



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

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

October 27, 2015

Interstate Natural Gas Association of America
20 F Street, NW, Suite 450
Washington, DC 20001

Re: Motion to Stay Final Rule, PHMSA-2010-0026

On March 11, 2015, U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published in the Federal Register a Final Rule entitled, "Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations (PSR)" (Final Rule). The Final Rule modified 49 C.F.R. § 192.153 and clarified that "a component having a design pressure established in accordance with paragraph (a) or paragraph (b) of this section and subject to the strength testing requirements of § 192.505(b) must be tested to at least 1.5 times the MAOP." 80 Fed. Reg. 12762 (March 11, 2015). Additionally, PHMSA modified the §192.165(b)(3) cross-reference to this requirement. PHMSA stated in the Final Rule that "this proposal is not a change to the current pressure testing requirements found in Part 192, but simply a clarification to ensure a clearer understanding of PHMSA's pressure testing requirements for certain American Society for Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPVC) vessels located in compressor stations, meter stations and other Class 3 or Class 4 locations. The testing requirements of § 192.505(b) have not been revised and state that in a Class 1 or Class 2 location, each compressor station, regulator station, and measuring station, must be tested to at least Class 3 location test requirements."

On April 10, 2015, the Interstate Natural Gas Association of America (INGAA) sought reconsideration of the clarifications to 49 C.F.R. §§ 192.153(e) and 192.165(b)(3). INGAA contended that prior to the Final Rule, the pipeline safety regulations directed operators to test pressure vessels in accordance with the BPVC (2007 edition). In its Petition, it asserted that the clarification was considered by its members as a deviation from their understanding of the PSR. It asked PHMSA to rescind § 192.153(e) and the related modifications to 192.165(b)(3) or to exempt existing pressure vessels put into operation between July 14, 2004 and October 1, 2015 from compliance with the subject regulations. In a July 1, 2015 meeting with PHMSA, INGAA made clear that it objects to the clarifications only as they relate to vessels ordered or placed into service after July 14, 2004 and prior to October 1, 2015, and that it has no objection to the clarifications as they relate to vessels ordered and placed into service after October 1, 2015.

On September 4, 2015, INGAA filed with PHMSA, a Motion to Stay Final Rule requesting a stay of the effectiveness of "new sections 192.153(e) and 192.165 as they relate to pressure vessels fabricated by welding that were ordered or placed into service after July 14, 2004 and prior to October 1, 2015, the Final Rule's proposed effective date." INGAA asserted

that without a stay, pipeline operators “will need to reduce the deliverability of natural gas during storage injection and winter heating seasons.”

On September 30, 2015, PHMSA published in the Federal Register a denial of INGAA’s petition for reconsideration, stating that “PHMSA believes the amendment to § 192.153 and the corresponding cross-reference with § 192.165(b)(3) simply clarify the regulations, is consistent with existing agency understanding and practice, and ensures regulated parties do not incorrectly use the newer ASME BPVC design factor of 1.3 for pressure testing in instances where pipelines must be tested at 1.5 times MAOP.” 80 Fed. Reg. 58633 (September 30, 2015). Despite the fact that PHMSA does not believe that this is a change to the PSR requirements, PHMSA is considering INGAA’s request to create an exception for the ASME pressure vessels put into operation between July 14, 2004, and October 1, 2015, and will be evaluating the validity of INGAA’s assertions that the clarification placed any new burdens on operators.

In the meantime, the PHMSA Office of Pipeline Safety does not intend to take any enforcement action relating to violations of 49 C.F.R. §§ 192.153(e) and 192.505(b) that arise from the installation of pressure vessels that are: (1) covered by 49 C.F.R. §§ 192.153(a)-(b) and 192.165(b)(3); and (2) were put into service between July 14, 2004 and October 1, 2015.

PHMSA takes this temporary action while we continue to evaluate and analyze the technical aspects of your position on this matter.¹ This document, and the associated enforcement stay, will remain in effect until further notice. Nothing in this letter prohibits the PHMSA, Office of Pipeline Safety, to rescind this stay and pursue an enforcement action if it determines that a significant safety issue warrants doing so. Furthermore, nothing in this letter relieves operators from compliance with any other applicable provisions of the PSR. As part of our ongoing evaluation of this matter, you may be contacted by my staff if additional data is needed to process your petition.



Jeffrey D. Wiese

Associate Administrator, Office of Pipeline Safety
PHMSA

¹ On September 30, 2015, INGAA filed a petition for review (No. 15-1343) with the U.S. Court of Appeals for the District of Columbia Circuit, challenging the Final Rule and PHMSA’s denial of its petition for reconsideration. PHMSA understands that in light of the enforcement stay discussed herein, INGAA will not object to a motion to hold this judicial proceeding in abeyance. Similarly, in the event that an earlier proceeding commenced by INGAA in the same court (No. 15-1161) is not dismissed, INGAA will not object to a motion to hold that proceeding in abeyance.