U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

**June 23, 2021**

Ms. Christine Cowsert
VP, Gas Asset Mgmt. & System Operations
Pacific Gas and Electric Company
6121 Bollinger Canyon Road
San Ramon, CA 64583

Dear Ms. Cowsert:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), dated April 28, 2021, you requested an interpretation of 49 Code of Federal Regulations (CFR) Part 192. Specifically, you requested an interpretation of 49 CFR § 192.939.

You asked when must an assessment of a newly activated threat be completed in an existing high consequence area (HCA) if the threat is newly activated during the reassessment period provided by 49 CFR § 192.939. You stated your concern is that when a newly activated threat becomes active shortly before the conclusion of a scheduled reassessment cycle, an integrity assessment for the covered segment would not be complete if not all threats present at the start of the next scheduled reassessment cycle have been assessed. In addition, you mentioned your discussion with the California Public Utilities Commission (CPUC) and their interpretation of the applicability of the regulations, and provided examples and excerpts of the regulations as appendices.

PHMSA agrees with the CPUC's assessment that 49 CFR § 192.939 does not have an exception for newly discovered threats within existing HCAs if they are discovered within an assessment cycle. Therefore, a pipeline operator must assess a newly activated threat on a covered segment within the same assessment cycle as other threats that were previously identified through risk assessment under 49 CFR § 192.917(a) regardless of when the threat becomes active. PHMSA recognizes that an operator may not be able to comply with the requirements stated in 49 CFR § 192.939 in limited instances, in which case PHMSA may allow a waiver from a reassessment interval required by 49 CFR § 192.939 if the waiver would not be inconsistent with pipeline safety. Those limited instances include where an operator cannot obtain the internal inspection tools within the required reassessment period, and where the operator cannot maintain local product supply if it conducts the reassessment within the required interval. Section 192.943 describes how to seek a waiver if one of these conditions applies.

The below referenced 49 CFR Part 192 sections should help give clarity on the need to take prompt action to address a newly identified threat to a HCA:

- Section 192.917 combines the threat identification process in 49 CFR § 192.917(a), the data gathering and integration process in 49 CFR § 192.917(b), and § 192.917(c) specifies "an operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§§ 192.919, 192.921, and 192.937), and to determine what additional preventive and mitigative measures are needed for the covered segment."

- Section 192.933(a) requires "an operator to take prompt action to address all anomalous conditions the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipelines integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment."

- Section 192.933(a)(1) requires a temporary pressure reduction "if an operator is unable to respond within the time limits for certain conditions specified in this section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment."

- Section 192.933(c) requires "an operator must complete remediation of a condition according to a schedule prioritizing the conditions for evaluation and remediation. Unless a special requirement for remediating certain conditions applies, as provided in paragraph (d) of this section, an operator must follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety."

- Section 192.937(b) specifies "an operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in § 192.917." For all gas transmission pipelines, other than plastic transmission pipelines, 49 CFR § 192.937(b) requires "the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§ 192.917), and decisions about remediation (§ 192.933) and additional preventative and mitigative actions (§ 192.935). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats."

Furthermore, if an operator requests a Waiver as noted in 49 CFR § 192.943, PHMSA would determine during the Wavier evaluation process, as required in 49 CFR § 190.341, if the request for an assessment extension is consistent with pipeline safety.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

JOHN A GALE

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Date: 2021.06.24 13:06:49 -04'00'

John A. Gale
Director, Office of Standards
and Rulemaking

Pacific Gas and Electric Company®

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April 28, 2021

John Gale
Office of Pipeline Safety (PHP-30)
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: Request for Interpretation of 49 C.F.R. Part 192 Subpart O Related to Newly Activated Threats

Dear Mr. Gale:

Pursuant to 49 C.F.R. § 190.11(b), Pacific Gas and Electric Company (PG&E) is requesting an interpretation from the Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety regarding the requirements of 49 C.F.R. Part 192, Subpart O, *Gas Transmission Pipeline Integrity Management* (IMP) for the following question:

> If a threat is newly activated in an existing high consequence area (HCA) during the reassessment period provided by 49 C.F.R. § 192.939, what is the time requirement to complete an assessment of the newly activated threat?

## I. Background

PG&E and the California Public Utilities Commission (CPUC) have discussed that Part 192, Subpart O is silent on whether the integrity management regulations require separate assessment intervals for different active[1] threats on a covered segment. The federal pipeline regulations, and specifically 49 C.F.R. § 192.939, require an operator to implement a "maximum assessment interval by an allowable reassessment method [of] 7 calendar years." The IMP regulations do not expressly address newly activated threats, nor is there any guidance expressly on point.

In these discussions, CPUC representatives advanced that the integrity management regulations (including 49 C.F.R. § 192.939) imply that a pipeline operator must assess a newly activated threat on a covered segment within the same reassessment cycle as other threats that were previously identified through risk assessment (under 49 C.F.R. § 192.917(a)), regardless of when the threat becomes active. Under this rationale, when a newly activated threat becomes active shortly before the conclusion of a scheduled reassessment cycle, an integrity assessment for the covered segment would not be complete if all threats present at the start of the next scheduled reassessment cycle

[1] As used in this request, an "active" threat refers to a threat that requires integrity assessment as provided in Advisory Bulletin, ABD 2017-01, Pipeline Safety: Deactivation of Threats (2017). A threat becomes "activated" when an operator, through the continual evaluation of potentially applicable threats consistent with the guidance in the advisory bulletin, identifies data to suggest that the operator should conduct an integrity assessment for that threat.

have not been assessed. Further, the CPUC has noted that an operator can extend this period (up to 3 years) under limited circumstances and only for specific threats by conducting a confirmatory direct assessment (CDA) by the end of the reassessment interval (7 years) under 49 C.F.R. § 192.931(a).

There are IMP regulations and guidance that indicate otherwise, however, by providing operators with a more flexible timeframe to incorporate new information into their IMP programs. Specifically, the IMP regulations provide operators with a reasonable time period to assess newly identified HCAs and newly installed pipe (10 years) and IMP guidance provides operators with flexibility to incorporate new information into their IMP programs. These regulations and guidance indicate that as long as an appropriate assessment is performed within the 7 year reassessment cycle, an operator may assess a newly activated threat based on an assessment of the risk factors associated with that threat prior to the next scheduled reassessment if practicable and not to exceed 7 years from the date the threat becomes active. This interpretation accounts for the fact that, as a practical matter, an operator may not be able to assess the newly activated threat on the same reassessment interval as other previously identified threats, depending on the threat, the appropriate methods for assessing that threat, and tool limitations.

To clarify the assessment requirement, the CPUC recommended that PG&E submit a written request to PHMSA for interpretation regarding the time to complete the assessment of a newly activated threat in an existing HCA. Specific examples that may be helpful for understanding the application of the reassessment interval are included in Appendix A.

## II. IMP Regulations

Section 192.939 sets forth the requirements for establishing a reassessment interval for active threats that are identified during the initial baseline assessment. The regulation does not expressly address the timing for an assessment of a newly activated threat that becomes active on a covered segment (*i.e.*, HCA) *during* the reassessment interval. In addition, 49 C.F.R. § 192.937 requires that operators evaluate new information and integrate that information into their risk assessment to identify new threats relevant to a covered segment. This provision does not provide a schedule for assessing a newly activated threat on a covered segment.

Newly identified HCAs and newly constructed pipelines, however, are addressed by the IMP regulations. Specifically, 49 C.F.R. §§ 192.905(c) and 192.921(f)-(g) provide that an operator is required to incorporate a newly identified HCA into its written IMP within 1 year, and that the operator has up to 10 years from the date of identification/installation to conduct an integrity assessment.

In addition, 49 C.F.R. § 192.921(a) recognizes that a pipeline operator may have to select multiple assessment methods to address each of the threats on a covered segment. An operator must select a "method or methods" that is "best suited" to address the threats to which the covered segment is susceptible. This provides for the separate management of each threat, as a single assessment method cannot address all threats on every pipeline segment, particularly where a segment cannot be assessed by in-line inspection (ILI).

The IMP regulations provide two limited avenues to extend a current reassessment schedule: CDA and a 6-month extension. The ability to use CDA under 49 C.F.R. § 192.931(a) is limited to certain threats and specific circumstances (*i.e.*, external and internal corrosion), and it does not have universal application to all threats. In addition, the allowance under 49 C.F.R. § 192.939(a) to

"request a 6–month extension of the 7–calendar-year reassessment interval" provides operators with the ability to request an extension of a reassessment interval based on some unforeseen circumstances (*e.g.*, complications with an assessment tool). This extension, however, has limited applicability for an operator that identifies a new active threat on a pipeline segment near the end of a reassessment interval. Based on the complexity of the threat and the assessment method used to assess that threat, a 6-month extension does not provide sufficient time for an operator to conduct a risk assessment, identify the proper assessment method and vendor, and conduct the assessment.

Subpart O of 49 C.F.R. Part 192 incorporates by reference many sections of longstanding industry standard, ASME B31.8S-2004, Managing System Integrity of Gas Pipelines, and much of Part 192 is based on this standard. Similar to the IMP rules, ASME B31.8S does not expressly require that an operator incorporate a newly activated threat into the current reassessment. Instead, it states that risk assessment results should be updated and used for future scheduling of integrity assessments. *See* ASME B31.8S-2004, Section 2.4.1, Integrity Management Plan ("As new risks or new manifestations of previously known risks are identified, additional mitigative actions to address these risks shall be performed, as appropriate. Furthermore, the updated risk assessment results shall also be used to support scheduling of future integrity assessments.") (incorporated by reference at 49 C.F.R. § 192.917).

This standard also recognizes that threats may need to be assessed with different methods or technology and at different times. *See, e.g.*, *id.* at Section 2.3.4, Integrity Assessment ("Integrity assessment method selection is based on the threats that have been identified. More than one integrity assessment method may be required to address all the threats to a pipeline segment."); *Id.* at Section 6.1, General ("More than one method and/or tool may be required to address all the threats in a pipeline segment."). In addition to the express recognition that threats should be managed separately, ASME B31.8S-2004 provides a process for determining distinct integrity assessment intervals related to Stress Corrosion Cracking (SCC) and External Corrosion Direct Assessment (ECDA). *See, e.g.*, *id.* at Section 7.3.2, SCC Threat; *Id.* at Section 7.4.1, ECDA (incorporated by reference at 49 C.F.R. § 192.933).

For convenience, excerpts of relevant regulations are included in Appendix B.

## III. Relevant IMP Guidance

PHMSA has not published guidance that directly addresses the reassessment requirements for a newly activated threat. Consistent with the regulations for newly identified HCAs, certain IMP guidance provides flexibility for operators to incorporate new information into their risk assessments "as appropriate" and while "diligently pursu[ing] completion of actions required by the rule." In particular, a variety of PHMSA Gas IMP FAQs recognize both that (1) there is a continual requirement for pipeline operators to evaluate and update their risk analysis and assessment plans periodically, and (2) that, as a practical matter, this process takes time and requires flexibility.

For example, PHMSA IMP FAQ 234 states that "[o]perators should use the results of the updated risk analysis to modify their baseline assessment plans and other IM actions, as appropriate." FAQ 234 recognizes that pipeline operators have an obligation to continually update and reevaluate their risk analysis for threats on a covered segment. It does not provide a timeframe for this requirement, but states that operators should use new information to update their IM actions "as appropriate."

Similarly, PHMSA IMP FAQ 124 provides that for IMP regulations that do not include specific time periods for completion operators should "diligently pursue" completion of those actions under the rule. Specifically, "OPS expects operators to diligently pursue completion of actions required by the rule. At the same time, OPS recognize that these actions cannot occur immediately. OPS inspectors will assess an operator's plans, actions, and progress to verify that an operator is making a good faith effort to comply." This PHMSA FAQ expressly recognizes that operators need time to complete certain actions under the IMP regulations and that allowances should be made to give operators sufficient time to comply.

As noted above, PHMSA also allows an operator flexibility in conducting an assessment on newly identified HCAs. With respect to growth of an existing HCA, PHMSA IMP FAQ 223 provides guidance as to the requirement to assess these segments and states that "[o]perators must assure, however, that the pipe newly covered under the IM program is appropriately assessed at the next scheduled assessment for the covered segment." In this instance, PHMSA does not require an operator to assess the new length of a pipeline segment within the current reassessment period, but PHMSA expressly recognizes that the new length of the pipeline segment should be assessed during the next assessment interval.

Lastly, PHMSA IMP FAQ 40 addresses how often periodic integrity assessments must be performed on HCA pipeline segments. Here, PHMSA provides that "[a]ssessments of some kind must be performed at intervals no longer than 7 calendar years. Assessments for all threats must be performed using in-line inspection, pressure testing, direct assessment, or 'other technology' within the maximum intervals specified in 192.939, which vary based on operating stress levels." This PHMSA FAQ does not state or imply that assessments "for all threats" must be completed within the same interval, but reaffirms that threats may need to be assessed through different methods or technology.

## IV. Summary

The federal pipeline safety IMP regulations do not appear to require an operator, unless justified based on risk, to assess a newly activated threat within an existing reassessment period – an interval that was established based on entirely different active threats. If PHMSA intended such a result, it would have expressly noted that in the regulations or guidance. Instead, analogous IMP regulations addressing newly identified HCAs and PHMSA FAQ guidance provide operators with sufficient time and flexibility in recognition of the importance of assessing and prioritizing active threats on a covered segment and the practical realities of the time required to schedule and conduct integrity assessments. As such, PG&E seeks to confirm with PHMSA that the IMP rules allow operators to assess a newly activated threat based on the circumstances and not to exceed 7 years from the day the threat becomes active.

To conclude otherwise would impose an inflexible requirement to assess a newly activated threat during the existing reassessment interval, which is not supported by the IMP regulations, the rulemaking history, or guidance. In addition, it would be impractical and overly burdensome given the complexity of identifying threats on a pipeline segment and assessing the risks associated with those threats through a wide variety of assessment methods which are not applicable to all threats. It takes significant time to identify the proper assessment method for a particular threat, budget for the assessment, select a qualified vendor, and implement the assessment.

For all of these reasons, it seems clear that the pipeline safety regulations account for the complexity associated with integrity assessments and that the interval for assessing a newly

activated threat begins to run on the date that the threat becomes active. PG&E appreciates CPUC staff for initially raising this issue and for their recommendation that PG&E seek clarification from PHMSA.

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Thank you for your consideration of this request and, to assist in PHMSA's review, PG&E requests a meeting to further discuss the issues and address any questions you may have. If you have any questions, please contact Vince Tanguay, Director of Risk, Compliance & Operator Qualifications, at Vincent.Tanguay@pge.com or (925) 786-7144.

Sincerely,

Christine Cowsert

Christine Cowsert
Vice President, Gas Asset Mgmt & System Operations

Enclosure:
PGE Interpretation Request Appendices A-C

cc:
Leslie Palmer, CPUC
Terence Eng, CPUC
Dennis Lee, CPUC
Meredith Allen, PG&E
Vince Tanguay, PG&E
Susie Richmond, PG&E