s emission information for the oil and gas sector is

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<sup>4</sup> In Section 113 of the PIPES Act, the law distinguishes a difference between leaks. For example, it states that the LDAR programs shall identify, locate, and categorize all leaks that “are **hazardous** to human safety or the environment or have the potential to become **explosive or otherwise hazardous to human safety**” (emphasis added). The advance leak detection technologies and practices provision in Section 113 states that regulations shall include a schedule for repairing or replacing each leaking pipe, “except a pipe with a leak so small that it poses no potential hazard”. Clearly, all leaks are not the same and some would not be covered by requirements. PHMSA has not provided this distinction in its Proposed Rule.



not based on empirical data. It is based on models, emission factors, extrapolations, and/or calculation methodologies that in some cases significantly overestimate emissions (e.g., pneumatic controllers) from the oil and gas sector. PHMSA must recognize and account for this in any cost benefit analysis.

- **We request PHMSA obtain more accurate data or conduct studies that more accurately reflect emissions from gathering pipelines.**
- c. PHMSA proposes a 6-month compliance deadline once the rule is finalized in the Federal Register. Without any changes to the Proposed Rule, gathering pipelines that have never been regulated must comply with the final rule within 6 months. Six months is not enough time for our members to budget for the new requirements, obtain equipment, train employees, develop plans, and address other similar requirements in the proposed 6-month time frame.
- **We request PHMSA provide at least 18 months to comply with the new requirements.**

## V. Conclusion

The Alliance appreciates the opportunity to provide comments on the Proposed Rule. If you have questions, please contact me at [angie@okpetro.com](mailto:angie@okpetro.com) or 405-601-2124.

Sincerely,

Angie Burckhalter  
Senior V.P. of Regulatory & Environmental Affairs