

Long Awaited Plastic Pipe Rule Finalized

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The federal agency tasked with pipeline safety, PHMSA, has issued a long-awaited [rule regarding plastic pipe](#). Plastic pipe is primarily used in distribution gas pipeline systems, as a corrosion resistant and cost effective alternative to steel pipelines. This rule provides some significant updates to existing 49 C.F.R. Part 192 rules applicable to plastic pipe and to expand its use in light of technological advances. The rule will be effective January 22, 2019, and has limited application to new, repaired, and replaced plastic pipelines.

Plastic pipe has been used in distribution pipeline systems and to a lesser extent in transmission and gathering pipelines since the 1970s. In particular, plastic pipe is frequently used by operators in replacing aging distribution infrastructure. While there have been some issues related to brittle fracture of plastic pipe manufactured in the 1960s-1980s, technological advances in the current design and manufacture of plastic pipe support its reliability and integrity. Since 2010 PHMSA has received numerous petitions for rulemaking to update its 49 C.F.R. Part 192 rules applicable to plastic piping from industry groups such as the American Gas Association and the Gas Piping Technology Committee. In particular, industry requested that PHMSA increase the design factor associated with plastic pipe and allowances for the use of certain nylon (polyamide) pipe and at higher pressures (which have been the subject of certain Special Permits). In addition, federal and state pipeline safety inspectors have observed compliance issues with plastic pipe, such as issues with the permanency of markings on plastic pipelines and fittings. In 2015, PHMSA issued a Notice of Proposed Rulemaking intended to address these issues.

In the Final Rule, PHMSA responds to the substantive comments and issues from industry stakeholders, state regulators, trade associations, and public citizens. Of the more significant changes, this rule does the following:

1. Increases the design factor of polyethylene (PE) pipe (and adding small diameter pipe to the rule);
2. Increases the use, maximum pressure, and diameter for Polyamide (PA)-11 pipe and PA-12 pipe as well as associated components (and adding small diameter pipe to the rule);
3. Establishes new design and construction standards for risers and more stringent standards for plastic fittings and joints and mechanical fittings (including qualification of procedures and personnel for joining plastic pipe);

4. Establishes new and expanded plastic pipe installation requirements aimed to mitigate contact with other underground utilities and structures;
5. Incorporates by reference new or updated industry standards for pipe, fittings and components.

PHMSA tabled certain proposed changes to “a later date” for further evaluation of costs and benefits in a subsequent action or new rulemaking. These include, among others, proposed revisions regarding the traceability and tracking information applicable to plastic pipe and components (while flagging certain marking and DIMP requirements under existing rules) and the benefits of certain trenchless installation technology.

This is just one of numerous rulemakings that have been pending at PHMSA for years and one that has generally been supported by the gas industry. In announcing the final rule, PHMSA Administrator Skip Elliott ***declared*** that “these regulatory updates will significantly contribute to advancing public safety,” and the agency’s press release highlights the annual material cost savings to the industry. Along those lines, PHMSA explains in the preamble that the rule will result in net economic benefits to the public and it is considered a Department of Transportation “deregulatory action” under President Trump’s 2 for 1 Executive Order (EO) 13,771 which mandates that for every 1 new rule issued (a “regulatory action” in EO guidance), an agency must withdraw 2 rules (called a “deregulatory action”). As such, this rule potentially paves the way in part for the Department of Transportation to issue a regulatory action. In 2019, a new Congress will take up reauthorization of the Pipeline Safety Act and PHMSA and its remaining backlog of rulemaking mandates.