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November 3, 2023

Alan K. Mayberry
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, D.C. 20590

Re: Comment of the Pipeline Safety Trust in Support of PHMSA's Proposed Rule, *Pipeline Safety: Safety of Gas Distribution Pipelines and Other Pipeline Safety Initiatives* (Docket No. PHMSA-2021-0046)

Associate Administrator Mayberry:

Thank you for the opportunity to comment on this rulemaking. The Pipeline Safety Trust[1] (PST) is extremely supportive of the promulgation of the Gas Distribution Pipeline Safety rule as consistent with the Leonel Rondon Pipeline Safety Act[2] and PHMSA's general authority to regulate gas pipeline safety.[3] We believe that the provisions of this rule will make low-pressure gas distribution systems safer, which will protect communities and the environment from the risk of explosions.

Background

As you know, this rulemaking is meant to address the safety concerns revealed after an incident in Merrimack Valley that killed a young man named Leonel Rondon. Rondon was waiting in a vehicle in a friend's driveway when an overpressure event on a local gas distribution line caused an explosion. This explosion knocked the chimney off the home and onto Rondon's car, killing him. Twenty-two other individuals were hurt in this incident, including civilians and emergency response personnel. 131 structures were damaged and 5 homes which were destroyed in the communities of Lawrence, Andover, and North Andover.

A National Transportation Safety Board (NTSB) investigation determined that the local operator, Columbia Gas (a subsidiary of NiSource, Inc.), had a flawed pipeline replacement plan that led to the overpressurization event.[4] NTSB recommended that PHMSA revise its regulations to require overpressure protection for low-pressure natural gas distribution systems that cannot be defeated by a single operator error or equipment failure.

In recognition of the flaws identified by NTSB, Senator Markey of Massachusetts introduced the Leonel Rondon Pipeline Safety Act (LRPSA), which was later incorporated into the Protecting our Infrastructure

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[1] The Pipeline Safety Trust is a nonprofit, watchdog organization dedicated to 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.
[2] Consolidated Appropriations Act, 2021, H.R. 113, 116th Cong., Div. R, tit. II. (2020) https://www.congress.gov/116/plaws/publ260/PLAW-116publ260.pdf ("Leonel Rondon Pipeline Safety Act").
[3] 49 U.S.C. § 60102.
[4] Natl. Transp. Safety Bd., *Pipeline Accident Report: Overpressurization of Natural Gas Distribution Explosions, and Fires in Merrimack Valley, Massachusetts September 13, 2018*, NTSB/PAR-19/02 (Sept. 24, 2019).

of Pipelines and Enhancing Safety (PIPES) Act of 2020. The LRPSA section of the PIPES Act required PHMSA to address the root causes of the Merrimack Valley incident.

This is not the only incident that has occurred on low-pressure distribution systems. Two other incidents, also in Massachusetts, have caused explosions affecting the public. In 1983, surging pressure in natural gas pipes caused fires and an explosion in East Boston. While the incident caused no injuries or deaths, three residences faced serious fires and many others had smaller-scale kitchen fires. Similarly, in 1990, Merrimack Valley experienced a tragedy in which six people were injured from explosions sparked by gas leaks. In this case a Boston Gas Co. worker caused an overpressurization event in low-pressure distribution lines serving homes.[5] The provisions of this rule could help avoid such needless suffering.

As PHMSA recognized in the NPRM, the rule is also an important step in addressing environmental justice and climate impacts attributable to gas distribution systems. We agree that environmental justice communities often face disproportionate effects of pipeline infrastructure, including older systems, bare-steel gas distribution pipelines (which are vulnerable to overpressurization and failures), and denser pipeline infrastructure generally. In fact, studies have found that environmental justice communities face greater leak densities and exposures, and that leaks take longer to repair when compared to other communities.[6] We believe that this rule, combined with recent efforts by PHMSA in its Advanced Leak Detection and Repair rulemaking, will reduce the negative effects these low-pressure natural gas systems have on environmental justice communities, climate, and the environment.

Recommendations

PST agrees with PHMSA that the provisions contained within this NPRM are common sense steps to reduce the likelihood of overpressure incidents on low-pressure gas distribution systems like what occurred in Merrimack Valley. We also agree that this proposal, if adopted in substantially the same form as proposed, will reduce the environmental and human consequences of a given gas distribution failure. However, in reviewing the proposal, we observed a few opportunities for improvement, and provide the following recommendations herein. PST's positive assessment of the rule is dependent upon PHMSA addressing the concerns identified in point six, below. If PHMSA allows operators to essentially self-exempt from key requirements of the rule, its strength will be significantly undermined. We therefore urge PHMSA take special note of this recommendation.

1. **Cast Iron Replacement.** PST was disappointed to see that PHMSA does not include instructions to operators directing them to replace or retire cast iron found in their distribution systems. Rather, PHMSA requires operators to review their existing plans to identify threats, including cast iron pipes, and to implement measures to address those risks. 88 Fed. Reg. 61,803 (§ 192.1007). PST recommends that PHMSA push for the acceleration of cast-iron replacement or retirement, starting with low-pressure systems without regulators between mains and service lines. All

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[5] *Jump in Gas Pressure Brings Boston Fires*, N.Y. TIMES, Sept. 24, 2023, at L8 https://timesmachine.nytimes.com/timesmachine/1983/09/24/issue.html; Kelsey Bode, *Merrimack Valley Gas Disaster Similar to 1990 Danvers Emergency*, THE SALEM NEWS, Sept. 14, 2018 https://www.salemnews.com/news/local_news/merrimack-valley-gas-disaster-similar-to-danvers-emergency/article_f4f14759-17bd-5d7a-9810-d3548ade6918.html.

[6] Marcos Luna & Dominic Nicholas, *An Environmental Justice Analysis of Distribution-Level Natural Gas Leaks in Massachusetts, USA*, 162 ENERGY POLICY 112778, 2022 https://doi.org/10.1016/j.enpol.2022.112778; Zachary D. Weller et al., *Environmental Injustices of Leaks from Urban Natural Gas Distribution Systems: Patterns Among and Within 13 U.S. Metro Areas*, 56 ENVIRON. SCI. TECHNOL. 8599, 2022 https://pubs.acs.org/doi/pdf/10.1021/acs.est.2c00097.

replacements should be tied to the management of change process described in the proposed 49 C.F.R. § 192.605(g).

2. **Notice to the Public.** In the LRPSA, Congress directed PHMSA to require operators to notify members of the public "as soon as practicable" during a gas pipeline emergency on a distribution system. § 203(r). PST recommended that PHMSA interpret this strictly so that members of the public are notified without delay. Though the rule's text repeats the "as soon as practicable" language, in context with the notice to emergency responders described as "immediate and direct," PHMSA seems to impose a reasonability standard upon operators. 88 Fed. Reg. 61,802. PST is disappointed in this contrast and believes that PHMSA should clearly articulate to operators that the public should be notified in an "immediate and direct" fashion as well. PST also recommends that the language be modified to ensure that notice be provided in a manner suitable to accommodate individuals with vision or hearing loss in addition to languages spoken in that region.
3. **State Program Reviews.** PST recommended to PHMSA in 2021 that it be more demanding about state program reviews. Specifically, we requested that PHMSA consider whether the funding level it has is appropriate for ensuring that state programs are sufficiently staffed. This rule requires operators to use SICT to determine the number of pipeline program staff but offers no further guidance about state programs. 88 Fed. Reg. 61,770. We recommend that PHMSA provide clearer guidance to state programs and more transparency to members of the public about scoring criteria. For example, we recently learned that "grading" of state programs does not match traditional grading scales. According to information we obtained in a meeting with PHMSA, a state program with a score of 90 on a 100-point scale may not be considered an "excellent" program by PHMSA, but to the public, this would be considered an "A." A score in the 80s, according to PHMSA, is considered a struggling program despite the fact that to the public, this is a "B." This could be misleading to members of the public without explanation.
4. **Inspections.** PST supports the requirement that new, replaced, relocated, or changed transmission pipelines be inspected by operator personnel who did not perform that construction task. However, because section 192.305(b) exempts operators from this requirement if the only way to comply with (a) is to bring in a third-party inspector, PST recommends PHMSA require that at a minimum, the personnel who does conduct this inspection have training or competency in the construction task that they are inspecting. 88 Fed. Reg. 61,790–91. Without training or competency in that specific task, an operator's choice to complete the inspection under the exception makes the inspection useless, presents an obvious loophole to the rule's requirements, and does not advance the purpose of improving gas distribution pipeline safety.
5. **Management of Change.** PST appreciates PHMSA's interpretation of the new "management of change" review program. However, PST believes that PHMSA should clarify that an operator's management of change procedures must increase the level of review based upon the level of complexity of the change at issue. The level of personnel qualification should also match the level of complexity of a given change. 88 Fed. Reg. 61,779–81.
6. **Overpressure Protection at District Regulator Stations.** PST disagrees with PHMSA's proposal to allow operators to merely identify and notify PHMSA of alternative preventative measures if district regulator stations do not have two methods of overpressure protection consistent with section 192.195(c)(1). This loophole goes against the purpose of developing the rule in the first place and will not achieve the level of safety desired, especially given the fact that the rule does not indicate that PHMSA will review operator submissions to evaluate the "alternative" measures. 88 Fed. Reg. 61,788–89. PST believes that if such an exemption is allowed, operators should have to apply for consideration by PHMSA, and that PHMSA should in turn, develop

criteria for reviewing and approving alternative measures that meet Congressional intent. Without such a review, PHMSA risks failing to meet the express Congressional mandate of the LRPSA to ensure that low-pressure gas distribution systems cannot be defeated by a single equipment failure.

7. **Effective Date.** PST is supportive of the one-year effective date proposed in the rule and expect that many operators are likely already taking steps that comply with its provisions.

Thank you again for the opportunity to comment on this rule. If you have any questions about this comment or would like to discuss, please contact Erin Sutherland at erin@pstrust.org or (360) 543-5686 x107.

Sincerely,

Erin Sutherland

Erin Sutherland
Policy & Program Director/Counsel