



VIA ELECTRONIC FILING

August 9, 2021

Mr. Byron Coy
U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Ave, S.E.
Room W12-140
Washington, D.C. 20590-0001

Re: Docket No. PHMSA-2020-0164, Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures

Dear Mr. Coy:

On July 8, 2021, the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) published its “Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures” Notice (Notice)¹ in the *Federal Register*. In the Notice, PHMSA asked interested parties to submit comments on the Agency’s draft frequently asked questions (draft FAQs) covering 911 notifications.² GPA Midstream Association³ (GPA Midstream) submits the following comments in response to the Notice.

1. *PHMSA should proceed with its rulemaking process rather than regulating through guidance.*

¹ Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures, 86 Fed. Reg. 36,179 (July 8, 2021).

² Draft Questions for Comment: Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures, <https://www.regulations.gov/document/PHMSA-2020-0164-0001>.

³ GPA Midstream has served the U.S. energy industry since 1921 and has nearly 70 corporate members that directly employ more than 75,000 employees that are engaged in a wide variety of services that move vital energy products such as natural gas, natural gas liquids (NGLs), refined products and crude oil from production areas to markets across the United States, commonly referred to as “midstream activities”. The work of our members indirectly creates or impacts an additional 450,000 jobs across the U.S. economy. GPA Midstream members recover more than 90% of the NGLs such as ethane, propane, butane and natural gasoline produced in the United States from more than 400 natural gas processing facilities. In 2017-2019 period, GPA Midstream members spent over \$105 billion in capital improvements to serve the country’s needs for reliable and affordable energy.

PHMSA issued the draft FAQs in response to the National Transportation Safety Board's (NTSB) Safety Recommendation P-11-9 (Safety Recommendation).⁴ In the Safety Recommendation, NTSB recommended that PHMSA "require operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to ensure that their control room operators immediately and directly notify the 9-1-1 emergency call center(s) for the communities and jurisdictions in which those pipelines are located when a possible rupture of any pipeline is indicated."⁵ On October 11, 2012, PHMSA issued an Advisory Bulletin, entitled "ADB-12-09: Communication During Emergency Situations," in an effort to address the Safety Recommendation.⁶ The Advisory Bulletin reminded operators to immediately and directly notify the Public Safety Access Point of a pipeline emergency.

After reviewing the Advisory Bulletin, NTSB advised PHMSA that "only a requirement will satisfy the recommendation"⁷ and encouraged the Agency to initiate a rulemaking.⁸ On February 6, 2020, PHMSA issued a Notice of Proposed Rulemaking (NPRM) proposing operators to "immediately and directly" notify 9-1-1 call centers.⁹ In the NPRM, PHMSA proposed that "the operator (pipeline controller or the appropriate operator emergency response coordinator) must immediately and directly notify the appropriate public safety answering point (9-1-1 emergency call center) or other coordinating agency for the communities and jurisdictions in which the pipeline is located after the operator determines a rupture has occurred when a release is indicated and valve closure is implemented."¹⁰

GPA Midstream is not opposed to additional guidance on this topic but notes that FAQs are "intended only to clarify [] existing requirements" and "do not have the force and effect of law."¹¹ The current regulations do not explicitly require an immediate 9-1-1 notification,¹² and while PHMSA has proposed a regulation that includes such a requirement, that proposal does not yet have the force and effect of law. The Agency cannot circumvent the rulemaking process by

⁴ National Transportation Safety Board Safety Recommendation, P-11-9, <https://data.nts.gov/carol-main-public/sr-details/P-11-009>

⁵ *Id.*

⁶ Pipeline Safety: Communication During Emergency Situations, 77 Fed. Reg. 61,826 (Oct. 11, 2012).

⁷ <https://data.nts.gov/carol-main-public/sr-details/P-11-009>

⁸ *Id.* On August 17, 2016, PHMSA informed the NTSB that it intends makes rulemaking changes to cover this topic in its Notice of Proposed Rulemaking on Valve Installation and Minimum Rupture Detection Standards. However, in April of 2019, PHMSA reversed course and stated that its current regulations could achieve the intent of the Safety Recommendation. PHMSA stated it would issue FAQs and inspection questions to satisfy the Safety Recommendation. Safety Recommendation, P-11-9, <https://data.nts.gov/carol-main-public/sr-details/P-11-009>.

⁹ Pipeline Safety: Valve Installation and Minimum Rupture Detection Standards, 85 Fed. Reg. 7,162, 7,187 (Feb. 6, 2020).

¹⁰ *Id.* at, 7,187 (Proposed §§ 192.615(a)(8) and 195.402(e)(7)).

¹¹ Draft Questions for Comment: Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures, <https://www.regulations.gov/document/PHMSA-2020-0164-0001>.

¹² 49 C.F.R. § 192.615(a)(8)(The requirement is to have a procedure to notify appropriate fire, police, and other public officials of gas pipeline emergencies and coordinate with them for both planned responses and actual responses during an emergency); *See also*, 49 C.F.R. § 195.402(e)(Similarly, the hazardous liquid regulations require an operator to have procedures to notify fire, police, and other appropriate public officials of hazardous liquid or carbon dioxide pipeline emergencies and coordinate preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline system transporting a highly volatile liquid). NTSB acknowledged that "the current regulatory requirements [] do not contain [the] exact wording of the Safety Recommendation.

amending sections 192.615 and 195.402 through a guidance document, and PHMSA cannot use FAQs to create new law. GPA Midstream recommends that PHMSA follow NTSB's advice and adopt the 9-1-1 notification requirement through a rulemaking process, not a guidance document.

2. *The regulations require the reporting of actual emergencies, not possible pipeline ruptures.*

PHMSA states in FAQ #1 that “existing pipeline safety regulations require operators who suspect a possible pipeline rupture to notify fire, police, and other appropriate public officials...”¹³ The pipeline safety regulations do not require operators to report possible ruptures, only actual pipeline emergencies.¹⁴ In the Valve and Rupture Detection NPRM, the Agency recognized that operators have an obligation to call 9-1-1 “after the operator determines a rupture has occurred”¹⁵ PHMSA should rescind these draft FAQs and complete its rulemaking process, or at a minimum, revise the draft FAQs to reflect current law.

3. *Immediate notifications are not always possible.*

Although the NTSB recommendation used the term “immediately,” PHMSA should recognize that the initial data obtained by the operator may not provide enough information to accurately identify the location of a pipeline emergency, and that an operator may not be able to direct a notification immediately to a specific 9-1-1 call center. Instead, the operator may need to confirm certain information in order to determine if (1) a pipeline emergency occurred and (2) which 9-1-1 call center is appropriate. As discussed above, PHMSA has already proposed a requirement to notify 9-1-1 call centers. Therefore, PHMSA should rescind this draft FAQ and proceed with the finalizing the rulemaking.

GPA Midstream appreciates the opportunity to submit comments in response to the Notice. If you have any questions, please feel free to contact me.

Sincerely,



Matthew Hite
Vice President of Government Affairs
GPA Midstream Association
(202) 279-1664
mhite@gpamidstream.org

¹³ Draft Questions for Comment: Frequently Asked Questions on 911 Notifications Following Possible Pipeline Ruptures, <https://www.regulations.gov/document/PHMSA-2020-0164-0001>.

¹⁴ See 49 C.F.R. §§ 192.615(a)(8) and 195.402(e)(7).

¹⁵ 85 Fed. Reg. at 7,187 (Proposed section 192.615(a)(8); § 195.402(e)(7)).