

Before the
DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY
ADMINISTRATION (PHMSA)

Notice of Proposed Rulemaking

RE: Docket No. PHMSA-RSPA-2004-19854

on

**PHMSA's Proposal to Amend the Federal Pipeline Safety
Regulations to Require Operators of Gas Distribution Pipelines to
Develop and Implement Integrity management Programs**

COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

October 23, 2008

**COMMENTS ON PHMSA'S PROPOSAL TO AMEND THE FEDERAL
PIPELINE SAFETY REGULATIONS TO REQUIRE OPERATORS OF
GAS DISTRIBUTION PIPELINES TO DEVELOP AND IMPLEMENT
INTEGRITY MANAGEMENT PROGRAMS**

**SUBMITTED ON BEHALF OF THE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

The Public Utilities Commission of Ohio (PUCO) would like to thank the Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) for the opportunity to comment on its proposed amendment to the Federal Pipeline Safety Regulations. PHMSA is proposing to amend 49 C.F.R. Part 192 by adding a new subpart P Gas Distribution Pipeline Integrity Management (IM). IM would require operators of gas distribution pipelines to develop and implement integrity management programs covering seven IM program elements identified by PHMSA and representatives of the states, industry and the public who participated in stakeholder groups.

PHMSA also seeks comment on the concept of People to People (PTP) as a requirement that would be included in this or a future IM program rule making. The PTP proposal would include additional requirements for operators to assist in their capacity to handle threats affecting their systems and actions available to mitigate risks associated with these threats.

PHMSA also seeks comments on the applicability of IM to very small distribution operators.

The PUCO offers specific comments on each of the proposed regulations to new Subpart P Gas Distribution Pipeline Integrity Management (IM) as well as general comments on the PTP program, the applicability of IM to very small distribution operators, and plastic pipe markings.

192.1001 What do the regulations in this subpart cover?

The PUCO comments on the question of *what regulations should be covered in this subpart of the rule* are stated specifically in each rule section below. In addition, the PUCO wishes to state that regulations for IM should apply to all distribution operators, regardless of their size or the product transported (i.e. LPG). All distribution systems represent a potential threat to public safety. The PUCO does not believe that any operator should be held to a lower standard. However, the PUCO further recommends that consideration be given to a phased in implementation schedule for small operators, master meters, and LPG systems. This approach has been most recently taken by (PHMSA) in public awareness program regulations. A phased in compliance schedule will also assist the state agencies working to bring operators into compliance, by spreading out the work load over a period of time.

192.1003 What definitions apply to this part?

The proposed rule defines "Damage" as any impact or exposure resulting in the repair or replacement of an underground facility, related appurtenance, or materials supporting the pipeline.

The PUCO recommends that the definition of "Damage" be changed to include the term "release of gas" as part of the damage definition. The PUCO believes that operators

should not have to report damage that they are proactively repairing/replacing on their system, when it could remain in service under Part 192 requirements. For example, a plastic pipeline gouge with less than 10% wall thickness would not have to be replaced per 192 standards, but an operator taking a conservative approach by replacing this section would have to report this excavation damage to PHMSA as proposed by the new rule.

192.1005 – What must a gas distribution operator (other than a master meter or LPG operator) do to implement this subpart?

PHMSA proposes that each operator, other than master meter and LPG operators, develop a formal IM program and implement their program no later than 18 months after the final rule. Additionally, the procedures must describe the processes for developing, implementing, and periodically improving each of the required elements.

The PUCO has concerns as to the amount of procedure detail required by the proposed rule. The PUCO concurs that enough information is needed to provide sufficient guidance for actually performing the steps in the procedures, but the amount of detail only needs to be sufficient to allow a competent operator to execute the program.

192.1007 What are the required IM program elements?

PHMSA through the stakeholder process identified seven elements that should be included in distribution system IM. These elements are:

- 1) Knowledge of infrastructure*
- 2) Identification of threats*
- 3) Evaluation and prioritization of risks*
- 4) Mitigation of risks*

5) *Measurement and monitoring of performance*

6.) *Periodic evaluation and improvement*

7.) *Reporting of results*

The PUCO specifically comments on following sections (1) knowledge of infrastructure and (2) Measurement and monitoring of performance:

1) Knowledge of infrastructure

The PUCO believes that the concept of requiring operators to “assemble a complete understanding of its infrastructure” is unclear. Operators need direction on how much effort needs to be put into reviewing records.

Operators with historical archived records might not consider them readily available for review. Guidance needs to be given as to what level of effort operators need to make to comply with this requirement.

2.) Measurement and monitoring of performance

The proposed rule’s requirement for reporting “*hazardous leaks either eliminated or repaired*” needs clarification. First, there is no definition of “hazardous” in the pipeline code. Second, operators count leaks in different ways. For example, corrosion on a six foot section of pipe where multiple areas are leaking might be counted as one leak by one operator and multiple leaks by another operator. If performance measures are to be compared from operator to operator then the same reporting standards/measurements must be applied by each operator.

The requirement for the operator to collect the total number of leaks either eliminated or repaired, categorized by cause, may not be realistic. Operators may choose to eliminate a leak by abandoning the line and installing a new pipeline. In some cases the operator may never expose the leak and actually determine the cause. Consideration needs to be given that all causes may not be determined.

In addition, collecting the number of excess flow valves (EFVs) is not a performance measure. That is a number that is dependent upon several things, including number of services you are installing and the limitations of installation of EFVs listed in 49 C.F.R. 192.381 (excess flow valve performance standards).

192.1009 What must an operator report when plastic pipeline fails?

The proposed rules require that all operators report failures on plastic pipe (including fittings, couplings, valves and joints) to PHMSA within 90 days. The bulk of new gas distribution pipeline systems, and replacements for older pipe, are comprised of plastic pipe. More than half of the pipelines in U.S. gas distribution systems are non-metallic. Given the importance of plastic pipe integrity to distribution pipeline system safety, PHMSA has included in this proposed rule requirements for all operators to report data on failures that occur in plastic pipe/fittings. PHMSA will take this information and assure that it is analyzed to identify and communicate significant information about potential vulnerabilities associated with plastic pipe. Distribution pipeline operators will then be able to take this information into consideration in their risk analyses.

PHMSA invites public comment as to whether the Plastic Pipe Database Committee (PPDC), administered by the American Gas Association, is adequately objective to evaluate and report to the industry information concerning plastic pipe failures, or whether PHMSA should seek a new independent third party to perform this function. Additionally, PHMSA invites comments on whether some other reporting frequency is preferable and adequate to identify trends (e.g. quarterly reporting, annual reporting).

The PUCO comments on the question of reporting frequency, that for a number of years, staff has been collecting information on plastic riser failures. Based upon our experience, the 90 day time frame for reporting information might not be practical for failures involving major incidents. The PUCO also feels that the amount of information to be reported might be impossible to accomplish. The proposed minimum information seems aggressive to require of operators.

If accuracy of the data is to be maintained, the PUCO recommends that any mandatory reporting should be made to PHMSA and not to a voluntary third party agency. Whoever collects the data must permit that data to be accessible and reviewable by state pipeline safety agencies. The PUCO believes that a six month time frame is more appropriate to allow for accurate and meaningful data to be collected.

192.1011 When must an excess flow valve (EFV) be installed?

Each distribution operator, except for master meter and liquid propane operators, would be required under the proposed rule to install an EFV in each new or replaced service line installed for a single family residence if a suitable valve is commercially available and certain operating conditions are present for the EFV to function.

The PUCO recommends that the requirements of proposed subpart 192.1011 should be combined with existing subpart 192.381, *Service lines: Excess flow valve performance standards*. Subpart H of C.F.R. Part 192 contains all of the requirements for customer meters, service regulators, and services lines. Keeping service line requirements in one place of the code is more consistent for the operator. In addition, the PUCO believes that *all* operators should be subject to the EFV requirements as mandated by

§192.1011. As an example, a master meter operator that owns a trailer park where individual services are going to each trailer should be required to install an excess flow valve to each service. An excess flow valve could be a vital safety feature in a location where escaping gas or overpressure situations could be critical to public safety.

192.1015 What records must an operator keep?

The proposed rule requires an operator to make a number of decisions and to perform a number of analyses to determine and implement risk reduction methods most appropriate to its distribution pipeline system. It is critical that the operator retain knowledge of the basis for its decisions for the operator to effectively implement and modify its IM program.

The PUCO believes that under the proposed rule operators are being required to maintain the recordkeeping level required of Transmission Gas Integrity programs. This level requires that all analysis, decision, and processes be documented. This level of documentation is very burdensome to operators and is an issue in every intrastate gas transmission integrity audit in Ohio. Asking for this level of documentation places a high bar for operators to reach and will make it very difficult to achieve full compliance. Operators should certainly be able to justify their decisions to state inspectors for major changes or significant decisions. The Distribution Integrity Management for Gas Distribution, Report of Phase 1 Investigations report recommended that distribution integrity management programs be a high level flexible regulation. This requirement does not seem to maintain that balance.

The PUCO believes that it will be difficult to enforce a requirement for documents to support any decision and we have concerns regarding the burden this would place upon

small companies. The PUCO recommends that PHMSA allow the Security and Integrity Foundation to look at this issue and make recommendations as to the amount of record keeping necessary.

192.1017 When may an operator deviate from required periodic inspections of this part?

PHMSA is proposing an approach that would allow operators and the states to have more of a role in setting compliance intervals for distribution operators within a state. This approach would allow an operator to use its distribution integrity plan, and the risk assessment on which it is based, to propose alternative intervals for Part 192 requirements that they must now periodically implement.

Operators will submit their proposed intervals to the jurisdictional authority (usually the state) for review and determination that the proposal will provide an adequate level of pipeline safety. States would base their decision on their review of the operator's risk analysis and on their own knowledge of the safety performance of, and issues affecting, each operator.

While operators are likely to propose only longer intervals, states could exercise their existing authority to impose requirements more restrictive than Federal minimums to require shorter intervals where necessary based on risk. The resources made available by reducing action intervals, where appropriate, could be used to address more risk significant problems.

The PUCO believes that the concept of *transmission* integrity management has been a major change to the industry. The distribution integrity management program will affect many more companies and individuals than previous integrity rulemakings. This will be a major change from the way distribution operators typically comply with the regulations. Allowing each state to determine whether an individual company can devi-

ate from the minimum pipeline safety regulations will create different standards in each state and make it very difficult to follow and enforce.

The PUCO expects that operators will follow our established practice utilized for waivers by submitting a request to the PUCO docket. Operators would be required to take cost savings made by alternate timeframes and utilize the money to improve other parts of their integrity program. The PUCO would require companies to demonstrate that deviation from the time frame would not compromise safety.

PHMSA should take caution when deviating from the rules. The low number of incidents may be due to the effectiveness of current regulations. The PUCO suggests limiting the time frames for deviation from the rules. We recommend time frames requiring annual inspections not to exceed 15 months or less should deviate no more than twice the federal regulation and time frames requiring longer than annually not to exceed 15 months should deviate no more than 1 ½ times the federal regulation. Additionally, we suggest that the deviation be granted for specific time frames and be subject to review periodically by the state granting the exception.

192.1019 What must a master meter or liquefied petroleum gas operator do to implement this subpart?

The proposed rule requires master meter and LPG operators to develop and implement a written IM program containing the elements required of other gas distribution operators, except an IM program for a master meter or LPG operator need not include the elements for evaluating and prioritizing risks and reporting results. There will be no EFV installation requirements. Also, the level of detail in these IM programs should be much less to reflect the relative simplicity of these pipeline systems. PHMSA will provide a model IM program these operators may use.

PHMSA seeks comment as to whether applicability of IM should be limited to small and simple distributions systems such as master meter or LPG systems.

PHMSA invites public comment on the following: whether these IM limitations are appropriate for master meter and LPG system operators; whether PHMSA should further limit the IM requirements for these operators and; whether PHMSA should exempt these operators from IM requirements?

The PUCO's response is that *all* distribution integrity requirements must apply to all operators, regardless of their size or product transported, since all systems represent a potential threat to public safety. However the PUCO does believes that consideration should be given to having a phased in implementation schedule for master meter and LPG systems.

Master meter systems have traditionally struggled to comply with other recent regulations required by PHMSA (i.e. Operator Qualification, Public Awareness, etc.). Adding additional requirements to these small operators could result in more canned programs that operators typically shelve and do not utilize. Failure to utilize a safety program due to its perceived lack of utility, as well as the operator's relative inexperience with gas pipeline operations, may pose an even a larger risk to public safety.

LPG systems currently under Part 192 should not be exempt from any of the requirements of the proposed integrity management program because their primary purpose is to provide gas service to their customers. Many LPG systems are built with the intention of eventually switching to natural gas service. The risk to public safety is still present regardless of the product carried in the pipeline.

General Comments

In addition to seeking comment on the specific rules outlined above the PHMSA also sought comment on three general areas: the Prevention through People Program the applicability of IM on very small distribution systems, and markings on plastic pipe.

Prevention through People (PTP)

PHMSA invites public comment on the PTP concept and on any other requirements that should be included in this or a future IM program rulemaking. PHMSA also requests public comment on how operators are currently addressing human factors, including fatigue, in their ongoing efforts to manage the integrity of their distribution pipelines.

The proposed IM program regulations include requirements for operators to understand the threats affecting the integrity of their systems and to implement appropriate actions to mitigate risks associated with these threats. This includes a first step toward incorporating a "Prevention through People" program to address human impacts on pipeline system integrity. An operator would be required to include in its written IM program a separate section on 'Assuring Individual Performance', in which they would identify risk management measures to evaluate and manage the contribution of human error and intervention to risk.

PUCO believes that the pipeline industry has spent a considerable amount of time and resources developing comprehensive operator qualification, public education, and damage prevention programs. Additionally, the Distribution Integrity Management for

Gas Distribution, Report of Phase 1 Investigations, stated that the greatest threats to distribution systems are corrosion, excavation damage, and material/welds. This proposed rule seems to be putting an enormous amount emphasis on the threat of equipment/incorrect operations which was not identified as a high risk.

Additionally, the PUCO believes that programs already exist (drug and alcohol, operator qualification, public education, etc.) that address the most significant issues related to employee behavior. If PHMSA feels that more needs to be done, we recommend that existing regulations be modified to address the prevention through people issues.

Very Small Distribution Systems

PHMSA invites comment on whether limited IM requirements should also apply to operators of simple distribution pipeline systems and on whether the above criteria would be appropriate for identifying systems to which to apply this limitation.

PHMSA notes there may be some local distribution systems of limited area and simple design for which similar limited IM requirements may be appropriate. PHMSA would consider limiting the requirement for other operators of small, simple systems if it could establish reasonable criteria to identify operators for which such limitations are appropriate.

The PUCO believes that operators of distribution systems are typically located in populated areas where risk to the public is elevated due to their proximity. The proposed elimination of very small distribution systems from the requirements does not provide the appropriate level of safety to the public serviced by these systems. If they are simplistic systems then the risks associated with the systems should be more easily identified and the actions to be implemented should be easier to determine. We believe that distribution

integrity must apply to all distribution operators, regardless of their size or the product transported, since all systems represent a potential threat to public safety.

Plastic Pipe Markings

Since plastic pipe has not historically included any permanent markings that would allow operators to determine the particular type of plastic, its age, or other key parameters. PHMSA recognizes there are many technical issues associated with pipe marking, and developing solutions requires discussion with all affected organizations and requests comments on this area.

The PUCO has interpreted the ASTM standard to require permanent markings on pipe. Ohio has required operators to discard pipeline that was stored outdoors for longer than two years and where markings have rubbed off after prolonged UV exposure. The PUCO encourages PHMSA to require that all pipes be permanently marked in a manner that allows for the markings to remain after installation and throughout its service life. This can be accomplished by adopting the most recent version of the ASTM D2513 (2007 edition) standard that requires all markings to be legible, visible, and permanent.

Respectfully submitted,

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Summary: Comments Comments on the proposed amendment by the Pipeline and Hazardous Materials Safety Administration to the federal pipeline safety regulations to require operators of gas distribution pipelines to develop and implement integrity management programs. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio