

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
WASHINGTON, D.C.**

Pipeline Safety: Clarifying Recordkeeping
Requirements for Testing in MAOP
Reconfirmation Regulation

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Docket No. PHMSA-2025-0117

**COMMENTS IN RESPONSE TO DIRECT FINAL RULE TITLED “PIPELINE SAFETY:
CLARIFYING RECORDKEEPING REQUIREMENTS FOR TESTING IN MAOP
RECONFIRMATION REGULATION”**

**FILED BY
AMERICAN GAS ASSOCIATION**

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I. Introduction

The American Gas Association (AGA)¹ respectfully submits these comments in response to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of comment period for the Direct Final Rule (DFR) titled "Clarifying Recordkeeping Requirements for Testing in MAOP Reconfirmation Regulation", published August 8, 2025². On July 1, 2025, PHMSA published a final rule³ containing a technical correction clarifying the applicability of the requirements for reconfirming the maximum allowable operating pressure (MAOP) of certain gas transmission lines. PHMSA subsequently received a petition for reconsideration of the final rule and is providing the public with the opportunity to submit comments on the technical correction and petition for reconsideration. AGA members are dedicated to enhancing pipeline safety and support practicable, technically feasible, and cost-effective regulations and appreciate the opportunity to provide comments on this matter.

II. Comments

General Support of technical correction

Pipeline safety is the top priority of the AGA and its members. The AGA supports PHMSA's continued efforts to modernize the pipeline safety regulations (PSR) and endorses the clarification in the July 1, 2025 Direct Final Rule that recordkeeping requirements in 49 Code of Federal Regulations (CFR) § 192.517(a) must not apply retroactively to pressure testing predating Federal Pipeline Safety Regulations (PSR, 49 CFR parts 190-199) when determining whether an operator is required to reconfirm the maximum allowable operating pressure (MAOP) of a gas transmission line under 49 CFR § 192.624(a)(1). AGA also supports PHMSA's intention, as stated in the General Discussion section of the Direct Final Rule⁴, to provide supplementary guidance in addressing the records needed to satisfy the traceable, verifiable and complete standard for historical, pre-PSR pressure testing in the near future.

¹ Founded in 1918, AGA represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 180 million Americans. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one third of the United States' energy needs.

² Pipeline Safety: Clarifying Recordkeeping Requirements for Testing in MAOP Reconfirmation Regulation, 90 Fed. Reg. 38429 (August 8, 2025).

³ See Pipeline Safety: Clarifying Recordkeeping Requirements for Testing in MAOP Reconfirmation Regulation, 90 Fed. Reg. 28054 (July 1, 2025) ("Direct Final Rule" or "DFR")

⁴ *Id.* at 28055.

The following comments will illustrate that the extensive administrative record on the issue of MAOP reconfirmation strongly supports the clarification issued by PHMSA in the Direct Final Rule. A thorough examination of the MAOP reconfirmation rulemaking record demonstrates that:

- 1) The requirements of § 192.517(a) have never been applicable to the establishment of MAOP for pipelines constructed prior to the adoption of part 192 in 1970, and,
- 2) PHMSA never intended to have the requirements of § 192.517(a) apply to pre-code pressure test records.

History of MAOP Reconfirmation Retroactivity Discussion

Advance Notice of Proposed Rulemaking

In response to the tragic September 9, 2010 incident in San Bruno, CA, PHMSA recognized the need to extend integrity management (IM) requirements and address other issues related to pipeline system integrity. On August 25, 2011, PHMSA published an advance notice of proposed rulemaking (ANPRM) titled “Safety of Gas Transmission Pipelines”⁵. This ANPRM sought stakeholder comments on whether IM and other requirements should be strengthened or expanded. In the ANPRM, PHMSA specifically sought stakeholder feedback on a wide range of pipeline safety topics, including proposed changes to part 192 regulations that would repeal exemptions to pressure test requirements.

Subsequently, the National Transportation Safety Board (NTSB) published its final investigative report on the San Bruno incident⁶ and issued several safety recommendations to PHMSA related directly to the topics addressed in the 2011 PHMSA ANPRM. Furthermore, on January 3, 2012, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Pipeline Safety Act)⁷ was enacted and included several statutory mandates directly related to the topics addressed in the 2011 PHMSA ANPRM.

⁵ Pipeline Safety: Safety of Gas Transmission Pipelines, 76 Fed. Reg. 53086 (August 25, 2011).

⁶ National Transportation Board. (2020). *Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire San Bruno, California September 9, 2010*.
<https://www.nts.gov/investigations/AccidentReports/Reports/PAR1101.pdf>

⁷ Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90 (2012).

Notice of Proposed Rulemaking

On April 8, 2016, PHMSA published a notice of proposed rulemaking (NPRM) proposing several amendments to 49 CFR part 192⁸. PHMSA considered the stakeholder comments received in response to the ANPRM and proposed several new PSR requirements, including the addition of § 192.624 which aimed to establish new requirements for the verification of maximum allowable operating pressure (MAOP) of onshore steel transmission pipelines. The Gas Pipeline Advisory Committee (GPAC) subsequently met five times throughout 2017 and 2018 to discuss the provisions of the NPRM as well as associated stakeholder comments. Further discussion regarding the relevant specific proposed PSR revisions and GPAC meeting outcomes are provided below.

PSR Revisions

As stated above, the April 2016 NPRM proposed new regulations that required verification of MAOP of certain onshore steel transmission pipelines. The relevant portion of the proposed regulatory language provides:

§192.624 Maximum allowable operating pressure verification: Onshore steel transmission pipelines.

(a) *Applicable locations.* The operator of a pipeline segment meeting any of the following conditions must establish the maximum allowable operating pressure using one or more of the methods specified in § 192.624(c)(1) through (6):

...

(2) Pressure test records necessary to establish maximum allowable operating pressure per subpart J for the pipeline segment, including, but not limited to, records required by § 192.517(a), are not reliable, traceable, verifiable, and complete and the pipeline is located in one of the following locations:

...

It is evident that from the beginning PHMSA intended for records requirements defined by § 192.517(a) – and, in turn, records necessary to be exempt from MAOP

⁸ Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines, 81 Fed. Reg. 20722 (April 8, 2016).

reconfirmation requirements defined in § 192.624 – to govern subpart J pressure tests and *not other pre-PSR tests*.

GPAC Meetings

As stated above, due to the magnitude and intense technical detail of the rulemaking, GPAC met five times throughout 2017 and 2018 to discuss the rulemaking⁹. Most notable for the purpose of these comments, is the GPAC meeting that took place from March 26 – 28, 2018, which included robust discussion regarding the new requirements proposed in § 192.624 as outlined in the GPAC Slide Presentation prepared for the meeting¹⁰. Of particular importance to the discussion of MAOP verification retroactivity are the contents of slide 19, where it is noted, in summary, that public comments on applicability of proposed § 192.624(a) indicated clarification was needed on whether past pressure tests meeting the requirements of subpart J were acceptable and valid. An examination of the meeting transcript¹¹ reveals that a portion of that discussion¹² centered around the proposed language in the NPRM referencing subpart J, shown above, and the fact that the language as proposed would subject pipelines constructed prior to the adoption of the PSR to current regulations (which is in conflict with the nonapplication clause found at 49 U.S. Code §60104(b)). The GPAC transcript includes a statement by a PHMSA representative clarifying that, summarily, the criterion for pressure tests establishing MAOP per § 192.619(a)(2) would not be dictated by regulations in Subpart J¹³. Accordingly, GPAC approved the proposed regulatory language at § 192.624(a) with the following changes:

*Renumber § 192.624(a)(2) (for line segments without records) as paragraph (a)(1).
Revise to refer to records required by § 192.619(a) and (c) instead of pressure test records required by Subpart J, as discussed by the committee, as shown below:*

*~~Pressure test~~ Records necessary to establish maximum allowable
operating pressure ~~per subpart J~~ in accordance with § 192.619(a)(2) or (c)
~~at the time of construction~~ for the pipeline segment ...”*

⁹ Specifically, the GPAC met on January 11-12, 2017; June 6-7, 2017; December 14-15, 2017; March 2, 2018; and March 26-28, 2018. Information on these meetings can be found at regulations.gov under docket PHMSA-2011-0023 and at PHMSA's public meeting page: <https://primis.phmsa.dot.gov/meetings/>.

¹⁰https://primis-meetings.phmsa.dot.gov/meetings/2126e2c8-7959-46fc-bc28-521a46fa3b56/files/b2308ab7-c5b7-49ce-afe7-98557bee3542/GPAC-Slide_Presentation_-Gas_Rule_-_March_26_to_28_Mtg_5_-_FINAL.pdf

¹¹https://primis-meetings.phmsa.dot.gov/meetings/2126e2c8-7959-46fc-bc28-521a46fa3b56/files/a50fe766-5040-4de3-9330-7d017dfaf461/Transcript_-_03-26-2018_GPAC_Day_1.pdf

¹² GPAC Meeting transcript for 3-26-2018, p. 102, lines 2-19

¹³ GPAC Meeting transcript for 3-26-2018, p. 104, lines 2-17

Nothing in this record is at odds with PHMSA's July 1, 2025, Direct Final Rule, insofar as:

- 1) Records required by § 192.517(a) and their traceability, verifiability, and completeness are applicable to subpart J pressure tests, and not other (pre-PSR) pressure tests.
- 2) The records necessary to establish MAOP under § 192.619(a)(2) should govern whether MAOP reconfirmation per § 192.624 is appropriate for pipelines with pre-PSR pressure tests.
- 3) § 192.619(a)(2) does not, and has never, referenced § 192.517(a).
- 4) Any suggestion that the nonapplication clause obstacle can be sidestepped by applying § 192.517(a) criteria to § 192.624 but not to § 192.619(a)(2) is a clear reimagining of § 192.624 applicability and is at odds with the available record of the rulemaking.

Final Rule

The PSR was officially updated to require the reconfirmation of MAOP for onshore steel transmission pipelines on October 1, 2019, with the publication of the PHMSA final rule entitled “Safety of Gas Transmission Pipelines: Maximum Allowable Operating Pressure Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments” (“MAOP Rule”)¹⁴. Notably, the final rule language shown reflected only a portion of the conditional language agreed upon by GPAC when voting on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the provisions found of the NPRM. To offer a direct comparison, the language voted on by GPAC for §192.624(a)(1) read (*emphasis added*):

“Records necessary to establish maximum allowable operating pressure in accordance with § 192.619(a)(2) or (c) *at the time of construction* for the pipeline segment ...”,

while the final rule language for the same section read:

“Records necessary to establish the MAOP in accordance with § 192.619(a), including records required by § 192.517(a)...”

While the final rule preamble goes into great depth and detail addressing all public comments received as well as all GPAC responses, the departure from the consensus

¹⁴ Pipeline Safety: Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments, 84 Fed. Reg. 52180(October 1, 2019).

GPAC language was never fully explained. Nevertheless, in response to public comments stating “...that PHMSA exceeded the congressional mandates in the proposed provisions by imposing retroactive recordkeeping requirements and retroactive material properties verification requirements.”¹⁵, PHMSA indicates “...that the final provisions of this rule are prospective and do not create retroactive requirements.”¹⁶ The words “including records required by § 192.517(a)” in § 192.624(a)(1) are thus clearly exemplifying prepositional phrasing, not restrictive. They do not, and have never, prohibited a scenario in which the records required for certain (pre-PSR) pipelines are governed by a standard other than § 192.517(a). PHMSA’s desire to bring additional clarity through the July 1, 2025, Direct Final Rule is sensible and consistent with the rulemaking record.

Industry Petition for Reconsideration

On October 31, 2019, a Petition for Reconsideration (the Petition) was filed on the PHMSA docket by the AGA, the American Petroleum Institute, the American Public Gas Association and the Interstate Natural Gas Association of America (the Associations) requesting PHMSA consider making technical corrections to the regulatory language in the final rule¹⁷. One of the changes requested was to clarify that MAOP reconfirmation is not required for pipeline segments that have a traceable, verifiable, and complete pressure test record in accordance with § 192.619(a)(2), as opposed to the originally published reference to § 192.619(a). In short, the petition asked PHMSA to clarify that if a pressure test meeting the requirements of § 192.619(a)(2) exists, there is no need to reconfirm the MAOP of the pipeline in question. The distinction between the applicability of the entirety of § 192.619(a) versus the applicability of § 192.619(a)(2) is crucial in the demonstration that pressure tests performed prior to the implementation of the PSR do not have to meet the pressure testing criteria laid out in § 192.517 to establish the MAOP of a pipeline, as § 192.619(a)(2) makes no reference to § 192.517. In fact, § 192.619(a)(2) explicitly calls out criteria for pre-code pressure tests required to establish MAOP¹⁸. PHMSA, in a letter dated December 20, 2019¹⁹, informed AGA of the granting of the Petition, which further reinforces the record that PHMSA never intended to require pressure tests performed prior to 1970 comply with § 192.517. As a result of the Petition

¹⁵ <https://www.federalregister.gov/d/2019-20306/p-446>

¹⁶ <https://www.federalregister.gov/d/2019-20306/p-449>

¹⁷ <https://www.regulations.gov/document/PHMSA-2011-0023-0472>

¹⁸ See Table 1 to Paragraph (a)(2)(ii) at 49 CFR 192.619(a)(2)(ii)

¹⁹ <https://www.regulations.gov/document/PHMSA-2011-0023-0476>

filed by the Associations, the PSR was subsequently updated by an additional final rule²⁰ adopting the language proposed in the Petition for Reconsideration.²¹

Direct Final Rule

Most recently, on July 1, 2025, PHMSA published a technical correction via a Direct Final Rule (DFR) titled “Clarifying Recordkeeping Requirements for Testing in MAOP Reconfirmation Regulation”²², which provided additional clarification reiterating that § 192.624 does not retroactively apply recordkeeping requirements to pressure tests performed prior to the original adoption of subpart J. In this DFR, PHMSA properly points to the non-retroactivity provision at 49 U.S.C 60104(b) which states “...A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.” Specifically, the DFR rightly points out that pressure testing record requirements set forth in § 192.517, which were first adopted in 1970 and specify the mandatory contents of a pressure test, cannot apply to pressure tests conducted prior to the adoption of part 192 regulations. As outlined above, not only have pressure testing requirements in § 192.517 never been required to establish MAOP for pressure tests performed prior to the adoption of part 192, but the record clearly shows it was not PHMSA’s intention to require or suggest otherwise. AGA commends PHMSA for issuing this clarification as it greatly reduces the opportunity for contradictory interpretations of MAOP reconfirmation regulations, which will harmonize state and federal enforcement with operator compliance.

Moreover, this technical correction solidifies the understanding that many operators across the country have had since the finalization of the “MAOP Rule” in 2019. Operators have developed their MAOP reconfirmation plans with that understanding, and any deviations from the current technical correction will significantly disrupt reconfirmation efforts and require reconfirmation of pipelines with otherwise traceable, verifiable, and complete pressure test records. Indeed, successful execution of these plans and compliance with completion dates specified in § 192.624(b) is dependent on the prompt clarity that PHMSA has sought to provide, both in the July 1, 2025, DFR and also in their

²⁰ Pipeline Safety: Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments: Response to a Joint Petition for Reconsideration, 85 Fed. Reg. 40132 (July 6, 2020).

²¹ § 192.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.

(a) * * *

(1) Records necessary to establish the MAOP in accordance with § 192.619(a)(2), including records required by § 192.517(a), are not traceable, verifiable, and complete and the pipeline is located in one of the following locations:

...

²² DFR, 90 Fed. Reg. 28054 (July 1, 2025)

anticipated guidance to address the standard for traceable, verifiable, and complete records for pre-PSR pressure tests.

III. Conclusion

AGA supports PHMSA's publication of the technical correction clarifying that certain recently adopted recordkeeping requirements in § 192.517(a) do not apply retroactively to pressure testing predating the PSR when determining whether an operator is required to reconfirm the MAOP of a gas transmission line under § 192.624(a)(1). An examination of the record reveals that § 192.517(a) requirements were never applicable to the establishment of MAOP for pipelines constructed prior to the adoption of part 192 in 1970. Moreover, the rulemaking record reflects the application of § 192.517(a) to pre-code pressure test records was never the intent of PHMSA.

AGA appreciates the opportunity to provide comments on this Final Rule and looks forward to working with PHMSA to enhance pipeline safety reasonably, practicably, technically feasibly, and cost effectively. AGA is committed to ensuring the safe and reliable delivery of natural gas and believe that these comments will help achieve that goal.

Respectfully submitted

Date: September 8, 2025

A handwritten signature in black ink, appearing to read 'A. Chichester', is positioned above the typed name and title.

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