



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

June 20, 2024

**NOTICE OF LIMITED ENFORCEMENT DISCRETION**  
**REGARDING THE FINAL RULE TITLED “PIPELINE SAFETY: PERIODIC**  
**UPDATES OF REGULATORY REFERENCES TO TECHNICAL STANDARDS AND**  
**MISCELLANEOUS AMENDMENTS”**

On April 29, 2024, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published in the Federal Register a final rule titled “Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments” (“Final Rule”).<sup>1</sup> The Final Rule, with an effective date of June 28, 2024, amends the Federal Pipeline Safety Regulations to incorporate by reference all or parts of more than 20 new or updated voluntary, consensus industry technical standards (updated industry standards) in 49 CFR parts 192 and 195. The Final Rule also clarifies certain regulatory provisions and makes several editorial corrections.

On May 29, 2024, GPA Midstream Association and American Petroleum Institute (API) (“GPA/API”) filed a petition for reconsideration of the Final Rule; on the same day, the Interstate Natural Gas Association of America (INGAA), the American Public Gas Association (APGA), the American Gas Association (AGA), the American Fuel and Petrochemical Manufacturers (AFPM), the Liquid Energy Pipeline Association (LEPA), and the American Petroleum Institute (API) (collectively, the “Associations”) filed a separate petition for reconsideration of the Final Rule.<sup>2</sup> Each of GPA/API and the Associations also filed parallel motions to stay the effective date of the Final Rule.<sup>3</sup>

GPA/API’s motion requested that PHMSA stay the compliance deadline or provide operators with the discretion to comply with the current or updated industry standards in 49 C.F.R. §§ 192.7(b)(9), 195.3(b)(12), and 195.3(b)(20), which are the sections that incorporate by reference the standards mentioned in GPA/API’s petition for reconsideration (API Std 2350 and API 1104).<sup>4</sup> GPA/API stated that its members are currently engaged in projects that require

---

<sup>1</sup> 89 FR 33264 (Apr. 29, 2024) (Final Rule).

<sup>2</sup> GPA/API Petition for Reconsideration, Doc. No PHMSA-2016-0002-0016 (May 29, 2024) (“GPA/API Petition”); the Associations’ Petition for Reconsideration, Doc. No PHMSA-2016-0002-0014 (May 29, 2024) (“Joint Trade Petition”).

<sup>3</sup> GPA/API Motion to Stay Final Rule, Doc. No PHMSA-2016-0002-0015 (May 29, 2024); Associations’ Motion to Stay Final Rule, Doc. No PHMSA-2016-0002 (May 29, 2024). GPA/API Motion to Stay requests a stay of the Final Rule to grant operators additional compliance time. GPA/API Motion to Stay at 3, 4. Similarly, the Associations request a stay of the Final Rule or, in the alternative, a stay of enforcement. Associations’ Motion to Stay at 4.

<sup>4</sup> GPA/API Motion to Stay at 1.

compliance with the updated industry standards and will suffer irreparable harm if the compliance date is not stayed or modified as the Final Rule's compliance date does not allow for sufficient time to implement the new requirements.<sup>5</sup> The Associations' motion requested that PHMSA stay the Final Rule to allow for "sufficient time to transition programs to the revised standards" to avoid causing significant disruption and costs.<sup>6</sup> The Associations' further asserted that § 192.714(d) and section 7 of ASME B31.8S (2004) are in conflict<sup>7</sup> and that its members are engaged in projects that require compliance with the newly incorporated standards and will suffer irreparable harm if the effective date is not extended as compliance with the Final Rule will require personnel training, new procedures, or the acquisition of new materials..<sup>8</sup>

PHMSA has considered the two motions to stay and now issues a notice of limited enforcement (Notice) to facilitate timely operator compliance efforts in light of the summer/fall 2024 construction season in much of the country. Specifically, this Notice advises regulated entities that PHMSA will exercise its discretion by allowing compliance with either the updated industry standards incorporated by the Final Rule or the industry standards referenced in the regulations prior to the publication of the Final Rule. The period of this limited enforcement discretion will be from the date of issuance below until January 1, 2025, and applies to all of the updated industry standards incorporated by the Final Rule, not just those referenced by petitioners.<sup>9</sup> This will provide regulatory flexibility to pipeline operators while at the same time maintaining an equivalent level of safety during the current construction season. In addition, this enforcement discretion will ensure operators have sufficient time to understand the new standards, update procedures, train personnel, acquire new materials, develop and implement management-of-change processes, avoid any disruptions to ongoing construction projects<sup>10</sup> and plan future construction projects using the updated standards.

This Notice advises regulated entities that until January 1, 2025, PHMSA will exercise its discretion to refrain from taking enforcement action to provide operators with the ability to comply with either the updated industry standards incorporated by the Final Rule, or the industry standards referenced in the regulations prior to the publication of the Final Rule. PHMSA further recommends that its state partners exercise the same enforcement discretion described in this Notice. To the extent this Notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way. Nothing herein prohibits PHMSA from rescinding this limited exercise of its enforcement discretion and pursuing an enforcement action if it determines that a significant safety issue warrants doing so. Nothing herein relieves operators from compliance

---

<sup>5</sup> GPA/API Motion to Stay at 4.

<sup>6</sup> Associations' Motion to Stay at 4.

<sup>7</sup> The Final Rule's preamble explicitly states that "[i]f a provision of an incorporated standard conflicts with a regulation, the regulation takes precedence unless the regulation expressly provides otherwise." 89 FR 33264, 33265.

<sup>8</sup> Associations' Motion to Stay at 2.

<sup>9</sup> The Associations' petition stated that a compliance date of January 1, 2025, would provide sufficient time to ensure compliance with the industry standards updated by the Final Rule and is "prior to the beginning of the next construction cycle. Joint Trade Petition at 5, 9.

<sup>10</sup> PHMSA understands that, based on the Associations' petition, this date allows for the current construction season to end and is before the commencement of the next construction season. See Joint Trade Petition at 9.

with any other applicable provisions of Federal regulations or other law, and PHMSA reserves the right to exercise all of its other authorities.

Issued June 20, 2024, in Washington, D.C.

---

Alan K. Mayberry  
Associate Administrator, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration