

2022 – Nov 2 – Editorial Section

Approved revisions to guide material under GMA G-192-21. **Ready for LB.**

Primary Reference	Appendix G-192-21 (OSHA Letters)
Purpose	Review Appendix G-192-21 and consider recent OSHA interpretations to decide if Exhibit 3 of the appendix should be removed.
Origin/Rationale	<p>Appendix G-192-21 lists four letters (i.e., exhibits) from OSHA to AGA discussing agreed jurisdictions. Regarding G-192-21 Exhibit 3 on Process Safety Management, note the following:</p> <ul style="list-style-type: none"> • An OSHA interpretation dated April 27, 2021, seems to indicate that Exhibit 3 was rescinded as noted within the document by “OSHA rescinds the Runyon LOI and the Baly LOI (October 30, 1992)”. Refer to www.osha.gov/laws-regs/standardinterpretations/2021-04-27. • OSHA interpretation (Dated October 7, 2008 to ORC Worldwide on 29 CFR 1910.119) may also support this change. Refer to https://osha.gov/laws-regs/standardinterpretations/2008-10-07. • An industry trade article written by a legal firm specializing in oil and gas regulations may also support the change. See “OSHA vs. PHMSA: The Tangled Web of Jurisdiction Over Midstream Operations” at https://www.napipelines.com/osha-vs-phmsa-jurisdiction/.
Assigned to	OMOQ

GMA G-192-21

GUIDE MATERIAL APPENDIX G-192-21

[Publication note: Remove underline from the below reference in parentheses.]

(See guide material under §§191.1 and 192.1)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION LETTERS

1 SCOPE

This appendix includes letters from the Occupational Safety and Health Administration (OSHA) regarding application of their standards to working conditions that are regulated by PHMSA-OPS.

2 LETTERS

The following letters are assembled here for reference:

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|--|------------------------|
| • OSHA letter to AGA dated April 8, 1999 re: Respiratory Protection | Exhibit 1 |
| • OSHA letter to AGA dated May 25, 1994 re: Confined Space | Exhibit 2 |
| • OSHA letter to AGA dated October 30, 1992 re: Process Safety Management | Exhibit 3 |
| • OSHA letter to AGA dated July 19, 1990 re: Excavation Standards | Exhibit 3 3 |

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

OCT 30 1992

Mr. Michael Baly, III
President
American Gas Association
1515 Wilson Boulevard
Arlington, Virginia 22209



Dear Mr. Baly:

This is in response to your letter of August 18, requesting a decision from the Occupational Safety and Health Administration (OSHA) on whether our final rule on Process Safety Management (PSM) applies to natural gas distribution and transmission facilities.

It has long been OSHA's position that the agency cannot issue a Section 4(b)(1) exemption for an entire industry. Additionally, both the Occupational Safety and Health Review Commission (OSHRC) and the courts have rejected the industrywide exemption concept. However, this does not mean that certain specific work operations may not be determined to be outside OSHA jurisdiction, given the proper circumstances.

On October 1, OSHA staff met with their counterparts from the Department of Transportation's Office of Pipeline Safety (OPS) to discuss OPS regulations vis-a-vis PSM. OPS staff gave generously of both their time and expertise. They outlined their current regulations, as well as proposals which are in various stages of the rulemaking process.

As a result of that meeting, and following our review of OPS regulations, OSHA has concluded that current OPS regulations address the hazards of fire and explosion in the gas distribution and transmission process. Accordingly, OSHA has determined that the agency is precluded from enforcing the PSM rule over the working conditions associated with those hazards.

Today's interpretation addresses only the applicability of the PSM standard to the gas transmission or distribution process as noted above; it does not address the applicability of OSHA standards other than PSM, or the applicability of OSHA requirements to operations other than those described above. For example, natural gas processing facilities, in our view, would be subject to OSHA coverage notwithstanding today's interpretation. Finally, it should be noted that employers not subject to particular OPS requirements remain fully subject to OSHA requirements including the PSM standard.

Should current OPS requirements regarding hazards in gas transmission or distribution operations be repealed or modified by Congress or by OPS, it would be necessary for OSHA to revisit this issue. However, as long as current OPS rules and requirements remain in effect, OSHA will not seek to enforce the PSM standard against employers who are subject to OPS requirements with respect to fire or explosion hazards in connection with gas transmission or distribution.

Thank you for bringing the concerns of your membership to our attention. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

Dorothy L. Strunk
Acting Assistant Secretary