PHMSA Publishes Long-Awaited Mega Rule for Gas Transmission Lines: Assessing Areas Outside of High Consequence Areas

This is the second alert in a four-part Babst Calland series on the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) final rule amending the federal safety standards for gas pipeline facilities at 49 C.F.R. Part 192 (Rule) published in the Federal Register on October 1, 2019. The first alert reviewed new requirements for materials verification and reconfirmation of maximum allowable operating pressure (MAOP).

This alert discusses PHMSA’s extension of integrity assessment requirements to areas outside high consequence areas (HCAs). The third alert will review the new recordkeeping requirements. Finally, Babst Calland will survey the remaining Rule topics.

Assessing Areas Outside of High Consequence Areas – 49 C.F.R. §§ 192.3 and 192.710

PHMSA has introduced new regulations requiring an operator to conduct integrity assessments outside of HCAs. The Agency has categorized these areas as Moderate Consequence Areas (MCAs).

What is in the Rule?

- **Moderate Consequence Area Definition.** A “moderate consequence area” is an onshore area that is within a potential impact circle containing either five or more buildings intended for human occupancy or any portion of the paved surface, including shoulders, of a designated interstate, freeway, or expressway, or principal arterial roadway with four or more lanes, as defined by the Federal Highway Administration.

- **Initial Assessment and Reassessment Interval.** Operators with an onshore, steel, transmission pipeline segment with a MAOP greater than or equal to 30% SMYS located in a Class 3 or Class 4 location or a piggable MCA segment must assess these segments by July 3, 2034 and every ten years thereafter at intervals of 126 months. Although PHMSA has allowed a ten-year schedule for reassessments, the Agency has cautioned that an operator must assess its segments earlier depending on the type of anomaly, operational, material, or environmental conditions, or as necessary to ensure public safety.

  For those segments that become a MCA in subsequent years, the operator must conduct the initial assessment as soon as practicable but prior to ten years from when the pipeline first meets the applicability conditions in § 192.710(a).

  An operator may use a prior assessment to comply with the initial assessment requirement as long as the prior assessment was conducted before July 1, 2020. An operator may also use an assessment conducted in response to § 192.624(c) as the initial or reassessment.
• **Assessment Methods.** Pursuant to § 192.710(c), acceptable assessment methods include in-line inspection (ILI) tools, pressure tests (including spike tests), direct examination, guided wave ultrasonic testing, direct assessment, and alternative technologies.

• **Review of Assessment Data.** Within 180 days, qualified personnel must examine the assessment data and determine if there are any conditions that present a potential threat to pipeline integrity, unless the operator can demonstrate that meeting that deadline is impracticable. An operator must then remediate any conditions that could adversely affect the safe operation of the pipeline in accordance with 49 C.F.R. §§ 192.485, 192.711, and 192.713.

• **Direct Assessment.** PHMSA confirmed that direct assessment may be used only if appropriate for the threat being assessed.

**What is not in the Rule?**

• **Occupied Sites.** In response to numerous comments from stakeholders, PHMSA removed ‘occupied sites’ from the definition of MCAs. The inclusion of ‘occupied sites’ would have required operators to evaluate where there are outside areas or open structures within the potential impact radius that are occupied by five or more persons for at least 50 days in a twelve-month period or buildings that are occupied by five or more persons on at least five days a week for ten weeks in any twelve-month period. The Agency agreed that including these areas would be unnecessarily burdensome without a comparable decrease in risk.

• **Rights-of-Way.** The Agency also modified its approach to highways limiting the definition of a MCA to include the pavement of the road and shoulders but not the more expansive right-of-way.

• **Definition of Piggable.** PHMSA declined to define “piggable segment.” PHMSA explained that this term is widely understood and means segments that can accommodate ILI tools “without the need for major physical or operation modification, other than the normal operational work required by the process of performing an ILI.”

For a more detailed assessment and redline of the Rule, please contact a member of the Pipeline and HazMat Safety practice group.