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

Pipeline Safety: Information Collection Activities, Revision to Gas Transmission and Gathering Pipeline Systems Annual and Incident Reports	Docket PHMSA- 2012–0024

COMMENTS OF THE AMERICAN GAS ASSOCIATION

I. Introduction

The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 92 percent — more than 65 million customers — receive their gas from AGA members. 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 almost one-fourth of the United States' energy needs

AGA appreciates the opportunity to submit comments to the above referenced notice and request for comments regarding the Pipeline and Hazardous Materials Safety Administration's (PHMSA) plans to revise the annual report form for gas transmission and gathering pipeline systems. The notice and request for comments was published in the Federal Register on April 13, 2012 in volume 77, beginning at page 22387. PHMSA states in the preamble that:

> *"PHMSA also intends to revise the gas transmission annual report to collect other information related to the NTSB Recommendations and the recently signed legislation detailed above. In addition to the MAOP verification reporting, these revisions will allow for the collection of information regarding the methodology used to determine the MAOP of gas transmission pipelines, the total miles of pipelines which have not*

been subjected to a post-construction hydrostatic pressure test of at least 125% of the MAOP, and total miles of pipelines which are not able to accommodate the passage of instrumented internal inspection devices. PHMSA is also revising the gas transmission annual report to improve the granularity of the data, remove sections of limited value, collect data about anomalies removed from gas transmission pipeline systems, and make several minor changes to improve the quality of the data."

AGA agrees that amendments to the annual report form are needed and provides its suggestions in written comments.

PHMSA did a very good job providing a red-lined annual report and instructions to support the public review of proposed changes to the forms, and AGA fully supports most of the changes with relatively few clarifying comments. However, if PHMSA intends to use the information collected through the revised transmission pipeline annual report to support future rulemakings related to the mandates of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, AGA believes PHMSA should take this opportunity to collect even more information than was suggested in the proposed notice and request for comments to appropriately reflect important aspects of the nation's transmission pipeline infrastructure. In the notice, PHMSA proposed that the following new information be collected:

- the miles of gas transmission pipeline for which operators are able or unable to verify the transmission maximum allowable operating pressure (MAOP) records;
- the miles of gas transmission pipeline where MAOP was determined using each of the methodologies in 192.619;
- the miles of gas transmission pipeline which have not been subjected to a post-construction hydrostatic pressure test of at least 125% of the MAOP; and
- the miles of gas transmission pipeline which are unable to accommodate the passage of instrumented in-line inspection (ILI) devices.

AGA believes the following suggested modifications to the proposal and expansion of the information collected will enable PHMSA to better evaluate the impact of modifying existing MAOP regulations, which AGA expects could result in a multi-billion dollar infrastructure replacement and modification effort for the nation's transmission pipeline system. AGA offers the following suggestions for PHMSA consideration:

1. The total miles of pipelines than can or cannot accommodate the passage of an ILI device should be collected. However, the operators submitting the information must have a more clear description of what is meant by “not able to accommodate passage of an ILI device,” because the classification of a pipeline as piggable is viewed differently by various operators. In addition, transmission pipelines may be able to “accommodate” the passage of an in-line inspection tool, but the pipeline may not be piggable due to system configuration, size, operating pressure of the line, or other operational limitations. Absent a clear definition, the information provided by operators will be of little value. It is naturally easier and more concise to define what can affirmatively be accomplished, than to attempt to define what cannot be accomplished. AGA suggests that a piggable line be defined as a “pipe of appropriate physical and operational characteristics to allow successful inspection via current commercially available in-line inspection tools within the specified tool requirements and tolerances.”

2. Rather than limiting the collection of data to miles of pipelines that have not undergone post-construction pressure tests of at least 125% of MAOP, AGA believes it is better to collect a wide range of actions that operators have taken for post-construction pressure tests. This would include mileage of pipelines that have post-construction pressure tests of at least 1.1, 1.2, and ≥ 1.25 times the MAOP, regardless of the testing medium.

3. It is also beneficial to collect the miles of pipeline operating above 30% of SMYS in each of the class locations listed in proposed Part R of the form. AGA believes this information is necessary to address the legislative mandates acknowledging PHMSA’s regulatory distinction between low and high stress gas transmission pipelines.

4. In order to support future rulemakings regarding provisions in the Pipeline Safety Act of 2011, AGA believes that PHMSA should expand the data collection in Part R to include a breakdown by pre- federal regulation (pre-1970) and post- federal regulation gas transmission pressure tests.

5. For ease in checking the accuracy of information, the total miles of pipelines in each of the eight class/high consequence area (HCA) locations should be summed from section Q.

With these comments, AGA has submitted an Excel spreadsheet which reflects how the additional data should be collected in Parts Q and R, if PHMSA were to accept the suggestions offered above.

AGA wishes to take a moment to address some of the deadlines in the legislation and some of the contradictory requirements in the legislation and National Transportation Safety Board (NTSB) safety recommendations. These complex issues will not be resolved during this notice and comment process, but it is important to collect the proper information as accurately and efficiently as possible. Otherwise, it will be even more difficult to meet deadlines for final regulations or to adequately address the NTSB recommendations.

The proposed timing and scope of some of the data collection presents problems. Congress requires that:

> *"Not later than 18 months after the date of enactment of this section, each owner or operator of a pipeline facility shall identify and submit to the Secretary documentation relating to each pipeline segment of the owner or operator described in subsection (a)(1)[1] for which the records of the owner or operator are insufficient to confirm the established maximum allowable operating pressure of the segment."*

Therefore, Congress mandated that operators identify and submit the information relating to pipe with insufficient records no later than July 3, 2013. The annual report, as written, requires submission of data prior to March 15, 2013 related to the transmission system as it existed on December 31, 2012. It was clear to Congress how labor intensive it is to meet the new "traceable," "verifiable" and "complete" MAOP record verification standard for a transmission pipeline infrastructure where records are several decades old and information might be limited and in multiple locations for pre- regulation

[1] The transmission pipelines in section a (1) are pipelines in class 3 and class 4 locations and class 1 and class 2 high-consequence areas.

pipelines. That is why Congress gave operators 18 months to complete the record verification process. PHMSA has the authority, through rulemaking, to impose a greater recordkeeping and reporting burden on operators than Congress created by statute. AGA believes the proposed annual report with a March 15, 2013 deadline would result in incomplete information being provided to PHMSA since any MAOP records found after December 31, 2012 would not be reflected in the annual report submitted during the first quarter of 2013. Additionally, there is no mechanism in the proposed form to allow updated information to be provided until the subsequent annual report is submitted March 15, 2014.

To alleviate this problem, AGA offers the following suggestions that can be adopted individually or in combination.

1. PHMSA can delay the submission of next year's annual report three months, until June 15, 2013, to be more aligned with the congressional deadline for completing the MAOP records review and submittal of data. It is clear that Congress meant for the records verification process to be a one-time event.

2. PHMSA can add an additional column in Part Q to capture the miles of pipeline segments where operators have not yet verified the transmission MAOP records.

3. PHMSA could also change its decision to eliminate Part A, Section 8 of the existing report. Section A8 allowed submitters to identify whether or not there were any changes from the previous year's filing. This section can be modified to allow subsequent reporting of MAOP record verification information.

A very serious concern that AGA has with the proposed annual report is that Congress instructed operators to focus on the verification of MAOP records for pipelines in class 3 and class 4 locations and class 1 and class 2 high-consequence areas and complete the review by July 3, 2013. However, the MAOP records review reporting that would be required by the proposed annual report gives no priority to the location of the gas transmission pipeline. AGA recommends that PHMSA consider following the direction

provided by Congress. Operators are already engaged in enhancing pipeline safety through many initiatives. Pipeline replacement projects have been accelerated. The baseline assessments for the Gas Transmission Integrity Management Program will be completed this year. Local distribution companies are implementing Distribution Integrity Management Programs and Control Room Management Programs. The proposed annual report's broadened scope and accelerated schedule for verifying MAOP records does not seem realistic and PHMSA should consider options to modify the scope and schedule.

There are clearly some contradictory safety directives between the NTSB safety recommendations from the San Bruno pipeline incident and the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. AGA does not presume that PHMSA has already decided which of the alternatives it plans to follow for rulemaking.

PHMSA is an administrative agency and, as such, it was created by Congress as an official governmental body empowered with the authority to direct and supervise the implementation of particular legislative acts, namely 49 U.S.C. Chapter 601. When President Obama signed the legislation on January 3, 2012, DOT was required by law to follow the mandates in the legislation.

The NTSB is an independent agency created by Congress. The NTSB is staffed by excellent investigators, but their purpose is accident investigation and they do not engage in rulemaking, the comparison of regulatory alternatives, or cost-benefit analyses. Therefore, the NTSB can issue safety recommendations that are not cost-effective and which do not conform to existing laws and regulations. For example, it is impossible to implement NTSB Safety Recommendation P-11-17, *"Require that all natural gas transmission pipelines be configured so as to accommodate in-line inspection tools, with priority given to older pipelines."* This recommendation could never be added to the pipeline safety code as written. There are some pipelines that will never be configured to accommodate in-line inspection tools. They may be abandoned and replaced with piggable pipelines, but some lines are technically, operational, and economically unable to be configured to accommodate in-line inspection tools. PHMSA should give careful consideration to NTSB safety recommendations, but it has no legal obligation to codify the recommendations.

AGA believes that it is important to recognize that the NTSB issued the safety recommendations for the San Bruno Investigation on August 30, 2011, prior to reauthorization. Both Houses of Congress unanimously passed the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 in December 2011. Congress had available for its consideration the NTSB final investigation report and testimonies from the NTSB, industry, DOT and the public provided during oversight hearings on pipeline safety reauthorization held after August 30. Some of the elements of the NTSB safety recommendations were adopted by Congress, some were modified and others were mandated to undergo further study before regulatory actions, if appropriate, by DOT.

To enhance pipeline safety, Congress took into account low stress pipeline principles codified by PHMSA and ordered testing only for previously untested gas transmission pipelines located in high consequence areas (HCAs) which operate above 30% of the Specified Minimum Yield Strength (SMYS). The NTSB safety recommendations are more stringent and apply hydrostatic testing recommendations to all transmission pipelines. It is unclear how PHMSA can complete a rulemaking on MAOP testing, consistent with the legislation, without collecting information in the annual report on the mileage of pipe that operates above 30% of SMYS in HCAs that has or has not been pressure tested. Therefore, AGA has suggested amending the annual report to collect this information.

Congress also did not adopt the NTSB safety recommendation P-11-15 to require all pipelines to be tested to 125% SMYS. Section 23 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 requires DOT to consider safety testing methodologies for previously untested transmission lines in HCAs that operate at greater than 30% SMYS, including, at a minimum, pressure testing or other alternative methods, including in-line inspections. Therefore, AGA recommends that PHMSA amend its proposal to collect only information on pipelines that have been hydro-tested at 125% MAOP and expand the data collection to include multiple pressure test thresholds beginning at 110% of MAOP, regardless of test medium. This collected information can then be matched to the class and HCA location information.

II. Detailed Discussion

Part A - AGA has no objections to the minor changes in section A. It is not clear why PHMSA no longer wants the contact information in section 3. It seems beneficial to have operator contact information if PHMSA has a need to perform quality control of the information submitted. Part A8 allowed submitters to identify whether or not there were any changes from the previous year's filing. PHMSA says it has determined that these sections provide limited value to all stakeholders and should be removed. AGA believes that Part A8 should be modified to allow identification of updated information in the new Part Q and R sections.

Part B - AGA supports the changes.

Part C - AGA supports the minor changes

Part D and E - AGA believes that it is PHMSA's intent for Part D to summarize the separate interstate, intrastate and outer continental shelf transmission reports that may be associated with an individual operator ID and which will be submitted through separate reports under the new Part P. AGA supports the change, including the proposal to add Part E's contents to Part D and collect the amount of composite pipe currently in use.

Part F.6.d & e - PHMSA proposes to revise the gas transmission annual report to collect the number of anomalous conditions eliminated by pipe replacement and abandonment in Part F of the report. AGA suggests adding a number 4 to each for *Other "Scheduled conditions" [192.933(c)]* similar to F.2.c.4, F.4.c.4 & F.5.c.4. PHMSA should also clarify that replacement should not be treated as a repair under F.2., F.3., F.4., and F.5.

Parts H, I, J, K - AGA supports the sections as written.

Part J - AGA suggests changing 'Pre-40' column heading to 'Pre-1940' for consistency with other column headings.

Part L - AGA supports the change.

Part M - AGA suggests that the cause definitions match the definitions in the transmission incident report.

Part P - AGA supports the changes discussed in Parts D and E.

Part Q - PHMSA proposes to revise the annual report to provide a mechanism for owners and operators to identify those "segments" of pipelines for which it is unable to verify the MAOP. Portions of the forms and instructions seem to interchangeably use the term segment and mileage. The term "segments" has no uniform measure and should not be used in data collection. The columns that use the term "without records" should be changed to clarify that operators are identifying mileage "without complete records". There is a significant legal difference between having no records and incomplete records. In addition, Part Q should be revised to permit the reporting of miles of pipeline that have not been completely reviewed or evaluated.

The May 7, 2012 PHMSA MAOP Advisory seems to request MAOP verification of all segments of a pipeline, not just those covered by Section 23 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. If this is PHMSA's intent, then the proposed Part Q should be revised to address the problems caused by the broadened scope and time schedule, as discussed previously. Congress and NTSB gave priority to pipelines located in class 3 and 4 locations and class 1 and 2 HCAs. AGA estimates that there are approximately 25,000 miles of pipelines in these locations. The MAOP advisory and annual report revisions from PHMSA acknowledge no prioritization. PHMSA's proposal contradicts the mandate from Congress and places operators in a very difficult position of attempting to validate MAOP records for nearly 300,000 miles of gas transmission pipeline by the end of the year or submitting incomplete or inaccurate information with the knowledge that PHMSA's annual report submittals are viewed by the public, media, and key stakeholders and assumed to be accurate. Do operators comply with the law and complete the required records verification in the high priority locations ordered by Congress or do they shift their resources to seek to verify the records of all pipeline segments as stated in the PHMSA advisory and the proposed annual report? Incorporating the Part Q changes recommended earlier in this response will alleviate many of the issues noted here. Specifically, MAOP record submissions should be consistent with the 18 months that Congress mandated, the scope should be

prioritized to high priority locations, the form should allow for the reporting of mileage for which the verification process is incomplete, and the form should allow for revisions to be submitted.

Part R- The data collection proposed for section R of the annual report includes reporting the total miles of all pipelines which have not been subjected to a post-construction hydrostatic pressure test of at least 125% of the MAOP, and total miles of all pipelines which are not able to accommodate the passage of instrumented internal inspection devices.

PHMSA seems to have already decided to establish a post-construction hydrotest testing standard of 125% of MAOP, because no other post-construction pressure testing information is proposed to be collected. A rigid one-size fits all standard is wholly inappropriate. Even new pipelines installed in Class 1 locations under current regulation are only required to be subjected to a post-construction pressure test of 110% of MAOP. AGA believes that collecting the mileage of pressure tests of at least 110, 120 and 125 percent of MAOP will provide PHMSA with more useful information.

The stress applied to a pipeline through either a hydrostatic test or an inert gas test provides the same verification of integrity. Both are effective in identifying possible pipe defects and in confirming a pipeline's integrity. While, there may be a concern that a rupture of a pipeline being tested with an inert gas will cause more damage to surrounding areas because of the energy release associated with a compressible fluid; since the pressure testing data being collected is historical, it makes no difference whether water or an inert gas was previously used as the test medium. Existing pipeline test requirements contained in Subpart J (192.503) allow post-construction pressure tests using *"liquid, air, natural gas, or inert gas".* PHMSA should not imply to the public, media, state regulators or other stakeholders that a test less than a 125% of MAOP or with a medium other than water is somehow deficient or unsafe. To avoid this, PHMSA should expand the data collected.

Congress expressly told PHMSA to issue a regulation to test only untested transmission pipelines located in HCAs that operate above 30% SMYS. Congress heard testimony from NTSB, PHMSA, industry and the public prior to making that decision. AGA is

unsure how PHMSA can carry out the mandate without collecting additional information. The percent SMYS information in section K does not provide information on whether the pipe had a post construction pressure test. PHMSA should expand the rows and columns in Part R to collect information separately by the 30% SMYS criterion, the different pressure test percentages and the vintage of pipeline as pre- or post-1970 regulation. Only in this manner can PHMSA collect the pressure testing data in sufficient detail to satisfy the various mandates of the Pipeline Safety, Regulatory Certainty, and Jobs Creation Act of 2011.

A clear and concise definition needs to be provided defining what is meant by being able to accommodate an instrumented internal inspection device. There are ranges of piggability. Does the lack of a launcher and receiver make the line unpiggable? If a tether pig or the new robotic pig is possible, is the line piggable? It is better to seek positive information and ask for the miles of pipe that are currently piggable. This avoids the problem of needing a definition on piggability. AGA previously provided a definition for piggability – "pipe of appropriate physical and operational characteristics to allow successful inspection via commercially available in-line inspection tools within the specified tool requirements and tolerances."

Part S – AGA believes that a section should be provided for additional information similar to Part H of the Annual Report for Gas Distribution Systems.

III. Rulemaking Process

AGA supports the notice and comment process for rulemaking, but believes that submitting comments to the docket during the comment period without the ability for follow-up discussions between commenters and personnel from PHMSA often results in poorly constructed regulations. Rulemaking is too complicated to be left to a one shot exchange of letters and the hope that the information conveyed has sufficient detail to be fully understood and the resulting regulation will accomplish the intended purpose. There were repeated face-to-face meetings when PHMSA last revised the transmission and gathering annual report in 2011. These meetings were necessary to understand exactly what PHMSA was attempting to collect with the information request and to explore the feasibility of accurately supplying the requested information. It is AGA's

understanding that these types of collaborative discussions with industry and the public are now prohibited once a request for comments is released. AGA's review of ex parte finds no basis for this decision. Courts have recognized the value of in-person discussions between industry and regulators in the context of informal and formal rulemaking. For example, in *Sierra Club v. Costle*, 657 F.2d 298 (D.C. Cir. 1981), in holding that meetings between industry and the EPA in an air-pollution rulemaking were not improper "ex parte" contacts, the court explained: "Under our system of government, the very legitimacy of general policymaking performed by unelected administrators depends in no small part upon the openness, accessibility, and amenability of these officials to the needs and ideas of the public from whom their ultimate authority derives, and upon whom their commands must fall."

AGA believes an iterative process is needed to effectively revise the annual report form. AGA will be available and open to further discussion after the close of the comment period if PHMSA decides to lift its prohibition on post-comment period discussion.

IV. Conclusion

AGA appreciates the opportunity to provide comments to the notice to amend the gas transmission and gathering annual report. Amending a form that will be interpreted in the same manner by hundreds of operators and collect new information on MAOP verification records, MAOP hydrostatic test or pressure tests, and pipe mileage that may accommodate an instrumented inspection device is very complicated. AGA is submitting comments that are as complete as possible, but post comment period discussions with PHMSA likely will be necessary to effectively promulgate a final transmission pipeline reporting form.

Respectfully submitted,

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AGA's Comments Incorporated into Part R of Form PHMSA F 7100.2-1

PART R - Gas Transmission Miles Pressure Tested and Instrumented Inspection Device Passage					
Location	1. Miles that are not able to accommodate the passage of instrumented internal inspection devices	2. Miles that can accommodate the passage of instrumented internal inspection devices	Total System Miles (1 + 2)	3. Miles of pipeline which have not been subjected to a post-construction pressure test	3a. Miles of pipeline in R3 Operating Above 30% SYMS
Class 1 (in HCA)					
Class 1 (not in HCA)					
Class 2 (in HCA)					
Class 2 (not in HCA)					
Class 3 (in HCA)					
Class 3 (not in HCA)					
Class 4 (in HCA)					
Class 4 (not in HCA)					
Total Miles	*Calc*	*Calc*	*Calc*	*Calc*	*Calc*

4. Miles of pipeline which have been subjected to a pressure test				
Location	4a. Miles Tested ≤ 1.1 Times MAOP	4b. Miles Tested ≤ 1.2 Times MAOP	4c. Miles Tested ≤ 1.25 Times MAOP	5. Miles of Pipeline in R4 Operating Above 30% SMYS
Class 1 (in HCA)				
Class 1 (not in HCA)				
Class 2 (in HCA)				
Class 2 (not in HCA)				
Class 3 (in HCA)				
Class 3 (not in HCA)				
Class 4 (in HCA)				
Class 4 (not in HCA)				
Pre-1970 mileage				
Post-1970 mileage				
Total Miles	*Calc*	*Calc*	*Calc*	*Calc*

Total (3+4a+4b+4c+5)
Calc

Part Q - Gas Transmission Miles by § 192.619 MAOP Determination Method

	Design Pressure (a)(1)	Design Pressure(a) (1) w/out Complete Records	Prssure Test (a)(2)	Pressure test (a)(2) w/out Complete Records	5-year actual (a)(3) Total	5-year actual (a)(3) w/out complete Records	safe pressure (a)(4) Total	safe pressure (a)(4) w/out Complete Records	5-year actual (c)	5-year actual (c) w/out Complete Records	alternative (d) Total	alternative (d) w/out Complete Records	Other Total	Other w/out Complete Recds	Not yet Reviewed
Class 1 (in HCA)															
Class 1 (not in HCA)															
Class 2 (in HCA)															
Class 2 (not in HCA)															
Class 3 (in HCA)															
Class 3 (not in HCA)															
Class 4 (in HCA)															
Class 4 (not in HCA)															
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0