

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

Pipeline Safety: Expanding the Use of)	
Excess Flow Valves in Gas Distribution)	
Systems to Applications Other Than)	Docket No. PHMSA– 2011–0009
Single-Family Residences)	

COMMENTS OF THE AMERICAN PUBLIC GAS ASSOCIATION

The American Public Gas Association (“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 700 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.

In its July 15, 2015 Notice of Proposed Rulemaking (NOPR) the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposed a number of changes to its natural gas pipeline safety regulations that would impact all APGA members, including operator qualification, incident notification and drug & alcohol testing. APGA and its members are, therefore, vitally interested in this rulemaking.

General Comments:

Safety is the top priority of APGA and its members. Excess flow valves are one tool that distribution operators can use to reduce the risk posed when natural gas service lines are ruptured by excavation. Operators devote substantial resources to preventing excavation damage, such as participation in one-call programs and public education about the importance of calling before digging. APGA does have specific comments that APGA believes would make the regulations clearer and less administratively burdensome while still accomplishing PHMSA’s desired results.

Specific Comments

Definitions

PHMSA has proposed to define “replaced service line” and “Service line serving an SFR” as follows:

§ 192.383 Excess flow valve installation.

(a) Definitions. As used in this section:

Replaced service line means a gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service line serving SFR means a gas service line that begins at the fitting that connects the service line to the main and serves only one SFR.

APGA comment: “SFR” is not defined in 49 CFR Part 192, however in the context of this proposal APGA assumes that “SFR” means single family residence. PHMSA should either add this to the Part 192 definitions or spell out “single family residence” throughout the rule.

Mandatory Installation of EFVs on Multi-family and Commercial Services

PHMSA has proposed to require operators to install EFVs on new and replaced service lines under the following conditions:

(b) Installation required. An excess flow valve (EFV) installation must comply with the performance standards in §192.381. After January 3, 2014, each operator must install an EFV on any new or replaced service line serving the following types of services before the line is activated:

(1) A single service line to one SFR;

(2) A branched service line to a SFR installed concurrently with the primary SFR service line (i.e., a single EFV may be installed to protect both service lines);

(3) A branched service line to a SFR installed off a previously installed SFR service line that does not contain an EFV;

(4) Multi-family residences with known customer loads not exceeding 1,000 SCFH per service, at time of service installation based on installed meter capacity, and

(5) A single, small commercial customer served by a single service line with a known customer load not exceeding 1,000 SCFH, at the time of meter installation, based on installed meter capacity.

APGA comment: In written comments submitted in response to PHMSA's November 25, 2011 Advance Notice of Proposed Rulemaking APGA and other commenters suggested EFV installation requirements virtually identical to what PHMSA has proposed. APGA commends PHMSA for adopting APGA's recommendation.

APGA presumes that the January, 2014 effective date is an indication of how long this proposed rule has been tied up in review rather than a retroactive EFV installation requirement. It will take significant effort for operators to acquire EFVs, revise service line design standards to accommodate EFVs, installation practices, recordkeeping, training of personnel and other actions required to implement this rule. APGA urges PHMSA to allow at least 6 months from the publication date of the final rule before operators are required to begin installing EFVs and complying with the other provisions of this rulemaking.

Exceptions To Mandatory EFV Installation

PHMSA has proposed to maintain the existing exceptions to EFV installation as follows:

(c) Exceptions to excess flow valve installation requirement. An operator need not install an excess flow valve if one or more of the following conditions are present:

(1) The service line does not operate at a pressure of 10 psig or greater throughout the year;

(2) The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a customer;

(3) An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

(4) An EFV meeting performance standards in §192.381 is not commercially available to the operator.

APGA comment: PHMSA is proposing to maintain the exceptions to EFV installation found in existing regulations. APGA supports maintaining these exceptions for mandatory installation under paragraph (a). As noted below, APGA also urges PHMSA to include these exceptions in the customers right to request an EFV (paragraph (d))

and operator notification of customers concerning EFV installation (paragraph (e)) as well.

Customer's Right To Request an EFV

PHMSA has proposed to require operators install and EFV if requested by a customer as follows:

(d) Customer's right to request an EFV. Existing service line customers, who desire an EFV on service lines not exceeding 1,000 SCFH and not meeting the conditions in paragraph (b) of this section, may request an EFV be installed on their service line. If a service line customer requests EFV installation, an operator must install the EFV at a mutually agreeable date. The appropriate State regulatory agency determines whom and/or how the costs of the requested EFVs are distributed.

APGA comment:

State Agency Review of Cost Recovery: APGA is vehemently opposed to the final sentence in this paragraph. Of the approximately 1,000 public gas utilities subject to PHMSA's pipe line safety regulations, only a few have a state agency determine how the cost of gas service is distributed among customers. State public utility commissions (PUC) typically review and approve the rates charged by investor-owned and privately-owned distribution operators, which represent less than 25 percent of US distribution operators regulated by PHMSA. Rates for public gas distribution systems are typically approved by the city council, utility board or similar, local oversight body.

Some operator's may choose to charge the customer for all or some portion of the full cost of retrofitting an EFV on an existing service, which, incidentally, could easily exceed the customer's total annual gas bill. Other operators may elect to roll these costs into the rates paid by all the utility's customers. The preamble makes clear that PHMSA does not intend to regulate how EFV costs are recovered.

APGA does not believe it was PHMSA's intent to require public gas distribution operators to become subject to PUC review for recovering the cost of EFVs installed under this rule, nor does APGA believe PHMSA has the authority to do so. Rather APGA believes it was PHMSA's intent to leave the determination of how the cost of installing an EFV at customer request to the operator and whatever body approves the operator's gas rates. This can best be accomplished by deleting the last sentence of paragraph (d).

Who is the “customer?” PHMSA does not define who is the “customer” whom the gas utility must notify and who has the right to request an EFV. In the preamble PHMSA states that messages on bills would satisfy the notification requirement, therefore it appears that PHMSA intends that the “customer” is the person to whom the utility sends the gas bill. It could also be interpreted, however, that the “customer” is the person who consumes the gas, the resident at the address where gas is delivered or perhaps the owner of the property. These may be different people.

APGA urges PHMSA to clarify that the only person who must be notified is the person to whom the operator sends the gas bill.

Customer must agree to terms for EFV installation. PHMSA is proposing that “*If a service line customer requests EFV installation, an operator must install the EFV at a mutually agreeable date.*” [Emphasis added] As noted above, the operator may establish a cost recovery mechanism for EFVs installed at the customer’s request. As written this could be interpreted to require the operator to install an EFV for a customer even if that customer is unwilling to pay for the installation costs. An operator should only be required to install an EFV if the requesting customer also agrees to whatever cost recovery mechanism is included in the operator’s approved rates.

Exceptions to Customer Right to Request an EFV: PHMSA has previously determined that installation of an EFV is not appropriate on service lines with any of the four characteristics listed in paragraph (c) of the proposed rule. It is illogical to require an operator to notify a customer about EFVs and give that customer the right to request an EFV if it is not feasible for the operator to install an EFV on that customer’s service line.

The first sentence of paragraph (d) should be revised to read as follows: “Existing service line customers, who desire an EFV on service lines not exceeding 1,000 SCFH and not meeting the conditions in paragraphs (b) or (c) of this section, may request an EFV be installed on their service line.”

Under some circumstances, compliance with this paragraph would be impractical, such as:

- An existing branched service line to two SFRs, where one customer requests an EFV and the other does not,
- A multi-family residence with known customer loads not exceeding 1,000 SCFH per service based on installed meter capacity, where one or more customers request an EFV and others do not.

APGA urges PHMSA to limit paragraphs (d) and (e) to a single service line to a single SFR or a to a single, small commercial customer served by a single service line with a known customer load not exceeding 1,000 SCFH, based on installed meter capacity.

Operator Notification of Customers Concerning EFV Installation

PHMSA has proposed to require operators to notify customers concerning EFVs as follows:

(e) Operator notification of customers concerning EFV installation. Operators must notify customers of their right to request an EFV in the following manner:

(1) Except as specified in paragraph (e)(2) of this section, each operator must provide written notification to the customer of their right to request the installation of an EFV within 90 days of the customer first receiving gas at a particular location.

(2) Operators of master meter systems may continuously post a general notification in a prominent location frequented by customers.

APGA comment:

Exceptions to Operator Notification of Customers: PHMSA has previously determined that installation of an EFV is not appropriate on service lines with any of the four characteristics listed in paragraph (c). It is illogical to require an operator to notify a customer about EFVs and give that customer the right to request an EFV if it is not feasible for the operator to install an EFV on that customer's service line. Granted, most operators may choose to satisfy this notification requirement through customer bills, in which case every customer, even those where EFV installation is impossible or impractical, will receive notification. If an operator chooses a more targeted means of notification, however, the operator should not be required to notify customers where installing an EFV is not appropriate.

The first sentence of paragraph (e)(1) should be revised to read as follows: "Except as specified in paragraphs (c) or (e)(2) of this section, each operator must provide written notification to the customer of their right to request the installation of an EFV within 90 days of the customer first receiving gas at a particular location."

Furthermore, for reasons noted above, this notification requirement should be limited to customers served by a single service line to a single SFR or a to a single, small commercial customer served by a single service line with a known customer load not exceeding 1,000 SCFH, based on installed meter capacity.

APGA also notes that, unlike paragraph (d), paragraph (e) has no exceptions regarding which customers an operator must notify. As it is written, paragraph (e)(1) would require an operator to notify all customers, even those:

1. With an EFV already installed on their service line,

2. With service lines exceeding 1,000 SCFH,
3. Where the service line does not operate at a pressure of 10 psig or greater throughout the year,
4. Where the operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to the customer, and
5. Where the EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line.

The rule should only require notification of those customers that have the right to request an EFV under paragraph (d). As noted above, paragraph (d) should be limited to services not meeting the conditions in paragraphs (b) or (c).

Method of Notification: APGA supports PHMSA's statements in the preamble that a statement printed on customer bills or mailings would satisfy this notification requirement.

Meaning of "first receiving gas": It is unclear what is meant that notification must occur "*within 90 days of the customer **first receiving gas at a particular location.***" This could be interpreted to apply when the operator changes the name of the person to whom it sends gas bills. This could also be interpreted not to require notification of existing customers who have been receiving gas for more than 90 days.

The proposed language of 192.381(e)(1) is very similar, but not identical to, notification language found in 192.16(c) for notifying customers of their responsibility to inspect and maintain customer owned service lines. That section reads as follows:

Each operator shall notify each customer not later than August 14, 1996, or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers.

PHMSA has issued further clarification of this requirement:

Customer-Owned Service Lines; Frequency of Notices... A recently published rule requires operators of gas service lines who do not maintain buried customer piping up to building walls to notify their customers of the need to maintain that piping (Docket PS-135; 60 FR 41821; August 14, 1995). The rule requires operators to notify each customer only once, either by August 14, 1996, or 90 days after the customer first receives gas at a particular location, whichever is later. In addition, the rule requires operators to keep records showing that notices have been sent to customers within the previous 3 years. OPS has learned, however, that some persons may be misconstruing this recordkeeping part of the

rule to require operators to send each customer a notice every 3 years. Please note that this interpretation is incorrect. The recordkeeping will serve strictly as a measure of compliance with the notification part of the rule. Records of notices more than 3 years old may be discarded. In no way does the recordkeeping requirement demand more frequent notices than one per customer.¹ [Emphasis added]

PHMSA should provide similar clarification to this notification requirement, which was obviously modeled on 192.16(c). Clarification should state that:

- This is a one-time notification for customers
- This one-time notification should first occur within 120 days of the final rule, and
- Subsequent notifications are only required within 90 days of a change in customers on a particular service.

Many operators may elect to use bill stuffers or messages on bills to notify all customers about EFVs. PHMSA should allow as an alternative to notification within 90 days of a customer receiving gas, operators to notify all customers annually of their right to request an EFV. For many APGA members this would be the least administratively burdensome method of notifying customers and have the added benefit of providing customers who may have overlooked the original notice with additional opportunities to choose to have an EFV installed in the service line.

Master Meter Operators: Although master meter operators are not members of APGA, APGA urges PHMSA to reconsider applying customer right to request an EFV under paragraph (d) and notification of customers about EFVs under paragraph (e) to master meter operators. Master meters are typically garden apartments, mobile home parks, universities, public housing etc. where the “customer” is a renter rather than an owner. Including master meters in this rulemaking is likely to cause confusion rather than promote pipeline safety.

Evidence of Customer Notification

PHMSA has proposed to require operators to maintain evidence of customer notification as follows:

(f) Operator evidence of customer notification. Each operator must maintain a copy of the customer EFV notice for three years. This notice must be available for inspection by the Administrator or a State agency participating under 49 U.S.C. 60105 or 60106.

¹ PHMSA Interpretation #PI-95-055, Dec 21, 1995

APGA comment: In the preamble to the proposed rule PHMSA states that “... evidence of notification could include such items as a statement printed on customer bills or mailings.” PHMSA is not proposing to require operators to keep records showing that any individual customer was notified. APGA supports this requirement.

Reporting

PHMSA has proposed to require operators to report EFV installations as follows:

(g) Reporting. Each operator must report the EFV measures detailed in the annual report required by §191.11.

APGA comment: It is not clear what “EFV measures” this refers to. APGA interprets that this is not a new reporting requirement, but rather refers to the existing EFV reporting requirements in §191.11. Since §191.11 already requires operators, other than master meter operators, to file annual reports with PHMSA listing the number of EFVs installed in the reporting year and total EFVs in the system at the end of the reporting year there is no reason to include paragraph (g) in this rulemaking. It should be deleted. If PHMSA chooses to retain this provision it should clarify that it only applies to operators that are required to file annual reports.

Mandatory Installation of Curb Valves

PHMSA has proposed to add a new Section 192.385 as follows:

§ 192.385 Manual service line shut-off valve installation.

(a) Definitions. As used in this section:

Manual service line shut-off valve means a curb valve or other manually operated valve located near the service main or a common source of supply that is accessible to first responders and operator personnel to manually shut off gas flow to the service line in the event of an emergency.

(b) The operator must install a manual service line shut-off valve for any new or replaced service line, with installed meter capacity exceeding 1,000 SCFH.

(c) Manual service line shut-off valves for any new or replaced service line must be installed in such a way to allow accessibility during emergencies.

APGA Comment: APGA has the following concerns about this requirement:

PHMSA requires that these curb valves be “accessible to first responders” suggesting that PHMSA believes firefighters or other emergency responders should be allowed to open or close these valves. This is contrary to the policies of most utilities as well as the

PHMSA-supported “Pipeline Emergencies” firefighter training. First responders other than operator personnel will not know if the underground valve they are operating is a curb valve or a mainline valve. They could inadvertently shut off gas to hundreds or thousands of customers by closing the wrong valve. They could also open a valve that normally should be closed. PHMSA should remove everything from the rule that suggests anyone other than operator personnel operate any underground valve on the distribution system.

§192.747 Valve maintenance: Distribution systems requires that “each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.” PHMSA has consistently interpreted that curb valves do not fall under 192.747 however paragraph (c) could be interpreted to require such annual inspections. If such inspections were required the cost to the operator of inspecting and maintaining curb valves would be excessive. These costs are not considered in PHMSA’s Regulatory Impact Analysis.

In addition, the technology of EFVs and products available will continue to change. In the future, some operators may test and become comfortable installing EFVs on some services operating above 1000 scfh. The rule should state that an operator need not install a curb valve if the operator installs an excess flow valve on any service line.

Should PHMSA elect to go forward with this requirement it should clarify that 1) operators are not required to allow first responders to operate curb valves, 2) the inspection requirements of §192.747 do not apply to valves installed under this section and 3) an operator need not install a manual valve on any service line in which it will install an EFV..

APGA appreciates the opportunity to comment on this proposal. Any questions concerning these comments should be directed to John Erickson, APGA Vice President, Operations (202-464-0834) or jerickson@apga.org.

A handwritten signature in black ink, appearing to read "Bert Kalisch". The signature is fluid and cursive, with the first name "Bert" and last name "Kalisch" clearly distinguishable.

Bert Kalisch, President and CEO