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Department Of Transportation  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey  
Avenue SE., West Building, Room W12–  
140, Washington, DC 20590

**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”)<sup>1</sup> submit these comments in response to the Notice and request for public comment concerning the proposed “Request for Revision of a Previously Approved Information Collection - National Pipeline Mapping System (OMB Control No. 2137-0596)” (hereinafter “Notice”)<sup>2</sup> issued by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”).

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<sup>2</sup> Request for Revision of a Previously Approved Information Collection—National Pipeline Mapping System Program, 79 *Federal Register* 44246 (July 30, 2014) available at [http://www.phmsa.dot.gov/pv\\_obj\\_cache/pv\\_obj\\_id\\_CED26916549E6246592B3F9EDADDC619CA6330300/filename/NPMS-60-Day-FRnotice\\_July302014.pdf](http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_CED26916549E6246592B3F9EDADDC619CA6330300/filename/NPMS-60-Day-FRnotice_July302014.pdf) [hereinafter “Information Collection”].

AFPM is a national trade association representing more than 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 have pipelines and refineries and could be seriously affected by the measures described in this Notice.

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 security sensitive information and this security sensitive information not being appropriately protected and controlled

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

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

AFPM demands that Security Sensitive Information (“SSI”) be categorically excluded from NPMS. As discussed below, several pipeline attributes that are proposed to be collected pursuant to the Notice are classified as SSI,<sup>3</sup> and this information must be excluded from the NPMS consistent with the requirements of the Pipeline Safety Act.<sup>4</sup> PHMSA previously t 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” (emphasis added).<sup>5</sup> AFPM requests that PHMSA review and discuss with industry and DHS personnel the implications the proposed information disclosure would have on homeland security and implement necessary safeguards to protect pipeline and related assets from the increased risk that would result 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 discussion regarding how the information would be protected. It is important to recognize that, if the Information Collection were to be implemented as proposed, PHMSA would be increasing the vulnerability of critical infrastructure, as

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<sup>3</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, pump stations.

<sup>4</sup> 49 U.S.C. §60132(d). While this provision expressly precludes collection of SSI in connection of 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>5</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”]

NPMS would become a repository of the precise locations of pipelines and connected facilities, facility specifications, the location of “could affect HCAs, and details about the commodity being transported. T Public access to the information proposed to be collected could threaten the security of human life and property, including critical pipeline assets and their operability.

AFPM strongly urges that PHMSA assess each attribute proposed to be collected and its unique security risks. AFPM proposes that PHMSA evaluate a revised information collection request by placing 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, the Pipeline Information Mapping Application (“PIMMA”);<sup>6</sup> and (3) data that pose such a significant security risk that they 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 has identified at the very least, the following information that should be considered security sensitive, protected, and only shared on a need to know basis:

- maximum operating pressure
- high consequence could affect information
- throughput
- storage field locations and types of storage, and
- pump stations.

Currently, pipeline operators and local emergency officials are required by federal regulation to coordinate and develop practices and procedures to ensure an appropriate response in the event of a pipeline incident.<sup>7</sup> However, adding specific information, such as that sought in the Notice (maximum operating pressure, high consequence could affect information, throughput, storage field locations and types of storage, and pump stations. e), is not necessary for emergency response immediately following an incident. In fact, much of this data is the type of information that would be required in a post-incident investigation, and are not relevant to the initial response activities. In the event of a release, emergency responders will rely on well-established practices and procedures and direct communication with the operator rather than trying to access a database to obtain pertinent information.

## **II. Comments on Specific Security Issues**

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<sup>6</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.

<sup>7</sup> 49 C.F.R. §195.52; 49 C.F.R. §195.403.

## **1. Positional Accuracy**

Before PHMSA adopts a more precise positional accuracy standard, it must ensure necessary safeguards are in place to protect against 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, combined with other attributes in the proposed Information Collection -- such as the location of refineries, storage facilities, pipeline throughput, and other segment-specific 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 and other information discussed in the Notice.

## **2. Maximum Operating Pressure**

In the Notice, PHMSA proposes that pipeline operators submit MOP information for each pipeline segment. AFPM strongly requests that this data collection not be pursued.

It is important to recognize that public access to MOP poses increased security risks for specific pipeline segments. Indeed, as stated above, PHMSA's 2012 emergency planning and response tools handout explained that operating pressure information is not included in the NPMS because of security concerns.<sup>8</sup>

## **3. High Consequence "Could Affect" Information**

The Pipeline Safety Act directs PHMSA to maintain as part of the NPMS a map of high consequence areas.<sup>9</sup> Importantly, the requirement to map HCAs currently excludes proprietary or sensitive security information.<sup>10</sup> PHMSA now proposes that operators identify pipe segments that *could affect* HCAs as defined by 49 C.F.R § 195.450. Notably, the statute seeks actual HCA location while the Information Collection seeks information on *could affect* HCAs. The accompanying Operator Manual further categorizes "could affect" HCAs into subcategories such as Drinking Water HCAs, Ecological HCAs, or Commercially Navigable Waterways HCAs.

Although HCA information is already available in the public domain, AFPM has concerns with PHMSA seeking identification of the could affect areas. The potential security risks associated with consolidating, identifying, and preparing for widespread public consumption in all areas where pipeline releases could cause the greatest impact across the country should be carefully considered, and may likely outweigh any benefit derived from collecting this information.

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<sup>8</sup> Emergency Response, *supra* note 10.

<sup>9</sup> 40 U.S.C. 60132 (2012).

<sup>10</sup> *Id.* at 60132(d).

To the extent that PHMSA moves forward with this information collection, AFPM requests that it be narrowed to eliminate collection of “could affect” data, so that it does not exceed the authority granted to PHMSA in the Pipeline Safety Act.

#### **4. Throughput**

PHMSA proposes to require pipeline operators to submit average daily throughput by pipeline segment. The Notice indicates that this information would be used by states to identify shortages and implement contingency plans for potential widespread pipeline service outages to maintain an uninterrupted flow of energy supplies.

AFPM strongly advises that this information collection not be adopted, as the proposal extends beyond the bounds of PHMSA’s statutory authority to regulate pipeline safety, would collect commercially sensitive information that would does not enhance pipeline safety, and, when combined with other data in the NPMS system, raises serious security concerns.

Pipeline operators submit throughput data to the Federal Energy Regulatory Commission (“FERC”) on a system-wide basis in quarterly and annual reports. While providing throughput data for inclusion in the NPMS seems misplaced, to the extent any throughput data is collected, this reporting requirement should not be imposed on a segmented basis. Segmented throughput data is commercially sensitive information that could be used by industry competitors and arguably would be shielded from disclosure by private entities under the antitrust laws. Moreover, this information would provide little help to states seeking to respond to energy supply disruptions since the data do not reflect emergency conditions.

For the reasons discussed in Section ##, above, AFPM is also concerned that public disclosure of segmented average daily throughput data on a geospatial basis could raise security concerns. Indeed, throughput is one of the attributes that PHMSA previously acknowledged was excluded from the NPMS system due to security concerns.<sup>11</sup>

This information collection request goes well beyond the bounds of most, if not all, GIS infrastructures established by pipeline operators to support management of their systems and assets and AFPM request that PHMSA not collect information on this attribute.

#### **5. Storage Field Locations and Type of Storage**

PHMSA proposes that operators submit a geospatial polygon file containing the locations of storage fields and the field type. This aspect of the proposal goes beyond PHMSA’s jurisdictional boundaries.<sup>12</sup> PHMSA’s jurisdiction over storage fields varies

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<sup>11</sup> Emergency Response, *supra* note 10.

<sup>12</sup> See 49 CFR § 195.1; See also PHMSA Response Letter (Feb. 28, 2012) available at <http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.6f23687cf7b00b0f22e4c6962d9c8789/?vgnextoid=c269ea5e3eee5310VgnVCM1000001ecb7898RCRD&vgnextchannel=9574d7dcb2588110VgnVCM1000009ed07898RCRD&vgnextfmt=print>.

and is based upon the configuration of such storage facilities. Additionally, AFPM is concerned that the reporting of storage information on a geospatial basis raises additional security considerations that were not discussed in the Notice.

## **6. 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>13</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.<sup>14</sup>

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 that they do not own or control. AFPM demands that PHMSA strike this information request from the proposal.

## **7. Pump Stations**

In the Notice, PHMSA proposes that operators submit a geospatial point file containing the locations of pump stations. As with the other geospatial information proposed to be collected, AFPM has serious security concerns with providing the exact location of such vital infrastructure. Indeed pump stations were one of the attributes that PHMSA specifically excluded from NPMS due to security considerations.<sup>15</sup> Pump stations are critical to ensuring sufficient pressure to transport liquid commodities safely through a pipeline. A targeted attack on pump stations could potentially disrupt entire pipeline systems. Moreover, PHMSA has not provided information on why this information is needed to improve pipeline safety. Given the inadequate safety justification and the likelihood that dissemination of this information would expose security vulnerabilities in a pipeline system, AFPM that PHMSA not proceed with collection of this attribute into NPMS.

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

The information collection contemplated in the Notice would extend to various other system attributes that could expose sensitive security information to those without a need to know, including detailed positional accuracy information, maximum operating pressure ("MOP"), pipeline joining method, grade, installation methods, throughput, leak detection systems, high consequence area ("HCA") "could affect" locations, and

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<sup>13</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>14</sup> 49 U.S.C.S. § 60132.

<sup>15</sup> *Id.*

hydrostatic testing information, abandoned lines, and even locations of block valves, storage fields, pump stations, breakout tanks and refineries (some of which, including refineries, that are beyond PHMSA's jurisdiction). These 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 that PHMSA form a working group with affected parties 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 to help 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 and/or proprietary in nature, 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 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, if necessary.

Given the serious security concerns raised by the Notice, AFPM strongly urges that a working group process be developed jointly with industry stakeholders to collaborate on effective solutions, reach a common understanding of how information sought would be used to achieve PHMSA's objectives, and determine appropriate revisions to NPMS that are achievable and advance the traditional goals of the NPMS.

#### **IV. Conclusion**

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

Sincerely,

*Jeff Gunnulfsen*

Director

Security and Risk Management Issues

AFPM