

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held December 8, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Act 127 of 2011 – The Gas and Hazardous Liquids
Pipeline Act; Assessment of Pipeline
Operators – Jurisdiction over Class 1 Gas
Gathering Lines and Certain LNG Facilities;
Assessment of Pipeline Operators

M-2012-2282031

IMPLEMENTATION ORDER

BY THE COMMISSION:

On November 15, 2021, the final Gas Gathering Rule of the U.S. Department of Transportation’s (DOT’s) Pipeline and Hazardous Materials Safety Administration’s (PHMSA) was published in the Federal Register (PHMSA’s Final Rule).¹ Due to PHMSA’s Final Rule making amendments to Federal pipeline safety regulations, in this Implementation Order the Commission clarifies its jurisdiction over Class 1 gas gathering lines and certain liquified natural gas (LNG) facilities under the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.* or “Act 127.”

¹ See *Pipeline Safety: Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments*, Docket No. PHMSA-2011-0023, Federal Register 86: 217 (November 15, 2021) p. 63266, available at Govinfo.gov <https://www.govinfo.gov/content/pkg/FR-2021-11-15/pdf/2021-24240.pdf>.

BACKGROUND

The Commonwealth of Pennsylvania, via the Commission, participates as a certified state in the pipeline safety program administered by the U.S. DOT's PHMSA, pursuant to the federal Pipeline Safety Act (PSA). 49 U.S.C. §§ 60101 *et seq.*, at 49 U.S.C. § 60105(a).² Act 127 establishes the Commission's authority to regulate non-public utility gas and hazardous liquid pipeline operators and pipeline facilities within the Commonwealth and establishes the applicable safety standards as being those issued under Federal pipeline safety laws and implemented in PHMSA's regulations, including all subsequent amendments thereto. 58 P.S. §§ 801.302, 801.501. "Pipeline operator" is defined in Act 127 as a person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline³ or pipeline facility⁴ regulated under Federal pipeline safety laws, excluding a public utility or an ultimate consumer who owns a service line on their own real property. 58 P.S. § 801.102. Pursuant to Act 127, amendments to Federal pipeline safety laws and regulations shall have the effect of amending or modifying the Commission-enforceable pipeline safety standards. Such amendments, however, take effect 60 days after the federal amendment's effective date. 58 P.S. § 801.302(b).

² The Commission certifies annually to the Secretary of the U.S. DOT that it meets all requirements under the PSA, including but not limited to the adoption and enforcement of the federal standards as the state's own minimum standards. 49 U.S.C. §§ 60104(c); 60105, 60106; 49 C.F.R. Part 195, *Appendix A to Part 195 – Delineation Between Federal and State Jurisdiction – Statement of Agency Policy and Interpretation*. PHMSA retains jurisdiction over interstate pipelines. The Commission currently does not serve as PHMSA's agent to assist with PHMSA's oversight of interstate pipelines. 49 U.S.C. § 60106.

³ The term "pipeline" means "[a] part of the physical facilities through which gas or hazardous liquids move in transportation, including a pipe valve and other appurtenance attached to the pipe, compressor unit, metering station, regulator station, delivery station, holder and fabricated assembly. The term only includes pipeline regulated by Federal pipeline safety laws. The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission." 58 P.S. § 801.102.

⁴ The term "pipeline facility" means "[a] new or existing pipeline, right-of-way and any equipment, facility or building used in the transportation of gas or hazardous liquids or in the treatment of gas or hazardous liquids during the course of transportation. The term does not include a pipeline facility subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission." 58 P.S. § 801.102.

DISCUSSION

Commission's Prior Act 127 Implementation Orders

The Commission has previously interpreted its authority under Act 127 in prior implementation orders. *See Act 127 of 2011- The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012) (*Act 127 Implementation Order*); *see also Act 127 of 2011- The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators – Jurisdiction over Class 1 Transmission*, Docket No. M-2012-2282031 (Final Order entered June 7, 2012) (*Act 127 Final Order*).

In these prior implementation orders, the Commission determined its jurisdiction under Act 127: (1) included Class 1 *transmission* pipelines and pipeline facilities since these lines are conventionally regulated by PHMSA under the Federal pipeline safety laws; but (2) excluded Class 1 *gathering* pipelines and pipeline facilities since these lines were not regulated by PHMSA under the Federal pipeline safety laws. *See Act 127 Implementation Order* at 4; *see also Act 127 Final Order* at 1-2. As a result, the Commission decided that pipeline operators that own or operate only Class 1 gathering lines need not register with the Commission. Specifically, the Commission stated:

We acknowledge our authority under Act 127 is limited to pipeline operators and pipeline facilities subject to Federal pipeline safety laws. . . If a person operates pipelines that are located solely in Class 1 locations and that have no distribution service, such pipelines are currently not jurisdictional under Act 127 and the person need not register as a pipeline operator.

Act 127 Implementation Order at 4.

The Commission further clarified that Class 1 transmission lines must register:

The Implementation Order addressed various jurisdictional issues relating to Class 1 gathering lines. As the Commission has been implementing Act 127, we have noted that the Act 127 implementation Order does not

sufficiently highlight the different jurisdictional status for natural gas transmission pipelines and pipeline facilities in Class 1 locations. Therefore, the purpose of this order is to modify the Act 127 Implementation Order to clarify that *transmission* pipelines and pipeline facilities in Class 1 locations are subject to federal pipeline safety laws and therefore are within the jurisdiction of the Commission under Act 127.

However, the Commission’s analysis and disposition [in the Act 127 Implementation Order]...simply stated “pipelines” and did not distinguish between *gathering* pipelines in Class 1 locations, which are not regulated by the federal pipeline safety laws, and *transmission* pipelines which are regulated by the federal pipeline safety laws in all class locations. *See* 49 C.F.R. § 192.8.

The Commission is issuing this Final Order to amend the February 16, 2012 Act 127 Implementation Order to make clear that pipeline operators of Class 1 transmission pipelines and pipeline facilities are jurisdictional to PHMSA, and therefore the Commission, and must register such lines with the Commission. Along with this Final Order, the Commission is issuing a revised registration form that more clearly indicates the Commission’s jurisdiction over Class 1 *transmission* lines.

Act 127 Final Order at 1-2.

PHMSA’s Final Rule

As noted above, on November 15, 2021, PHMSA published the Final Rule. On May 4, 2022, PHMSA issued a notice of a technical correction to PHMSA’s Final Rule, which was published in the Federal Register.^{5, 6} *See Safety of Gas Gathering Pipelines:*

⁵ The notice also made clarifications and two amendments with technical corrections to the Final Rule. Specifically, PHMSA (1) issued a technical correction amending the safety-related condition report requirements in § 191.23 consistent with statements in the preamble to the final rule, and (2) clarified that operators may, when identifying Type C gas gathering lines pursuant to § 192.8, use the default specified minimum yield strength (“SMYS”) at § 192.107(b)(2) when the yield strength is not known. PHMSA also issued a technical correction amending § 192.8 to align the regulatory text with statements in the final rule facilitating operators’ consideration of MAOP in making threshold determinations that gas gathering facilities qualify as Type C lines., which are not required by § 192.9(e)–(f) to establish MAOP pursuant to § 192.619, were to be excepted from the safety-related condition reporting requirement. 86 FR at 63275. PHMSA, therefore, issued a technical correction revising § 191.23(b)(1) to clarify that safety-related condition reporting of MAOP exceedances is not required for operators of Type C gathering lines with an outside diameter of less than 12.75 inches.

⁶ The notice also memorialized a limited enforcement discretion in connection with the Final Rule’s

Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments, Docket No. PHMSA 2011-0023, Federal Register 87: 86 (May 4, 2022) p. 26296, available at Govinfo.gov

<https://www.govinfo.gov/content/pkg/FR-2022-05-04/pdf/2022-09474.pdf> (Last accessed 5/25/22).

Prior to PHMSA’s Final Rule, PHMSA applied 49 CFR Parts 191 and 192 to gas gathering lines only in Class 2, Class 3, and Class 4 locations. This meant Class 1 gathering lines were exempted from Part 191 and Part 192 regulation. In PHMSA’s Final Rule, however, PHMSA changes this regulatory scheme by extending regulation to Class 1 gas gathering lines. A Class 1 location is an offshore pipeline or an onshore pipeline that has 10 or fewer buildings intended for human occupancy within a 1-mile-long class location unit. 49 C.F.R. § 192.5.

In the Final Rule, PHMSA defines two new categories of gathering lines – Type C and Type R lines, in addition to the existing Type A and Type B lines. Specifically:

- Type A lines are larger gathering pipelines that operate at higher stress levels in Class 2, Class 3, or Class 4 locations. Operators of Type A lines must comply with most of Part 192.
- Type B lines are gathering pipelines that operate at lower pressures in certain Class 2 locations and in Class 3 and Class 4 locations. Operators of Type B lines are required to comply with a more limited set of the Part 192 requirements.

amendment of the regulatory definition of “incidental gathering.” PHMSA said it will exercise its discretion, during the pendency of its consideration of amendments to § 192.8(a)(5) to be announced in a forthcoming supplemental notice of proposed rulemaking (“SNPRM”) under RIN 2137–AF37 to enforce the Final Rule’s ten-mile limitation on “incidental gathering” only in connection with gas gathering lines that are newly construction after May 16, 2022. Specifically, PHMSA will not enforce the Final Rule’s 10-mile limitation in connection with repair, replacement, or change of gathering lines existing on or before May 16, 2022, that are currently considered “incidental gathering” lines. PHMSA will memorialize this enforcement discretion within implementation material for PHMSA inspectors and recommend that its state partners do the same.

- Type C lines are gathering lines in Class 1 locations that are 8.625 inches or greater in diameter and are (1) metallic, with a maximum allowable operating pressure (MAOP), producing a hoop stress of 20% or more of specified minimum yield strength; (2) metallic, with an MAOP greater than 125 psig if the hoop stress is unknown; or (3) non-metallic, with an MAOP greater than 125 psig.
- Type R lines are gas gathering pipelines in Class 1 or Class 2 locations with a diameter of less than 8.625 inches or operating below the pressure or stress level criteria in the regulations.

PHMSA's Final Rule at pp. 63268, 63275-76, 63280-81.

Within the category of Type C lines, PHMSA has imposed certain requirements for operators based on the "scale of risk associated with the particular characteristics of the pipeline." Specifically:

- Operators of Type C lines with an outside diameter of 8.625 inches or greater will be required to comply with most of the following Part 192 requirements (unless excepted):
 - Design, installation, construction, and initial inspection and testing for lines that are new, replaced, relocated, or otherwise changed after the applicable compliance date in 192.13 per transmission line requirements in Part 192;
 - Corrosion control (Part 192, Subpart I);
 - Damage prevention program (§ 192.614);
 - Emergency plans (§ 192.615);
 - Public awareness (§ 192.616);
 - Line markers (§ 192.707); and
 - Leakage surveys (§ 192.706).
- Operators of Type C lines with an outside diameter of 12.75 inches or greater will also be required to comply with these additional requirements (unless excepted):

- Applicable requirements at Part 192 for plastic pipe and components; and
- Establishment of MAOP (§ 192.619).

PHMSA's Final Rule at pp. 63281-87; 49 CFR §§ 191.1, 191.3, 191.15, 191.17, 191.29, 192.3, 192.8, 192.9, 192.13, 192.18, 192.150, 192.452, 192.619.

PHMSA created a notable exception for gathering lines that have an *outside diameter of less than 16 inches and that are not located near a building intended for human occupancy or other impacted site*. When a gathering line falls within this exception, PHMSA only requires that the operator comply with design, installation, construction, and initial inspection and testing for lines that are new, replaced, relocated, or otherwise changed after the applicable compliance date in 49 CFR § 192.13 per transmission line requirements in Part 192, damage prevention, and emergency plan requirements. PHMSA's Final Rule at pp. 63285-86; 49 CFR § 192.8.

Type R lines will be subject only to Part 191 incident and annual reporting requirements. Type R lines are a catch-all category for the Part 191 reporting-only regulated onshore gas gathering lines in Class 1 or Class 2 locations that do not meet the definitions of Type A, Type B, or Type C lines. PHMSA's Final Rule at pp. 63275-76; 49 CFR §§ 191.1, 191.3, 191.15, 191.17, 191.23, 191.29.

Finally, on July 8, 2022, PHMSA issued a Notice informing the public that it would refrain from exercising enforcement of Part 192.9 safety requirements on Class 1 Type C gas gathering lines with an outside diameter of between 8.625 and 12.75 inches until May 17, 2024. *See Notice of Limited Enforcement Discretion For Particular Type C Gas Gathering Pipelines*, available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-07/Gas%20Gathering%20Enforcement%20Discretion%20Notice%20-%20July%202022.pdf>. PHMSA recognized that some operators of Type C gathering

pipelines with smaller outer diameter may face challenges complying with the 49 CFR Part 192.9 safety requirements by the May 16, 2023, compliance date established in PHMSA’s Final Rule. PHMSA stated it will exercise its enforcement discretion to refrain from taking enforcement action for one additional year (*i.e.*, from May 16, 2023, until May 17, 2024) against these affected operators for violations of safety requirements identified in Part 192.9. PHMSA stated that it expects affected operators will exercise diligence to take the necessary steps in preparation for full compliance with Part 192.9 by May 17, 2024. On and after May 17, 2024, PHMSA will begin compliance inspections on Type C gathering pipelines with outside diameters between 8.625 inches and 12.75 inches. PHMSA stated that this limited enforcement discretion has no impact on, among other provisions, each of the following: Part 191 reporting requirements for Type C and Type R lines; classification per Part 192.8 of gathering pipelines as Type C by November 16, 2022; and Part 192.9 safety requirements and compliance deadlines applicable to Type C lines with outer diameter greater than 12.75 inches.

Commission Jurisdiction Over Non-Utility Class 1 Gas Gathering Lines and Certain LNG Facilities Due to PHMSA’s Final Rule

Due to the changes in PHMSA’s Final Rule, pipeline operators that own or operate Class 1 gas gathering lines – Type C and Type R as defined in PHMSA’s Final Rule – are jurisdictional pipeline operators to the Commission under Act 127, as of July 15, 2022, sixty days after these pipeline operators became regulated by the Federal pipeline safety laws effective May 16, 2022. 58 P.S. §§ 801.102, 801.103, 801.302, 801.501, 801.503. Additionally, any non-utility LNG facility⁷ in the Commonwealth that is fed by a Class 1

⁷ An LNG facility meets the definition of a “pipeline facility” under Act 127 because it is used to store natural gas in the transportation of natural gas and involves the treatment of natural gas (prior to liquefaction) during the course of gas transportation. 58 P.S. § 801.102.

gathering line⁸ and that feeds gathering lines or trucks or rails (*i.e.*, is not connected to the interstate pipeline system) is a jurisdictional pipeline facility as of July 15, 2022, sixty days after this type of pipeline facility became subject to Federal pipeline safety laws on May 16, 2022.⁹ 58 P.S. §§ 801.102, 801.103, 801.302, 801.501, 801.503.

Moreover, we note that Act 127 expressly prohibits the Commission from adopting or enforcing safety standards that are inconsistent with or more stringent than the applicable federal regulations. 58 P.S. §§ 801.501(a), 302(a). Hence, for Type C gathering lines, the Commission can enforce only the applicable provisions of Parts 191 and 192 as adopted under PHMSA’s Final Rule to apply to Type C lines. For Type R lines, the Commission can enforce only the applicable provisions of Part 191 adopted under PHMSA’s Final Rule to apply to Type R lines (*i.e.*, only incident and annual reporting requirements under Part 191).

⁸ A non-utility LNG facility that is fed by a Class 2, 3, or 4 gathering line and that feeds gathering lines, trucks, or rails (*i.e.*, is not connected to the interstate pipeline system) is already a jurisdictional pipeline facility under Act 127.

⁹ In order for an LNG facility to be a jurisdictional “pipeline facility” pursuant to Act 127, it must: (1) not be owned and operated by a public utility or an ultimate consumer who owns a service line on its real property; (2) not be subject to the exclusive jurisdiction of Federal Energy Regulatory Commission (FERC) for siting and certificate regulation; and (3) be regulated under Federal pipeline safety laws. 58 P.S. §§ 801.102, 801.103. If the non-utility/non-ultimate consumer LNG facility is fed by a gathering line and then feeds trucks or rails, it is not connected to the interstate pipeline system because the LNG facility neither receives nor delivers natural gas to the interstate pipeline system, and, therefore, the LNG facility would not be FERC jurisdictional. To be jurisdictional under Act 127, the non-utility owned/operated LNG facility must be subject to Federal pipeline safety laws. With the changes in PHMSA’s Final Rule, PHMSA now includes Type C gathering lines in Class 1 locations in Part 192 regulation. Since Class 1 gas gathering lines are now subject to the pipeline safety laws and Part 192 of the federal regulations, it follows that the operation of the LNG facilities either fed by or feeding these types of lines are subject to PHMSA’s jurisdiction under Part 193.

Phased-In Compliance Deadlines for Parts 191 and 192 Standards

In PHMSA's Final Rule, PHMSA imposed a phase-in of compliance deadlines for certain provisions of the Part 191 and Part 192 regulations. As explained above, the phased-in compliance deadlines shall take effect for Commission enforcement 60 days after the federal amendment's effective dates. 58 P.S. § 801.302(b). Below is a summary of the upcoming compliance deadlines:

- Part 191 Reporting
 - Incident Reports: Report events occurring after May 16, 2022. PHMSA's Final Rule at pp. 63274-76, 63287, 63295; 49 CFR § 191.1, 191.15. Accordingly incident reports reporting events occurring after July 15, 2022, must be submitted to the Commission's Bureau of Investigation and Enforcement Safety Division by email at RA-PC-PipelineSafety@pa.gov.
 - Annual Reports: 2022 annual report due March 15, 2023. PHMSA's Final Rule at pp 63276, 63287, 63295; 49 CFR § 191.17. Accordingly, 2022 annual reports are due to the Commission on May 15, 2023, by providing a copy to the Commission's Bureau of Investigation and Enforcement Safety Division by email at RA-PC-PipelineSafety@pa.gov, and thereafter providing a copy of the PHMSA annual report on March 15th of each year to the same email account.
- Identify Type C lines: Federal effective date November 16, 2022; Commission effective date January 16, 2023 – This date is the deadline for operators to identify the endpoints of newly regulated Type C lines in compliance with § 192.8(c)(2), which requires, at a minimum, knowledge only of the location, diameter, and pressure of the pipeline.¹⁰ For certain older, smaller diameter,

¹⁰ In the May 4, 2022 Final Rule Correction, PHMSA clarified that, in making the determination whether a gathering line is a Type C line pursuant to § 192.8(c), operators that do not know the yield strength of a steel gathering line may use the 24,000 pounds-per-square-inch default yield strength specified at § 192.107(b)(2) as a proxy for pipe SMYS used along with the pipeline operating hoop stress to determine the operating hoop stress percentage of pipe SMYS. Final Rule Correction at p. 26296. PHMSA also issued a technical correction, introducing § 192.8(c)(4), which provides that gas gathering line operators may, in connection with the threshold determination that a facility is a Type C gathering line when no MAOP has been calculated consistent with § 192.619(a) or (c)(1), use either (i) an MAOP calculated consistent with the methods at § 192.619(a) or (c)(1), or (ii) as a substitute for MAOP, the highest operating pressure to which the segment was subjected during the preceding five years. Final Rule Correction at p. 26297.

systems, PHMSA included procedures for an operator to request an alternative compliance deadline with a notification in accordance with § 192.18. An operator must submit a written request to PHMSA in accordance with § 192.18 no later than 90 days prior to the standard compliance deadline. The request must include, at a minimum, a description of the facilities that require a delayed compliance date, the justification for an alternative compliance deadline, and the proposed alternative compliance deadline. An operator may proceed with their proposed compliance deadline if they receive a no-objection letter from PHMSA or if PHMSA does not reply within 90 days. If delayed identification impacts an operator’s ability to comply with the requirements in § 192.9, they must submit a separate notification to request delayed compliance under that section. PHMSA’s Final Rule at p. 63281, 63296; 49 CFR § 192.8(a)(5)(b)(1)-(2).

- Maximum allowable operating pressure (MAOP) lookback: The MAOP will be determined using the actual operating pressure of the pipeline for the 5-year period ending May 16, 2023 (5 years preceding May 16, 2023) (unless excepted). PHMSA’s Final Rule at p. 63299; 49 CFR § 192.619.
- Section 192.9 compliance: The new Section 192.9(f) specifies which Part 192 requirements apply to Class 1 Type C gathering lines, summarized in PHMSA’s Final Rule as follows:

Outside diameter	Not located near a building intended for human occupancy or other impacted site (§ 192.9(f))	Located near a building intended for human occupancy or other impacted site (§ 192.9(f))
Greater than or equal to 8.625 inches up to and including 12.75 inches.	<ul style="list-style-type: none"> —Design, Construction, Initial Inspection and Testing (new/replaced/relocated/changed lines). —Damage Prevention —Emergency plans 	<ul style="list-style-type: none"> —Design, Construction, Initial Inspection and Testing (new/replaced/relocated/changed lines). —Corrosion Control. —Damage Prevention. —Emergency Plans. —Line Markers. —Public Awareness. —Leakage Surveys. All Type C Requirements.
Greater than 12.75 inches up to and including 16 inches.	<ul style="list-style-type: none"> —Design, Construction, Initial Inspection and Testing (new/replaced/relocated/changed lines). —Damage Prevention. —Emergency Plans. 	All Type C Requirements.
Greater than 16 inches	All Type C Requirements	All Type C Requirements.

PHMSA’s Final Rule at pp. 63283, 63296-97; 49 CFR § 192.9(g)(4)(i)-(ii).

- Section 192.9 compliance on Class 1 Type C lines that are greater than or equal to 8.625 inches in diameter but less than or equal to 12.75 inches in diameter: Federal effective date May 16, 2024, or an alternative deadline

approved by PHMSA¹¹; Commission effective date July 17, 2024, or an alternative date approved by the Commission.

- Section 192.9 compliance on Class 1 Type C lines that are greater than 12.75 inches in diameter: Federal effective date May 16, 2023, or an alternative deadline approved by PHMSA; Commission effective date July 17, 2023, or an alternative date approved by the Commission.
- Section 192.8, 192.13 compliance: Federal effective date May 16, 2023; Commission effective date July 17, 2023. Design, installation, construction, and initial inspection and testing per transmission line requirements in part 192 for lines that are new, replaced, relocated, or otherwise changed after the applicable compliance date in § 192.13 (which is May 16, 2023); PHMSA’s Final Rule at pp. 63281-85, 63287-89, 63298; 49 CFR § 192.13(a)(3), (b).

In summary, with regard to pipeline safety standards, due to PHMSA’s Final Rule making amendments to Federal pipeline safety regulations, the Commission now has jurisdiction and authority under Act 127 to oversee a pipeline operator that owns or operates a Type C or Type R line and enforce its compliance with applicable Part 191 and Part 192 Federal pipeline safety laws, as implemented in 49 C.F.R. Subtitle B, Ch. 1, Subch. D (relating to pipeline safety). *See* 58 P.S. §§ 801.501(a), 302(a). As the above-described changes in federal regulations gives the Commission this new jurisdiction pursuant to Act 127, the Commission is bound to adhere to the phased-in compliance deadlines in the Final Rule, resulting in a phase-in period in excess of a year, as measured from the publication date of the PHMSA Final Rule. The phased-in compliance deadlines take effect for Commission enforcement 60 days after the federal amendment’s effective date. *See* 58 P.S. § 801.302(b). For purposes of pipeline safety, all pipeline operators subject to Act 127 and this Implementation Order shall comply with the phased-in compliance deadlines for Part 191 and Part 192 compliance as discussed above.

¹¹ *See Notice of Limited Enforcement Discretion For Particular Type C Gas Gathering Pipelines*, available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-07/Gas%20Gathering%20Enforcement%20Discretion%20Notice%20-%20July%202022.pdf>.

Pipeline Operator Registry and Assessments

Pursuant to Act 127, all newly jurisdictional pipeline operators will be subject to the Commission's statutory obligation to maintain a pipeline operator registry and determine annual assessments. More specifically, Act 127 requires the Commission to develop and maintain a registry of pipeline operators within the Commonwealth of Pennsylvania. 58 P.S. § 801.301. Additionally, Act 127 imposes a duty on the Commission to assess jurisdictional pipeline operators on an annual basis to cover the Commission's total costs of running its pipeline safety program as adjusted to exclude costs otherwise reimbursed by the Federal Government. 58 P.S. § 801.53(a), (b). For the newly jurisdictional Class 1 gas gathering pipeline operators, the Commission must determine an appropriate annual assessment based on intrastate regulated onshore gathering pipeline miles to collect the pipeline operator's portion of the Commission's gas pipeline safety program. *Id.* § 801.503(b). The assessment shall be due and payable within 30 days from the notice of amount due from the Commission. *Id.* § 801.503(c). Each pipeline operator shall submit an original application and thereafter shall submit a report on or before March 31 of each year reporting its total miles during the prior calendar year. *Id.* § 801.503(d).

We shall require by March 31, 2023, the initial annual registration by all pipeline operators that own or operate a Class 1 gas gathering line. Initial registration consists of providing the information found on the then-current Pipeline Operator Annual Registration Form available on the Commission's website, along with payment of an initial registration fee of \$250.¹² Thereafter, the Commission will require these newly jurisdictional pipeline operators to submit an annual registration form with the Commission by March 31 each year.

¹² See *Act 127 Implementation Order* at 2.

Registrants are expected to file their forms using the Commission's eFile system. As indicated on the Registration Form, registrants must provide contact information,¹³ their U.S. DOT Operator ID number, and Federal Employee Identification number (EIN). The Commission will organize its registry based on U.S. DOT Operator ID numbers, with the result being that multiple entities which operate all under one U.S. DOT Operator ID number will register as a single pipeline operator (listing all entities using that ID number). An entity with multiple U.S. DOT Operator ID numbers must register each U.S. DOT Operator ID number as a separate pipeline operator. Registrants must provide their pipeline mileage for class 1 pipeline serving unconventional wells, as well as for all class 2, 3, and 4 pipelines.

Pipeline operators are responsible to promptly update the Commission with any changes to their contact information. Pipeline operators who fail to register shall be subject to civil penalties as set forth in Section 502 of Act 127, 58 P.S. § 801.502.

For assessments, the Commission will determine its annual costs based upon its fiscal year, which runs from July 1st through June 30th. Under the Commission's normal assessment process, assessments to cover the Commission's annual costs for its pipeline safety program under Act 127 will be based upon the Commission's approved budget. Assessments will be billed and due after the July 1st start of the fiscal year. Since the Class 1 pipeline operators subject to this Implementation Order must file Part 191 incident reports with the Commission on and after July 15, 2022, and must file Part 191 annual reports by May 15, 2023, these pipeline operators will be subject to the Commission's annual assessment for the 2023-2024 fiscal year July 1, 2023 through June 30, 2024; **THEREFORE,**

¹³ The person or persons listed should have knowledge of the registrants' Pennsylvania operations and be reasonably available to be contacted by Commission personnel should an emergency arise with those operations.

IT IS ORDERED:

1. By May 15, 2023, all pipeline operators in the Commonwealth of Pennsylvania that own or operate a Class 1 gas gathering line or a liquefied natural gas facility fed by a Class 1 gas gathering line and not connected to the interstate pipeline system shall provide a copy of their Part 191 Annual Report filed with the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration to the Commission's Bureau of Investigation & Enforcement Safety Division by email at RA-PC-PipelineSafety@pa.gov. Thereafter, all Act 127 pipeline operators (Types A, B, C, and R) shall provide a copy of their PHMSA annual report by March 15th of each year to the Commission's Bureau of Investigation & Enforcement Safety Division by email at RA-PC-PipelineSafety@pa.gov.

2. That, for purposes of pipeline safety and reporting standards, all pipeline operators subject to Act 127 and this Implementation Order shall comply with the phased-in compliance deadlines for Part 191 and Part 192 compliance as discussed in the body of this Order.

3. All pipeline operators in the Commonwealth of Pennsylvania that own or operate a Class 1 gas gathering line shall file with the Commission an Annual Registration Form by March 31, 2023, and thereafter on March 31st of each year, in accordance with this Implementation Order and the then-current Pipeline Operator Annual Registration Form available on the Commission's website.

4. That the Commission's Fiscal Office shall compute the annual assessment for each pipeline operator based on the pipeline operator's current Annual Registration Form and in accordance with Act 127. For the 2023-24 assessment covering fiscal year July 1, 2023 through June 30, 2024, the Fiscal Office shall include Class 1 gas gathering miles.

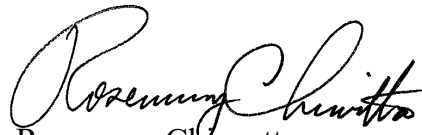
5. The Bureau of Technical Utility Services shall modify the Annual Registration Form consistent with this Implementation Order, *inter alia*, to include Class 1 gas gathering lines in the Total Column in Attachment B to the Pipeline Operator Annual Registration Form.

6. That all pipeline operators subject to Act 127 shall pay their assessment within 30 days of the postmark date of the invoice. For the 2023-2024 assessment, invoices shall be mailed in accordance with the Commission's assessment procedures and pipeline operators shall pay their assessments within 30 days of the postmark date of the invoice.

7. That a copy of this Implementation Order shall be published in the *Pennsylvania Bulletin* and be posted on the Commission's website.

8. That a copy of this Implementation Order shall be served on the Bureau of Investigation & Enforcement.

BY THE COMMISSION


Rosemary Chavetta
Secretary

(SEAL)

ORDER ADOPTED: December 8, 2022

ORDER ENTERED: December 8, 2022