

April 18, 2016

Energy Update

Summary of House Transportation and Infrastructure Committee Pipeline Safety Legislation

Overview

On April 14, the House Transportation and Infrastructure Committee released the text of the draft “[Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2016](#)” (“PIPES Act”). Full Committee Chairman Bill Shuster (R-PA) and Ranking Member Peter DeFazio (D-OR), along with Railroads, Pipelines, and Hazardous Materials Subcommittee Chairman Jeff Denham (R-CA) and Ranking Member Mike Capuano (D-MA) are sponsors of the legislation, which the Committee is scheduled to vote on during a [markup](#) on Wednesday, April 20.

Release of the bill follows Senate passage of the “Securing America’s Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act” ([S. 2276](#)) on March 3, 2016, and the Energy and Commerce Committee’s Energy and Power Subcommittee’s approval of the “Pipeline Safety Act of 2016” ([discussion draft](#)) on March 16.

The provisions of the Transportation and Infrastructure Committee’s PIPES Act are:

Section 1. Short Title; Table of Contents; References.

Declares that the short title is the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” or the “PIPES Act of 2016”.

Section 2. Authorization of Appropriations.

Authorizes the pipeline safety activities of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and sets funding levels, through September 30, 2019, increasing the authorization from \$124.5 million in FY 2016 to \$134.0 million in FY 2019.

Section 3. Failure of PHMSA to Implement Statutory Mandates.

Requires the Department of Transportation’s Inspector General, within 45 days of enactment, to report on unfulfilled mandates under the “Pipeline Safety Regulatory Certainty and Job Creation Act of 2011” and other statutes.

Requires the Secretary of Transportation to submit reports (beginning 90 days after enactment, and then every 60 days) on incomplete pipeline safety mandates. The reports must include: information on the status of each open mandate; a description of “reasons the mandate has not been implemented...”; “an estimated completion date for each mandate”; and other information.

Section 4. Natural Gas Integrity Management Review.

Requires the Government Accountability Office (GAO) to report to Congress, within 18 months of publication of the “final rule regarding the safety of gas transmission pipelines related to the notice of proposed rulemaking...titled ‘Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines’, on “the natural gas integrity management programs required under” the Pipeline Safety Act.

Requires the GAO to include in its report:

- “[A]n analysis of the extent to which the natural gas integrity management programs...have improved the safety of natural gas transmission pipeline facilities”;
- “[A]n analysis and recommendations, taking into consideration technical, operational, and economic feasibility, regarding changes to the programs to improve safety, prevent inadvertent releases from pipelines, and mitigate any adverse consequences of an inadvertent release, including changes to the definition of high consequence area, or expanding integrity management beyond high consequence areas”; and
- “[A]n analysis of, and recommendations regarding, what impact pipeline features and conditions, including the age, condition, materials, and construction of a pipeline, have on safety and risk analysis of a particular pipeline”.

Section 5. Hazardous Liquid Integrity Management Review.

Requires the GAO to report to Congress, within 18 months of the publication of a final rule regarding the safety of hazardous liquid pipeline facilities related to the notice of proposed rulemaking...titled ‘Pipeline Safety: Safety of Hazardous Liquid Pipelines’, on “the hazardous liquid integrity management programs”, including:

- “[A]n analysis of the extent to which hazardous liquid pipeline facility integrity management in high consequence areas...has improved the safety of hazardous liquid pipeline facilities;”
- “[A]n analysis of how surveying, assessment, mitigation, and monitoring activities, including real time hazardous liquid pipeline monitoring during significant flood events and information sharing with Federal agencies, are being used to address risks associated with the dynamic and unique nature of rivers, flood plains, lakes, and coastal areas;” [and]
- “[A]n analysis of, and recommendations regarding, what impact pipeline features and conditions, including the age, condition, materials, and construction of a pipeline, have on safety and risk analysis of a particular pipeline and what changes to the definition of high consequence area could be made to improve pipeline safety”.

Section 6. Technical Safety Standards Committees.

Changes how the Secretary of Transportation considers state government appointees to PHMSA's gas and liquid pipeline technical advisory committees.

Requires the Secretary of Transportation to "fill all vacancies" on PHMSA's technical advisory committees within 90 days of enactment, and to fill future vacancies within 60 days.

Section 7. Inspection Report Information.

Requires PHMSA to take follow-up actions to pipeline safety inspections, including providing post-inspection briefings and "written preliminary findings" within 90 days of an inspection.

Section 8. Improving Damage Prevention Technology.

Requires the GAO to study and provide a report, within one year of enactment, "on improving existing damage prevention programs through technological improvements in location, mapping excavation, and communication practices to prevent excavation damage to a pipe or its coating."

Section 9. Workforce Management.

Requires the Department of Transportation's Inspector General, within one year of enactment of the legislation, to submit to Congress a review of PHMSA's "staff resource management, including geographic allocation plans, hiring challenges, and expected retirement rates and strategies...[including] recommendations to address hiring challenges, training needs, and any other identified staff resource challenges..."

Section 10. Information Sharing System.

Directs the Secretary of Transportation, within 180 days of enactment, to "convene a working group to consider the development of a voluntary information-sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing with the purpose of improving natural gas transmission and hazardous liquid pipeline facility integrity risk analysis."

Section 11. Nationwide Integrated Pipeline Safety Regulatory Database.

Requires the Secretary of Transportation, within 18 months of enactment of the legislation, to "establish a national integrated pipeline safety regulatory inspection database to improve communication and collaboration between [PHMSA] and State pipeline regulators."

Section 12. Underground Natural Gas Storage Facilities.

Requires the Secretary of Transportation, within two years of enactment of the legislation, to "issue minimum safety standards for underground natural gas storage facilities."

Requires the Secretary, in developing the standards, to:

- “consider consensus standards for the operation, environmental protection, and integrity management of underground natural gas storage facilities;”
- “consider the economic impacts of the regulations on individual gas customers; and
- “ensure that the regulations do not have a significant economic impact on end users.”

Declares that the Secretary is not authorized to:

- “...prescribe the location of an underground natural gas storage facility; or”
- grant permission or otherwise authorize the construction of an underground natural gas storage facility.

Permits states to enforce “more stringent safety standards for intrastate underground natural gas storage facilities if those standards are compatible with the minimum standards prescribed” by the Secretary of Transportation.

Authorizes the collection of user fees from underground storage facility operators, and establishes the “Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund.” Specifies that fees collected “may be used only for an activity related to underground natural gas storage safety.”

Section 13. Joint Inspection and Oversight.

Specifies that, upon “the request of a State authority, the Secretary shall allow for a certified State authority...to participate in the inspection of an interstate pipeline facility.”

Section 14. Safety Data Sheets.

Requires “[e]ach owner or operator of a hazardous liquid pipeline facility, following an accident or incident...[to] provide safety data sheets on any spilled oil to the designated Federal On-Scene Coordinator and appropriate State officials within 6 hours of a telephonic or electronic notice of the accident or incident to the National Response Center.”

Section 15. Hazardous Materials Identification Numbers.

Requires PHMSA to promulgate an Advanced Notice of Proposed Rulemaking (ANPRM) within 90 days of enactment to “take public comment on the petition for rulemaking” on hazardous identification numbers for tank cars.

Section 16. Emergency Order Authority.

Authorizes the Secretary of Transportation to issue emergency orders related to pipeline safety if “an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes, or is causing an imminent hazard...”

Requires the Secretary, before issuing an emergency order, to consider:

- “The impact of the emergency order on public health and safety.”
- “The impact, if any, of the emergency order on the national or regional economy or national security.”
- “The impact of the emergency order on owners and operators of pipeline facilities.”

Provides for administrative law judge review of emergency orders, as well as judicial review with “expedited consideration”.

Provides for expiration of an emergency order within 30 days, but authorizes the Secretary to extend the order upon a written determination “that the imminent hazard still exists.”

Defines an “imminent hazard” as “a condition relating to a gas or hazardous liquid pipeline facility that presents...a substantial likelihood of death, serious illness, or severe personal injury...or...a substantial endangerment to health, property, or the environment.”

Section 19. High Consequence Areas.

Requires the Secretary of Transportation to specify that “the Great Lakes and any marine coastal waters (including coastal estuaries) are USA ecological resources for purposes of determining whether a pipeline is in a high consequence area...”

Section 20. Pipeline Safety Technical Assistance Grants.

Requires the Department of Transportation’s Inspector General, within 180 days of the enactment of the legislation, to report on the distribution and use of pipeline safety technical assistance grants.

Section 21. Study of Materials and Corrosion Prevention in Pipeline Transportation.

Requires the GAO, within 2 years of enactment of the legislation, to report on “materials and corrosion prevention technologies used in pipeline transportation.” Specifies that the report shall include:

- “the range of piping materials, including plastic materials, used to transport hazardous liquids and natural gas in the United States and in other developed countries around the world;”
- “the types of technologies used for corrosion prevention; and”
- “an analysis of the costs and benefits, including safety benefits, associated with the use of such materials and technologies.”

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