

May 1, 2023

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Secretary Buttigieg:

As described in the recent article, “[Midwest CO2 pipeline rush creates regulatory chaos](#)” (*E&E News*, 3/3/2023), communities across the United States have significant concerns about gaps in regulations regarding pipelines carrying carbon dioxide (CO₂). At the same time, a significant number of new interstate CO₂ pipelines are being proposed around the country.

Communities need assurances that safety regulations apply to all CO₂ pipelines. At the concentrations found in pipelines, CO₂ is an asphyxiant that can be dangerous and even lethal in the event of a rupture. And lower levels of CO₂ leakage can contribute to dangerous climate change.

PHMSA’s existing regulations, however, apply only to pipelines carrying CO₂ in a supercritical fluid phase. Industry proponents acknowledge that CO₂ also moves in pipelines in other phases such as subcritical liquid or gas, as mentioned in the *E&E News* article with respect to the Navigator and Tallgrass pipelines.

The organizations listed below support PHMSA’s effort to issue detailed, comprehensive standards for CO₂ pipelines, based on the best available science and the precautionary principle, and we support adequate funding for PHMSA to complete and enforce these rules. However, under the agency’s current public schedule, those rules are not slated to be proposed until 2024. We urge you to accelerate that schedule.

In the meantime, we urge you to take immediate interim action to assure that current regulations apply to pipelines carrying CO₂ in all phases. In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Section 15, Congress made clear that PHMSA has the authority to regulate gaseous CO₂ and directed the agency to adopt safety standards covering CO₂ in its gaseous, as well as supercritical fluid, phases.

In 2016, PHMSA issued a report entitled “[Background for Regulating the Transportation of Carbon Dioxide in a Gaseous State](#),” where PHMSA itself concluded that existing safety standards could be applied with slight modifications to the transportation of gaseous and subcritical liquid CO₂.

The urgency of clarifying that PHMSA’s standards cover all CO₂ pipelines, regardless of the physical state in which the CO₂ travels, constitutes good cause to rapidly issue an immediately effective rule pursuant to Sections 553(b)(B) and 553(d)(3) of the Administrative Procedure Act.

We view this as an interim solution while PHMSA produces its fuller, robust rulemaking. This would ensure that all operating CO₂ pipelines and those to be constructed before the fuller rules are completed will be subject to minimum federal safety standards such as regular inspections, initial testing standards, integrity management programs, and many other important safety requirements.

While we believe the need for additional safeguards must be explored in the upcoming rulemaking, it would not be prudent, from any stakeholder's perspective, to allow this gap in the applicability of existing regulations to persist for the duration of that proceeding. For these reasons, we urge you to act immediately as recommended here.

Sincerely,

Pipeline Safety Trust
Bill Caram, Executive Director
bill@pstrust.org

Natural Resources Defense Council
David Doniger, Senior Strategic Director
Climate and Clean Energy
ddoniger@nrdc.org

Environmental Defense Fund
Erin Murphy, Senior Attorney
Energy Markets & Utility Regulation
emurphy@edf.org

Earthjustice
Hana Vizcarra, Senior Attorney
National Climate
hvizcarra@earthjustice.org

Sierra Club
Andres Restrepo, Senior Attorney
andres.restrepo@sierraclub.org

Bold Alliance
Jane Fleming Kleeb, Founder
jane@boldalliance.org

cc: The Honorable Tristan Brown, Deputy Administrator, PHMSA
The Honorable John Podesta, Senior Advisor to the President
The Honorable Brenda Mallory, Chair, Council on Environmental Quality