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Guide to Public Comment: PHMSA's CO₂ Pipeline Safety Public Meeting

I. Purpose

This document, prepared by the Pipeline Safety Trust,¹ serves as a guide for members of the public, organizations, and coalitions to comment on the Pipeline and Hazardous Materials Safety Administration (PHMSA) public docket for the CO₂ Pipeline Safety Public Meeting held in Des Moines, Iowa on May 31st and June 1st 2023. Public comment is incredibly important as it will help inform PHMSA's forthcoming rulemaking on CO₂ pipelines.

Comments submitted to this docket will roll over into the Notice of Proposed Rulemaking (NPRM) docket scheduled to be published in January 2024. It is critically important that comments are posted into this docket sooner rather than later as they will help inform the rulemaking process ahead of the NPRM.

Below is a guide on how to comment on this public docket as well as some suggestions on what to include in a comment. For more information about the comment content suggestions, see resources below.

- [Summary for Policymakers](#)
- [Full Report on CO₂ Pipelines](#)
- [PST Comment on Public Meeting](#)
- [PST Guide to Pipeline Safety Rulemaking](#)

We appreciate your interest in submitting a comment on this docket. If you have any questions on this document or would like to discuss it with someone at the Pipeline Safety Trust, please contact Amanda McKay, Policy Manager at amanda@pstrust.org.

II. How and Where to Submit a Comment

Comments may be submitted by clicking the blue "Comment" button on the [docket page](#) for this rule found on regulations.gov. The docket number for this rule is PHMSA-2023-0013. The Pipeline Safety Trust also hopes to prepare an action alert so that members of the public may more easily submit comments directly into the docket. Information for the action alert is forthcoming. Comments should be short, plainly worded, and take clear positions on what PHMSA should include in its rulemaking. Be sure to reference the docket number in your comment and submit it as soon as possible.

III. Comment Content Suggestions

The Pipeline Safety Trust recommends that commenters suggest that PHMSA consider the following key concerns brought to light by the Denbury Pipeline failure and our report on CO₂ pipeline safety:

A. *PHMSA must clarify its jurisdiction over CO₂ pipeline safety.*

Urge PHMSA to clarify its jurisdiction over matters such as setbacks, zoning, routing, emergency planning and response, and provide general guidance about the matter of preemption of state and local laws relating to CO₂ pipeline safety. Ask that PHMSA emphasize the fact that local and state lawmakers *do* have the authority to promulgate laws that relate to siting of pipelines, such as setbacks, zoning, and routing limitations. It should also explain that there is legal precedent establishing that local and state governments have jurisdiction over emergency response and the ability to develop their own emergency

¹ The Pipeline Safety Trust is the only national non-profit organization that focuses on pipeline safety. We pursue our mission through education and advocacy, increasing access to information, and building partnerships with residents, safety advocates, government, and industry to promote safe communities and a healthy environment.

response plans. PHMSA could also include an explanation of its jurisdiction and the issue of preemption in its explanation of need in its notice of proposed rulemaking on the CO₂ rule.

B. PHMSA must address significant regulatory and scientific gaps in its rulemaking.

With its current definition, PHMSA's regulations only apply to pipelines transporting carbon dioxide in a supercritical state, meaning that gas and subcritical liquid CO₂ pipelines are unregulated.² PHMSA must update its definition of CO₂ to include all phases during transport. In addition, the new regulations should include prescriptive requirements for geohazard and fracture mitigation plans, odorization of all CO₂ pipelines, updated dispersion modeling specific to CO₂ and make modeling available to the public, and specific maximum contaminant levels and reporting. PHMSA should also clarify whether the new Advanced Leak Detection rule will apply to gas-phase CO₂ pipelines.

C. PHMSA should update incident reporting regulations.

PHMSA can only regulate against issues that it is aware of. Unfortunately, shortcomings in PHMSA's incident reporting regulations keep it in the dark because its regulations only require reporting if certain thresholds are met. PHMSA's current incident reporting regulations are insufficient with respect to gas and liquid lines, the regulations are especially inappropriate for CO₂ pipelines given the dire public health risks associated with CO₂ exposure. As such, PHMSA should redefine a reportable injury to:

Bodily harm to any person resulting in one or more of the following:

- Loss of consciousness,
- Necessity to carry a person from the scene,
- Necessity for medical treatment, or
- Disability which prevents the discharge of normal duties or the pursuit of normal duties beyond the day of the accident.³

D. PHMSA must clarify its conversion of service regulations.

PHMSA's new regulations must ensure that any conversion of gas pipelines to CO₂ service is done safely and only in pipelines that will be able to keep the product in the pipe. We suggest that PHMSA consider the scientific knowledge gaps that exist with respect to CO₂ pipelines when drafting these requirements,⁴ and consider the fact that it may not ever be appropriate for pipelines built for traditional hydrocarbon service to be converted to transport CO₂.

E. PHMSA should engage directly with communities where CO₂ pipelines are present and proposed.

In urban and rural communities, emergency responders lack resources, staff, and training appropriate for responding to CO₂ pipeline incidents. PHMSA must take steps in this rulemaking to ensure that these communities do not continue to experience disproportionate impacts of pipeline infrastructure, especially given the serious safety risks of CO₂ pipelines. One mechanism for doing so would be to require operators to truly engage with the public and to disclose more information to the public about plume dispersion modeling, mapping, and the composition of product being transported. It could also require operators to engage in more vigorous emergency planning and communication with local officials in the rule. PHMSA could also require that specialized training and equipment be provided to communities and fund grants for this purpose.

² 49 C.F.R. § 195.2.

³ PST makes this recommendation based upon Louisiana Department of Natural Resources' updated regulations governing the safety of pipelines used to transport Carbon Dioxide. LA. ADMIN. CODE tit. 43, § 4101 (2023).

⁴ *Summary for Policymakers, supra* note 1.