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Office of Management and Budget  
Attention: Desk Officer for PHMSA,  
725 17th Street NW., Washington, DC 20503

**RE: Comments of the American Fuel & Petrochemical Manufacturers on the Pipeline and Hazardous Materials Safety Administration Request for Revision of a Previously Approved Information Collection—National Pipeline Mapping System  
Docket No. PHMSA–2014–0092**

To Whom It May Concern:

The American Fuel & Petrochemical Manufacturers (“AFPM”) submit these comments in response to the Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) “Request for Revision of a Previously Approved Information Collection - National Pipeline Mapping System (OMB Control No. 2137-0596)” (hereinafter the “Notice”).<sup>1</sup>

AFPM is a national trade association representing nearly 400 companies that encompass virtually all U.S. refiners and petrochemical manufacturers. AFPM members operate 120 U.S. refineries comprising more than 95 percent of U.S. refining capacity. AFPM members operate and depend on pipelines to deliver raw materials and finished products to and from their facilities. As such, AFPM members could be adversely affected by the measures described in this Notice.

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<sup>1</sup> 79 *Federal Register* 44246 (July 30, 2014) (hereinafter “Information Collection”).

AFPM supports the modernization of the National Pipeline Mapping System (“NPMS”), improving the accuracy of data submitted, and stands ready to work with PHMSA on improving the effectiveness of pipeline safety programs and enhancing the ability of emergency personnel to respond to a pipeline incident. Notwithstanding this general support, AFPM has significant concerns regarding the collection of and failure to appropriately control and protect security sensitive information (“SSI”).

## **I. Security Concerns with the Proposed Information Collection**

### **A. Protection of Security Sensitive and Other Confidential Information**

To ensure the security of the homeland, SSI must be categorically excluded from the NPMS. As discussed below, several pipeline attributes that PHMSA proposes to collect are classified as SSI,<sup>2</sup> and this information must be excluded from the NPMS consistent with the requirements of the Pipeline Safety Act.

The Secretary shall— (1) maintain, as part of the National Pipeline Mapping System, a map of designated high-consequence areas (as described in section 60109(a)) in which pipelines are required to meet integrity management program regulations, *excluding any proprietary or sensitive security information.* . . .<sup>3</sup>

Building upon this statutory directive, PHMSA previously acknowledged that certain information should be excluded from NPMS due to the associated security risks posed by potential disclosure of the information. A 2012 PHMSA planning and response document states that “[d]ue to security concerns, the NPMS does not contain information about pipeline interconnects, pump and compressor stations, valves... throughput or operating pressure”.<sup>4</sup> AFPM requests that PHMSA review and discuss with industry and DHS the implications the proposed information disclosure would have on homeland security and implement necessary safeguards to protect pipeline and related assets from the increased security risks resulting from the information collection contemplated in the Notice.

In addition to SSI, the Notice seeks to collect other information that is sensitive in nature but provides no guidance as to how the information would be protected. If the Notice is implemented as proposed, PHMSA would increase the vulnerability of critical

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<sup>2</sup> SSI is defined as “information obtained or developed in the conduct of security activities, ... the disclosure of which ... would ... (3) Be detrimental to transportation safety.” 49 C.F.R. §15.5. AFPM notes that several attributes sought in the Information Collection should be classified as SSI, including: MOP, SMYS, could affect HCAs, Special Permit, throughput, mainline block valve, storage field locations, type of storage, refinery locations, and pump stations.

<sup>3</sup> 49 U.S.C. §60132(d) (emphasis added). While this provision expressly precludes collection of SSI in connection with mapping HCAs, there is no reason to distinguish between HCA information and other attributes collected for NPMS when it comes to protection of SSI.

<sup>4</sup> *Pipeline Emergency Planning & Response Tools* (Jan. 1, 2012) available at <http://primis.phmsa.dot.gov/comm/publications/PipelineEmergencyPlanning-and-ResponseTools-Article-FireRescue-January2012R2.pdf>. [hereinafter “Emergency Response”]

infrastructure, as NPMS would become a repository of facility specifications, including the precise locations of sensitive infrastructure. The public dissemination of these data “could affect High Consequence Areas (HCA), and details about the commodity being transported. Public access to this type of information could threaten the security of human life and property, including critical pipeline assets and their operability.

AFPM strongly urges that PHMSA seek assistance from DHS and the technical expertise possessed by the facility operator in assessing each attribute proposed to be collected and its unique security risks. AFPM proposes that PHMSA evaluate a revised information collection request that places each new data element into one of three categories: (1) data that already are part of the NPMS or are otherwise appropriate for widespread public dissemination on the NPMS public viewer; (2) data that involve a higher security risk and should be disclosed only to government officials through a password-protected system, such as the Pipeline Information Mapping Application (“PIMMA”);<sup>5</sup> and (3) data that pose such a significant security risk that should be characterized as SSI, should not be collected in NPMS, and should be provided only in the event an **official needs to know**.

AFPM supports PHMSA’s modification of the 2014 Notice in recognizing the following data elements as SSI:

- maximum operating pressure,
- high consequence “could affect” information, and
- storage field location and type of storage and pump stations.

## **B. General SSI Areas of Concern**

In the Notice, PHMSA provides that the above data, based on their classification as SSI, will be “kept in an SSI-compliant environment at PHMSA” and “would be released to no other parties except for government agencies who can verify they maintain an SSI-compliant environment.” AFPM appreciates this effort by PHMSA to ensure that such critical energy infrastructure information is adequately protected; however, the Notice does not clarify whether the verification of SSI-compliance is made on the basis of a statement by the government agency or through demonstrable processes illustrating how the government agency is SSI-compliant.

Equally important is the fact that PHMSA does not specify which government agencies may access the data. If the list of agencies includes federal, state and local government officials who have not undergone background checks, then the information will not be protected adequately.

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<sup>5</sup> Moreover, as stated at the public workshop, there are 8,000 registered users of PIMMA. Therefore, AFPM members request that there be a careful review of the precautions taken by PIMMA users to ensure data security.

AFPM is concerned about PHMSA's implementation of the SSI provisions in the existing regulations. AFPM reminds PHMSA that prescribed SSI procedures are defined in 49 CFR 15 and 1520. In addition, the U.S. Department of Transportation ("DOT") allows "other information" to be classified as SSI in sections 15(a) and (16). Upon the request of another Federal agency, the DOT Secretary may designate as SSI information not otherwise described.

AFPM is equally concerned regarding the discussion in section D about the "appropriate security categorization" assurance that the "highly sensitive" material they've "considered SSI" will be kept in an "SSI-compliant environment at PHMSA." This discussion lacks substantive detail regarding the methods and controls PHMSA is adding to their systems and procedures to ensure the requirements for the protections of SSI are met. Further there is nothing in the Notice about how PHMSA intends to meet the other requirements for the protection of SSI – beyond just mentioning the issuance of passwords that limit access to those with a "need to know."

AFPM recommends that PHMSA address in the Notice the following SSI issues:

- 1) **Defining and identifying the universe of covered persons with a "need to know."** This isn't limited to the audience of operators, owners and the government officials in the agency. It also covers the administrators of the databases where this information is stored and managed. These administrators often have even broader access than the personnel creating or using the single source of SSI information. They also have the added ability to aggregate sources of all SSI, which can expand the risk of disclosure with few data points, to introducing the ability to gather aggregate data and apply context to the depth of vulnerabilities and risk. Additionally, considerations for procedural control and training should be given to the grantors of access for permissions to this information.
- 2) **Handling & Marking SSI.** It should be noted that the language is very prescriptive in 49 CFR 1520.13 regarding handling and marking information as SSI. Although a cover page is not required, the markings on each page of the document – or if electronically before accessing the material - does not allow for deviation in the text or positioning of the text used. Databases can't manage these statements well and the systems must be updated with custom reports and forms to handle SSI documentation and mark it compliantly. In addition, the complexity of identifying how documents are segregated from other data maintained on the same servers – and how the system identifies and ties back to only the hierarchy of the identified "Covered Persons" (users) assigned who have been deemed to have a "need to know" from the rest of the population with general access, can be daunting.
- 3) **Consequences of unauthorized disclosure of SSI.** Develop procedures for disciplinary actions and reporting notification when SSI information is compromised.

- 4) **Archiving and/or Destruction of SSI.** Procedures for archiving and destroying SSI are very important to develop and implement. This is even more critical where SSI databases are co-located on servers with data that is not SSI.
- 5) **Training.** PHMSA must ensure the proper training of individuals on the requirements, restrictions and limitations of distribution, and destruction of SSI.

### **C. Data That Should Be Included as SSI**

AFPM recommends that PHMSA include the following data as SSI and affirmatively prevent its disclosure.

#### **1. Positional Accuracy**

AFPM recognizes PHMSA's modification and improvements to the positional accuracy data element from the 2015 Notice; however, AFPM believes this data should be classified as SSI and only shared on a need to know basis.

Before PHMSA adopts a more precise positional accuracy standard, it must ensure effective safeguards are in place to prevent disclosure of this sensitive information. As stated above, disclosure of detailed positional accuracy information raises serious security concerns. Moreover, disclosure of more precise positional accuracy information, may offer those that desire to harm our homeland a roadmap on how best to disrupt critical energy infrastructure across the country. AFPM requests that PHMSA carefully consider the potential security risks before moving forward with the collection of more precise positional accuracy.

#### **2. Refinery Locations**

In the Notice, PHMSA proposes that liquid pipeline operators submit a geospatial point file containing the locations of refineries. AFPM adamantly opposes pipeline operators submitting information on locations of refineries. Refineries remain outside the scope of PHMSA jurisdiction,<sup>6</sup> and PHMSA's promulgation of regulatory requirements on non-jurisdictional assets is beyond the scope of its authority. Notably, the Pipeline Safety Act contains no provision authorizing PHMSA to collect information with respect to facilities or entities that are outside of its jurisdiction.

Refineries are separate entities from pipeline operators. Although pipelines may be physically connected to refineries, legal, business, and jurisdictional boundaries between the entities exist. The proposal would place pipeline operators in the unreasonable position of needing to satisfy information disclosure requirements of assets

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<sup>6</sup>Memorandum of Understanding between DOT and EPA on Transportation-Related Facilities (1971), available at [http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/1971\\_DOT\\_EPA.pdf](http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/1971_DOT_EPA.pdf)

<sup>8</sup> 49 U.S.C.S. § 60132.

that they do not own or control. Beyond jurisdictional concerns AFPM is concerned that identifying refineries that connect to pipelines will provide the public and potentially nefarious actors with information that could harm the Nation's critical infrastructure. AFPM strongly recommends that PHMSA exclude the collection of this data from the Notice.

## **II. Pipeline and Operation Issues**

Maximum Operating Pressure per segment should not be implemented due to possible frequent changes to pipeline facilities (e.g. repairs, replacements,). PHMSA should determine reporting frequency (i.e. if this reporting is done annually), as reporting constant changes would put undue burden on the operator.

The Notice proposes to require operators to disclose sensitive information such as positional accuracy, refinery locations that have pipeline connections, maximum operating pressure, high consequence information, and types of storage and pump stations. PHMSA should have capability to create this "derived" data. Although we question whether this information should be publicly disclosed. Similarly, requiring operators to disclose the potential for a pipeline incident to affect certain HCAs could create an undue burden on the operator to identify and analyze information beyond the operator's inherent facility knowledge (e.g., nearby wetlands, land use, and waterways).

## **III. PHMSA Should Convene a Working Group to Address Issues Raised in the Notice**

The changes that PHMSA is contemplating are extensive and clearly would have consequences far beyond those articulated in the Notice. For example, pipeline operators presently are required to submit limited data to the NPMS regarding pipeline attributes such as operator identification number, owner name, system name, type of commodity transported, and pipeline status and location. This information is tailored to provide the awareness of "the location and selected attributes of the major natural gas transmission and hazardous liquid pipelines, and liquefied natural gas facilities."

Given the breadth and impacts of the changes contemplated in the Notice, AFPM requests PHMSA form a working group with stakeholders to refine the scope of a revised NPMS prior to requesting that OMB approve the proposed information collection. The working group could provide the opportunity for PHMSA, refiners, petrochemical facilities, pipeline operators and other stakeholders to carefully consider the array of complex technical, security, operational and information disclosure issues raised by the information collection. It could also provide PHMSA with the opportunity to explain the benefits of the proposed expansion and help PHMSA determine whether they exceed the costs to pipeline operators resulting from a revised NPMS.

As further discussed below, some of the information the Notice seeks to collect is security sensitive, yet the Notice does not include any discussion about maintaining the confidentiality of the information. Moreover, much of the additional information sought seems to be in support of other regulatory goals. For example, the Notice indicates that information sought would be used to assist with "risk rankings and evaluations, which are

used as a factor in determining pipeline inspection priority and frequency,” and help determine “whether operator integrity management (IM) plans are adequate and complete.” AFPM believes that pursuit of PHMSA’s broader regulatory objectives may be better achieved through a thorough a transparent discussion followed by traditional notice and comment rulemaking.

#### **IV. Conclusion**

AFPM appreciates the opportunity to comment on the NPMS changes being considered by PHMSA and requests that PHMSA modify the proposed information collection consistent with these comments so as not to expose SSI of critical infrastructure to those without a need to know. If you have any questions or need further information, please contact me at [jgunnulfson@afpm.org](mailto:jgunnulfson@afpm.org) or at 202-552-4371.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey Gunnulfson", with a long horizontal flourish extending to the right.

Director  
Security and Risk Management Issues  
AFPM