U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

July 28, 2025

Mr. Kenneth A. Koye
Chief Executive Officer
Gulf Coast Ammonia LLC
435 Fifth Street South
Texas City, TX 77590

Dear Mr. Koye:

In a letter dated July 16, 2024, Gulf Coast Ammonia, LLC (GCA) asked the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (PHMSA) to provide a written regulatory interpretation regarding the applicability of the hazardous liquid pipeline safety standards in 49 Code of Federal Regulations (CFR) Part 195 to a refrigerated bulk commodity anhydrous ammonia storage tank (AAT) in Texas City, Texas. Citing the definition of a breakout tank in 49 CFR § 195.2 and the exception for production facilities in 49 CFR § 195.1(b)(8),[1] GCA asks PHMSA to agree that Part 195 does not apply to the AAT in any of five different operating scenarios.[2]

As explained in more detail below, the AAT does not qualify for the exception in 49 CFR § 195.1(b)(8) that applies to production facilities. And while PHMSA agrees that the AAT does not qualify as a breakout tank in three of the five operating scenarios, PHMSA reaches the opposite conclusion for the other two operating scenarios. For that reason, PHMSA cannot conclude that the Part 195 regulations do not apply to the AAT.

Background

According to GCA, the AAT is a full-containment, double-walled, 70,000 metric-ton refrigerated storage tank located on the grounds of the Advario Texas City marine terminal. A 3,600 metric-ton per day (MTPD) anhydrous ammonia production facility (Production Facility) is located approximately 2 ¾ miles away from the AAT. The AAT is connected to the Production Facility by a bidirectional, 8-inch intrastate pipeline called the Cold Ammonia Pipeline (CAP). The CAP is a hazardous liquids pipeline subject to regulation under Part 195. PHMSA understands the

[1] GCA cited to § 195.1(b)(7), but in 2008 the production exception was redesignated from § 195.1(b)(7) to § 195.1(b)(8). For consistency with existing code, PHMSA refers to the exception as § 195.1(b)(8).

[2] GCA notes that PHMSA's response to each of these scenarios is important because the AAT "was designed and constructed in accordance with the API 652 Code – Tank Systems for Refrigerated Liquefied Gas Storage rather than to Part 195 standards for breakout tanks.".

CAP traverses public and private rights-of-way between the AAT and the Production Facility on land that is not otherwise owned by GCA.

GCA states that the AAT will be used to receive and store commodity-grade anhydrous ammonia produced at the Production Facility, primarily for the purpose of transferring that product to marine vessels for further transportation. The CAP will be used to transport the anhydrous ammonia from the Production Facility to the AAT. In some situations, including during operations related to start-up and commissioning, the CAP will also be used to transport anhydrous ammonia from the ATT to the Production Facility.

GCA intends to sell a portion of the anhydrous ammonia produced at the Production Facility to a third party, Ascend Performance Materials (Ascend). Ascend would use a separate 6-inch pipeline (Ascend Line) to transport the anhydrous ammonia from the Production Facility to another facility located approximately 23 miles away in Alvin, Texas. Like the CAP, the Part 195 regulations would apply to the Ascend Line. The Ascend Line would also occasionally receive anhydrous ammonia that is transported from the AAT to the Production Facility through the CAP. GCA states that the AAT would not be used to provide surge protection for the CAP, the Ascend Line, or any other pipeline facility that is subject to regulation under Part 195.

Relevant Regulations

The following regulations are relevant in responding to GCA's request for interpretation:

> **49 CFR § 195.1 – Which pipelines are covered by this Part?**
>
> (a) *Covered.* Except for the pipelines listed in paragraph (b) of this Section, this Part applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS).
>
> (b) *Excepted.* This Part does not apply to any of the following…
>
> (8) Transportation of hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities;
>
> **49 CFR § 195.2 – Definitions.**
>
> *Breakout tank* means a tank used to
>
> (a) relieve surges in a hazardous liquid pipeline system or
>
> (b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.
>
> *Highly volatile liquid* or *HVL* means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40 psia) at 37.8 °C (100 °F).
>
> *Pipeline or pipeline system* means all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to . . . breakout tanks.
>
> *Pipeline facility* means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

Production facility means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or carbon dioxide, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum or carbon dioxide from the ground or from facilities where CO2 is produced and preparing it for transportation by pipeline. This includes piping between treatment plants which extract carbon dioxide, and facilities utilized for the injection of carbon dioxide for recovery operations.)

In addition, the following provisions from the Pipeline Safety Act, 49 U.S.C. § 60101 *et seq.* govern the authority of PHMSA to regulate breakout tanks:

49 U.S.C. § 60102 – Purpose and general authority.

(a) . . . .

(2) Minimum safety standards. —The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities . . . .

49 U.S. Code § 60101 – Definitions.

(a) . . . .

(19) "pipeline transportation" means transporting gas and transporting hazardous liquid;

(22) "transporting hazardous liquid"—(A) means—(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce . . . but (B) does not include moving hazardous liquid through . . . (ii) onshore production, refining, or manufacturing facilities; or (iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;

Analysis

GCA suggests that Part 195 should not apply to the AAT for two reasons: (1) because the AAT qualifies for the exception in 49 CFR § 195.1(b)(8) for production facilities and (2) because the AAT does not meet the definition of a breakout tank in 49 CFR § 195.2 in any of five different operating scenarios. PHMSA addresses each of these contentions below.

Production Facility Exception

Section 195.1(b)(8) states that Part 195 does not apply to the transportation of hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities.[3] GCA contends

[3] The definition of "production facility" in § 195.2 is expressly limited to "piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of *petroleum or carbon dioxide*, or associated storage or measurement." *Id.* (emphasis added). While subject to regulation as a hazardous liquid, anhydrous ammonia does not qualify as carbon dioxide or petroleum under Part 195. *See* § 195.2 (defining "petroleum" and "carbon dioxide"). Because the AAT is only used for the storage of anhydrous ammonia, PHMSA is not applying the definition of "production facility" in § 195.2 in analyzing the applicability of that exception in this case.

that the AAT is eligible for this exception because its function is integral to the operation of the Production Facility. GCA cites to PHMSA interpretation letter PI-01-0103 to support its assertion.[4]

PHMSA disagrees with GCA's position for two reasons. First, the AAT is not even located on the grounds of the Production Facility. It is located at the Advario Texas City Marine terminal, which is more than 2 ¾ miles away. The AAT is also connected to the Production Facility by a Part 195-regulated pipeline, the CAP. Tanks used to store anhydrous ammonia produced miles away and delivered in a regulated pipeline do not qualify for the exception for production facilities.

Second, PHMSA's interpretation in PI-01-0103 is clearly distinguishable. In PI-01-0103, PHMSA concluded that a liquid petroleum gas storage tank met the exception in § 195.1(b)(8) because the tank was located on the grounds of a crude oil refinery. This interpretation differs from the AAT, which is not located on the grounds of the Production Facility and receives anhydrous ammonia that is produced more than 2 ¾ miles away through a Part 195-regulated pipeline.[5] For these reasons, PHMSA concludes that neither the AAT nor the CAP qualify for the exception for production facilities in 49 U.S.C. § 60101(a)(22)(B) as codified at § 195.1(b)(8).

Breakout Tank Status

The definition of a "breakout tank" is critical for determining application of the pipeline safety regulations to certain types of storage. Not all tanks are regulated, only breakout tanks as defined in section 195.2. As PHMSA has explained, "Since its issuance in 1969, Part 195 has applied to storage called 'breakout tankage' by virtue of the inclusion of that term in the definition of 'pipeline system' or 'pipeline.'"[6] In 1981, PHMSA adopted a definition of "breakout tank" to provide greater precision to the regulation by identifying the two kinds of storage functions to which Part 195 applies: "First, tanks used to relieve surges in a hazardous liquid pipeline. This is sometimes called working tankage or a form of operating tankage. Second, tanks used to receive hazardous liquid from a pipeline and store it temporarily for reinjection into a pipeline for continued transportation."[7]

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[4] Letter to Mr. Tad A. Schell, Marathon Ashland Pipe Line, LLC, PI-01-0103 (Feb. 15, 2001).

[5] *See, e.g.*, Letter to Mr. Kevin Burke, Buckeye Texas Processing, LLC, PI-20-0004 (Apr. 7, 2020) (noting the exception in § 195.1(b)(8) for in-plant piping means piping that is located on the grounds of a plant, *see* § 195.2).

[6] Transportation of Liquids by Pipeline, 46 Fed. Reg. 38,357, 38,358 (1981). For simplicity, predecessor agencies are herein referred to as PHMSA.

[7] *Id.* A federal district court rejected a challenge to PHMSA's authority to apply the pipeline safety regulations to breakout tanks in *Exxon Corp. v. U.S. Sec'y of Transp.*, 978 F. Supp. 946, 954 (E.D. Wash. 1997). There, Exxon argued PHMSA's interpretation of storage "incidental" to movement by pipeline was overly broad because it would potentially include any storage where any amount of product received by pipeline is subsequently shipped. The court concluded "[PHMSA's] assertion of jurisdiction over [Exxon's] tankage—the tankage connected to the pipeline—does not exceed [PHMSA's] statutory authority under the [Pipeline Safety Act]. Insofar as tankage connected to a pipeline, the statute is clearly and unambiguously applicable [to] 'storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline.'" 978 F. Supp. at 954.

Since adoption of the breakout tank definition, PHMSA has issued a number of regulatory interpretations to clarify application of the definition to specific scenarios.[8] Relevant to the present question, PHMSA explained in Interpretation PI-11-0006 that re-injecting a hazardous liquid into a pipeline even on a temporary basis qualifies the tank as a regulated breakout tank. Specifically, PHMSA concluded that "While the tanks at the La Junta Terminal are predominantly used to receive stored liquid propane [by pipeline] for continued transportation by truck, that use is apparently not exclusive. CPPL has re-injected propane from these tanks for continued transportation by pipeline, and the facilities at the Terminal remain configured in a manner that would permit similar re-injections in the future. Therefore, the tanks described in your letter qualify as breakout tanks under the definition provided in § 195.2."[9]

Operating Scenarios

Based on the foregoing analysis of the breakout tank definition, PHMSA provides the following interpretation regarding whether the AAT qualifies as a breakout tank in the five different operating scenarios presented by GCA. To be a regulated breakout tank under Part 195, the AAT must be used to either (1) relieve surges in a hazardous liquid pipeline system or (2) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline. GCA confirms the AAT is not used to relieve surges from the CAP or any other hazardous liquid pipelines. Therefore, the AAT would be considered a breakout tank only if it receives product by pipeline for reinjection and continued transportation by pipeline.

1. Scenario 1: The AAT receives anhydrous ammonia from the Production Facility via the regulated CAP. The product will then be transferred to marine vessels at a dedicated dock at the marine terminal where the AAT is located.

PHMSA response: Under Scenario 1, product moves in one direction only from the Production Facility to the AAT, where pipeline transportation stops. In this case, the AAT is not used to receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline. Therefore, it would not meet the definition of a Part 195 regulated breakout tank.

2. Scenario 2: The AAT receives commodity grade anhydrous ammonia from marine vessels. The anhydrous ammonia is then moved to the Production Facility through the CAP to support start up and commissioning of the CAP, the Production Facility, and related facilities.

PHMSA response: Similar to Scenario 1, product moves by pipeline in one direction only—in this example, from the AAT to the Production Facility where pipeline transportation stops. In

[8] *See, e.g.*, Letter to Mr. David A. Renli, Sioux Falls Fire Department, PI-95-028 (Jul. 24, 1995) and Letter to Mr. Robert M. Mendell, PI-91-030 (Oct. 9, 1991). These interpretations noted storage tanks that meet the definition of a breakout tank are regulated under Part 195 regardless of their occasional use for other functions or when temporarily taken out of service.

[9] Letter to Mr. Todd L. Tullio, ConocoPhillips Pipe Line Co., PI-11-0006 (Aug. 27, 2012). See also *Exxon Corp.*, 978 F. Supp. at 952 ("It is undisputed some of the petroleum product received by [Exxon] at its Spokane tanks is 'reinjected' into the Yellowstone Pipeline for 'continued' transportation . . . Based on a plain reading of the regulation, [Exxon's] tanks qualify as 'breakout tanks.'")

this case, the AAT does not receive hazardous liquid transported by a pipeline but receives product from marine vessels only. The AAT would not meet the definition of a Part 195 regulated breakout tank under this scenario.

3. Scenario 3: The ammonia from the Production Facility, which was delivered to the AAT through the CAP, is stored in the AAT and returned to the Production Facility through the CAP for commissioning the Production Facility and related facilities.

PHMSA response: Unlike the first two examples, in Scenario 3 anhydrous ammonia is transported by pipeline to the AAT and then transported by pipeline from the AAT. Since the tank is used to receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline, in this example the AAT would be a regulated breakout tank under the definition in § 195.2.

4. Scenario 4: When the Production Facility is not operating and other supplies are not available for Ascend, the AAT receives anhydrous ammonia from marine vessels and the anhydrous ammonia is moved from AAT to the Production Facility through the CAP for additional processing before being transferred to the Ascend through the regulated 23-mile-long pipeline. Such transfers would only involve ammonia that is delivered to the AAT from marine vessels at the marine terminal where the AAT is located.

PHMSA response: This example is essentially the same as Scenario 2, where product from marine vessels is stored in the AAT and then transferred by pipeline to the Production Facility, the difference being that transportation by pipeline continues beyond the Production Facility. Pipeline transportation downstream of the Production Facility does not change the classification of the AAT. Like Scenario 2, the AAT in this example would not meet the definition of a Part 195 regulated breakout tank.

5. Scenario 5: Ammonia that was previously delivered to the AAT through the CAP is returned from the AAT to the Production Facility via the regulated CAP for additional processing or to supply Ascend when the Production Facility is not operating, and anhydrous ammonia has not yet been supplied by marine vessel as contemplated by Scenario 4.

PHMSA response: This example is essentially the same as Scenario 3, where product is transported by pipeline from the Production Facility to the AAT and then transferred by pipeline back to the Production Facility, the difference being that transportation by pipeline may continue beyond the Production Facility. Since the tank is used to receive and store hazardous liquid transported by pipeline for reinjection and continued transportation by pipeline, in this example the AAT would be a regulated breakout tank under the definition in § 195.2.

PHMSA understands that once operational, the AAT may be used for more than one of the above scenarios. If any combination of uses involves the AAT receiving and storing hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline, the AAT would be considered a regulated breakout tank.

Conclusion

The AAT does not fall within the exception of § 195.1(b)(8) for production facilities and would meet the definition of a breakout tank in § 195.2 in two of the five operating scenarios.

If we can be of further assistance, please contact Joe Berry at (720) 601-3577.

Sincerely,

JOHN A GALE

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John A. Gale

Director, Office of Standards and Rulemaking

World-scale production | World-class technology, safety & logistics

Gulf Coast Ammonia LLC
435 Fifth Street South
Texas City, TX 77590

July 16, 2024

VIA email: pipeline_interp_submittal@dot.gov

Office of Pipeline Safety (PHP–30)
PHMSA
U.S. Department of Transportation
1200 New Jersey Avenue SE.
Washington, DC 20590–0001

Re: Gulf Coast Ammonia – Regulatory Interpretation Request

Gulf Coast Ammonia LLC ("GCA") requests a written regulatory interpretation of the application of 49 CFR sections 195.2 and 195.1(b)(7) to its refrigerated bulk commodity anhydrous ammonia storage tank ("AAT"). GCA believes its AAT is not a Part 195 regulated breakout tank.

As illustrated in attachment A, GCA's AAT, is associated with GCA's 3,600 MTPD anhydrous ammonia production facility in Texas City, Texas (the "Production Facility"). The Production Facility is not yet operational but is expected to begin operations in 2024. The AAT will receive and store commodity grade product from the Production Facility primarily for transfer to marine vessels. The AAT is also integral to Production Facility operations because ammonia from the AAT is necessary for start-up of the facility. The AAT is located at the Advario Texas City marine terminal 2 ¾ miles away from the Production Facility. The AAT is a full-containment, double-walled 70,000 metric-ton refrigerated storage tank.

The Production Facility is connected to the AAT by the double-walled Cold Ammonia Pipeline ("CAP") an 8-inch regulated intrastate pipeline. The AAT serves several intended purposes:

1. The AAT is primarily intended as an export tank for the GCA Production Facility. The AAT will receive commodity grade anhydrous ammonia from the Production Facility which will then be transferred to marine vessels at a dedicated dock at the marine terminal where the AAT is located.

2. In limited circumstances, the AAT may receive commodity grade anhydrous ammonia from marine vessels. The anhydrous ammonia may be moved to the Production Facility through the CAP to support start up and commissioning of the CAP, the Production Facility and related facilities.

3. In limited circumstances, ammonia from the Production Facility that is stored in the AAT may be returned to the Production Facility through the CAP for commissioning the Production Facility and related facilities.

4. The AAT is also intended for another operation that has not yet been undertaken. A portion of the Production Facility's production will be sold to Ascend Performance Materials in Alvin, Texas. In limited circumstances, when the Production Facility is not operating and when other supplies are not available for Ascend, the AAT may receive anhydrous ammonia from marine vessels and the anhydrous ammonia would be moved to the Production Facility through the CAP for additional processing before being transferred to the Ascend facility through its own regulated 23 mile long 6-inch pipeline. Such transfers would only involve ammonia that is delivered to the AAT from marine vessels at the marine terminal where the AAT is located.

5. In some limited circumstances, ammonia from the AAT may need to be returned to the Production Facility for additional processing and supply to Ascend when the Production Facility is not producing and replacement anhydrous ammonia has not yet been supplied by marine vessel as contemplated by scenario 4. In that situation, the AAT is integral to the operation of the Production Facility in supplying Ascend and the return of the ammonia to the Production Facility for additional processing is not for purposes of further transportation.

The definition of breakout tank in 195.2, states that "Breakout Tank means a tank used to:

(a) relieve surges in a hazardous liquid pipeline system or

(b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline."

The AAT is not used to relieve surges from the CAP or any other hazardous liquid pipeline system. Accordingly, the AAT would only be a breakout tank if it receives ammonia by pipeline for reinjection and continued transportation by pipeline. GCA has concluded that none of the four potential operating scenarios for the AAT are continued transportation of the ammonia by pipeline for the following reasons:

Operating Scenario 1: Operations in Scenario 1 would not meet the breakout tank definition because the AAT would receive anhydrous ammonia through the CAP and hold it for transfer for further transportation by marine vessel. This situation would not involve further transportation by pipeline which would exclude the AAT from regulation as a breakout tank. 49 CFR 195.2.

Operating Scenario 2: Operations in Scenario 2 would not meet the breakout tank definition because the AAT would receive anhydrous ammonia from marine vessels for delivery to the CAP and use for commissioning the Production Facility and related equipment. Receipt of anhydrous ammonia to the AAT from a marine vessel and then transportation by pipeline is not does not meet the breakout tank definition because the pipeline transfer is not continued transportation by pipeline because the ammonia arrived at the AAT by marine vessel transfer. 49 CFR 195.2. Additionally, the AAT would not be subject to hazardous liquid pipeline regulations because its function is integral to the Production Facility operations as contemplated by 49 CFR 195.1(b)(7) and the guidance provided on that provision in PHMSA interpretation letter PI-01-0103.

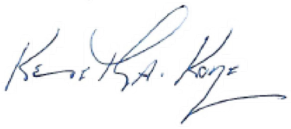
Operating Scenario 3: Operations in Scenario 3 would not subject the AAT to hazardous liquid pipeline regulations because the AAT's function is integral to the Production Facility operations as contemplated by 49 CFR 195.1(b)(7) and the guidance provided on that provision in PHMSA interpretation letter PI-01-0103.

Operating Scenario 4: Operations in Scenario 4 would not meet the breakout tank definition because the AAT would receive anhydrous ammonia from marine vessels for delivery to the CAP, processing at the Production Facility and delivery to Ascend. Receipt of anhydrous ammonia to the AAT from a marine vessel and then transportation by pipeline does not meet the breakout tank definition because the pipeline transfer is not continued transportation by pipeline because the ammonia arrived at the AAT by marine vessel transfer.

Operating Scenario 5: Operations in Scenario 5 would not be subject to hazardous liquid pipeline regulations because its function is integral to the Production Facility operations as contemplated by 49 CFR 195.1(b)(7) and the guidance provided on that provision in PHMSA interpretation letter Pl-01-0103.

GCA requests PHMSA's interpretation as to each potential operating scenario individually and collectively, since the AAT is in the process of being commissioned, and at this point, none of the operating scenarios have been undertaken. PHMSA's interpretation may affect how GCA elects to operate the AAT since the AAT was designed and constructed in accordance with the API 652 Code – Tank Systems for Refrigerated Liquefied Gas Storage rather than to Part 195 standards for breakout tanks.

Yours Sincerely,



Kenneth A. Koye

Chief Executive
Officer Gulf Coast
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Attachment A - GCA Refrigerated Storage

- Scenario 1: Normally, GCA's ammonia storage tank ("AAT") at the Advario Texas City terminal receives and stores ammonia from the Production Facility via the 8" cold ammonia pipeline ("CAP"), principally for marine export at Advario' s Dock 68
- Scenarios 2 & 3: When necessary, ammonia from the AAT may be supplied to the day tank at the Production Facility for start-up or commissioning operations.
- Scenarios 4 & 5: Occasional reconditioning of ammonia from the AAT at the Production Facility for pipeline supply to Ascend