



VIA ELECTRONIC FILING

May 10, 2022

Ms. Angela Hill
U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Ave, S.E.
Room W12-140
Washington, D.C. 20590-0001

Re: Docket No. PHMSA-2021-0054, Pipeline Safety: Information Collection Activities

Dear Ms. Hill:

On March 11, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) published a Notice and Request for Comments (Notice) in the *Federal Register* concerning proposed changes to the Annual and Incident Reporting Forms and Instructions.¹ GPA Midstream Association² (GPA Midstream) is concerned with the proposed changes to the instructions for both the Gas Transmission, Gathering, and Underground Natural Gas Storage Incident Report and the Hazardous Liquid and Carbon Dioxide Accident Report.³ GPA Midstream is particularly concerned since operators of newly regulated gathering lines will need to begin reporting incidents occurring after May 16, 2022. It is critical that PHMSA provide clear instructions on when and how to report in order to avoid unnecessary confusion.

GPA Midstream submits the following comments in response to the Notice.

¹ Pipeline Safety: Information Collection Activities, 87 Fed. Reg. 14,092 (Mar. 11, 2022).

² GPA Midstream has served the U.S. energy industry since 1921 and has nearly 60 corporate members that directly employ more than 75,000 employees that are engaged in a wide variety of services that move vital energy products such as natural gas, natural gas liquids (NGLs), refined products and crude oil from production areas to markets across the United States, commonly referred to as "midstream activities". The work of our members indirectly creates or impacts an additional 450,000 jobs across the U.S. economy. GPA Midstream members recover more than 90% of the NGLs such as ethane, propane, butane and natural gasoline produced in the United States from more than 400 natural gas processing facilities. In 2017-2019 period, GPA Midstream members spent over \$105 billion in capital improvements to serve the country's needs for reliable and affordable energy.

³ GT GG Incident Form and Instructions - PHMSA F 7100 2 (rev 1-2020) Redlines 2021-0, <https://www.regulations.gov/document/PHMSA-2021-0054-0002> (Mar. 10, 2022); HL Accident Form and Instructions - PHMSA F 7100 1 (rev 3-2021) Redlines 2021-08-10, <https://www.regulations.gov/document/PHMSA-2021-0054-0008> (Mar. 10, 2022).

1. PHMSA should clarify that property damage amounts and the time that these figures exceed the reporting criteria are estimates only.

PHMSA proposes to modify the section A4 instructions for the Gas Transmission, Gathering, and Underground Natural Gas Storage Incident Report to reflect the earliest local time and date that the incident reporting criteria was met. The Agency's proposed modifications would require an operator to enter the "date/time that the consequences first occurred rather than the date/time consequences are fully quantified."⁴

A4. Earliest local time (24-hour clock) and date an incident reporting criteria was met

Enter the earliest local date/time an incident reporting criteria was met. ~~In some cases, this date/time must be estimated based on information gathered during the investigation. Consequences occur when the pipeline system fails, but the extent of the consequences are often not fully known until hours, days, weeks, or months later.~~

For the fatality, injury, and property damage reporting criteria, enter the date/time that the consequences first occurred rather than the date/time the consequences are fully quantified.

For the release volume reporting criteria, estimate the date/time when the amount of commodity released reached the volume reporting criteria.

This instruction conflicts with the regulations. In section 191.3, PHMSA specifically categorizes property damage as an estimate.⁵ The Agency's proposed redlines to section A4 are also inconsistent with other sections of the existing incident reporting instructions. In section D7 of both the report and the instructions, the Agency acknowledges that property damage amounts are typically estimated. PHMSA indicates that "[o]perators are to report costs based on the best estimate available at the time a report is submitted"⁶ and "[i]t is likely that an estimate of final repair costs may not be available when the initial report must be submitted (within 30 days, per §191.15)."⁷

The Agency should reconsider its proposed changes to the Gas Transmission, Gathering, and Underground Natural Gas Storage Incident Reporting Instructions and clarify that while the timeline of a fatality or hospitalization may be easier to identify, property damage and volume amounts are typically estimates.

PHMSA should also reconsider its proposed changes to the Hazardous Liquid and Carbon Dioxide Accident Reporting Instructions. In those instructions, PHMSA proposes to modify

⁴ *Id.*

⁵ See 49 C.F.R. §191.3.

⁶ Instructions (rev 1-2020) for Form PHMSA F 7100.2 (rev 1-2020) INCIDENT REPORT – GAS TRANSMISSION AND GATHERING SYSTEMS at 20, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-03/GT_GG_Incident_Instructions_PHMSA%20F%207100%20_2020-01%20thru%202022-05.pdf.

⁷ *Id.*

section A4 by noting that “in most cases” the time that the accident reporting criteria is met is “nearly” the same as when the operator identified the failure.⁸ The Agency acknowledges that the date and time that the reporting criteria was met must be estimated in some cases but then proceeds to propose that operators must “enter the date/time that the consequences first occurred rather than the date/time the consequences are fully quantified.”⁹ For the same reasons stated above, PHMSA should reconsider this modification to avoid unnecessary confusion and to recognize that property damage and the amount of product released are typically estimates.

2. *PHMSA should eliminate section A4 from the Gas Transmission, Gathering, and Underground Natural Gas Storage Incident Report.*

By requiring operators to document when a release may have met the definition of an incident and when confirmed discovery occurred, PHMSA is conflating the reporting requirement. Although subject to much debate on its exact meaning, ‘confirmed discovery’ has been the standard for when a release is reportable since 2017.¹⁰ An operator is required to report a release “*when it can be reasonably determined*, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation.”¹¹ The standard to report is not when the consequences occurred but rather when it can be reasonably determined that a release meets the definition of section 191.3. PHMSA is now proposing to collect the date and time of confirmed discovery in section A19.¹² There is little support for PHMSA to also collect the date and time that the consequences first occurred as that is not the standard for reporting. PHMSA should remove Section A4 from the Incident Reporting Form and Instructions.

GPA Midstream appreciates the opportunity to submit comments in response to the Notice. If you have any questions, please feel free to contact me.

Sincerely,



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⁸ HL Accident Form and Instructions - PHMSA F 7100 1 (rev 3-2021) Redlines 2021-08-10, <https://www.regulations.gov/document/PHMSA-2021-0054-0008> (Mar. 10, 2022) at 25.

⁹ *Id.*

¹⁰ Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Changes, 82 Fed. Reg. 7,972, 7,978 (Jan. 23, 2017).

¹¹ 49 C.F.R. § 191.3 (emphasis added).

¹² GT GG Incident Form and Instructions - PHMSA F 7100 2 (rev 1-2020) Redlines 2021-0, Form at 2, Instructions at 12.