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## VIA ELECTRONIC FILING

August 10, 2020

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Ave, S.E.  
Washington, D.C. 20590

**Re: Docket No. PHMSA-2018-0046, Pipeline Safety: Gas Pipeline Regulatory Reform**

To Whom It May Concern:

On June 9, 2020, the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) published a notice of proposed rulemaking (“NOPR”) in the *Federal Register* in this proceeding. PHMSA proposes amendments to the Federal Pipeline Safety Regulations intended to ease regulatory burdens on the construction maintenance, and operation of gas transmission, distribution, and gathering pipeline system.

In response to PHMSA’s request for comments, the Independent Petroleum Association of America (“IPAA”) submits the following. IPAA represents thousands of independent oil and natural gas producers and associated service companies. Independent producers develop 95 percent of American oil and natural gas. While production does not fall under PHMSA’s jurisdiction, PHMSA’s actions increasingly affect producers through regulation of gathering and efforts to move the point of regulation upstream toward the wellhead. In these comments, IPAA focuses on PHMSA’s proposed regulation of “farm taps.” IPAA supports the regulatory text recommendations for farm taps submitted in comments by the GPA Midstream Association, as well as the comments submitted by the Kentucky Oil & Gas Association, the Ohio Oil and Gas Association, the Pennsylvania Independent Oil & Gas Association, Sander Resources, and the Independent Oil and Gas Association of West Virginia.

The term “farm taps” has no regulatory definition and has been used to apply to a number of different circumstances. The existence of the “farm tap” and the installation, ownership, and maintenance of the tap and related equipment and pipelines are established by a contract between the pipeline operator and the gas recipient. Those contracts typically also allocate any liabilities associated with the tap and related facilities. In some cases, the “farm tap” and related facilities may be the result of state statutes and regulations which similarly define the relationship between the parties. As a preliminary matter, any effort by PHMSA to impose regulations on these farm taps interferes with the parties’ established contractual or state statutory relations.

At the beginning of the Trump Administration, IPAA, along with the Kentucky Oil & Gas Association, the Ohio Oil and Gas Association, and the Pennsylvania Independent Oil & Gas Association, submitted

comments to PHMSA on areas appropriate for regulatory reform. Included in the three areas important to IPAA members was treatment of farm taps. “[R]esponsibility should reside with the farm tap owner and at the local level. PHMSA’s actions should not upend long-standing contracts that benefit both producers and landowners.”

Farm taps received recent attention from PHMSA with its issuance of Frequently Asked Questions (“FAQs”). IPAA and a number of state oil and gas associations submitted comments, urging PHMSA to reconsider the FAQs as they pertain to free gas connections originating from production and rural gathering facilities. As drafted, the FAQs create a regulatory scheme that is unduly burdensome at best, and impossible to comply with in many cases. In these comments, the Independent Producers stated “support [for] PHMSA’s mission to promote safety. But it is not clear that there is any safety benefit by placing producers in the position of taking responsibility for farm taps when they generally do not have legal access to these facilities. Revising the FAQs to interpret the regulation so as not to apply to unregulated production lines and small-diameter rural gathering lines is the judicious way to approach these discussions.” While the NOPR attempts to address some of the burdensome aspects of farm tap regulation, the NOPR fails to recognize the attributes of the majority of farm taps off production and rural gathering lines, which are quite different from taps off transmission or distribution lines.

In comments submitted on the FAQs, the Independent Oil and Gas Association of West Virginia noted “...the service line definition was drafted with the gas utility industry in mind, not the oil and gas production industry. The definition does not fit farm taps. PHMSA should declare that the definition of service line is not met if the facilities are owned by the farm tap [user].” The important regulatory reform with respect to farm taps is for PHMSA to clearly state, either in revised FAQs or in a final regulatory reform rule, that any connections or related facilities that are (1) not owned or operated by the production operator; and/or (2) emanate from an unregulated production or gathering line are exempt from the definition of service line. It is not sufficient to exempt such facilities from annual reporting, farm tap regulator maintenance, and DIMP. By defining such configurations as a ‘service line,’ various aspects of Part 192 would still apply that small production line operators are not otherwise subject to, creating an obligation to comply with an entirely new, expensive, and cumbersome regulatory scheme that is not appropriate given the small size of these lines and the complicated ownership issues that accompany them.

Farm tap users take gas as a matter of contract right and are not distribution customers. Landowners have demanded, negotiated, and contracted the right to lay their own pipelines and take natural gas from low pressure production and gathering lines for their homes, outbuildings and barns. Farm taps often are only allowed by a producer or gathering operator because those with the contractual right to take gas do so at their own cost, risk and expense. Many producers resist farm taps because some or all of the gas taken is free, and the connections do not assist production and sale of natural gas. PHMSA’s service line definition fits public utility distribution companies, not production. With respect to farm taps, PHMSA’s proposed FAQs, even as changed under the Regulatory Reform NOPR, would impose cost-prohibitive requirements, and attempt to do so with respect to non-jurisdictional production. To do so would interfere with contracts and impose unjustified, unreasonable, and unnecessary costs.

IPAA supports PHMSA in its effort to align regulatory responsibilities with the safe operation of pipeline facilities. However, IPAA urges PHMSA to recognize the significant difference between

privately-owned farm taps, governed by contract or statute, and true distribution systems. Making that distinction will help achieve regulatory reform without interfering with existing contracts and/or state statutes and will better align regulatory responsibility.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry Russell". The signature is fluid and cursive, with a large initial "B" and "R".

Barry Russell  
President and CEO  
Independent Petroleum Association of America