

August 16, 2023

Tristan Brown
Deputy Administrator
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave SE
Washington, DC 20590

Submitted via www.regulations.gov

Re: PHMSA's Notice of Proposed Rulemaking, Pipeline Safety: Gas Pipeline Leak Detection and Repair - Docket No. PHMSA-2021-0039

Dear Deputy Administrator Brown:

The undersigned organizations (collectively, Commenters) submit these comments regarding the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of Proposed Rulemaking, "Pipeline Safety: Gas Pipeline Leak Detection and Repair" ("proposed rule" or "NPRM"). In addition, we support the comments submitted by the American Gas Association, American Public Gas Association, Interstate Natural Gas Association of America, American Petroleum Institute, GPA Midstream, American Fuel & Petrochemical Manufacturers, and Northeast Gas Association (the Associations).

Pipeline safety is a top priority for our members and our industry. We support the intent of the proposed rule and share the Administration's goal of reducing methane emissions. However, we have significant concerns with PHMSA's proposed rule, its proposed implementation of the congressional mandates in the PIPES Act of 2020, and PHMSA's overreach far beyond Congress' mandate. Several of the proposed requirements blatantly contradict the directives included in the PIPES Act. Some of the more significant concerns with the proposed rule include:

- Eliminating all leaks, including those so inconsequential they pose no potential hazard to public safety
- Requiring all leaks to be managed as hazardous leaks
- Jeopardizing pipe replacement programs that are removing pipe that may no longer be fit for service and that have proven to reduce leaks
- Applying "advanced leak detection" performance standards that are impracticable and do not necessarily yield tangible improvements in public or environmental safety
- Defining all leaks as pipeline "failures"
- Unrealistic timeframes for operators to implement the required actions
- PHMSA's highly inaccurate accounting of the costs and benefits of the proposed rule
- The cost impact the rule will have on all natural gas utility customers

We are very concerned with how PHMSA, as a safety organization, is prioritizing climate concerns to be on par with pipeline safety. We are also extremely concerned with PHMSA's position that all detectable leaks are considered hazardous and how it is proposing to define all leaks as "failures" requiring investigation per § 192.617. Identifying, classifying, and remediating leaks has always been a priority for the natural gas industry. The overall safety performance of natural gas pipelines has been driven by logical code requirements, including those that govern leak survey, patrol requirements, leak remediation, and pipeline integrity management. *It is imperative that PHMSA remember that not all leaks pose an imminent risk to public safety or the environment.*

Unless necessary changes are made, the proposed rule will necessarily force operators to divert resources away from strategic efforts to replace leak-prone pipe and toward “chasing” the repair of non-hazardous leaks. In many instances this will drive up, not reduce, greenhouse gas emissions, as operator resources are deployed more often and less efficiently, and as replacement of leak-prone pipe is slowed.

Furthermore, adding onerous monitoring and repair criteria will only hinder industry’s ability to focus its resources on the most significant threats to public safety. For example, for grade 2 leaks, which are leaks that have been determined to be non-hazardous to public safety, the NPRM is proposing a monthly re-evaluation and a six-month repair mandate. This is overly burdensome given that the available evidence demonstrates that grade 2 leaks rarely advance to a grade 1 status before being repaired or replaced. PHMSA should revise the rule to require a grade 2 leak reevaluation every 90 days and allow for a 12-month timeframe to perform the necessary repair or replacement.

The rule must also provide more flexibility to accommodate pipeline replacement projects that have already been approved or are in future schedules, since these pipelines have existing leaks that are driving this replacement. As proposed, operators will make repairs on grade 2 leaks only to come back shortly after to replace the entire pipeline. Communities and municipalities will be forced to experience multiple disruptions to roadways and resources will be wasted by the natural gas utility.

As an industry, one key area we are focused on is enhancing advanced leak detection programs (ALDP). The NPRM proposal of a 5-ppm minimum instrument sensitivity would substantially disallow the use of mobile, aerial, satellite, and other remote leak survey and detection technologies. Instead, we support a multiple tier proposal that maintains the 5-ppm sensitivity for handheld equipment but allows for higher sensitivity thresholds for broader mobile, aerial, and satellite technology.

We are concerned that the NPRM is proposing a six-month effective date after the publication of a Final Rule. This is clearly not feasible, reasonable, or practicable. PHMSA should provide operators at least 36 months to develop their ALDP and the enhanced leak management structure within 49 CFR 192.760, then scheduling and managing the amended leak survey, patrol, grading, and management regimes required under the new regulatory framework. These scheduling considerations include ensuring that new leak survey and patrol requirements come into effect on January 1, a critical concern in transitioning to an amended year-based schedule. This additional time is needed for training, operator qualifications, updating procedures, purchasing new equipment, and overhauling leak survey schedules.

We are also deeply concerned with the inaccuracies, errors and omissions included in PHMSA’s Potential Impact Regulatory Analysis (PRIA) and preamble. We support the various comments provided by the Associations which explain the shortcomings with PHMSA’s PRIA and the inaccuracies in the preamble. Under statute, it is necessary for DOT to develop an analysis that can justify the added costs associated with the proposed rulemaking, based on the anticipated benefits from the new requirements.

We would like to reiterate our support for the comments submitted by the Associations. Pipeline safety will always be a top priority for our members and our industry. We share in the administration's goal of reducing emissions, but we are very concerned with how PHMSA, as a safety organization, is prioritizing climate concerns as an equal to pipeline safety needs. We look forward to working with PHMSA and the Administration’s on revising these important safety regulations.

Sincerely,

American Gas Association
Energy Association of Pennsylvania
Florida Natural Gas Association
Gas & Oil Association of West Virginia (GO-WEST)
Indiana Energy Association
Iowa Utility Association
MEA Energy Association
Michigan Electric and Gas Association
New Jersey Utilities Association
Northeast Gas Association
NW Gas Association
Tennessee Gas Association
Wisconsin Utilities Association