

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF TRANSPORTATION**

**PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION**

Pipeline Safety: Information Collection Activities,)
Revisions to Incident and Annual Reports for Gas)
Pipeline Operators) Docket No. PHMSA-2013-0084

**COMMENTS AND REQUEST FOR MODIFICATIONS OF NORTON MCMURRAY
MANUFACTURING COMPANY**

Norton McMurray Manufacturing Company (“NORMAC”), in accordance with the Notice and request for comments published in the Federal Register notice, 78 Fed. Reg. 38,803 (June 27, 2013), (“June 27th Notice”) respectfully submits comments addressing the proposed revisions to certain forms that are contained in an information collection request identified under Office of Management and Budget (“OMB”) Control No. 2137-0522, entitled: “Incident and Annual Reports for Gas Pipeline Operators.” NORMAC’s comments are primarily focused on the Gas Distribution Incident Report (“F 7100.1”) and the Mechanical Fitting Failure Report Form (“F 7100.1-2”) and their associated instructions. NORMAC’s intention is to promote the accurate reporting associated with mechanical couplings. As one of the leading manufacturers of compression fittings of all types for 75 years, NORMAC is a stakeholder in the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulatory process. NORMAC respectfully requests that PHMSA accept its comments and adopt the recommended modifications to F 7100.1 and F 7100.1-2.

I. INTRODUCTION

NORMAC supports PHMSA's efforts to collect accurate incident and accident data in order that the root causes of such events may be analytically and transparently identified. However, PHMSA has created confusion within the pipeline industry through its various data-collections because of the lack of linkage to its performance-based federal pipeline safety regulations, inconsistencies across its forms and prejudicial questionnaires and associated instructions within its forms, particularly F 7100.1-2. In order to undo the confusion it has created, PHMSA must comply with Executive Orders and OMB directives regarding quality of data published by federal agencies.¹ This may require a complete overhaul of the data collection efforts related to 49 C.F.R. §§ 192.12 and 192.1009, as well as F 7100.1-2. The goal of the overhaul must include tying the data collection efforts directly to actions mandated in the performance-based regulations. Under its regulatory regime, PHMSA is properly concerned with maintaining the safety and qualifications of pipeline joints and joining procedures, but its data collection efforts do not share the same priorities. The questions currently included in F 7100.1-2 and other forms elicit inaccurate data that has and will continue to result in skewed pipeline safety trends unless appropriately modified.

PHMSA has intentionally crafted most pipeline safety regulations to require pipeline operators to meet well-defined and long standing performance-based pipeline safety standards.²

¹ See Exec. Order No. 13,563, 76 Fed. Reg. 3821 (Jan. 18, 2011); Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (Oct. 4, 1993); *Office of Management and Budget: Standards and Guidelines for Statistical Surveys* (Sept. 2006), available at http://www.whitehouse.gov/sites/default/files/omb/inforeg/statpolicy/standards_stat_surveys.pdf

² In establishing Part 192 as minimum federal safety standards over 40 years ago, DOT emphasized that "As indicated in the series of notices upon which this regulation is based, we intend to state the Federal safety standards in performance terms, rather than as detailed specifications, whenever it is possible to do so within the state-of-the-art and without lowering the required level of safety." 35 Fed. Reg. 13,248 at 13,250 (Aug. 19, 1970).

Sections 191.12, 192.1009 and F 7100.1-2, however, do not ask pipeline operators about these required performance-based standards in relation to incidents or hazardous leaks. These regulations and form are not crafted to seek compliance with such standards. The questions – taken individually and collectively – do not show any connection to PHMSA’s performance-based regulations. Instead, they merely inquire about certain failure modes on a pipe and appear unconcerned with determining whether a lack of compliance with federal regulations is related to the root cause of a leak.

The current version and the proposed revision of F 7100.1-2 improperly focus on inanimate objects rather than inquire into those joining actions, inactions or decisions that Part 192 requires. The regulations do not mandate that pipeline operators use any specified technology for creating a joint, such as a weld or a mechanical fitting.³ The regulations do mandate compliance with the carefully crafted performance requirements related to joints and joining procedures. NORMAC’s comments address this disconnect.

II. DEFINITONAL CLARIFICATIONS

In order to clarify the differences between a physical component and the location where two pipes meet, NORMAC offers an explanation of the terms “Mechanical fitting” and “joint.” PHMSA defines “Mechanical fitting” to mean “a mechanical device used to connect sections of pipe.”⁴ PHMSA further limits the term “Mechanical fitting” to include only: “(1) Stab Type fittings; (2) Nut Follower Type fittings; (3) Bolted Type fittings; or (4) Other Compression Type fittings.”⁵ To contrast, PHMSA’s regulations in Subpart F-Joining of Materials Other Than by

³ See *Subpart F-Joining of Materials Other Than by Welding*, 49 C.F.R. §§ 192.271, *et seq.* (2012) (“Subpart F”).

⁴ 49 C.F.R. § 192.1001 (2012).

⁵ 49 C.F.R. § 192.1001.

Welding⁶ set forth minimum requirements that pipeline operators must follow for joining materials in non-welded pipe, but those same regulations fail to define “joint,” “joining procedures” or “joint design.” According to the American Gas Association (“AGA”), “joint” means “the location at which two pieces of pipe or a pipe and a fitting are connected together.”⁷ The “joint” is not a piece of equipment; rather, it is a location.

The method pipeline operators use to create the joint also gives the joint its name. For example, when two lengths of pipe are joined by welding, the joint is a “weld”; when a length of pipe is joined to a mechanical fitting, the joint is called a “mechanical joint.” PHMSA regulations also identify, but do not separately define, “caulked bell and spigot joints,”⁸ “threaded joints,”⁹ joints created by brazing,¹⁰ miter joint,¹¹ “Solvent cement joints,”¹² “Heat-fusion joints”¹³ and “Adhesive joints.”¹⁴ The regulations impose performance specifications or prohibitions for the different types of joints based upon the pipe material being joined together.

Figure 1 shows the components used to create a “mechanical joint,” including the pipe joined to the mechanical fitting. The “mechanical joint” is made by field personnel when installing a gas pipeline. The joint does not exist until installation is complete.

⁶ Subpart F, 49 C.F.R. §§ 192.271, *et seq.*

⁷ AGA Plastic Pipe Manual for Gas Service, 8th ed. at 110.

⁸ 49 C.F.R. § 192.275(a).

⁹ 49 C.F.R. §§ 192.275(c), 192.277(a), 192.279, 192.281(a).

¹⁰ 49 C.F.R. §§ 192.275(d), 192.277(b).

¹¹ 49 C.F.R. § 192.281(a).

¹² 49 C.F.R. § 192.281(b).

¹³ 49 C.F.R. § 192.281(c).

¹⁴ 49 C.F.R. § 192.281(d).

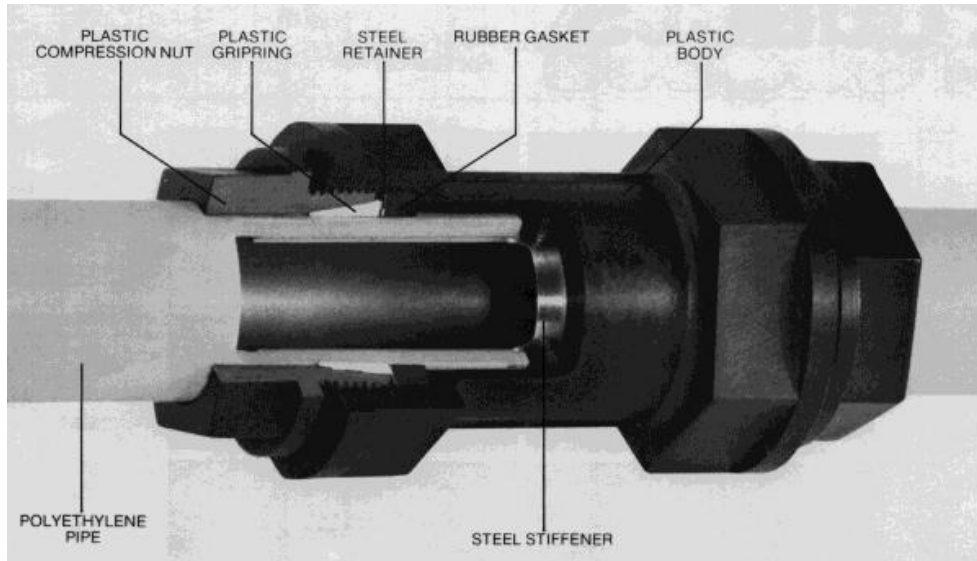


Figure 1 Elements of a Joint Using A Mechanical Coupling

III. The Revised Forms Do Not Reinforce PHMSA’s Regulations Or Promote Pipeline Safety Because Faulty Questions Lead To Incorrect Data Trends And Analyses

In Subpart F, PHMSA requires pipeline operators to take a variety of actions to ensure that the joints in their system are able to meet minimum performance specifications.¹⁵ Subpart F does not specify particular joining methods or materials. Instead, these performance specifications merely require pipelines to operate safely within certain operational metrics. F 7100.1 and F 7100.1-2 do not show a sufficient link to Subpart F or to one another.

In creating the regulations requiring the use of F 7100.1-2, PHMSA invoked specific statutory authority to develop minimum pipeline safety standards that may apply to the “design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities.”¹⁶ However, the questions included within the forms extend beyond the statutory bounds to the extent they inquire into the

¹⁵ See Subpart F, 49 C.F.R. §§ 192.271, *et seq.*

¹⁶ 76 Fed. Reg. 5494, 5496 (Feb. 1, 2011) (citing 49 U.S.C. § 60102).

perceived failure of a single type of component. Congress directed PHMSA to promulgate pipeline safety standards that apply to *specific actions*¹⁷ taken by “any or all of the owners or operators of pipeline facilities,”¹⁸ and not to single out a particular class of pipeline components. In focusing data collection efforts on perceived failures of particular pipeline components rather than actions, inactions or qualifications by pipeline owners and operators, PHMSA has stepped outside of its statutory authority and beyond its existing regulatory regime. PHMSA must change its data collections to return to the bounds of its authority.

When PHMSA decides whether to seek reauthorization for its existing data collection programs, it should discontinue diverting industry resources from singling out one particular class of components used in joining pipe.¹⁹ PHMSA must redirect its data collection efforts away from blaming leaks near a joint on only one piece of equipment necessary to create that joint. Instead, PHMSA should ensure that the entities it regulates follow the existing performance-based regulations requiring adherence to standards for the proper design, qualification and compliance with qualified joining procedures along with inspection of joints. PHMSA must also determine if problematic joints were installed in accordance with other applicable guidance including ASME B31.8 and manufacturers’ instructions. PHMSA should align its data collections with its regulatory regime in order to have the greatest positive effect on pipeline safety.

¹⁷ 49 U.S.C. § 60102(a)(2)(B) (requiring PHMSA to develop minimum pipeline safety standards that “may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. . .”).

¹⁸ 49 U.S.C. § 60102(a)(2)(A).

¹⁹ *See, e.g.*, Comments to OMB of Norton McMurray Manufacturing Company in response to PHMSA Notice and Request for Comments in Docket PHMSA-2013-0004 (submitted June 19, 2013). Therein NORMAC urges OMB to disapprove PHMSA’s proposed revisions to F 7100.1-1 (Annual Report) that improperly consider “Equipment Failure” as a catch-all category of leak causation under Part C.

IV. PHMSA Must Revise Its Data Collections To Eliminate Bias, Ask Consistent Questions And Provide Consistent Definitions And Instructions Across All Forms, As Appropriate

Many of the instructions, definitions and questions appear to demonstrate PHMSA’s interest in collecting the same data across F 7100.1 and F 7100.1-2, but they fall short. One reason is that the instructions, definitions and questions in these forms do not relate to the performance-based regulations. Another is that the instructions, definitions and questions in these forms are not consistent, where appropriate.

In the following table, NORMAC highlights some of the inconsistencies between Forms F 7100.1 (Column 1) and F 7100.1-2 (Column 2), including their associated instructions, and PHMSA’s Subpart F regulations to demonstrate with greater specificity the inherent bias in F7100.1-2 and the remedial steps required to ensure impartial and accurate data collection and publication (Column 3).

F 7100.1 (Incident)	F 7100.1-2 (MFFR)	NORMAC COMMENT
Instructions - Part G6 – Equipment Failure – This section applies to failures of items other than main or service pipe, or welds, joints, or connections joining main pipe or service pipe. Equipment failure includes a release or failure resulting from: malfunction of control/relief equipment including valves, regulators, or other	Instructions – Part C – Mechanical Fitting Failure Data – Question 15 – “Equipment”: leak resulting from malfunction of control/relief equipment including valves, regulators, or other instrumentation; <u>or seal failures on gaskets, O-rings, seal/pump packing, or similar leaks.</u> (emphasis added)	F 7100.1 instructions do not allow any leak on main or service pipe to be categorized as “Equipment Failure,” but the F 7100.1-2 instructions mandate that all hazardous leaks associated with mechanical fittings be so categorized. Part C, Question 15 of F 7100.1-2 mandates <i>a priori</i> that any “leak resulting from . . . seal failures on gaskets” must be recorded as “Equipment” failure. Given these prejudicial instructions, it is not surprising that PHMSA has reported “Equipment Failure” as the leading cause of leaks for the past two years.

<p>instrumentation; failures of compressors, or compressor-related equipment; failures of various types of connectors, connections, and appurtenances; failures of the body of equipment, vessel late, or other material (including those caused by construction, material, or design defects or anomalies); and, all other equipment-related failures. (emphasis in original)</p>		<p>PHMSA specifically excludes leaks on mains and services from being categorized as “Equipment Failures” in the F 7100.1-1 Incident Report. This is logical because the regulations that apply to mains and services are performance-based, not equipment-based. PHMSA should not mandate that hazardous leaks on mains and services by considered “Equipment Failures” on F 7100.1-2.</p> <p>In sum, the data in response to Question 15 of F 7100.1-2 has to date been collected under question/response-biased instructions.</p> <p>NORMAC Proposals:</p> <ol style="list-style-type: none"> 1) PHMSA should consistently apply to both F 7100.1-1 and F 7100.1-2 the exemption against categorizing leaks in gasketed joints found on main or service pipe as “Equipment Failure”; 2) PHMSA should delete, redact or similarly account for the flawed data stored in its database. Further, PHMSA should issue corrections to prior reports and publications that have included remarks based on such flawed data.
--	--	--

<p>Instructions – Part G5 – Design Defect – means an aspect inherent in a component to which a subsequent failure has been attributed <i>that is not associated with errors in installation</i>, i.e., is not a construction defect. This could include, for example, errors in engineering design. (emphasis added)</p>	<p>No similar exemption</p>	<p>The Instructions for Part G5 under Design Defect establish the inappropriateness of attributing blame to the design of the component unless and until errors in installation have been ruled out.</p> <p>NORMAC Proposal:</p> <p>This bright line separation between equipment failure and improper joining procedures, joint installation, or joint design should be included in F 7100.1-2 and to all related PHMSA forms and programs, specifying the precise regulation that applies.</p>
<p>Instructions – Part E, No. 7 - "Cause" means an <i>action or lack of action</i> that directly resulted in the gas distribution system incident. (emphasis added)</p>	<p>A core definition of "Cause" is not provided.</p>	<p>Leaks in joints between compression fittings and pipe do not randomly occur. The actual cause of most if not all such incidents is the improper action or inaction by an individual, whether operational or decisional, in violation of PHMSA's performance-based regulations as set forth in Subpart F. This is also true for most of the remaining 8 categories. Key to accurate data collection of apparent cause is a uniform definition of "Cause" that provides consistent guidance to the respondent throughout the reporting form.</p> <p>The definition of "Cause" in Part E, No. 7 of F 7100.1, captures the appropriate meaning of this term.</p> <p>NORMAC Proposal:</p> <p>This same definition of "Cause" should be incorporated in each of PHMSA's reporting forms. In particular, it should be included at the outset of Part G – Apparent Cause of F 7100.1; and as a specifically defined term in the Definitions section of F 7100.1-2.</p>

<p>Instructions - Part G5 – Pipe, Weld, or Joint Failure – Use this section to report failures <i>only for</i> main or service pipe, or welds, joints, or connections joining main pipe or service pipe;</p> <p>G5 - Mechanical Fitting – Question 12a – If used on plastic pipe, did the fitting – as designed by the manufacturer – include restraint? If Yes, specify: Cat I, Cat II, Cat III, <u>DOT 192.283</u> (emphasis added)</p>	<p>Instructions - Part C – Mechanical Fitting Failure Data – no similar instruction or option to identify failure to meet regulatory requirements.</p>	<p>Subpart F of PHMSA’s regulations prescribe the minimum performance-based requirements that operators must follow for joining materials in pipelines, other than by welding. In addition to steel, qualifications are specified for cast iron (§ 192.275), ductile (§ 192.277), copper (§ 192.279), and plastic (§ 192.281) pipelines, including standards for proper design, qualification and compliance with qualified joining procedures along with inspection of joints. Yet, in requiring the reporting of incidents involving mechanical fittings, neither PHMSA form ties the likely causes of failure to whether such actions, inactions or decisions are compliant with Subpart F, the manufacturer’s instructions, or ASME B31.8, as applicable. Part G5, Question 12a is the only exception.</p> <p>Instead, the forms and instructions steer the respondent away from regulatory compliance to blaming the equipment itself, in this case mechanical and compression fittings over which PHMSA does not have jurisdiction. This is a classic case of what statisticians call “question/response- bias.”</p> <p>NORMAC Proposals:</p> <ol style="list-style-type: none"> 1) Eliminate the prejudicial titles and intent of 49 C.F.R. §§ 192.1009 and 191.12, which establish the MFFR program; 2) Reform F 7100.1-2 to relate each apparent cause of leaks to specific actions or inactions in compliance with PHMSA’s applicable regulations.
---	--	---

<p>Instructions - Part G1 – Corrosion Failure - (Note: If the bonnet, packing, or other gasket has deteriorated to failure, whether before or after the end of its expected life, but not due to corrosive action, it is to be classified under G6 – Equipment Failure.) (emphasis added)</p>	<p>No similar provision</p>	<p>The Note in F 7100.1, Part G1, is another example of prejudicial instructions caused by PHMSA's failure to clearly distinguish between equipment failure and improper joining procedures as apparent leak causes in its reporting forms.</p> <p>By presuming <i>a priori</i> that the <i>failure of a gasket</i>, for reasons other than corrosion, must automatically be classified as G6 – Equipment Failure, the Note is patently misleading and biased, preventing the respondent from even considering the more likely classification of such apparent leak cause as G7 – Incorrect Operation.</p> <p>Moreover, G6 applies only to failures of items <i>not located on main or service pipe</i>, and thus by definition excludes gaskets in joints that are covered by regulations.</p> <p>NORMAC Proposal:</p> <p>The Note should be removed from F 7100.1, Part G1.</p>
<p>Instructions – Part G7 – Incorrect Operations – includes a release or failure resulting from <i>failure to qualify joint design or joining procedures in accordance with Part 192; failure to follow qualified joining procedures, failure to follow manufacturer's recommendation, instructions or guidance, operating, maintenance, repair or other errors by</i></p>	<p>Instructions – Apparent Cause of Leak – Incorrect Operations – <i>hazardous leaks</i> resulting from inadequate procedures or safety practices; <i>failure to qualify joint design or joining procedures in accordance with Part 192; failure to follow qualified joining procedures; failure to follow</i></p>	<p>F 7100.1-2 does not seek to determine if regulations of Subpart F were in fact followed. These regulations were carefully developed to qualify and regulate <i>only</i> the joining procedure; they do not pertain to the fitting.</p> <p>F 7100.1-2 and instructions should be revamped to assist PHMSA's responsibility to enforce its regulations, not provide a means to evaluate a product.</p> <p>PHMSA should expand its definition for "Incorrect Operations" to capture the appropriate purpose of each</p>

<p>facility personnel, including, but not limited to improper valve selection or operation, inadvertent over pressurization, or improper selection or installation of equipment.</p> <p>(Proposed additions shown in italics)</p>	<p><i>manufacturer's recommendations, instructions or guidance</i>; or failure to follow correct procedures, or other operator error. Construction or installation defect resulting in a component being installed incorrectly. It could be due to poor workmanship, the procedure was not followed, or there were poor construction/installation procedures.</p> <p>(Proposed additions shown in italics)</p>	<p>form. Both forms need to guide the respondent to consider whether the apparent cause is, in fact, a failure of the joining procedures, joint installation, or joint design to comply with PHMSA's regulations, in particular, Subpart F.</p> <p>NORMAC Proposal:</p> <p>NORMAC proposes clarifying language in the Instructions accompanying F 7100.1-2 and F 7100.1, as shown in italics accompanying this comment.</p>
---	--	--

V. RESERVATION OF RIGHT TO COMMENT

The June 27th Notice indicates that PHMSA will be submitting to OMB “revisions” to the seven forms that are contained within the information collection under OMB Control No. 2137-0522 and establishes a 60-day comment period. Two of the seven forms are F 7100.1 and F 7100.1-2. The “Background” and the “Summary of Impacted Collection” sections of the June 27th Notice each acknowledge that the current information collection will expire February 28, 2014. However, PHMSA does not state in the June 27th Notice whether PHMSA will request from OMB an additional term of approval for this information collection activity, and if so, invite comments on such request. PHMSA also makes no statement regarding whether PHMSA will request an additional term of approval for F 7100.1-2 and the MFFR program, which are also under OMB Control No. 2137-0522, but expire earlier on January 31, 2014. In other PHMSA proceedings, PHMSA has provided the public with advanced notice (60-day comment

period) of its intent to request an additional term of approval from OMB for an expiring information collection activity.²⁰ The June 27th Notice does not provide for advanced notice of any intention to request OMB extension approval for F 7100.1 or F 7100.1-2 or an opportunity to comment on such request for extension. NORMAC reserves its right to fully address such requests in response to any future notice that PHMSA may issue, including the 30-day notice that NORMAC anticipates will follow the June 27th Notice.

VI. CONCLUSION

NORMAC is committed to continued transparency in incident reporting as an important initial step towards achieving accurate and comprehensive identification of the root causes of pipeline accidents and incidents. Accordingly, NORMAC requests that PHMSA adopt the comments and suggested modifications to F 7100.1 and F 7100.1-2 discussed above, in order to collect accurate, transparent and objective data that will enhance pipeline safety.

Respectfully submitted this 31st day of July 2013.

NORTON MCMURRAY MANUFACTURING COMPANY

By: /s/ Joel L. Greene
Joel L. Greene
Alan J. Rukin
Jennings, Strouss & Salmon, P.L.C.
1350 I Street, NW, Suite 810
Washington, DC 20005-3305
(202) 371-9889
jgreene@jsslaw.com
arukin@jsslaw.com

Its Attorneys

²⁰ See, e.g., 77 Fed. Reg. 46,155, Aug. 2, 2012 (inviting public comment on two information collections that PHMSA would be submitting to OMB for renewal); 75 Fed. Reg. 82,142, Dec. 29, 2010 (using similar language); 72 Fed. Reg. 8421, Feb. 26, 2007 (using similar language).