

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

Pipeline Safety:
Safety of Gas Transmission Pipelines:
MAOP Reconfirmation, Expansion of Assessment
Requirements, and Other Related Amendments

Docket No. PHMSA-2011-0023

PETITION FOR RECONSIDERATION

**FILED BY
AMERICAN GAS ASSOCIATION
AMERICAN PETROLEUM INSTITUTE
AMERICAN PUBLIC GAS ASSOCIATION
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

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Contents

I. Introduction2

II. The Associations request reconsideration of § 192.624(a)(1) to clarify that MAOP reconfirmation is not required for pipeline segments that have a traceable, verifiable, and complete pressure test record in accordance with § 192.619(a)(2).3

III. The Associations request reconsideration of § 192.5(d) to clarify that the recordkeeping requirement only applies to transmission pipelines.6

IV. Conclusion8

§192.5 Class locations.8

§192.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.8

I. Introduction

In accordance with 49 C.F.R. § 190.335(a), the American Gas Association (AGA),¹ American Petroleum Institute (API),² American Public Gas Association (APGA),³ and Interstate Natural Gas Association of America (INGAA)⁴ (jointly “the Associations”) submit this Petition for Reconsideration (“Petition”) regarding PHMSA’s “Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments” Final Rule (“the Final Rule”), published in the Federal Register on October 1, 2019.⁵

Pipeline safety is the top priority of the Associations and our members. The Associations strongly support the Final Rule, which will enhance pipeline safety and help advance our industry’s efforts to achieve a perfect safety and reliability record for our nation’s natural gas pipelines. The Associations have publicly championed PHMSA’s efforts to finalize this important rulemaking based on the consensus built through the Gas Pipeline Advisory Committee (“GPAC”) process.⁶ The Associations file this Petition to seek reconsideration of two specific issues regarding § 192.5(d) and § 192.624(a)(1) in order to ensure that the requirements of the Final Rule are clear.⁷

¹ The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 73 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent — over 69 million customers — receive their gas from AGA members. Today, natural gas meets more than one-fourth of the United States’ energy needs.

² API is the national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API’s more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation’s energy and are backed by a growing grassroots movement of more than 25 million Americans.

³ APGA is the national, non-profit association of publicly-owned natural gas distribution systems. APGA was formed in 1961 as a non-profit, non-partisan organization, and currently has over 740 members in 37 states. Overall, there are nearly 1,000 municipally-owned systems in the U.S. serving more than five million customers. Publicly-owned gas systems are not-for-profit retail distribution entities that are owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

⁴ INGAA is a trade association that advocates regulatory and legislative positions of importance to the interstate natural gas pipeline industry. INGAA is comprised of 28 members, representing the vast majority of the U.S. interstate natural gas transmission pipeline companies. INGAA’s members operate nearly 200,000 miles of pipelines and serve as an indispensable link between natural gas producers and consumers.

⁵ Pipeline Safety: Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments, 84 Fed. Reg. 52,180 (Oct. 1, 2019) [hereinafter *Final Rule*].

⁶ See Letter of support from AGA, APGA, API, INGAA, Pipeline Safety Coalition, and Pipeline Safety Trust to Elaine L. Chao, U.S. Secretary of Transportation (Feb. 7, 2019), <https://www.ingaa.org/Filings/11520/35822.aspx>.

⁷ In addition to this Petition for Reconsideration, the Associations may provide additional feedback in the future on § 192.5(d), § 192.624, or other topics that require clarification as pipeline operators implement the Final Rule. The Associations appreciate PHMSA’s commitment to address questions and provide clarification through public workshop(s) and the FAQ process, consistent with prior rulemakings.

II. The Associations request reconsideration of § 192.624(a)(1) to clarify that MAOP reconfirmation is not required for pipeline segments that have a traceable, verifiable, and complete pressure test record in accordance with § 192.619(a)(2).

The Associations request reconsideration of § 192.624(a)(1), which defines a set of pipeline segments for which operators must conduct MAOP reconfirmation. The Associations request that PHMSA revise § 192.624(a)(1) to adopt the GPAC-endorsed language indicating that § 192.624(a)(1) does **not** apply where an operator has “records necessary to establish maximum allowable operating pressure in accordance with § 192.619(a)(2).”⁸ (emphasis added). Section 192.619(a)(2) records are pressure test records. Without the specific reference to § 192.619(a)(2), it is unclear whether an operator must reconfirm MAOP when a pipeline segment already has a traceable, verifiable, and complete (TVC) pressure test record.

For segments that already have a TVC pressure test record, Section 192.624(a)(1) in the Final Rule deviates from both the explicit language that was unanimously endorsed by the GPAC and the language proposed in the Notice of Proposed Rulemaking (“NPRM”).⁹ The Final Rule preamble does not explain this change. The relevant differences between the proposed and final regulation are **highlighted** below:

NPRM Proposed Code Language: “**Pressure test records** necessary to establish maximum allowable operating pressure per subpart J for the pipeline segment, including, but not limited to, records required by § 192.517(a) . . .”¹⁰

GPAC Recommended § 192.624(a)(1): “Records necessary to establish maximum allowable operating pressure in accordance with § 192.619(a)(2) or (c) at the time of construction for the pipeline segment, including records required by § 192.517(a) . . .”¹¹

Final Rule § 192.624(a)(1): “Records necessary to establish the MAOP in accordance with § 192.619(a), including records required by § 192.517(a) . . .”¹²

The Associations request that PHMSA revise § 192.624(a)(1) as shown in **red** below. This revision would align with the GPAC’s recommendation and confirm that § 192.624(a)(1) does not require MAOP reconfirmation for pipeline segments with a TVC pressure test record:

⁸ GPAC Meeting Final Voting Slides at 1 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=966>.

⁹ Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines, 81 Fed. Reg. 20,722 (Apr. 8, 2016) [hereinafter *NPRM*].

¹⁰ *NPRM* at 20,834. § 192.624(a)(1) of the Final Rule was section § 192.624(a)(2) of the *NPRM*.

¹¹ GPAC Meeting Final Voting Slides at 1 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=966>.

¹² *Final Rule* at 52,247.

§192.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.

- (a) Applicability. Operators of onshore steel transmission pipeline segments must reconfirm the maximum allowable operating pressure (MAOP) of all pipeline segments in accordance with the requirements of this section if either of the following conditions are met:
- (1) Records necessary to establish the MAOP in accordance with § 192.619(a)(2), including records required by § 192.517(a), are not traceable, verifiable, and complete and the pipeline is located in one of the following locations:
 - (i) A high consequence area as defined in § 192.903; or
 - (ii) A Class 3 or Class 4 location.
 - (2) The pipeline segment's MAOP was established in accordance with § 192.619(c), the pipeline segment's MAOP is greater than or equal to 30 percent of the specified minimum yield strength, and the pipeline segment is located in one of the following areas:
 - (i) A high consequence area as defined in § 192.903;
 - (ii) A Class 3 or Class 4 location; or
 - (iii) A moderate consequence area as defined in § 192.3, if the pipeline segment can accommodate inspection by means of instrumented inline inspection tools.

[. . .]

PHMSA should adopt the GPAC's unanimous recommendation to specifically reference § 192.619(a)(2) in § 192.624(a)(1)

It is unquestionable that a pipeline with a TVC pressure test record in accordance with § 192.619(a)(2) and § 192.517 has a valid MAOP. As noted in the Final Rule preamble, "A pressure test is the most conventional assessment method by which an operator may reconfirm a pipeline segment's MAOP."¹³ In the 2011 Pipeline Safety Act, Congress also recognized that a pressure test is the standard for confirming or reconfirming MAOP.¹⁴ For this reason, the GPAC unanimously recommended that PHMSA reference § 192.619(a)(2), not simply § 192.619(a), in § 192.624(a)(1).¹⁵

The importance of referencing § 192.619(a)(2) in § 192.624(a)(1) was discussed at length during the GPAC meetings. PHMSA's own GPAC meeting slides note that "a pipe segment with a past pressure test meeting subpart J in accordance with 192.619(a)(2) and with TVC records that demonstrate compliance with 192.619(a)(2), would not require MAOP Reconfirmation under 192.624(a)."¹⁶ Despite this

¹³ *Final Rule* at 52,199.

¹⁴ See Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90. § 23(d)(2), 125 Stat. 1904, 1919. The Act requires MAOP reconfirmation to be conducted via pressure testing or alternative methods "determined . . . to be of equal or greater effectiveness." See also *Final Rule* at 52,234. ("Similarly, section 23 of the 2011 Pipeline Safety Act requires that selected pipeline segments in certain locations with previously untested pipe (i.e., the MAOP is established under § 192.619(c)) or without MAOP records be tested with a pressure test or equivalent means to reconfirm the pipeline's MAOP.")

¹⁵ GPAC Meeting Final Voting Slides at 1 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=966>.

¹⁶ GPAC Meeting Slides at 19 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=942>. When presenting § 192.624(a) to the GPAC, a PHMSA representative confirmed that "a pipe segment with a

assurance, multiple GPAC members expressed concern that simply referencing § 192.619(a) in § 192.624(a)(1) would render the Final Rule unclear.¹⁷ In response to these concerns, the GPAC unanimously recommended that PHMSA specifically reference § 192.619(a)(2) in § 192.624(a)(1).¹⁸

In the Final Rule preamble, PHMSA asserts that “[t]he GPAC also recommended that the MAOP reconfirmation provisions be revised to apply to pipeline segments in HCAs or Class 3 or Class 4 locations that do not have traceable, verifiable, and complete records necessary to establish MAOP under § 192.619. Previously, the provisions were applicable to those pipeline segments without traceable, verifiable, and complete subpart J pressure test records.”¹⁹ (emphasis added). This discussion in the preamble is an incomplete explanation of the GPAC recommendations for § 192.624(a)(1), and it ignores the GPAC’s recommendation to specifically reference § 192.619(a)(2) in § 192.624(a)(1).

Changing the reference from “pressure test records” to simply “records” was only one of several changes to proposed § 192.624(a)(1) that the GPAC endorsed.²⁰ At no point during the GPAC discussions did any PHMSA representative or GPAC member assert that the new reference to “records” instead of “pressure test records” was intended to indicate that MAOP reconfirmation would be required for segments that already have a TVC pressure test record – as noted previously, the GPAC meeting slides and transcript indicate the exact opposite.

PHMSA should revise § 192.624(a)(1) to reference § 192.619(a)(2) records. This is necessary to align with the GPAC’s recommendation and confirm that MAOP reconfirmation is not required for pipeline segments with a TVC pressure test record.

Impacts of deviating from the GPAC recommendation

Without the specific reference to § 192.619(a)(2), § 192.624(a)(1) could be interpreted to require a pipeline to reconfirm MAOP even for pipeline segments with a TVC pressure test record.

For example, a pipeline segment that has a TVC pressure test record in accordance with § 192.619(a)(2) and § 192.517 may not have some of the historical design records under § 192.619(a)(1) or operating pressure records under § 192.619(a)(3) that the Final Rule will prospectively require operators to retain

pressure test meeting subpart J in accordance with Section 619(a)(2), and with the TVC records that demonstrate compliance with Section 619(a)(2) would not require MAOP reconfirmation under new Section 624(a).” GPAC Meeting Tr. 95:1-7 (Mar. 26, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=970>.

¹⁷ See GPAC Meeting Tr. 103:8-107:22 (Mar. 26, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=970>.

(MR. DRAKE: “I particularly want to confirm that an operator with a TVC record [of] a pressure test in accordance with 192.619(a)(2) would not be required to perform an MAOP reconfirmation regardless of SMYS. . .”

MR. BRADLEY: “I would say exactly what [Mr. Drake] says . . . a valid pressure test in hand, you’re done. You’ve got what you need, you can move forward. . . So when you reference 619(a), I sort of in my mind see the reference to 192.619(a)(2).”

MR. NANNEY [in response to Mr. Bradley]: “Yes, it is on the pressure test.”)

¹⁸ GPAC Meeting Final Voting Slides at 1 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=966>.

¹⁹ *Final Rule* at 52,197.

²⁰ GPAC Meeting Final Voting Slides at 1 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=966>.

for new pipeline segments placed in operation after July 1, 2020.²¹ Because the segment has a TVC pressure test record, PHMSA's presentation to the GPAC would indicate that the segment "would not require MAOP reconfirmation under new Section 624(a)."²² However, excluding the specific reference to § 192.619(a)(2) from § 192.624(a)(1) creates the potential for confusion as to whether further MAOP reconfirmation action is required for this pipeline segment.

A requirement to conduct MAOP reconfirmation for a segment that already has a TVC pressure test record would be nonsensical. This would likely involve another, duplicative pressure test in accordance with § 192.624(c)(1)—as PHMSA has acknowledged, "A pressure test is the most conventional assessment method by which an operator may reconfirm a pipeline segment's MAOP."²³ Because PHMSA's preamble does not explain why this re-testing would be necessary or appropriate to enhance safety, and because PHMSA stated during the GPAC meetings that a TVC pressure test record is sufficient to establish MAOP, the Associations assume that PHMSA did not intend for operators to conduct MAOP reconfirmation for pipeline segments that have a TVC record in accordance with § 192.619(a)(2). To avoid potential confusion, PHMSA should revise § 192.624(a)(1) to specifically reference § 192.619(a)(2).

Granting the Associations' request to specify § 192.619(a)(2) in § 192.624(a)(1) will not change an operator's obligation under the Final Rule to opportunistically collect material property data when pressure testing for MAOP reconfirmation²⁴ and also as needed to evaluate anomalies and perform other integrity management activities.²⁵

III. The Associations request reconsideration of § 192.5(d) to clarify that the recordkeeping requirement only applies to transmission pipelines.

The Associations request reconsideration of § 192.5(d), which codifies the requirement for pipeline operators to have records documenting the current class location of each pipeline segment. Section 192.5(d) does not limit the recordkeeping requirement to transmission pipelines. This deviates from the intent and scope of the NPRM, which stated that the recordkeeping requirements for establishing class location only applied to transmission pipelines, not distribution or gathering pipelines.²⁶ The relevant difference between the proposed and final regulation is **highlighted below**:

²¹ See *Final Rule* at 52,247, § 192.619(f)(3). The design requirements in subpart C and test requirements in subpart J do not apply retroactively to gas transmission lines installed prior to November 12, 1970. 49 C.F.R. § 192.13.

²² GPAC Meeting Slides at 19 (Mar. 26-28, 2018), <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=942>.

²³ *Final Rule* at 52,199.

²⁴ See *Final Rule* at 52,248, § 192.624(c)(1).

²⁵ See *Final Rule* at 52,252, § 192.712(e).

²⁶ See *NPRM* at 20,827 ("(d) Records for transmission pipelines documenting class locations...").

NPRM Proposed § 192.5(d): “Records for **transmission pipelines** documenting class locations and demonstrating how an operator determined class locations in accordance with this section must be retained for the life of the pipeline.”²⁷

Final Rule § 192.5(d): “An operator must have records that document the current class location of each pipeline segment and that demonstrate how the operator determined each current class location in accordance with this section.”²⁸

In the Final Rule, PHMSA does not explain why it eliminated the reference to transmission pipelines in §192.5(d). The Associations request that PHMSA revise the language within § 192.5(d) to align with the intent of the NPRM and limit the recordkeeping requirement to transmission pipelines. The Associations request that PHMSA revise § 192.5 as shown in **red** below:

§192.5 Class locations.

[. . .]

(d) An operator **of a transmission pipeline** must have records that document the current class location of each pipeline segment and that demonstrate how the operator determined each current class location in accordance with this section.

Impacts of deviating from the GPAC recommendation

The Associations believe that PHMSA did not intend to expand the applicability of § 192.5(d) beyond transmission pipelines. PHMSA notes within the preamble of the Final Rule that it “. . .adds a new paragraph, § 192.5(d), to require each operator of **transmission pipelines** to maintain records documenting the current class location of each pipeline segment and demonstrating how an operator determined each current class location in accordance with this section.”²⁹ (emphasis added). Although the preamble is clear, the code language fails to limit § 192.5(d) to transmission pipelines.

Although class location designations generally apply to transmission pipelines, class location can be used to determine the applicability of requirements for distribution pipelines. For example, § 192.707 uses class location to determine the placement of pipeline markers for distribution mains as well as transmission pipelines.

The impact of expanding § 192.5(d) beyond transmission facilities is substantial. In the NPRM, PHMSA indicated that it did not intend to change requirements applicable to distribution pipelines in this rulemaking. In comments on the NPRM, AGA noted that extending elements of this rulemaking to distribution facilities “would have an immediate impact on distribution pipelines, and indirectly through a re-allocation of resources away from voluntary programs, such as accelerated pipe replacement for pipelines identified by utilities and state regulatory agencies as a high priority for replacement.”³⁰ Because PHMSA has not provided the required opportunity for public comment or GPAC input on the

²⁷ NPRM at 20,827.

²⁸ Final Rule at 52,243.

²⁹ Final Rule at 52,231.

³⁰ See Comments of The American Gas Association on the Safety of Gas Transmission and Gathering Pipelines Proposed Rule, July 8, 2016, Page 7-8.

impacts of extending § 192.5(d) to distribution systems,³¹ the Associations assume that PHMSA does not intend to extend § 192.5(d) beyond transmission pipelines. Because class location designations can affect both transmission and distribution pipelines, the Associations request that PHMSA revise § 192.5(d) to state explicitly that the recordkeeping requirement applies only to transmission pipelines.

IV. Conclusion

For the reasons stated in this Petition, the Associations request that PHMSA revise Sections 192.5 and 192.624 of the Final Rule as shown in **red** below:

§192.5 Class locations.

(d) An operator **of a transmission pipeline** must have records that document the current class location of each pipeline segment and that demonstrate how the operator determined each current class location in accordance with this section.

§192.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.

- (a) Applicability. Operators of onshore steel transmission pipeline segments must reconfirm the maximum allowable operating pressure (MAOP) of all pipeline segments in accordance with the requirements of this section if either of the following conditions are met:
- (1) Records necessary to establish the MAOP in accordance with § 192.619(a)**(2)**, including records required by § 192.517(a), are not traceable, verifiable, and complete and the pipeline is located in one of the following locations:
 - (i) A high consequence area as defined in § 192.903; or
 - (ii) A Class 3 or Class 4 location.
 - (2) The pipeline segment's MAOP was established in accordance with § 192.619(c), the pipeline segment's MAOP is greater than or equal to 30 percent of the specified minimum yield strength, and the pipeline segment is located in one of the following areas:
 - (i) A high consequence area as defined in § 192.903;
 - (ii) A Class 3 or Class 4 location; or
 - (iii) A moderate consequence area as defined in § 192.3, if the pipeline segment can accommodate inspection by means of instrumented inline inspection tools.

³¹ See 49 U.S.C. § 60102.