

November 7, 2023

Mr. Alan Mayberry
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
US Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

Re: Coalition Comment on PHMSA's Forthcoming CO₂ Pipeline Safety Regulations

Dear Mr. Mayberry:

We appreciate the opportunity to provide input regarding the Pipeline and Hazardous Materials Safety Administration's (PHMSA) forthcoming rulemaking on carbon dioxide pipeline regulations. It has become increasingly evident that the current regulations for the safe construction, operation, and maintenance of CO₂ pipelines are in serious need of revision. As was heard at the PHMSA Public Meeting on this topic in Des Moines, IA, there is still much public concern over the lack of clarity in the current regulations with respect to ensuring public safety. We urge PHMSA to consider the following recommendations while developing regulations on carbon dioxide pipelines under RIN 2137-AF60 and to do so as expediently as possible.

Prior to rulemaking, we recommend PHMSA clarify its jurisdiction over pipeline safety. There continues to be confusion about matters within and outside of PHMSA's jurisdiction such as setbacks, zoning, routing, emergency planning and response, and the issue of preemption. Specifically, 49 C.F.R. § 195.210(a) has been a direct source of this confusion as it is in conflict with PHMSA's statutory limitation on routing and siting, 49 U.S.C. § 60104(e). We request that PHMSA repeal § 195.210(a) and retain § 195.210(b) in a new or different section as appropriate. We also request that PHMSA issue formal guidance that addresses whether the extent of prohibition on state adoption of safety standards under 49 U.S.C. § 60104(c) also prevents state and local governments from considering safety when routing and siting. Such a document would help members of the public, state and local officials, and operators when speaking on these issues.

It is also imperative that PHMSA engage directly with environmental justice communities and Tribal authorities throughout the entire rulemaking process. Pipeline infrastructure burdens America's most vulnerable communities and PHMSA must do everything in its power to ensure that these communities do not face disproportionate impacts from CO₂ pipelines. Requiring operators to meaningfully engage with the public and provide specialized training and equipment to communities would be a great start. PHMSA should also activate its Community Liaison program to more effectively meet the specific needs of these communities likely to feel the impacts of CO₂ pipelines through education, relationship building, and soliciting feedback throughout the rulemaking process.

In this forthcoming rulemaking, there are significant regulatory and scientific gaps that need to be addressed. To start, PHMSA must update the regulatory definition of carbon dioxide to include all phases during transport, not just supercritical. Because of CO₂'s physical properties, the multiple physical states in which it can be transported via pipeline, and its unique safety risks, PHMSA should allot CO₂ its own section of code separate from the gas or hazardous liquid regulations.

In this new section of code, the following issues should be addressed:

- PHMSA should require geohazard mitigation plans on the entire length of CO₂ pipelines.

- PHMSA should require crack arrestors at appropriate intervals and appropriate steel strength through the entire length of a CO₂ pipeline to mitigate the risks of fracture propagation.
- Effective odorant should be required to be added into all CO₂ pipelines to make leak detection easier.
- Appropriate dispersion modeling must be required on all CO₂ pipelines that takes into account site-appropriate weather, terrain, and atmospheric pressure scenarios. These dispersion models should be made available to the public to ensure awareness and enable appropriate emergency response planning.
- Impurities within CO₂ pipelines are a major concern for pipeline integrity, therefore PHMSA should establish regulations setting specific maximum contaminant levels and blending standards, as well as contaminant monitoring equipment standards and contaminant record retention requirements for CO₂ pipelines.
- More research is needed on appropriate CO₂ leak detection technologies. As such, PHMSA should clarify whether its new advanced leak detection and repair rule will apply to gas-phase CO₂ pipelines and/or plan to invest in research and development projects that will address these knowledge gaps.

In addition to creating a new section of code for carbon dioxide pipelines, PHMSA must update its incident reporting regulations. Many large and potentially dangerous incidents are not reported to PHMSA due to insufficient reporting requirements. Because of this it is likely that PHMSA data underrepresents incident prevalence and the opportunity to learn from these incidents is lost. PHMSA should use the Pipeline Safety Trust's suggested definition for a 'reportable injury' when updating these regulations.

Due to financial incentives, there is the increasing possibility for existing natural gas pipelines to be converted to CO₂ service. This is alarming due to the fact that there are currently no federal safety standards to ensure that these CO₂ specific conversions are done safely, and the minimal conversion regulations for gas pipelines are likely insufficient or irrelevant. PHMSA should issue safety standards related to the appropriateness, feasibility, and technical hurdles associated with the safe conversion of pipelines to transporting CO₂ in any phase.

Our organizations urge PHMSA to do everything in its power to make this rulemaking process equitable and inclusive and that the outcome ensures the highest level of CO₂ pipeline safety for all communities.

Sincerely,

350 Bay Area Action

350.org

Alliance for Affordable Energy

Bayou City Waterkeeper

Bold Alliance

Center for Biological Diversity

Chesapeake Physicians for Social Responsibility

Climate Investigations Center

Coastal Bend Sierra Club Group

Commission Shift

Concerned Health Professionals of New York

CURE

Dakota Resource Council

Eco-Justice Collaborative

Fenceline Watch

Fox Valley Citizens for Peace & Justice

Ingleside on the Bay Coastal Watch Association

Natural Resources Defense Council

Physicians for Social Responsibility
Physicians for Social Responsibility
Pennsylvania
Pipeline Safety Trust
Property Rights and Pipeline Center
PSR Colorado
Public Goods Institute
Rio Grande International Study Center
San Francisco Bay Physicians for Social
Responsibility
Save Our Illinois Land
Science and Environmental Health Network
Texas Campaign for the Environment
The People's Justice Council
Turtle Island Restoration Network
Washington Physicians for Social Responsibility