

June 20, 2016

Energy Update

Section-By-Section Summary of the Final Pipeline Safety Bill

Overview

The House and Senate have completed action on the “Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016” ([S. 2276](#)), with the House [approving it by voice vote](#) on June 8, and the Senate [passing it by unanimous consent](#) on June 13. The White House received the legislation on Thursday, June 16, and it is awaiting the President’s signature. S. 2276 reauthorizes the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) pipeline safety functions through September 30, 2019.

Among the more significant provisions in the legislation are: a requirement for PHMSA to promulgate regulations governing the safety of underground natural gas storage facilities (Section 12); and a grant of new pipeline safety emergency order authority to PHMSA (Section 16). PHMSA is already working on underground natural gas storage regulations. As described in the most recent [“Unified Agenda for Regulatory and Deregulatory Actions”](#), “PHMSA is planning to issue an interim final rule to require operators of underground storage facilities for natural gas to comply with minimum safety standards, including compliance with” existing American Petroleum Institute recommended practices.

In addition to the underground natural gas storage provision, new regulatory mandates directed by the legislation include:

- Requirements for hazardous liquid pipeline operators to provide safety data sheets (SDS) within six hours of an incident (Section 14);
- Requirements for operators, in developing response plans, to “consider the impact of a discharge into or on navigable waters or adjoining shorelines, including those that may be covered in whole or in part by ice, and include procedures and resources for responding to such discharges in” their plans (Section 18);
- Clarification of the requirements for abandoned pipelines (Section 23);
- An annual inline inspection requirement for inland pipelines located below 150 feet of water (Section 25); and
- A requirement for PHMSA to update the regulations governing “permanent, small scale liquefied natural gas pipeline facilities” (Section 27).

The legislation includes a number of provisions directing studies and reports, with the Government Accountability Office (GAO) tasked with five reports and the Department of Transportation’s Inspector General directed to produce three reports. In addition, the legislation directs the Secretary of Transportation

to convene a working group on “development of a voluntary information-sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing...” (Section 10). S. 2276 also directs the establishment of a federal interagency task force on the Aliso Canyon natural gas leak, which is required to report to Congress within six months (Section 31). The GAO reports on natural gas integrity management (Section 4), hazardous liquid integrity management (Section 5), pipeline materials and corrosion (Section 21), and odorization of natural gas transported by pipeline (Section 28), could be delivered to Congress in time for consideration during development of the next pipeline safety reauthorization bill.

Summary of Legislation:

Section 1. Short Title; Table of Contents.

States that the “Act may be cited as the ‘Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016’ or the ‘PIPES Act of 2016’”.

Section 2. Authorization of Appropriations.

Reauthorizes the pipeline safety functions of PHMSA for Fiscal Years 2016 through 2019 (September 30, 2019). Authorizes appropriations of: \$124.5 million in Fiscal Year 2016; \$128.0 million in Fiscal Year 2017; \$131.0 million in Fiscal Year 2018; and \$134.0 million in Fiscal Year 2019.

Establishes a new “Underground Natural Gas Storage Facility Safety Account” to collect the user fees authorized by Section 12 of the legislation.

Section 3. Regulatory Updates.

Directs the Secretary of Transportation, within 120 days of the date of enactment, “and every 90 days thereafter...” to “publish an update...regarding the status of a final rule for each outstanding regulation...” mandated by the “Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011”, and other pipeline safety reauthorization acts.

Section 4. Natural Gas Integrity Review.

Requires the Government Accountability Office (GAO), within 18 months following publication of “a final rule...related to the notice of proposed rulemaking...titled ‘Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines’ to provide a report to Congress “regarding the integrity management programs for gas pipeline facilities...”

Requires that the report include:

- “an analysis of stakeholder perspectives, taking into consideration technical, operational, and economic feasibility, regarding ways to enhance pipeline facility safety, prevent inadvertent releases from pipeline facilities, and mitigate any adverse consequences of such inadvertent releases,

including changes to the definition of high consequence area, or expanding integrity management beyond high consequence areas;”

- “a review of the...benefits...and estimated costs of the legacy class location regulations;”
- “an analysis of the impact pipeline facility features, including the age, condition, materials, and construction of a pipeline facility, have on safety and risk analysis of a particular pipeline facility;”
- “a description of any challenges affecting Federal or State regulators in oversight of gas transmission pipeline facilities and how the challenges are being addressed; and”
- “a description of any challenges affecting the natural gas industry in complying with the programs, and how the challenges are being addressed, including any challenges faced by publicly owned natural gas distribution systems.”

Section 5. Hazardous Liquid Integrity Management Review.

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

Requires that the report include:

- an analysis, “taking into consideration technical, operational, and economic feasibility...of stakeholder perspectives on...ways to enhance hazardous liquid pipeline facility safety;...risk factors that may warrant more frequent inspections of hazardous liquid pipeline facilities; and... changes to the definition of high consequence area;”
- “an analysis of how surveying, assessment, mitigation, and monitoring activities, including real-time hazardous liquid pipeline facility monitoring during significant flood events and information sharing with Federal agencies, are being used to address risks associated with rivers, flood plains, lakes, and coastal areas;”
- “an analysis of the impact pipeline facility features, including the age, condition, materials, and construction of a pipeline facility, have on safety and risk analysis of a particular pipeline facility and what changes to the definition of high consequence area could be made to improve pipeline facility safety; and”
- “a description of any challenges affecting Federal or State regulators in the oversight of hazardous liquid pipeline facilities and how those challenges are being addressed.”

Section 6. Technical Safety Standards Committees.

Changes the requirements for the Secretary of Transportation for selection of state representatives to the liquid and gas pipeline advisory committees to provide that the Secretary “consult with national organizations representing State commissioners or utility regulators...”

Requires the Secretary, within 90 days of the date of enactment, to “fill all vacancies of the” liquid and gas pipeline advisory committees. Requires the Secretary to fill any future vacancies “not later than 60 days after the vacancy occurs.”

Section 7. Inspection Report Information.

Requires PHMSA or a state agency to provide, following an inspection: “within 30 days...a post-inspection briefing with the owner or operator...”; and “within 90 days, to the extent practicable... written preliminary findings of the inspection.”

Requires, beginning by October 1, 2017, the PHMSA Administrator to provide Congress with biannual reports on the number of instances when the post-inspection information deadlines were missed, and “the length of time by which the deadlines were exceeded.”

Section 8. Improving Damage Prevention Technology.

Requires the Secretary of Transportation, within one year of the date of enactment, to report to Congress on “improving existing damage prevention programs through technological improvements in location, mapping, excavation, and communications practices to prevent excavation damage to a pipe or its coating, including considerations of technical, operational, and economic feasibility and existing damage prevention programs.” Requires that the report include “recommendations, that include the consideration of technical, operational, and economic feasibility, on how to incorporate into existing damage prevention programs technological improvements and practices that help prevent excavation damage.”

Section 9. Workforce Management.

Requires the Inspector General of the Department of Transportation, within one year of the date of enactment, to report to Congress on PHMSA workforce management issues.

Authorizes the PHMSA Administrator to “apply to the Office of Personnel Management for the authority to appoint qualified candidates to any position relating to pipeline safety...”

Section 10. Information-Sharing System.

Requires 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 gas transmission and hazardous liquid pipeline facility integrity risk analysis.”

Section 11. Nationwide Integrated Pipeline Safety Regulatory Database.

Requires the Secretary of Transportation, within one year of the date of enactment, to report to Congress “on the feasibility of establishing a national integrated pipeline safety regulatory inspection database to improve communication and collaboration between [PHMSA] and State pipeline regulators.”

Authorizes the Secretary of Transportation, “if appropriate,” to “establish a national integrated pipeline safety regulatory database...after submission of the report...or upon notifications” to the congressional committees of jurisdiction.

Section 12. Underground Gas Storage Facilities.

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

Defines “underground natural gas storage facility” as “a gas pipeline facility that stores natural gas in an underground facility, including...a depleted hydrocarbon reservoir;...an aquifer reservoir; or...a solution-mined salt cavern reservoir.”

Requires the Secretary, in developing regulations for underground natural gas storage, “to the extent practicable”:

- “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;”
- “ensure that the regulations do not have a significant economic impact on end users; and”
- “consider the recommendations of the Aliso Canyon natural gas leak task force established under section 31...”

Specifies that this new section of the U.S. Code (49 USC 60141) “may not be construed to authorize the Secretary...to”:

- “prescribe the location of an underground natural gas storage facility; or...”
- “require...permission to construct a facility...”

Specifies that States “may adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities if such standards are compatible with the minimum [federal] standards...”

Requires PHMSA to impose user fees on underground natural gas storage facility operators.

Section 13. Joint Inspection and Oversight.

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

Section 14. Safety Data Sheets.

Requires hazardous liquid pipeline operators to “provide safety data sheets on any spilled hazardous liquid to the designated Federal On-Scene Coordinator and appropriate State and local emergency responders within 6 hours of a telephonic or electronic notice of the accident to the National Response Center.”

Section 15. Hazardous Materials Identification Numbers.

Requires PHMSA, within 90 days of the date of enactment, to “issue an advanced notice of proposed rulemaking to take public comment on the petition for rulemaking” on hazardous identification numbers for rail 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 the ability of owners and operators of pipeline facilities to maintain reliability and continuity of service to customers.”

Requires the Secretary, “as the Secretary deems appropriate”, to “consult...with appropriate Federal agencies, State agencies, and other entities knowledgeable in pipeline safety and operations” in considering the three factors required for the Secretary to review before issuing an emergency order.

Requires that an emergency order include “a written description of”:

- “the violation, condition, or practice that constitutes or is causing the imminent hazard;”
- “the entities subject to the order;”
- “the restrictions, prohibitions, or safety measures imposed;”
- “the standards and procedures for obtaining relief from the order;”
- “how the order is tailored to abate the imminent hazard and the reasons the authorities [to issue corrective action orders and safety orders] are insufficient to do so; and”
- “how the considerations [regarding the impacts on public health and safety, the economy or national security, and the ability of pipelines to maintain reliability and service to customers] were taken into account...”

Provides for administrative law judge review of emergency orders, as well as judicial review in U.S. district court 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.”

Requires the Secretary, within 60 days of the date of enactment, to issue temporary regulations to implement pipeline emergency order authority.

Requires the Secretary, within 270 days of the date of enactment, to issue final regulations to implement pipeline emergency order authority.

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

completion date of a formal proceeding begun to lessen the risk of such death, illness, injury, or endangerment.”

Section 17. State Grant Funds.

Authorizes the Secretary of Transportation to withhold State grant funds “when the Secretary decides that the [State] authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent.”

Section 18. Response Plans.

Requires pipeline owners and operators, in preparing onshore oil pipeline response plans to: “consider the impact of a discharge into or on navigable waters or adjoining shorelines, including those that may be covered in whole or in part by ice, and include procedures and resources for responding to such discharges in the plan.”

Section 19. Unusually Sensitive Areas.

Requires the Secretary of Transportation to “explicitly state that the Great Lakes, coastal beaches, and marine coastal waters are USA ecological resources for the purposes of determining whether a pipeline is in a high consequence area...”

Section 20. Pipeline Safety Technical Assistance Grants.

Amends the definition of “technical assistance” to specify that the use of grants in the “public participation” in “official proceedings” by grant recipients should be limited to “technical pipeline safety issues”.

Requires the Inspector General of the Department of Transportation, within 180 days of the date of enactment, to report to the Secretary of Transportation and Congress on the pipeline safety technical assistance grants program.

Requires the report to include:

- “a list of the recipients of all grant funds during fiscal years 2010 through 2015;...”
- “a description of how each grant was used;...”
- “an analysis of the compliance with the terms of grant agreements...;...”
- “an evaluation of the competitive process used to award the grant funds; and...”
- “an evaluation of...the ability of [PHMSA] to oversee grant funds and usage; and... the procedures used for such oversight.”

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

Requires the GAO, within two years of the date of enactment, to report to Congress “on materials, training, and corrosion prevention technologies for gas and hazardous liquid pipeline facilities.”

Requires the report to include:

- “an analysis of...the range of piping materials, including plastic materials, used to transport hazardous liquids and natural gas...;...the types of technologies used for corrosion prevention, including coatings and cathodic protection;...common causes of corrosion, including interior and exterior moisture buildup and impacts of moisture buildup under insulation; and...the training provided to personnel responsible for identifying and preventing corrosion in pipelines, and for repairing such pipelines;...”
- “the extent to which best practices or guidance relating to pipeline facility design, installation, operation, and maintenance, including training, are available to recognize or prevent corrosion;...”
- “an analysis of the estimated costs and anticipated benefits, including safety benefits, associated with the use of such materials and technologies; and...”
- “stakeholder and expert perspectives on the effectiveness of corrosion control techniques to reduce the incidence of corrosion-related pipeline failures.”

Section 22. Research and Development.

Requires the Inspector General of the Department of Transportation, within 18 months of the date of enactment, to report to Congress on PHMSA’s pipeline safety “research and development program”.

Requires the Secretary of Transportation to “ensure that” specified percentages of pipeline safety research and development costs are from “non-Federal sources”.

Requires the Secretary, within 180 days of the date of enactment, to: “implement processes and procedures to ensure that [research and development] activities...produce results that are peer-reviewed by independent experts and not by persons or entities that have a financial interest in the pipeline, petroleum or natural gas industries...”; and provide a report to Congress on these processes and procedures.

Requires the Secretary to “take all practical steps to ensure that each recipient of an agreement [for research and development]...discloses in writing...any conflict of interest on a research and development project...and includes any such disclosure as part of the final deliverable pursuant to such agreement.”

Prohibits the Secretary from making “an award [for research and development] to a pipeline owner or operator...if there is any conflict of interest related to such owner or operator.”

Section 23. Active and Abandoned Pipelines.

Requires the Secretary of Transportation, within 90 days of the date of enactment, to issue an advisory bulletin “regarding procedures of [PHMSA] required to change the status of a pipeline facility from active to abandoned, including specific guidance on the terms recognized by the Secretary for each pipeline status referred to in such advisory bulletin.”

Section 24. State Pipeline Safety Agreements.

Requires the GAO, within two years of the date of enactment, to “complete a study on State pipeline safety agreements.”

Requires the Secretary of Transportation, following denial of a State request to enter into an interstate pipeline safety agreement, to “provide written notification to the State authority of the denial that includes an explanation of reasons for such denial.”

Section 25. Requirements for Certain Hazardous Liquid Pipeline Facilities.

Requires operators of onshore pipelines located in a high consequence area under more than 150 feet of water to: annually assess the pipeline “using internal inspection technology appropriate for the integrity threat”; and conduct “pipeline route surveys, depth of cover surveys, pressure tests, external corrosion direct assessment, or other technology that the operator demonstrates can further the understanding of the condition of the pipeline facility...on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located.”

Requires the Secretary of Transportation to “conduct inspections...to determine whether each operator of a pipeline facility” covered by this provision is complying with the applicable internal inspection and integrity management requirements.

Section 26. Study on Propane Gas Facilities.

Requires the Secretary of Transportation, within two years of the date of enactment, to submit to Congress a study, carried out under an agreement with the Transportation Research Board on “the safety, regulatory requirements, techniques, and best practices applicable to pipeline facilities that transport or store only petroleum gas or mixtures of petroleum gas and air to 100 or fewer customers...”

Section 27. Standards for Certain Liquefied Natural Gas Pipeline Facilities.

Adds “national security” to the factors the Secretary of Transportation must consider in establishing “minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility” under 49 USC 60101.

Requires the Secretary to “review and update the minimum safety standards...for permanent, small scale liquefied natural gas facilities.”

Section 28. Pipeline Odorization Study.

Requires the GAO, within two years of the date of enactment, to submit a report to Congress on: “the feasibility, costs, and benefits of odorizing all combustible gas in pipeline transportation; and the [effects] of the odorization of all combustible gas in pipeline transportation on...manufacturers, agriculture, and other end users; and...public health and safety.”

Section 29. Report on Natural Gas Leak Reporting.

Requires the PHMSA Administrator, within one year of the date of enactment, to submit a report to Congress “on the metrics provided to [PHMSA] and other Federal and State agencies related to lost and unaccounted for natural gas from distribution pipelines and systems.”

Specifies that if the PHMSA Administrator “determines that alternate reporting structures or recommendations included in the report...would significantly improve the reporting and measurement of lost and unaccounted for gas and safety of natural gas distribution systems, the Administrator shall, not later than 1 year after making such a determination, issue regulations, as the Administrator deems appropriate, to implement the recommendations.”

Section 30. Review of State Policies Relating to Natural Gas Leaks.

Requires the PHMSA Administrator to conduct “a State-by-State review of State-level policies that...”

- “encourage the repair and replacement of leaking natural gas distribution pipelines or systems that pose a safety threat...; and”
- “may create barriers for entities to conduct work to repair and replace leaking natural gas pipelines or distribution systems.”

Requires the PHMSA Administrator, within one year of the date of enactment, to report to Congress on the “findings of the review...and recommendations on Federal or State policies or best practices to improve safety by accelerating the repair and replacement of natural gas pipelines or systems that are leaking or releasing natural gas.”

Specifies that if the PHMSA Administrator determines that “the recommendations...would significantly improve pipeline safety, the Administrator shall, not later than 1 year after making such determination...issue regulations, as the Administrator determines appropriate, to implement the recommendations.”

Section 31. Aliso Canyon Natural Gas Task Force.

Requires the Secretary of Energy, within 15 days of the date of enactment, to “lead and establish an Aliso Canyon natural gas leak task force.”

Requires the task force to include representatives of: the Department of Transportation; the Department of Health and Human Services; the Environmental Protection Agency (EPA); the Department of Interior; the Department of Commerce; the Federal Energy Regulatory Commission (FERC); and “State and local governments, as determined appropriate...” Requires the task force, within 180 days of the date of enactment, to report to Congress on the Aliso Canyon natural gas leak, its causes, and how to prevent or mitigate future leaks.

By: Frank Vlossak