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February 17, 2017

DOT Docket Operations, M-30  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
West Building Ground Floor, Room W12-140  
Docket #PHMSA-2016-0016  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590-0001

RE: Comments of the Independent Petroleum Association of America in response to Interim Final Rule, “Pipeline Safety: Safety of Underground Natural Gas Storage Facilities,” Docket No. PHMSA-2016-0016

The Independent Petroleum Association of America (IPAA) submits the following comments in response to the Interim Final Rule (IFR) issued on December 19, 2016, by the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) in Docket No. PHMSA-2016-0016. IPAA represents the companies that drill 90 percent of the nation’s oil and natural gas wells. These companies produce 85 percent of American natural gas and 54 percent of American oil. IPAA members represent the full range of producers, from small family-owned businesses, to the large independent companies that are some of the largest domestic natural gas producers.

IPAA’s comments focus on the need for PHMSA to clarify that its underground gas storage regulations do not apply to storage associated with production.

The IFR would establish minimum federal safety standards for underground gas storage facilities in 49 C.F.R. Part 192. Issued without prior notice or the opportunity to comment, the IFR incorporates two industry safety standards for underground gas storage facilities by reference into Part 192, American Petroleum Institute (API) Recommended Practice (RP): API RP 1170, “Design and Operation of Solution-mined Salt Caverns used for Natural Gas Storage” (July 2015), and API RP 1171, “Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs” (September 2015).

IPAA wishes to comment regarding the concerns of member companies on the scope of PHMSA’s underground gas storage safety regulations. Specifically, we request that PHMSA clarify that its regulations do not apply to underground gas storage operations associated with gas production facilities. The Pipeline Safety Laws do not provide PHMSA with the authority to regulate oil and gas production facilities.<sup>1</sup> That limitation is expressly recognized in Part 192, including in the exceptions for offshore

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<sup>1</sup> 49 U.S.C. §§ 60101(a)(21)(A) and 60101(a)(22)(B).

pipelines and in the regulations for onshore gas gathering lines, which incorporate API RP 80, “Guidelines for the Definition of Onshore Gas Gathering Lines,” (April 2000), the industry standard that establishes the point of demarcation between unregulated production operations and potentially regulated gas gathering.<sup>2</sup>

Consistent with these exceptions in the Pipeline Safety Laws and Part 192, IPAA is requesting that PHMSA add an exception to the underground gas storage facility regulations for down-hole storage facilities that are co-located with and used to support production operations. These facilities are used in the process of extracting natural gas from the ground and should not be treated as providing storage incident to transportation under the Pipeline Safety Laws.

Unlike their transportation-related counterparts, production-related underground gas storage facilities are located in active production fields in close proximity to producing wells, share equipment (for e.g. compression, treatment, dehydration, piping, etc.) that is used in the production operation and are used to manage production operations, rather than provide commercial storage services. Other federal and state agencies, such as the U.S. Department of Interior (regarding certain federal lands) and state oil and gas commissions, have jurisdiction over production and already effectively regulate the safety of production-related underground gas storage facilities. Production-related underground gas storage facilities are typically used to store gas that has not yet entered a PHMSA-regulated pipeline facility, although in some cases gas may be stored for gas production management purposes, after being delivered to the production field in a PHMSA-regulated pipeline. Gas storage in either scenario is not incident to pipeline transportation. The act of transportation by pipeline has either not yet begun, or has ended, when the gas reaches the producer’s underground gas storage facility. Accordingly, these production-related, down-hole facilities are not subject to regulation under the new Part 192 underground storage regulations.

If PHMSA were to fail to clarify this exception, it would create uncertainty and potential conflict with the federal and state agencies responsible for regulating production operations. An exception distinguishing between jurisdictional, transportation-related underground gas storage facilities and non-jurisdictional, production-related underground gas storage facilities would provide the regulated community with the clarity necessary to plan and conduct their operations. Preemption concerns and issues of overlapping jurisdiction would also be avoided without compromising PHMSA’s important mission to ensure the safety of the nation’s integrated network of transportation-related pipelines and storage facilities.

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<sup>2</sup> 49 C.F.R. §§ 192.1(b), 192.8 and 192.9; *See also* PHMSA Interpretation to The Public Utilities Comm’n of Ohio, PI-92-010 (Mar. 12, 1992) (“Part 192 does not apply to production facilities”); PHMSA Interpretation to OXY USA, Inc., PI-93-060 (Oct. 8, 1993) (“The regulations in Parts 40, 191, 192, and 199 apply to pipeline facilities used in the transportation of gas beginning at the end of the production process.”).

IPAA requests that PHMSA add the following exception to Part 192:

**49 C.F.R. § 192.1 What is the scope of this part?**

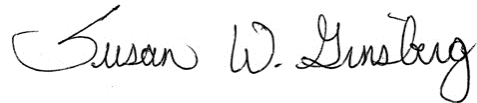
\* \* \* \* \*

**(b) This part does not apply to—**

**(1) \* \* \***

**(6) The underground storage of natural gas in direct support of and integrated with the operation of a production facility.**

Respectfully submitted,



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