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SUBMITTED VIA EMAIL

Office of Information and Regulatory Affairs
Records Management Center
Room 10102 NEOB
725 17th Street, NW
Washington, DC 20503
ATTN: Desk Officer for the U.S. Department of Transportation\PHMSA
oir_submission@omb.eop.gov

Re: Docket No. PHMSA-2013-0084
OMB Control No. 2137-0522

Dear Sir or Madam:

Norton McMurray Manufacturing Company (NORMAC), in accordance with the notice and request for comments published in the *Federal Register* notice, 78 Fed. Reg. 71,033 (Nov. 27, 2013), (November 27 Notice), respectfully submits further comments addressing the Pipeline and Hazardous Materials Safety Administration's (PHMSA) proposed revisions to and three-year renewal of 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."

INTRODUCTION

NORMAC's comments primarily respond to PHMSA's inadequate response to NORMAC's request that the titles and intent of 49 C.F.R. §§ 191.12 and 192.1009 be rescinded. NORMAC's intention is to promote the accurate reporting associated with joints made with mechanical fittings. As one of the leading manufacturers of mechanical fittings for 75 years, NORMAC is a stakeholder in the regulatory process.

NORMAC will:

- (1) demonstrate that PHMSA fails to justify its renewal request under the strict quality and utility criteria established by OMB to assess Agency submissions pursuant to the Paperwork Reduction Act¹ and regulations thereunder;²
- (2) request that OMB reject PHMSA's proposed extension of revised F 7100.1-2; and
- (3) request that OMB require PHMSA to initiate a formal rulemaking proceeding that repeals 49 C.F.R. §§ 191.12 and 192.1009.³
- (4) PHMSA publications to date under §§ 191.12 and 192.1009 are based on improper data collection methodologies. OMB must direct PHMSA to acknowledge that it improperly collected data and that the data is unreliable. OMB must additionally direct PHMSA to publicly declare that the data collected under §§ 191.12 and 192.1009 is flawed and should not be relied upon for any purpose.

Since 1993, Executive Orders have required minimum levels of quality for federal agency data collection and publications. In furtherance of these Executive Orders, OMB has issued standards and guidelines that require Federal agencies to maximize the quality, objectivity, utility and integrity of their disseminated information.⁴ These Executive Orders and

¹ 44 U.S.C. §§ 3501-3521 (2012).

² 5 C.F.R. §§ 1320.9 and 1320.8(b)(3)

³ See Comments from Office of the Chairman, NTSB, to U.S. Department of Transportation, Docket Operations, 5, Docket No. PHMSA-RSPA-2004-19854 (Nov. 19, 2008).

⁴ *Office of Management and Budget; Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*; 67 Fed. Reg. 8452 (Feb. 22, 2002) (2002 OMB Guidelines); see also 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*, 2-4 (Sept. 2006)

related standards apply to PHMSA regulations 49 C.F.R. §§ 191.12 and 192.1009 and their associated information collection form F-7100.1-2.

The Paperwork Reduction Act (PRA) was designed, among other things, to “ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government” and to “improve the quality and use of Federal information to strengthen decision making, accountability and openness in Government and society.”⁵ In its November 27 Notice, PHMSA announced that pursuant to the PRA the proposed renewal of revised F 7100.1-2 would be submitted to OMB for approval. PHMSA invited comments on:

- (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) The accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Ways to enhance the quality, utility and clarity of the information to be collected; and
- (d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

These areas of requested comment appear to be based on the more expansive criteria that OMB will assess in determining whether to approve PHMSA’s proposed renewal of revised F 7100.1-2. Specifically, Part 19 of OMB Form 83-I (PRA Submission) requires that a PHMSA Senior Official, or their designee, affirmatively certify **with record support** that the proposed renewal complies with specifically enumerated OMB criteria set forth in 5 C.F.R. § 1320.9 and

(2006 OMB Standards); Guidance on Agency Survey and Statistical Information Collections, Executive Office Of The President, Office Of Management And Budget, Administrator Office Of Information And Regulatory Affairs (Jan. 20, 2006) (2006 OMB Survey Guidance).

⁵ *Memorandum For The Heads Of Executive Departments And Agencies, And Independent Regulatory Agencies*, Executive Office Of The President, Office Of Management And Budget, Administrator Office Of Information And Regulatory Affairs (Apr. 7, 2010).

5 C.F.R § 1320.8(b)(3). Provisions of the certification that PHMSA cannot comply with must be identified and fully explained in the accompanying Supporting Statement. Those criteria of particular relevance to NORMAC's comments, below, require certification that the proposed renewal of F 7100.1-2:

- (a) is necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility;
- (b) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;
- (c) is written using plain, coherent and unambiguous terminology and is understandable to those who are to respond;
- (d) informs and provides reasonable notice to the potential persons to whom the collection of information is addressed of:
 - 1. the reasons the information is planned to be and/or has been collected;
 - 2. the way such information is planned to be and/or has been used to further the proper performance of the functions of the agency; and
 - 3. the nature and extent of confidentiality to be provided, if any (citing authority).
- (e) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;
- (f) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and
- (g) to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

The PHMSA Senior Official is required to accompany its certified request for approval with a Supporting Statement that among other enumerated information, must:

- (a) Explain the circumstances that make the collection of information necessary;

- (b) Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection; and
- (c) Explain each exception to the required certification in the PRA Submission.

As outlined below, PHMSA has not demonstrated that its proposed renewal of revised F 7100.1-2 meets the OMB criteria set forth above. NORMAC therefore respectfully requests that OMB reject PHMSA's requested renewal of PHMSA F 7100.1-2.

DEFINITIONS AND APPLICABLE REGULATIONS

Mechanical Fitting: A device, or piece of equipment, used to join lengths of pipe. Mechanical fittings are manufactured in factories.⁶ Figure 1 shows an example of one type of mechanical fitting, a “compression coupling.”

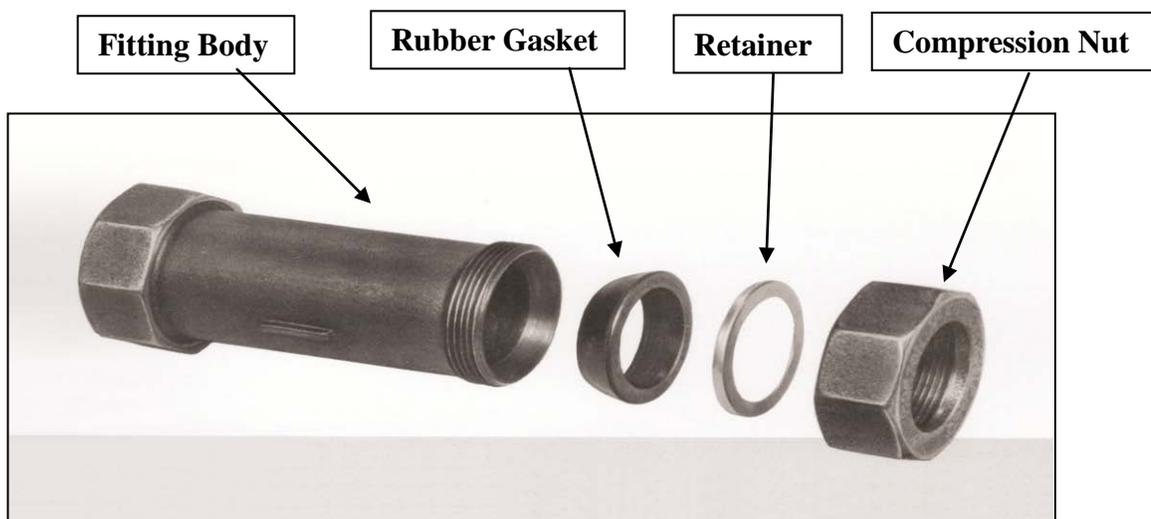


Figure 1

Joint: The connection between lengths of pipe or between a length of pipe and a fitting. Joints between mechanical fittings and pipe are made by field personnel.⁷ Figure 2 shows a joint between pipe and a compression fitting.

⁶ Mechanical fittings include a wide variety of designs and configurations. One configuration is known as a “coupling” which is used in between two lengths of pipe. For each coupling in service, there are two joints, one at each connection to the pipe.

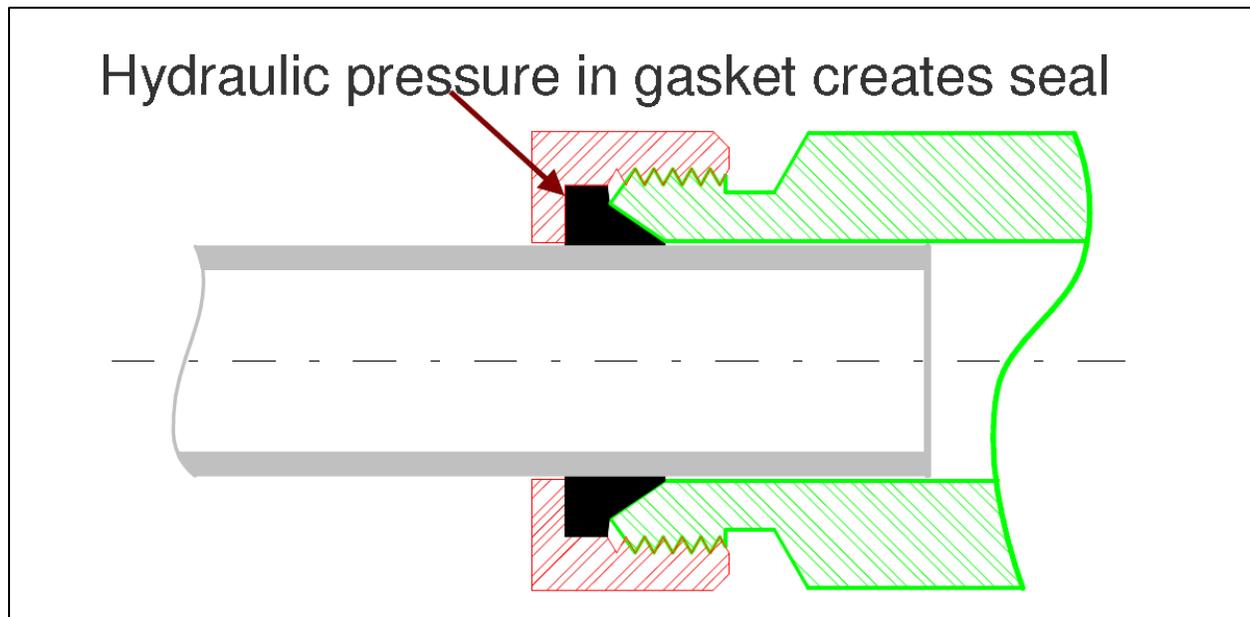


Figure 2

A “fitting” is a tangible object – you can see it and touch it – it is obvious just like a piece of pipe. A “joint,” however, is not as easy to understand. A joint is the interface between the fitting and the pipe. To put these definitions in context, the applicable PHMSA regulations address only qualifying *joint designs*, *joining procedures* and the *personnel who install the joints*. The PHMSA regulations do not address *fittings* in any way. For example, the following are the PHMSA regulations relevant to PHMSA F 7100.1-2 and (3):

Title 49 - Transportation. Subtitle B – Subchapter D – Pipeline Safety. Part 192 – Subpart F – *Joining*⁸ of Materials Other Than by Welding.

§ 192.271 Scope.

- (a) This subpart prescribes minimum requirements for *joining* materials in pipelines, other than by welding.

⁷ The AGA Plastic Pipe Manual for Gas Service, 8th ed. at 110, defines “Joint” as the location at which two pieces of pipe or a pipe and a fitting are connected together.

⁸ Throughout this section, “*joining*” and “*joining procedures*” are italicized to emphasize the fact that the PHMSA regulations address only “*joining*” and “*joining procedures*.”

(b) This subpart does not apply to *joining* during the manufacture of pipe or pipeline components.

§ 192.273 General.

(a) The pipeline must be designed and installed so that each *joint* will sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping or by anticipated external or internal loading.

(b) Each *joint* must be made in accordance with written procedures that have been proven by test or experience to produce strong gastight *joints*.

(c) Each *joint* must be inspected to insure compliance with this subpart.

§ 192.281 Plastic pipe.

(e) *Mechanical joints*. Each compression type mechanical *joint* on plastic pipe must comply with the following:

(1) The gasket material in the coupling must be compatible with the plastic.

(2) A rigid internal tubular stiffener, other than a split tubular stiffener, must be used in conjunction with the coupling.

§ 192.283 Plastic pipe: Qualifying joining procedures.

(b) *Mechanical joints*. Before any written procedure established under § 192.273(b) is used for making mechanical plastic pipe *joints* that are designed to withstand tensile forces, the procedure must be qualified by subjecting 5 specimen joints made according to the procedure to the following tensile test:

* * *

(c) A copy of each written procedure being used for *joining* plastic pipe must be available to the persons making and inspecting *joints*.

(d) Pipe or fittings manufactured before July 1, 1980, may be used in accordance with procedures that the manufacturer certifies will produce a *joint* as strong as the pipe.

§ 192.285 Plastic pipe: Qualifying persons to make *joints*.

§ 192.287 Plastic pipe: Inspection of *joints*.

The PHMSA regulations speak directly to the requirement that natural gas pipeline operators qualify *joints, personnel and procedures for joining* and do not refer at all to fittings.

The regulations pertaining to joints for plastic pipe were enacted in 1980 by a predecessor of PHMSA, the Materials Transportation Bureau (“MTB”). The “MTB has reviewed the joining procedures for various mechanical joints and has found that they are consistently simple and straightforward and do not require a high level of skill to implement.”⁹

COMMENTS

Of the issues presented for public comment in the November 27 Notice, NORMAC will focus on the following OMB criteria with which PHMSA has failed to demonstrate compliance:

- I. Justification for researching “Mechanical Fittings”
- II. Quality, utility and clarity of data collected and published under 49 C.F.R. §§ 191.12 and 192.1009
- III. Improper data analysis results in minimal practical utility and public benefit
- IV. Not unnecessarily duplicative of information otherwise reasonably accessible to the agency

I. PHMSA Lacks Justification For Researching “Mechanical Fittings”

The differentiation between fittings and joints when investigating causes of leaks cannot be overstated. Regulations 49 C.F.R. §§ 192.271 through 192.287, set forth above, require operators to be responsible for proper joining and resulting joints.

The category of “mechanical” fittings includes a subset known as “compression” fittings, which were designed in about 1890 and have been used extensively across the globe for joining natural gas distribution piping. This subset of mechanical fittings was involved in certain cases where patterns of serious leaks occurred on specific operators’ pipelines between 1991 and 2004. These cases are those to which PHMSA has pointed to justify the need to investigate mechanical fittings. Notably, there is a glaring absence of **any** credible research showing any deficiency in the design, manufacture or long term integrity of compression fittings.

The record in these cases contains several independent laboratory reports supporting the strength of compression fittings. For example, the Battelle Memorial Institute concluded, based

⁹ 44 Fed. Reg. 42,972 (Jul. 23, 1979).

upon laboratory testing, that compression fittings on risers were not linked to leaks.¹⁰ The Battelle Memorial Institute also concluded that the design of a riser, including its compression fittings, was not inherently flawed.¹¹ The Battelle Memorial Institute further concluded that when installed correctly, the compression fittings on risers would perform as designed.¹²

To properly justify their request for renewal of F 7100.1-2 and the retention of 49 C.F.R. §§ 191.12 and 192.1009, PHMSA must rectify the obvious conflict between its current approach to information collection and the contrary concrete findings of fact of others. Independent testing laboratories along with the Federal Energy Regulatory Commission (FERC), state regulators, stakeholder industry groups and operators have found improper installation as the cause of most leaks.¹³ The ultimate outcomes of these cases at the federal and state levels demonstrate it was the **joint** that failed – that is the installation that caused the failure – not the fitting. Therefore, PHMSA should not be permitted to draw any adverse conclusions from them regarding the inherent safety of compression fittings or mechanical fittings in general.

The following list summarizes just a few of the key findings from cases inappropriately relied upon by PHMSA to justify §§ 191.12 and 192.1009. In each of these cases, the final ruling was that the failure was **not** caused by the fitting; rather the failure was caused by improper design of or installation of the *joint*:

¹⁰ Battelle Memorial Institute, Final Report on An Investigation into Leaks from Risers, iii, Case No. 00-681-GA-GPS (Pub. Utils. Comm'n OH Dec. 22, 2004) (“the cycling tests did not suggest an intrinsic design error that would make leaks inevitable”).

¹¹ *Id.* at 80 (“In short, there are no data to suggest that the Normac® riser is deficient in terms of its design. Proper installation is a pre-requisite for this conclusion”).

¹² *Id.* at iii (“The conclusion based on the available data is that the Normac® riser should serve its function if it is installed correctly.”).

¹³ NORMAC has raised these and other similar concerns with PHMSA but to no avail. *See* Comments, Recommendations and Request for Immediate Retraction of NORMAC, Docket No. PHMSA-RSPA-2004-19856 (Apr. 23, 2008) (demonstrating the damage that may be caused by substantial inaccuracies in reporting); *see also* Renewed Request of NORMAC for Immediate Retraction and Adoption of Recommendations, Docket No. PHMSA-RSPA-2004-19856 (Feb. 23, 2009) (providing evidence of additional state agency determinations that rebut prior inaccurate reporting); Letter from NORMAC to PHMSA, Docket No. PHMSA-RSPA-2004-19856 (Apr. 10, 2010); Letter from NORMAC to PHMSA Docket No. PHMSA-RSPA-2004-19856 (Jun. 4, 2008).

1) FERC Proceedings

- a. *Dominion Cove Point, LNG*, 115 FERC ¶ 61,337 at P 73, *order on reh'g*, 118 FERC ¶ 61,007 at P 54 (2007) (“We are convinced that the ability of elastomer seals within a subset of compression couplings had been compromised by [Washington Gas Light Company’s (WGL)] application of hot tar as a method of corrosion protection.”), *affirmed in part and vacated in part sub nom. Washington Gas Light Co. v FERC*, 532 F.3d 928, 931 (D.C. Cir. 2008) (“We conclude substantial evidence supports FERC’s conclusion that the unblended LNG would not have caused the leaks if the couplings had not been damaged by the hot tar.”), *reh'g denied en banc* (D.C. Cir. 2009), *order on remand*, 125 FERC ¶ 61,018 (2008), *order on reh'g and clarification*, 126 FERC ¶ 61,036 at P 5 (2009) (stating WGL’s contention that regasified LNG caused the increased leaks on its system was based on a flawed analysis, and that other factors, namely the application of hot tar to the coupling seals as a means of corrosion control, the increase in operating pressures on WGL’s system, and colder temperatures, were primarily responsible for the leaks of which WGL complains).
- b. *Dominion Cove Point, LNG*, 118 FERC ¶ 61,1007 at P 104 (2007) (“With regard to the LILCO experience, the Commission found that during the installation process of the compression couplings, LILCO did not apply enough torque to the compression cup-style nut in order to prevent possible cold flow of the gasket which could lead to leaks.”) (internal citation omitted).

2) State Public Utility Commission Proceedings

- a. OHIO – The Public Utilities Commission of Ohio (PUCO) ruled that gas companies should assume maintenance responsibility of local natural gas service lines from property owners, thereby ensuring that individual homeowners would no longer be responsible for maintenance of those service lines.¹⁴ PUCO

¹⁴ *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of Tariffs to Recover, Through an Automatic Adjustment Clause, Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC (Pub. Utils. Comm’n OH Apr. 9, 2008) (*Columbia Gas*). One of the

recognized leaks in gas service lines as safety hazards, but noted that the proper maintenance of those lines by qualified service technicians would reduce the hazard and improve safety.¹⁵

- b. TEXAS –The Texas Railroad Commission issued new rules to align the state regulations with federal regulations for safe installation of joints made with mechanical fittings in 2008¹⁶ and revised the rules in 2011.¹⁷ These new Texas rules required the design of all joints between steel pipe and a mechanical fitting to meet the federal requirements within 49 C.F.R. § 192.273¹⁸ and those joints between plastic pipe and mechanical fittings to meet the ASTM D2513 Categorization.¹⁹ The Texas Railroad Commission recognized the danger posed by joints installed in Texas that did not meet these specifications and ordered local gas distribution companies to develop and implement a plan to remove or replace the deficient installations.²⁰ In issuing the new rule, the Chairman of the Texas Railroad Commission declared, “No other state regulatory agency and no federal regulatory agency has made the determination that compression couplings

reasons the local gas distribution company argued for the change in installation and maintenance responsibility was that the independent installers had “failed to apply to proper amount of torque” to the mechanical fittings during installation. Post-Hearing Brief of Columbia Gas of Ohio, Case No. 07-478-GA-UNC, 17 (Pub. Utils. Comm’n OH Dec. 31, 2007). The PUCO Staff supported this position arguing that the gas company personnel had better knowledge of the installation techniques and would not “take shortcuts that would lead to leaks” as the independent installers had done. Post-Hearing Reply Brief Submitted on Behalf of the Staff of the PUCO, Case No. 07-478-GA-UNC, 1, 13 (Pub. Utils. Comm’n OH Feb. 19, 2008).

¹⁵ *Id.* at 19.

¹⁶ Tex. Admin. Code § 8.208.

¹⁷ Tex. Admin. Code § 8.209.

¹⁸ Tex. Admin. Code §§ 8.208(i), 8.209(b)(1).

¹⁹ Tex. Admin. Code §§ 8.208(h), 8.209(b)(2). ASTM D1513 Category 1 tests joints in a manner virtually identical to 49 C.F.R. § 191.283(b) and is commonly confused with the actual regulation.

²⁰ Tex. Admin. Code § 8.209(a).

are unsafe.”²¹ Industry comments filed in response to the Texas Railroad Commission’s Notice of Proposed Rulemaking generally supported a conclusion that mechanical fittings as a class of joining technology did not pose threats to public safety when installed and operated according to the manufacturer’s specifications. Two examples of supporting comments include:

- i. CenterPoint Energy, which served 1.4 million customers in Texas in 2007, commented that:

It is CenterPoint’s experience that compression couplings, whether at the riser or otherwise have not been a safety threat on its system. As mentioned previously, CenterPoint did not utilize Category II couplings in its system and used only DOT-compliant compression coupling risers. During the period November 2006 to October 2007, underground leaks from compression couplings constitute only 4.3% of the total underground leaks on our system and only one-half percent (.5%) of the total number of leaks reported. Moreover, we experienced only 16 compression coupling riser leaks on the entire Texas system during that period. In contrast, out of 11,890 leak investigations, 48% of such leaks were caused by third party damage.²²

- ii. American Gas Association (AGA), whose knowledge and experience incorporates that of its member LDCs [(Operators)] across the nation, commented that “AGA is not aware of any information showing there is a systemic problem with pre-1980 mechanical couplings.”²³

²¹ Chairman Michael L. Williams, Railroad Commission of Texas News Release (Feb. 12, 2008), available at <http://www.rrc.state.tx.us/pressreleases/2008/021208.php>.

²² Comments of CenterPoint Energy Arkla and CenterPoint Entex regarding Notice of Proposed Rulemaking published Nov. 30, 2007, GUD Docket No. 9766 (Tex. R.R. Comm. Feb. 5, 2008).

²³ AGA Comments on the NPRM for Risk-Based Leak Inspection Program, Leak Grading and Repair, and Mandatory Removal and Replacement Program, GUD Docket No. 9766, 3 (Tex. R.R. Comm. Feb. 5, 2008).

3) Industry Stakeholders

- a. The Plastic Pipe Database Committee, in their 2010 Data Collection Initiative, reported that:²⁴

Operators have reported the cause of these leaks as installation error which could be the result of inadequate procedures, training, or implementation of the procedures. In light of the data collected, it is suggested that operators remain vigilant in their efforts to maintain their operator qualification programs, installation procedure reviews and inspection efforts to assure the integrity of their systems.²⁵

Summary

Extensive research has been done to examine causes where leaks occurred in joints between compression fittings and pipe. Errant research has blamed the fitting. As detailed above, subsequent thorough investigations have consistently demonstrated that these leaks have occurred specifically because of the use of improper joining methods.

Despite the results of these investigations, unsupported allegations by PHMSA officials have created perceptions biased against mechanical fittings. For example, Mike Israni, PHMSA Senior Technical Advisor, in a presentation to the PHMSA Technical Pipeline Safety Standards Committee that subsequently was filed in PHMSA-RSPA-2004-19854 to justify the implementation of §§ 191.12 and 192.1009, stated:

Secondly, elastomers which, you know, the seals that go here at these points between the coupling and the pipe, those elastomers

²⁴ The Plastic Pipe Database Committee (PPDC) is comprised of a group of representatives of federal and state regulatory agencies and the natural gas and plastic pipe industries who have come together to create a national database of information related to the in-service performance of plastic piping materials. Members include the AGA, the American Public Gas Association (APGA), the Plastics Pipe Institute (PPI), the National Association of Regulatory Commissioners (NARUC), the National Association of Pipeline Safety Representatives (NAPSR), the U.S. Department of Transportation (DOT) and its Office of Pipeline Safety (OPS).

²⁵ Plastic Piping Data Collection Initiative Status Report, 5, issued July 21, 2010 (emphasis added), available at <http://www.aga.org/Kc/OperationsEngineering/ppdc/Status%20Reports/Documents/July%202010%20Status%20Report.pdf>.

over the years, they wear down and we found some cases where our data shows in some cases they have -- elastomers have failed.²⁶

However, this illusory “problem” has never been substantiated by any reliable study or report of any compression fitting of any brand losing its seal due to age. PHMSA has never supplied any data to support this prejudicial claim. If PHMSA, in fact, has such a study or report, it should make it public and grant the public and all affected stakeholders the ability to verify and, where appropriate, challenge the conclusions in the report or study.²⁷

At the same meeting, Mr. Israni also made the following statement, “Texas State, as you know, recently made it mandatory to replace all these compression couplings in the distribution systems.”²⁸ This statement is inaccurate and misleading. The State of Texas has **never** made it mandatory to replace all compression couplings. The Texas Railroad Commission took action **only** against those installations containing joints that would not pass federal regulations if those regulations had been in force in Texas, but were not.

As evidenced by these unsubstantiated claims of “data” showing elastomeric gaskets in compression fittings “wearing out” and attempts to justify the proposed “research” by misrepresenting facts, it becomes obvious that all mechanical fittings, not just those manufactured by NORMAC, are being unjustly targeted by PHMSA. Such behavior by federal agencies violates both Executive Orders and OMB standards for information disseminated by federal agencies. There exists overwhelming reliable evidence that the cause of joint failures has

²⁶ Israni Presentation to Technical Pipeline Safety Standards Committee on December 12, 2008 filed on Docket PHMSA-RSPA-2004-19854 at <http://www.regulations.gov/#!documentDetail;D=PHMSA-RSPA-2004-19854-0251>.

²⁷ There is no such “problem.” NORMAC has never seen any credible study or report of any compression fitting of any brand losing its seal due to age or “wearing down” of the elastomers within. If this were true, then the leaks would not be isolated within the domain of individual operator territories, they would spread in an evenly distributed pattern across the globe. Further, if elastomeric gaskets were leaking due to age, then the pattern of leaks would 1) start with the oldest, and 2) extend to the plethora of products used in natural gas piping that utilize elastomeric gaskets, not just mechanical fittings.

²⁸ Israni Presentation to Technical Pipeline Safety Standards Committee on December 12, 2008 filed on Docket PHMSA-RSPA-2004-19854 at <http://www.regulations.gov/#!documentDetail;D=PHMSA-RSPA-2004-19854-0251>.

nothing to do with the fitting design or quality. Given this, PHMSA has not justified focusing research on mechanical fittings rather than on fulfilling the proper performance of the oversight and enforcement function of the agency.

II. Data Collected And Published Under §§ 191.12 And 192.1009 Lack The Quality, Utility And Clarity Required Of Federal Agencies

PHMSA publications to date under §§ 191.12 and 192.1009 are based on improper data collection methodologies. OMB must direct PHMSA to acknowledge that it improperly collected data and that the data is unreliable. OMB must additionally direct PHMSA to publicly declare that the data collected under §§ 191.12 and 192.1009 is flawed and should not be relied upon for any purpose.

A. Quality: PHMSA does not comply with the 2006 OMB Standards

The 2006 OMB Standards outlines minimum criteria for quality of data collection activities and resulting information disseminated by all federal agencies. These criteria are in place to assure that agencies apply appropriate data collection methodologies, analysis, verification and publication. Adherence is required in **all** data collection and dissemination, even those that have already received OMB approval.²⁹ Several specific sections of the OMB Standards and Guidelines (and Executive Orders) that PHMSA has failed to comply with include:

Standard 1.1 Survey Planning:

Bias in statement of purpose

A primary obstacle to achieving high-quality data collection is the fact that the purpose statement for data collected under §§ 191.12 and 192.1009 is biased against mechanical fittings. According to PHMSA, “The objective of the data collection is to identify mechanical fittings that, based on historical data, are susceptible to failure.”³⁰

²⁹ 2006 OMB Standards at 2-4.

³⁰ 76 Fed. Reg. 5495 (Feb. 1, 2011).

PHMSA's purpose statement simply presumes that mechanical fittings are susceptible to failure. PHMSA has not cited any study that supports the veracity of this assumption. Nor is NORMAC aware of any pattern of failures of mechanical fittings. Rather, NORMAC has repeatedly made PHMSA aware, of cases where patterns of leaks have occurred in **joints** between mechanical fittings and pipe.³¹ As discussed above, the cause of these tragic leaks was the use of unqualified joints, personnel or joining procedures.

PHMSA did not base its decision to implement these regulations on best available information

PHMSA's purpose statement violates Executive Order No. 12866 because it is based on the assumption that mechanical fittings are susceptible to failure, unsupported by any evidence.³² For example, in 2008 PHMSA issued Advisory Bulletin ADB-08-02 prejudicially decrying the integrity of "compression couplings." Manufacturers objected to the unsubstantiated claims within the advisory bulletin and requested that it be amended, corrected or retracted.³³ NORMAC provided PHMSA with information demonstrating that the sources they had relied on were not accurate and did not tell the entire story. NORMAC wrote:

There is no doubt that PHMSA and NORMAC share the same goal, namely to ensure that our nation's natural gas distribution system is as safe as possible. We can only accomplish this goal by independently verifying and disseminating complete and accurate information. It is important to focus on finding root causes for any leak of natural gas. By modifying the Advisory Bulletin as soon as possible, PHMSA will be able to refine its approach to solving any problems related to compression fittings. Rather than fomenting fear and confusion about compression fittings degrading with age, PHMSA and others will be able to put energy toward more likely offenders. The Advisory Bulletin emphasized that "This notice does not focus on a particular State, operator, or type of coupling."

³¹ See n.13, *supra*.

³² Exec. Order No. 12,866, Section 1.b (7) ("Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.").

³³ See n.13, *supra*.

However, that intent may be misguided. The problems that have occurred have, in fact, been localized. The problems cited in the Texas Report did not affect all the LDCs in that state, as shown by CenterPoint's comments on the Railroad Commission's proposed rulemaking. The problems in Ohio did not cross over into other states. The incidents in Minnesota were determined to be localized and installation-related. Finally, WGL's problems were theirs and theirs alone.

In each of these cases, an otherwise safe and reliable product was either misused or installed without proper oversight. Whatever the case, those entrusted with the public's trust must be held accountable, whether lawmakers, regulatory agencies, manufacturers, engineers, field personnel, or their managers. Literally millions upon millions of compression fittings have been properly specified, applied, and installed safely, serving their duty across the globe. By associating the problems described in the Advisory Bulletin with "compression fittings" rather than pointing to documented poor decision-making as described above and in the Retraction Request, PHMSA continues to do a serious disservice to our industry, unfairly painting those who have made and continue to make sound, sensible, safe decisions with that same accusatory brush.³⁴

Continental Industries commented:

We are concerned that certain comments in Advisory Bulletin ADB-08-02 will result in the creation of baseless and unwarranted prejudice against mechanical couplings resulting in reduced competition and higher costs to the ratepayer. Furthermore, the safety of gas distribution systems will be compromised if gas distribution operators do not include mechanical couplings in evaluations of system design and maintenance. Mechanical couplings offer the highest possible joint integrity in certain

³⁴ Renewed Request of NORMAC for Immediate Retraction and Adoption of Recommendations, 20-21, Docket No. PHMSA-RSPA-2004-19856.

situations with regard to environment, materials, operator skill level and training.³⁵

Dresser, Inc. commented:

Dresser agrees in general with the comments made by both [NORMAC and Continental Industries] on the docket record. Continental, Normac, and Dresser have engaged in discussions with both of you at ASTM and AGA meetings to express our concerns and disappointment with the information in this Bulletin related to compression couplings. Normac's renewed request for PHMSA to retract this Advisory Bulletin contains a synopsis noting the **unsupported statements and their lack of basis in fact**. Said statements serve to mischaracterize the safe and reliable performance mechanical fittings have provided the transportation industry for over one hundred [years], when used and installed per the manufacture's [sic] instructions.³⁶

Justification for renewal approval from OMB is required to be based on the best available information.³⁷ The best technical information on any product is available from the manufacturers of those products. Yet PHMSA has turned a blind eye to what manufacturers have had to say, despite the clear endorsements by FERC, State Regulators and independent laboratories.

³⁵ Comment to PHMSA of Continental Industries, 1, Docket No. PHMSA-RSPA-2004-19856 (Mar. 26, 2008).

³⁶ E-mail from Anthony L. Reese, Dresser, Inc. to Max Kieba and Richard Sanders, U.S. Dept. of Transp. (Mar. 17, 2009, 2:47 p.m.) (emphasis added) (appended hereto as Attachment A).

³⁷ One example of PHMSA's failure to base its research on the best information available relates to the new modifications proposed by PHMSA to Form F7100.1-2. On page 6 of the instructions, the reporting requirements apply to a "**partial** or complete separation of the pipe from the fitting." However, there is no such thing as a "partial" pullout. Certain mechanical fittings allow movement of the pipe back and forth within the fitting by design. This safety mechanism of mechanical fittings provides an engineering advantage over joining methods such as welding by preventing ground movement from fracturing the pipe.

Titling of the regulations and form induces bias

By using the terms “*Mechanical Fitting Failure*” or similar designation in both §§ 191.12 and 192.1009 and its associated data collection instruments, PHMSA has constructed and perpetuated a fatal response bias against mechanical fittings as opposed to other potential causes of leaks. Such “forms bias” creates a strong yet improper perception in the respondent’s mind that the failure could not have resulted from another cause. Further, negative biases have also been instilled in the minds of potential purchasers of mechanical fittings, OMB, state regulators, the U.S. Congress, the media and the general public. Notably, NORMAC’s efforts to have PHMSA eliminate the prejudicial titles and intent of §§ 192.1009 and 191.12 have proven futile.³⁸

Inaccurate data

- Through Form F7100.1-2, PHMSA does not require the respondent to actually view or examine the leak in question.
- The option to respond with “Unknown” is missing from Question 15 of the Form. Because PHMSA does not require the respondent to examine the leak or to have any training or expertise in the subject, “Unknown” would be a reasonable response to this question. Because this option is absent, the existing data collection cannot be considered valid or accurate.
- Based on its expertise as a manufacturer of mechanical fittings, NORMAC maintains that the high number of responses claiming “Equipment Failure” is inaccurate. NORMAC knows this based on the following:
 - NORMAC’s analysis of occasional returns from customers reveals in nearly 100% of these cases that the installer did not follow NORMAC’s installation instructions.
 - The instructions for Question 15 are fatally biased. They direct respondents to respond in a specific way. Gas companies have noted that they answer Question

³⁸ See November 27 Notice at 71,034.

15 precisely according to the biased instructions provided by PHMSA. This problem with the methodology is discussed in more detail below.

- There is no study or finding that when held up to proper scrutiny agrees with PHMSA's claim that the fitting, generically labeled the "equipment" by PHMSA, has caused any pattern of failures.³⁹
- Question 15 of the Form asks respondents to provide what they think, or more accurately assume, is the "apparent cause" of the leak. PHMSA does not require any analysis, verification or proof that the respondents' answers are accurate. Having rejected multiple formally docketed comments and informal requests calling for the implementing of root cause analysis, PHMSA settled for a lesser level of accuracy.

Standard 2.3 Data Collection Methodology

PHMSA's data collection methodology is flawed in numerous ways. These flaws result in substandard data quality, which data is both invalid and inaccurate and therefore not appropriate for use in decision making of any nature, much less ensuring the safe and reliable delivery of natural gas.

Survey or Census is the wrong methodology

Determining what causes a leak at or near a mechanical fitting is an engineering question that requires expert laboratory forensic root cause analysis. Doing anything less invariably results in inadequate quality, utility and clarity of safety-critical information. PHMSA was made aware of this problem by industry comments in an earlier docket.⁴⁰ Polling non-expert users of

³⁹ Several reports have been found to have made unjustified claims or reached unsupported findings. For example, the "ENVIRON Report," a study undertaken at WGL's request to investigate the causes of the increased leaks on a portion of its system, was discredited by FERC following a lengthy evidentiary hearing. *AES Ocean Express LLC v. Florida Gas Transmission Company*, 119 FERC ¶ 61,075 at P 203 (affirming ALJ finding that ENVIRON Report and its author Dr. Loftus' testimony "were of little value"), *order on reh'g*, 121 FERC ¶ 61,267 (2007), *rev'd on other grounds sub nom. Florida Gas Transmission Co. v. FERC*, 604 F.3d 636 (D.C. Cir. 2010).

⁴⁰ Comments Of NiSource Distribution Companies on the proposed gas distribution annual report Form, 3, Docket No. PHMSA-RSPA-2004-19854-272.1 (February 5, 2010) ("Since some

mechanical fittings to ask what they assume caused a leak and not require them to even view the leak is clearly the wrong methodology.

Bias by omission

By omitting collection of information pertaining to compliance with applicable regulations, PHMSA induces a bias against the mechanical fittings. Of course, it is inappropriate to ask respondents to incriminate themselves by admitting that they did not comply with a federal regulation. However, it is equally inappropriate to incriminate an entire class of product without first determining if regulations were met. Unless and until compliance with regulations, manufacturer's installation instructions and industry standards is ruled out as the cause, all other information or investigation is irrelevant.

Forms Bias: Biased instructions for Question 15 of Form F7100.1-2

PHMSA asks in Question 15:

15) Apparent Cause of Leak:	
<input type="radio"/> Corrosion	
<input type="radio"/> Natural Forces	Was there thermal expansion/contraction? <input type="radio"/> Yes <u>or</u> <input type="radio"/> No
<input type="radio"/> Excavation Damage	Time excavation damage occurred? <input type="radio"/> At time of leak discovery <u>or</u> <input type="radio"/> Previous to leak discovery
<input type="radio"/> Other Outside Force Damage	
<input type="radio"/> Material or Welds/Fusions	Was the leak due to <input type="radio"/> Construction/Installation Defect <u>or</u> <input type="radio"/> Material Defect <u>or</u> <input type="radio"/> Design Defect
<input type="radio"/> Equipment	
<input type="radio"/> Incorrect Operation	
<input type="radio"/> Other	Explain: _____

The instructions PHMSA publishes for the most common response "Equipment" are:

Apparent Cause of Leak- Enter the apparent cause of the leak using the definitions below:

EQUIPMENT: leak resulting from malfunction of control/relief equipment including valves, regulators, or other instrumentation; stripped threads or broken pipe couplings on nipples, valves or

of the necessary information requires determinations that cannot, as a practical matter, be made by field personnel, such as determining whether an elastomer failure was involved, the NiSource companies will probably need to have the coupling shipped to another location for detailed evaluation by subject matter experts, in order to determine the root cause of the failure.”).

mechanical couplings; or seal failures on gaskets, O-rings, seal/pump packing, or similar leaks.

The plain meaning of this definition directs respondents to categorize **all** “seal failures on gaskets” in the causal category “Equipment” regardless of the true cause. Such guiding of responses invalidates the data. Complying with these biased instructions, operators have been recording a leak in the joint between pipe and fitting as a failure of the “Equipment” no matter what the true cause. As a result, the inaccurate and incriminating category of “Equipment” is over-reported.

Soliciting information from unreliable sources

Kerotest Manufacturing Corp., a manufacturer of valves used in natural gas piping, stated:

As part of that report various information must be provided, including the “nature of failure”. Our experience in the last 50 years of supplying products to this market has taught us that the initial “cause of failure” determined by the pipeline operator is quite often not the true “root cause” of failure and, in some cases, even the manufacturer of the components is incorrectly identified.

Our concern is that there will be information reported that will be misleading regarding product failures and the reasons for such failures. This could cause significant issues within PHMSA's analysis of failures and failure trends as well as potentially damaging the reputation of suppliers of components to this market.⁴¹

Standard 3.5 Evaluation

PHMSA has not evaluated the quality of the data. PHMSA has not planned or employed tools such as a response analysis survey or a validation study.

⁴¹ Comments of Kerotest Manufacturing Corp., 1, Docket No. PHMSA-RSPA-2004-19854 (Jul. 22, 2008).

Standard 6.1 Review of Information Products

PHMSA has not instituted content/subject matter or methodological review procedures.

Standard 7.3 Survey Documentation

PHMSA has not produced survey documentation including information necessary to replicate and evaluate results. In fact, replication of the study and verification of the data is impossible. Therefore the accuracy and validity of any conclusions cannot be evaluated. Federal agencies must provide sufficient information to OMB under the PRA to demonstrate whether they are meeting OMB standards. Among those standards, OMB has recognized that sound data collection by federal agencies must meet certain criteria:

Under the OMB Information Quality Guidelines, “quality” is an encompassing term comprising objectivity, utility, and integrity. Objectivity refers to whether information is accurate, reliable, and unbiased, and is presented in an accurate, clear, and unbiased manner. Objectivity is achieved by using reliable information sources and appropriate techniques to prepare information products.⁴²

The information that has been published under §§ 191.12 and 192.1009 does not meet the minimum level of quality established by Executive Orders and OMB Standards and Guidelines.

B. Utility

Sections 191.12 and 192.1009 contain no action plan. They merely collect data. There is no indication how the information is to be used. PHMSA claims to be looking for “trends” but fails to specify any key variables being measured or any baseline data against which it would compare key variables. To be useful, a research effort requires a clear, up front statement of which key variables are to be tracked, how and why. PHMSA’s program fails to define these fundamental requirements of research.

⁴² 2006 OMB Standards at 2-4.

Poor quality information is not useful

The OMB has instructed federal agencies that “[c]onducting a high quality survey requires careful planning and sufficient resources to yield quality data that have practical utility for the agency.”⁴³ The level of quality within §§ 191.12 and 192.1009, the chosen methodology, data accuracy and validity, and resulting publications do not meet minimal standards required by Executive Orders and OMB standards. Therefore, the resulting information is not useful.

Comparing number of leaks to total population of joints provides utility

There is no practical utility to determining the number of leaks unless that number is compared to the total population of joints installed. However, the PHMSA research methodology does not reflect this comparison. Such context is critical.

For the sake of argument, compare the approximately 8,000 hazardous leaks that PHMSA claims with an estimated minimum of 160 million joints between mechanical fittings and pipe throughout the United States. The success rate equates to 99.99995%. By ignoring the comparison to the total population, PHMSA has created a substantial bias against mechanical fittings **and** against the overwhelming percentage of gas companies who have properly designed and installed these leak-free joints.

C. Clarity

Proper terminology is essential:

PHMSA’s predecessor established a unified manner of discussing *joints*, *joining procedures*, etc. throughout Part 192. However, PHMSA does not apply this standardized terminology in §§ 191.12 or 192.1009 or the data collection form. By avoiding proper use of terms that are consistently applied in applicable regulations, industry consensus standards and common discussion amongst operators and manufacturers, PHMSA injects ambiguity that degrades the clarity of the subject matter and leads to false conclusions.

⁴³ 2006 OMB Survey Guidance at 20.

III. Improper Data Analysis Results In Minimal Practical Utility And Public Benefit

PHMSA's research lacks the foundations of sound research called for by OMB standards and guidance. OMB warned that the rapidity with which "the Internet enables agencies to communicate information quickly and easily increases the potential harm that can result from the dissemination of information that does not meet basic information quality guidelines."⁴⁴ OMB also admonished federal agencies stating, "the more important the information, the higher the quality standards to which it should be held. . . ."⁴⁵ Given the importance of maintaining and improving the safe delivery of natural gas, analytic results must be arrived at with keen intellectual rigor. In fact, the 2002 OMB Guidelines state that "With regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, the agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996 (42 USC 300g-1(b)(3)(A) & (B))."⁴⁶ Regarding analytic results related to "influential scientific, financial, or statistical information," the "agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public."⁴⁷

The analytic results that have been disseminated by PHMSA regarding §§ 191.12, 192.1009 fall short. The following examples from a PHMSA presentation of the data it collected demonstrate that the published analytic results are flawed:

⁴⁴ 2002 OMB Guidelines preamble, 67 Fed. Reg. at 8452.

⁴⁵ 2002 OMB Guidelines preamble, 67 Fed. Reg. at 8452.

⁴⁶ 2002 OMB Guidelines, 67 Fed. Reg. at 8460.

⁴⁷ 2002 OMB Guidelines, 67 Fed. Reg. at 8460.

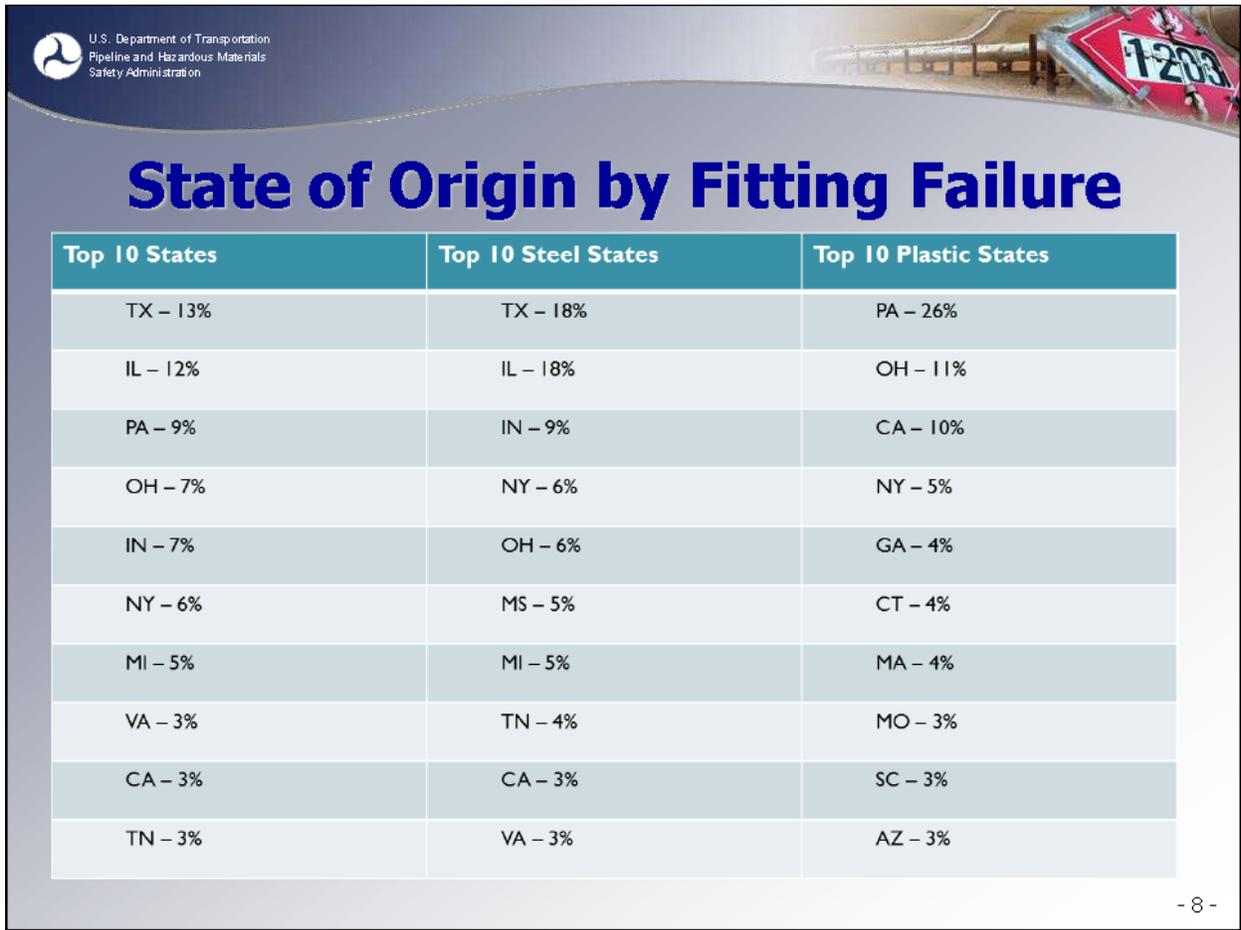
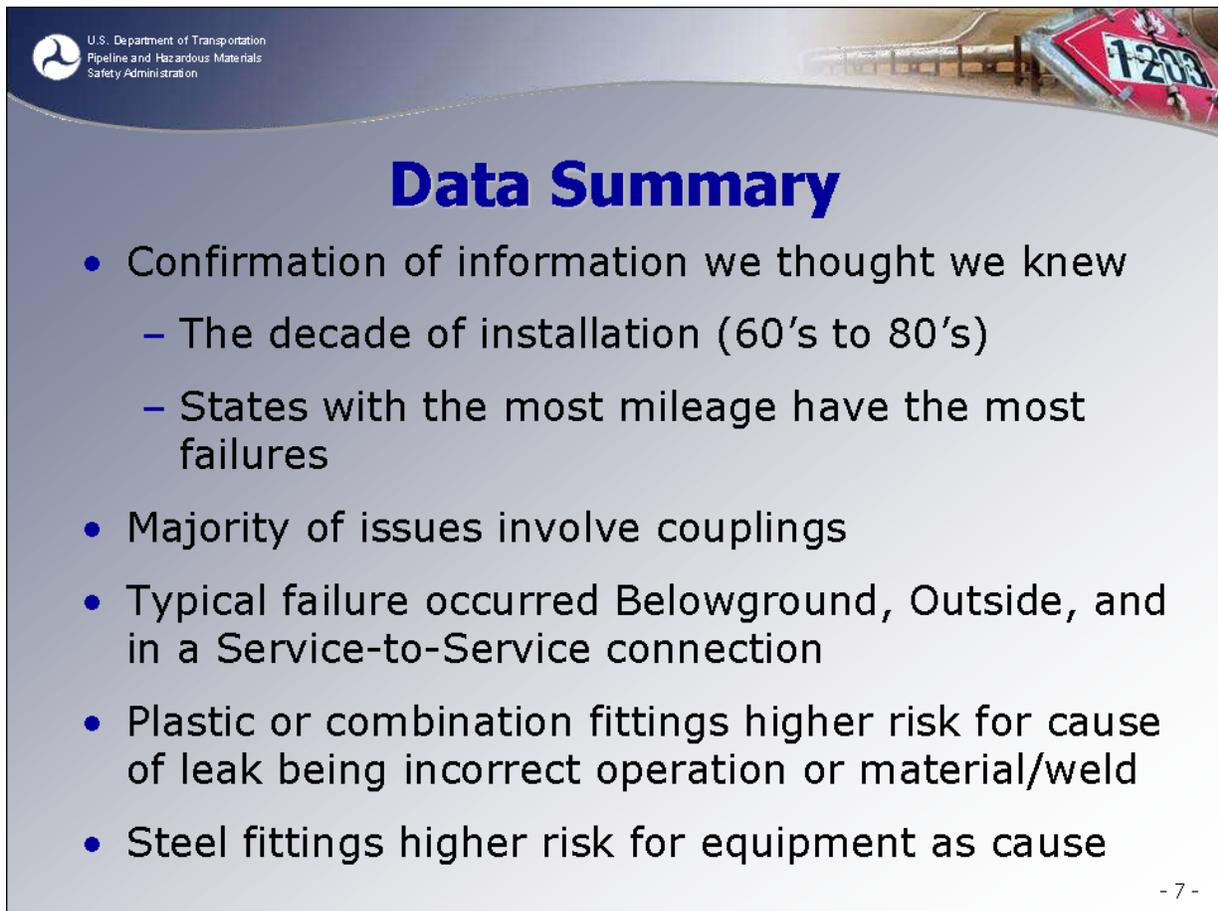


Figure 3⁴⁸

⁴⁸ Chris McLaren, PHMSA Coordinator, NAPSR – PHMSA DIMP Implementation Team at NAPSR’s Pipeline Safety Seminar (Oct. 10, 2012) (presenting 2011 MFF Reporting data), available at <http://primis.phmsa.dot.gov/dimp/meetings.htm>.



The slide features a header with the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration logo on the left and a photograph of a pipeline with a red sign numbered '1203' on the right. The main content is a bulleted list under the heading 'Data Summary'. A small '- 7 -' is located in the bottom right corner of the slide.

U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

Data Summary

- Confirmation of information we thought we knew
 - The decade of installation (60's to 80's)
 - States with the most mileage have the most failures
- Majority of issues involve couplings
- Typical failure occurred Belowground, Outside, and in a Service-to-Service connection
- Plastic or combination fittings higher risk for cause of leak being incorrect operation or material/weld
- Steel fittings higher risk for equipment as cause

- 7 -

Figure 4⁴⁹

It is well known that the leak patterns referenced by PHMSA have been isolated to individual current or legacy operator's territories where specific insufficient joining procedures were carried out. Where joining practices were sufficient, patterns of leaks have not occurred. As noted previously, CenterPoint with over 1.4 million customers in Texas (2007 data) does not have safety concerns about mechanical fittings. PHMSA, though, identifies Texas as the state with the most leaks. Further, as discussed above, safety regulations for proper design and **installation** of joints in Texas were not clear and were not aligned with federal regulations until 2011. That the regulations were inadequate for decades does not mean that the mechanical fittings are at fault. Figure 3 also shows Illinois as having the second highest number of leaks.

⁴⁹ *Id.*

However, the Illinois operator Nicor has stated that they, like CenterPoint, do not have problems in joints with mechanical fittings.⁵⁰

Pennsylvania is ranked third and Ohio fourth. Both of these states have historically put the ownership and responsibility for installation of natural gas service lines on individual property owners rather than on pipeline operators. In the PUCO proceeding discussed above, the PUCO Staff argued the traditional placement of responsibility on individual property owners was flawed. Part of the PUCO Staff rationale included the fact that independent installers and maintenance plumbers were more likely to “take shortcuts that would lead to leaks.”⁵¹ PUCO approved the stipulated agreement in this proceeding shifting the maintenance responsibility to the pipeline operator from individual property owners.⁵² That the regulations were flawed does not mean that the mechanical fittings were at fault.

PHMSA is not taking these important factors into consideration. Instead, the “trend” they report is that the states with the most miles of pipe have the most leaks. Based on information in the public record, high levels of leaks have been concentrated only in certain segments of specific operator’s territories. Therefore, drawing conclusions based on “miles of pipe” within an entire state is unsupported and illogical.

These data and conclusions result from the answers to Question 15, which is fatally biased. These “apparent” causes are based on assumptions, not actual causes. PHMSA has recognized that the tick box option “Material or Weld/Fusions” of Question 15 is flawed and has proposed eliminating the sub-tick-box “Construction/Installation Defect.” However, the options that remain, “Material Defect” and “Design Defect” still remain impossible to for respondents to

⁵⁰ Comments of Northern Illinois Gas Company on the Extension of the Proposed Requirement to Include Reporting of Failure of Couplings Used in Metal Pipe and on Sec. 192.1009 Requirements of the Final Rule, 1, Docket No. PHMSA-RSPA-2004-19854-266.1 (Feb. 4, 2010) (expressing concern that the revised PHMSA forms would not collect any data on the actual cause of the failure of a mechanical fitting and commenting that it would not be appropriate for PHMSA to draw any conclusion from the information collected as to whether additional requirements are needed to enhance public safety).

⁵¹ Post-Hearing Reply Brief Submitted on Behalf of the Staff of the PUCO, Case No. 07-478-GA-UNC at 13.

⁵² *Columbia Gas*, Case No. 07-478-GA-UNC at 29-30.

accurately answer. As to “Material Defect,” there is no requirement for the respondent to be qualified to make this determination. Further, proprietary information from the manufacturer is likely needed in order to properly answer. Secondly, as to “Design Defect,” PHMSA does not specify whether they are referring to the design of the mechanical fitting or if they are asking about the design of the joint per Part 192. Because the questions and answers lack clarity, the **existing** data is invalid and must not be relied on.

PHMSA is drawing and publishing conclusions from this fatally flawed information collection. The only way to improve the quality, utility and clarity of the existing information is to reject PHMSA’s proposed extension of revised F 7100.1-2, repeal the tainted regulations and require public acknowledgement that the data that has been collected is unreliable and should no longer be used for any purpose. These violations of Executive Orders and OMB standards for dissemination of information by federal agencies must cease.

IV. Is Not Unnecessarily Duplicative Of Information Otherwise Reasonably Accessible To The Agency

PHMSA and state regulators have learned (through DIMP) which operators rank leaking joints at or near mechanical fittings high enough to require mitigation efforts. Sections 191.12 and 192.1009 duplicate what DIMP already accomplishes, but fall short of the utility aspects of DIMP to actively mitigate risks. PHMSA’s Distribution Integrity Management Program, 49 C.F.R. Part 192 – Subpart P, requires operators to mitigate risks on their individual systems in priority order. This program is designed to not just accommodate, but to take advantage of the fact that each operator’s pipeline is unique. In many cases an operator has several distinct segments within their system, each of which is unique in their own way. Some are constructed of cast iron, some of plastic. Some are in highly populated areas and some are in remote locations. Some were built using proper joining techniques while others were not. As has been shown, some were built in full compliance with federal regulations, while others were not. The power of DIMP is that no one knows the risks and appropriate mitigating measures better than the pipeline operators.

There is no evidence to support the hypothesis that mechanical fittings in and of themselves pose a greater risk than any other device used in natural gas distribution piping. There is, as the record shows, an elevated risk associated with improperly designed or

improperly installed joints between mechanical fittings and pipe. If an operator finds that substandard or unqualified joint designs were employed, that unqualified personnel were on the job, or that joints were installed improperly, then these problems will rise to the top of the required DIMP risk rankings and will be addressed under the auspices of State regulators. On the other hand, operators whose DIMP analyses show no such deficiencies can apply their talent and resources toward the risks they face on their unique piping systems.

As demonstrated above, §§ 191.12 and 192.1009 interfere with DIMP in that these regulations create a substantial bias that fuels the false impression among certain operators and regulators that mechanical fittings pose an overarching, nationwide elevated risk. Such regulatory bias not only damages the integrity of these products, but more importantly undermines the proper performance by PHMSA of its overarching function: To administer a national program of safety in natural gas transportation that *properly* identifies pipeline safety concerns, develops uniform safety standards and promulgates and enforces safety regulations. Anything less should not be countenanced.

CONCLUSIONS AND RECOMMENDATIONS

Potential litigation will require any manufacturer of mechanical fittings to not only argue on the basis of the facts of the potential case, but also against the biased, unsupported and potentially incriminating “evidence” presented by PHMSA that NORMAC’s and other manufacturers’ products are susceptible to failure. While this “evidence” has been collected, manufacturers have been denied the opportunity to examine it, challenge its veracity or the intentions of its preparers. PHMSA has advertised the ill-conceived data collection initiative extensively, in webinars, training sessions, in meetings with public and private groups and on their website. NORMAC and other manufacturers of mechanical fittings have been damaged by the publications that have resulted from the flawed research under §§ 191.12 and 192.1009 as well as the unfounded and prejudicial statements made on the instant record, to the Technical Pipeline Safety Standards Committee, in the PHMSA bulletin PHMSA-ADB-08-02 issued in Docket No. PHMSA-RSPA-2004-19856 and elsewhere. The inaccurate and unsupported “findings” by PHMSA have made it more difficult to increase sales and obtain insurance, to maintain customer pricing, to hire and retain talent, and to maintain profitability. The damage of

such misconceptions may extend beyond skewed data and erroneous trends, to claims of product failure that while eventually ruled unfounded, nevertheless have caused irreversible damage to multiple manufacturers' longstanding reputations for product integrity and reliability.

OMB has developed Standards for information disseminated by federal agencies based on best practices of experts in the field of research. PHMSA, in drafting and carrying out §§ 191.12 and 192.1009, disregards OMB guidance in a myriad of ways. As a result, inaccurate data are published, resources are wasted, root causes are not being identified, interested parties are damaged and most importantly, the integrity of natural gas consumer safety and security is jeopardized. OMB must hold PHMSA responsible to account for failure to comply with OMB directives and standards of conduct.

When it comes to ensuring public safety, there is no middle ground. Bad research leads to bad data, and bad data can lead to bad decisions, endangering not only consumers of natural gas, but their surrounding environments as well. We can only meet our obligation as regulators, manufacturers and operators in this industry by developing the most reliable engineering safety facts and accurate data reports. This requires root cause analysis, which is *not* what PHMSA is currently administering.

Under the DIMP program, operators must rank risks and mitigate them in priority order. Root cause analysis can be integrated efficiently and effectively into each operator's individualized DIMP program to determine *why* leaks are occurring and to mitigate those risks using empirical knowledge of the precise problem they face in their unique systems.

In sum, if a federal agency clearly is not adhering to the fundamental intentions and drivers behind its data-driven philosophy in an area of significant importance to public safety, the federal government's overall data-driven goals are at risk of losing their meaning and public confidence.

WHEREFORE, for the foregoing reasons, NORMAC respectfully requests that its comments in the captioned docket be accepted and that OMB:

1. Find that PHMSA's renewal request for revised F 7100.1-2 fails to meet the strict quality and utility standards and guidelines established

by OMB to assess Agency submissions pursuant to the Paperwork Reduction Act, 5 C.F.R. §§ 1320.9 and 1320.8(b)(3);

2. Reject PHMSA's proposed extension of revised F 7100.1-2;
3. Require PHMSA to initiate a formal rulemaking proceeding that repeals 49 C.F.R. §§ 191.12 and 192.1009;
4. Direct PHMSA:
 - a. to acknowledge that it improperly collected data and that the data is flawed unreliable and
 - b. to notify the public that it should not rely on the data for any purpose; and
5. Take any additional measures within its authority to hold PHMSA accountable for the biased information disseminated as a result of its flawed regulations and research, as more fully discussed above.

Respectfully submitted,

NORTON MCMURRAY MANUFACTURING CO.

By: */s/ electronically filed*

Joel L. Greene
Alan J. Rukin
Jennings, Strouss & Salmon, PLC
1350 I Street, NW
Suite 810
Washington, D.C. 20005-3305

Its Counsel

Attachment

Attachment A

From: [Reese, Anthony L](mailto:Reese_Anthony_L)
To: Max.Kieba@dot.gov; RICHARD.SANDERS@DOT.GOV
Cc: [Glenn McMurray](mailto:Glenn_McMurray); djordan@conind.com
Subject: Comments to Advisory Bulletin ADB 08-02.
Date: Tuesday, March 17, 2009 2:48:31 PM

None of the comments offered by Normac or Continental for the Docket are directed at DIMP or NTSB. As the subject would suggest, they were in reference to the Advisory Bulletin ADB 08-02. Dresser agrees in general with the comments made by both companies on the docket record. Continental, Normac, and Dresser have engaged in discussions with both of you at ASTM and AGA meetings to express our concerns and disappointment with the information in this Bulletin related to compression couplings. Normac's renewed request for PHMSA to retract this Advisory Bulletin contains a synopsis noting the unsupported statements and their lack of basis in fact. Said statements serve to mischaracterize the safe and reliable performance mechanical fittings have provided the transportation industry for over one hundred, when used and installed per the manufacture's instructions.

If you have any questions do not hesitate to contact me.

From: Max.Kieba@dot.gov [mailto:Max.Kieba@dot.gov]
Sent: Thursday, February 26, 2009 12:27 PM
To: GMcMurray@NortonMcMurray.com; Richard.Sanders@dot.gov
Cc: JJustice@NortonMcMurray.com; Reese, Anthony L; djordan@conind.com; ELever@centralplastics.com; jonlot@msn.com; JHeather@NortonMcMurray.com; gtexeagle@msn.com
Subject: RE: NTSB comments in DIMP

Thanks. We've heard a lot from NORMAC and I do welcome the feedback. I am interested in hearing from other manufacturers on this list, particularly if there's a consensus feeling in line with NORMAC's thoughts on this string as well as other comments submitted on the docket related to our bulletin. So far, to my knowledge, we've only heard from NORMAC via the docket and more informally, Continental via the docket and informally, and Dresser informally (nothing on the docket yet.) If you have input, feel free to respond however you choose... to this thread, on the docket, or to only me and/or Richard if you prefer.

Max Kieba
General Engineer, Engineering and Emergency Support
U.S. DOT PHMSA Office of Pipeline Safety
1200 New Jersey Ave, SE, Room E22-319
Washington, DC 20590

Tel: 202-493-0595; Cell: 202-420-9169; Fax: 202-493-2311
Email: max.kieba@dot.gov

From: [Glenn McMurray](mailto:Glenn_McMurray) [mailto:GMcMurray@NortonMcMurray.com]
Sent: Thursday, February 26, 2009 11:22 AM
To: Kieba, Max <PHMSA>; Sanders, Richard <PHMSA>
Cc: John Justice; Reese, Anthony L; djordan@conind.com; ELever@centralplastics.com; JOHN LOTT; Jessica Heather; Gene Booth
Subject: RE: NTSB comments in DIMP

Fair enough....

The root cause in each of the six situations cited by NTSB in their comments has been shown to be either faulty installation or inappropriate (by today's standards) application of the product. In none of these cases has anyone shown any design or manufacturing defect.

If a surgeon leaves a forceps inside a patient, would it be fair to blame the forceps or its manufacturer? It is unfair that “everyone” is blaming the “compression coupling” when the root cause has been clearly shown to be the installation or application of the product. It’s not the products fault that someone poured hot tar on it, inserted split style stiffeners, installed fittings without full restraint or failed to tighten them.

I’ve said it before and I’ll say it again. If there truly were a problem with our product or those of our competitors, none of us would be selling any of these types of fittings today. There are millions upon millions of compression fittings used throughout the world – across the globe, and the only places where there are problems are in specific locales and for specific reasons, none of which have anything to do with the product itself.

The real questions are:

Why have these problems occurred only in these specific situations and the rest of the millions of fittings around the world are working (and will continue to work) just fine?
How can we prevent or minimize future problems with gas lines that were inadequately installed?

And that is what deserves a lengthy discussion. Please call at your convenience.

Glenn

From: Max.Kieba@dot.gov [mailto:Max.Kieba@dot.gov]
Sent: Thursday, February 26, 2009 9:50 AM
To: Glenn McMurray
Subject: RE: NTSB comments in DIMP

I agree discussion is best. But I prefer “in writing” first so I can digest those before we call and chat, just like you ask me to digest others before we chat.

Max

From: Glenn McMurray [mailto:GMcMurray@NortonMcMurray.com]
Sent: Thursday, February 26, 2009 10:45 AM
To: Kieba, Max <PHMSA>
Subject: RE: NTSB comments in DIMP

Max,

I think it best if we have a discussion. I am sending you, however, what I filed in response to the PUCO Staff Report and ask that you read what I wrote as thoroughly as possible. I assume you’ve read it before, but I feel it’s important that you completely understand what I wrote before we talk about the NTSB comments on DIMP as it does relate to what NTSB wrote.

Glenn

From: Max.Kieba@dot.gov [mailto:Max.Kieba@dot.gov]
Sent: Thursday, February 26, 2009 9:23 AM
To: Glenn McMurray
Subject: NTSB comments in DIMP

Sorry I didn't call you back yesterday, and I have a full plate today with other conference calls and meetings. Can you email me your comments?

Max

This email, including any attached files, may contain confidential and privileged information for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. Distribution of sensitive technical material may violate applicable export and trade laws. If you are not the intended recipient or authorized to receive information for the recipient(s), please contact the sender by reply email and delete all copies of this message. E-mail may be susceptible to data corruption, interception, unauthorized amendment, viruses and delays or the consequences thereof. Accordingly this e-mail and any attachments are opened at your own risk. Unless expressly stated in this e-mail, nothing in this message should be construed as a digital or electronic signature.