



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

1200 New Jersey Ave., S.E.
Washington, DC 20590

SEP 12 2012

Mr. Charles R. Yarbrough, II
Vice President
Rates and Regulatory Affairs
Atmos Energy
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Dear Mr. Yarbrough:

Thank you for your letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), expressing Atmos Energy's position regarding the inclusion of "farm tap" gas pipelines in the new distribution integrity management program (DIMP) regulations, as explained in PHMSA's Frequently Asked Question (FAQ) C.3.7. In your letter, you state that PHMSA has inaccurately classified "farm taps" as distribution pipelines. Specifically, you contend that these lines are essentially part of the transmission or gathering pipelines to which they are attached, not distribution pipelines and, therefore, should not be subject to the new DIMP requirements.

PHMSA disagrees with this analysis. In *DIMP FAQ C.3.7*, PHMSA informed operators of distribution, gathering, and transmission lines whose system includes "farm taps" that they must have a DIMP covering these facilities. In past rulemakings, PHMSA has defined a "farm tap" as "industry jargon for a pipeline that branches from a transmission or gathering line to deliver gas to a farmer or other landowner."¹

PHMSA has recognized farm taps as distribution lines for several years. Historically, PHMSA and its predecessor agencies have held that farm taps are service lines, a subset of distribution pipelines. Farm taps were first referenced in the pipeline safety regulations in 1971 when the Office of Pipeline Safety proposed to broaden the definition of a service line. The proposed rulemaking document stated, in part:

...[T]his definition does not appear to cover all types of lines that are generally considered to be service lines. The present definition does not indicate that the regulations covering service lines apply to a distribution line on which there is no meter (i.e., where gas is sold at a flat rate), or to a distribution line which is downstream of the meter (such as where the meter is installed at the curb or at some distance from the customer's building). Similar problems

¹ *Customer-Owned Service Lines*, 60 Fed. Reg. 41821, 41823 (August 14, 1995).

also arise with a pipeline such as a "farm tap" which may be unmetered or may be metered at the point of tie-in with a very long line downstream of the meter...[i]t is apparent that all of these pipelines are just as involved in the distribution of gas under the Natural Gas Pipeline Safety Act, and just as potentially dangerous to the public, as lines that are metered in the individual customer's basement. Accordingly, it is proposed to amend the definition of "service line" to clarify the status of service lines in master distribution systems and unmetered service lines and to assure that service lines downstream of an outside meter are covered by the minimum Federal standards.²

In the final rule that was subsequently published, the Office of Pipeline Safety established the following definition of a service line:

"Service Line" means a distribution line that transports gas from a common source of supply to (1) a customer meter or the connection to a customer piping, whichever is farther downstream, or (2) the connection to a customer's piping if there is no customer meter. A customer meter is the meter that measures the transfer of gas from an operator to a customer.³

This final rule did not alter the position that farm taps were still to be classified as service lines.⁴

This treatment of farm taps was later confirmed in a 1980 interpretation issued by PHMSA's predecessor agency, the Research and Special Programs Administration (RSPA), in which the filer asked if the gas in a service line used to deliver gas directly from a transmission line to a restaurant needed to be odorized.⁵ RSPA responded that "[s]ince service lines are distribution lines, they are subject to the odorization requirements of § 192.625(a). The exception from odorization provided by § 192.625(b) for some transmission lines does not affect the requirement to odorize gas in distribution lines connected to an un-odorized transmission line."⁶ This interpretation again made clear that RSPA considered farm taps to be distribution service lines.

² "Minimum Federal Safety Standards for Transportation of Natural and Other Gas by Pipeline-Definition of Service Line", 36 Fed. Reg. 9667 (May 27, 1971) (*emphasis added*).

³ "Definition of Service Line", 38 Fed. Reg. 9083, 9084 (April 10, 1973).

⁴ The definition remained unchanged until October 15, 2003, when it was modified to recognize the use of multiple meter manifolds and services serving adjacent properties. The new (and current) definition reads: "'Service Line' means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter." Nothing in the notices related to these rulemakings specifically addressed "farm taps," leaving PHMSA's position on that issue unchanged.

⁵ Letter, Melvin A Judah to F. Scott Smith, Kentucky Energy & Utility Regulatory Commission, attaching interpretation 80-13, September 10, 1980.

⁶ *Id.*

In 1995, RSPA again addressed this issue in a final rule concerning customer-owned service lines. Many commenters opposed the inclusion of farm taps in the customer-owned service line rule. In the final rule, RSPA reasserted its position that farm taps are distribution lines. The pertinent section of the preamble to the final rule states:

To begin with, while we recognize that Congress was primarily concerned about residential customers, the mandate is not so limited. Congress applied the mandate to "operators of natural gas distribution pipelines." But these operators are not just local distribution companies as the commenters suggested. Some operators primarily engaged in the gathering or transmission of gas also operate distribution pipelines. They do so when they deliver gas directly to customers through farm taps and industrial taps. In fact, because portions of these delivery lines qualify as service lines, gathering and transmission operators report them as distribution pipelines under 49 CFR 191.13. Moreover, farm and industrial tap customers are not immune from harm by potential hazards that could occur on their piping. And surely not all farm and industrial tap customers know enough about gas piping safety to make even a single maintenance notice unnecessary.⁷

In 1996, RSPA further reiterated its position that farm taps are service lines and thus distribution lines in the "Excess Flow Valve (EFV)-Performance Standards" Final Rule. In that particular rule, PHMSA determined that the references to 'main' or 'transmission line' included farm taps. The preamble stated the following:

In the Notice of Proposed Rulemaking (NPRM) RSPA intended that all new and replaced service lines, whether from a main or transmission line, where the source of gas supply consistently operates above 10 psig, be required to have an EFV installed. The reference to "main" and "transmission" lines was intended to cover farm taps, as farm taps are also subject to the type of incident that could benefit from an EFV. The final rule deletes the reference to "main" and "transmission" and sets performance standards for EFVs installed on single-residence gas service lines. By referring to "service" line, RSPA intends for the standards to apply if an EFV is installed on a farm tap.⁸

Not only has PHMSA been consistent in its treatment of farm taps as service lines, but its position also comports with that of the industry generally. This was made clear when industry developed API RP-80, Guidelines for the Definition of Onshore Gas Gathering Lines, and recommended PHMSA adopt this recommended practice as a functional definition of gathering pipelines. The definition from the API Recommended Practice states that a gathering line is-

⁷ "Customer-Owned Service Lines", 60 Fed. Reg. 41821, 41823 (August 14, 1995).

⁸ "Excess Flow Valve-Performance Standards", 61 Fed. Reg. 31449, 31453 (June 20, 1996).

- (a)any pipeline or part of a connected series of pipelines used to
- (1) transport gas from the furthestmost downstream point in a production operation to the furthestmost downstream of the following endpoints, which physically may have intermediate deliveries (to other production operations, pipeline facilities, farm taps, or residential/commercial/industrial end users) that are not necessarily part of the gathering line. (emphasis added).

PHMSA's position on farm taps is also discussed in an interpretation letter to Mr. Thomas Correll of Northern Natural Gas, dated April 19, 2010, (PI-11-0008). This letter is available on PHMSA's web site.⁹

With respect to your argument on integrity management, it does not matter whether the transmission line to which a farm tap is attached is not in a high consequence area or is not otherwise subject to integrity management requirements. Similarly, it does not matter that integrity management requirements are not imposed on gathering pipelines from which a farm tap may originate.

Finally, you suggest in your letter that application of DIMP requirements to farm taps was not specifically discussed in the DIMP rulemaking documents and is, therefore, in violation of the Administrative Procedure Act. The DIMP NPRM and Final Rule¹⁰ indicate that integrity management requirements apply to all distribution pipelines. In fact, contrary to integrity management requirements for hazardous liquid or gas transmission pipelines, DIMP requirements do not focus on a subset of pipelines in "high consequence areas" but, instead, apply to all distribution pipelines. The DIMP rulemaking documents did not need to include a discussion of the applicability of DIMP to specific types of distribution pipelines. As explained in this letter, PHMSA has considered farm taps as distribution pipelines for many years.

Currently, gas distribution pipelines covered under Part 192 must have a DIMP program meeting the requirements of subpart P of Part 192.¹¹ Therefore, PHMSA stands by the response to *DIMP FAQ C.3.7*. All farm taps which meet the criteria for a distribution pipeline must comply with requirements of Part 192 Subpart P – Gas Distribution Pipeline Integrity Management.

It is PHMSA's position that farm taps have been historically considered service lines, a subset of distribution pipelines, and the final rules referenced above clearly support that approach. Farm taps are thus subject to all distribution line requirements.

⁹ See <http://www.phmsa.dot.gov/pipeline/regs/interps>

¹⁰ "Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines," 74 Fed. Reg. 63906 (December 4, 2009).

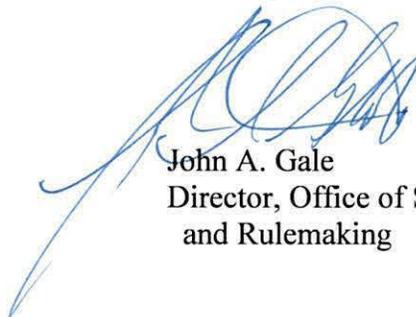
¹¹ 49 CFR 192.1003

As mentioned above, Part 192 applies to individual service lines originating on production, gathering, and transmission pipelines which are commonly referred to as farm taps. These farm taps link individual customers (such as agricultural irrigation pumps) with gas supplies coming from production, gathering, and transmission pipelines. They are generally short stub lines commonly connecting to a pressure regulator, over-pressurization device, and odorization equipment onto which the customer owned piping, commonly called fuel line or yard line, is connected.

PHMSA has considered your concern over the inclusion of farm taps in the DIMP rule and believes that the risk to the public from farm taps is generally low. Therefore, PHMSA is considering amending Part 192 to exempt farm taps from the requirements of Part 192, Subpart P - Gas Distribution Pipeline Integrity Management.

I hope this information has been helpful. If I can be of further assistance, please contact me at 202-366-4046.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking



Charles R. Yarbrough, II
Vice President
Rate and Regulatory Affairs

April 29, 2011

Ms. Linda Daugherty
Office of Pipeline Safety
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U.S. Department of Transportation
1200 New Jersey Avenue, SE
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Washington, DC 20590

Re: DIMP FAQ on Farm Taps

Dear Ms. Daugherty:

Thank you very much for the opportunity to discuss the distribution integrity management rule, and specifically the response to the frequently asked question regarding farm taps (the "Response"). As requested, we are providing you with our perspective on the issues raised by the Response and possible resolutions to those issues.

In response to a question included in the Frequently Asked Questions (FAQs) related to the Distribution Integrity Management Plan (DIMP) requirements, PHMSA states that farm taps are distribution lines and hence are required to follow the requirements found in Part P of 49 C.F.R. Part 192. This statement is apparently based on the deduction that farm taps are neither gathering lines nor transmission lines so they must be distribution lines.

Production, gathering and transmission pipeline operators believe this assumption is incorrect and conflicts with the definitions of transmission line and gathering line in 49 CFR Part 192. Furthermore, the application of DIMP requirements to gathering lines conflicts with prior PHMSA assessments of the risks of gathering lines. Finally, the application of DIMP requirements to production, gathering and transmission lines without further analysis of the impacts and costs is inappropriate and could pose significant legal issues. Each of these will be discussed more fully below.

Before discussing the production, gathering and transmission pipeline operator's perspectives on the issues, it is important to consider the different configurations in which farm taps exist on different systems.

In production settings, farm taps may include lines running directly from a production facility, typically the wellhead separator, to a customer. They can also include taps on lease flow lines, with or without extensions to reach a customer's facility. Although there may be some exceptions across the nation, almost all production related farm taps are located on an oil and gas lease, and almost all of these farm taps involve free gas to the customer related to royalties or easement obligations.

In gathering settings, farm taps will generally consist of a tap and perhaps a regulator and meter. In some cases, the farm tap will include a short section of line running to the customer. In other cases, the farm tap connects to the meter of a local distribution company which then connects to the customer. These farm taps are generally provided in connection with the granting of an easement and may include the benefit of free gas.

In the transmission setting, farm taps generally consist of the tap, a riser and a regulator. In most cases, the farm tap will deliver gas to a local distribution company meter, but in some cases, it will deliver directly to customer owned piping. In rare situations, the farm tap will extend laterally to the customer's facility. Farm taps on transmission lines rarely deliver free gas and almost never extend beyond the transmission line's right-of-way.

Clearly, there are many different configurations of farm taps and farm taps are primarily rural in nature. There is no history of these natural gas farm taps posing a risk to people or the environment in a natural gas context.

The Response states that farm taps are distribution lines presumably because they are thought to not be within the definitions of gathering or transmission lines. Production, gathering and transmission line operators do not agree with that presumption. Production lines are not covered by 49 CFR 192 (see 192.8). If a farm tap is made directly from a production facility or a lease flow line upstream of the start of gathering under API RP 80, it should be upstream of the start of a gathering line. Gathering lines begin at the last point of production and continue until they connect to either a transmission line or a main. Farm taps do not qualify as either mains or transmission lines, thus the farm tap is a continuation of gathering line, not a distribution line. Transmission lines start at a gathering line or a storage facility and continue until they connect to a distribution center, a storage field, or large volume end-user not behind a distribution center. A farm tap is obviously not any of these end points. If an end point for a gathering line or transmission line has not occurred, the farm tap must be considered an extension of the gathering line or transmission line. Such an interpretation is also consistent with the definition of pipeline which includes meters, regulators and appurtenant facilities. Farm taps that are not part of production facilities are readily classified as appurtenances to gathering lines and transmission lines. All of these

definitions support a finding that farm taps are a part of the production, gathering or transmission lines to which they are attached. Thus, farm taps on transmission lines would be covered by the transmission integrity requirements. Gathering lines and production lines are not subject to transmission integrity management requirements, and the farm taps attached to them should not be subject to such requirements either.

The inclusion of farm taps on gathering lines under the DIMP rule conflicts with the decisions by PHMSA on the overall regulation of gathering lines. In evaluating the need to regulate gathering lines in response to a congressional mandate, PHMSA evaluated the risks related to gathering lines in different operating environments. For Type A gathering lines, PHMSA determined that the risks of the operating environment required compliance with all of the transmission pipeline requirements except integrity management. For Type B gathering lines, PHMSA determined that only a limited number of transmission pipeline requirements should be applied to those gathering lines. No gathering line was determined to pose a significant enough risk to require the transmission line integrity management requirements to apply. If the line to which a farm tap is connected does not pose enough of a risk to be subjected to integrity management requirements, it is not logical to conclude that the farm tap poses a risk requiring integrity management. If the farm tap line actually runs all the way to the customer's facility, it could be argued that it poses a greater risk than the gathering line itself. The rural location of such lines would generally indicate few, if any, operating environment factors that would encourage migration of gas from a leak to the facility. However, if PHMSA believes this to be a credible risk, it should limit the application of the Response to such situations, not extend it to all farm taps.

Lastly, the extension of DIMP to farm taps poses significant procedural issues. There was no mention of farm taps on production, gathering or transmission lines in the discussion of the scope of the application of the proposed DIMP rule or in the preamble to the final DIMP rule. The first and only time farm taps appears in connection with DIMP is in the Response. There was no notice to industry or the public of this aspect of the potential applicability of the DIMP rule and no opportunity for comment on such application. The record on the DIMP rule contains no estimates of the cost of compliance, nor does it discuss any of the issues surrounding compliance with the DIMP rule by gathering and production line operators. All of these issues create Administrative Procedure Act issues with the rule. Similarly, the classification of farm taps as distribution lines raises a substantial number of questions concerning other regulatory compliance requirements. Does the classification of farm taps as distribution lines suddenly mean that such lines must be maintained and operated in compliance with the distribution pipeline requirements of 49 CFR 192? Does this classification require producers, gatherers and transmission operators to file distribution incident reports and annual reports that have not previously been required? This aspect of the Response appears to not have been considered.

We appreciate the opportunity to provide this explanation of our perspective on the Response and the related issues. In the spirit of our agreement regarding our initial phone

Linda Daugherty Letter

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conversation, we have not proposed any potential resolutions of the issues. We look forward to working with PHMSA to determine an appropriate path forward to resolve these issues. Please let me know if you have any questions or if we can provide additional information. I can be reached at XXX-XXX-XXXX.

Thank you for your time and consideration.

Sincerely,