



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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June 21, 2018

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Railroads, Pipelines, and Hazardous Materials
FROM: Staff, Subcommittee on Railroads, Pipelines, and Hazardous Materials
RE: Subcommittee Hearing on “PIPES Act of 2016 Implementation: Oversight of Pipeline Safety Programs”

PURPOSE

The Subcommittee on Railroads, Pipelines, and Hazardous Materials will meet on Thursday, June 21, 2018 at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony from the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Association of Oil Pipe Lines (AOPL), the American Petroleum Institute (API), the Interstate Natural Gas Association of America (INGAA), and the Pipeline Safety Trust on matters relating to oversight of the Department of Transportation’s (DOT) pipeline safety program.

BACKGROUND

PHMSA was created under the *Norman Y. Mineta Research and Special Programs Improvement Act of 2004* (P.L. 108-426). Prior to enactment of the 2004 Act, DOT’s Research and Special Programs Administration handled pipeline and hazardous materials safety. On the pipeline safety side, PHMSA oversees the safety of the Nation’s 2.6 million miles of gas and hazardous liquid pipelines, which account for the transportation of 64 percent of the energy commodities consumed in the United States.

PHMSA regulates the safety of pipeline facilities used in the transportation of gas and hazardous liquids. A state agency that is certified by PHMSA to enforce federal safety standards may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with federal regulations. A state agency may not adopt or continue to enforce safety standards for interstate pipeline facilities or interstate pipeline transportation.

PHMSA's pipeline safety functions include developing, issuing, and enforcing regulations for the safe transportation of natural gas and hazardous liquids by pipelines. Regulatory programs are focused on ensuring safety in the design, construction, testing, operation, and maintenance of pipeline facilities.

In support of these regulatory responsibilities PHMSA: administers grants to aid states in conducting intrastate gas and hazardous liquid pipeline safety programs; monitors performance for those state agencies participating in the programs; collects, compiles, and analyzes pipeline safety and operating data; and conducts training programs through the Transportation Safety Institute for government and industry personnel in the application of pipeline safety regulations. PHMSA also conducts a pipeline safety technology program with emphasis on applied research for improved safety.

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

The *Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011* (P.L. 112-90) ("2011 Act"), which was enacted on January 3, 2012, authorized PHMSA's pipeline safety programs until September 30, 2015. The 2011 Act included 42 congressional mandates for PHMSA, the most consequential of which PHMSA has yet to implement. Of the 42 mandates, 34 are complete. Important outstanding mandates in the 2011 Act include integrity management and leak detection.

Integrity Management

Currently, owners or operators of gas and hazardous liquid pipelines are required to develop and implement written integrity management programs to ensure the integrity of their pipelines in High Consequence Areas (HCAs) and to reduce risk of injuries and property damage from pipeline failures. These programs must include procedures and processes to identify HCAs, determine likely threats to a pipeline within a HCA, evaluate the physical integrity of a pipe within a HCA, and repair or remediate any pipeline defects found.

Section 5 of the 2011 Act requires the Secretary of Transportation (Secretary) to transmit a report to Congress evaluating: (1) whether gas and hazardous liquid pipeline integrity management programs should be expanded beyond HCAs; and (2) whether applying integrity management program requirements to additional areas would mitigate the need for class location requirements (with respect to gas transmission pipeline facilities). Additionally, the 2011 Act directs the Secretary to issue final regulations if the Secretary finds, in the report, that integrity management requirements should be expanded beyond HCAs. Though the Congressionally mandated deadline for the report was January 3, 2014, the report has not been completed.

Leak Detection

Section 8 of the 2011 Act required the Secretary to study and transmit a report to Congress on leak detection systems utilized by operators of hazardous liquid pipelines and transportation-related flow lines to detect ruptures and small leaks. In conducting the

study, the Secretary must analyze the technical limitations of current leak detection systems and consider the practicability of requiring technical, operational, and economically feasible leak detection standards for operators.

The Secretary completed the study and submitted the report finding that it was practicable to establish such standards. Therefore, the Administration plans to issue final regulations to require operators to use leak detection systems where practicable and to establish standards for the capability of such systems to detect leaks. PHMSA reports that the rule is currently under agency review.

The Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016

The last reauthorization of the DOT's pipeline safety programs was the *Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016* (P.L. 114-183) (PIPES Act), which was enacted on June 22, 2016 and authorized PHMSA's pipeline safety programs until September 20, 2019. In order to ensure that PHMSA carries out its outstanding mandates, the PIPES Act requires PHMSA to update Congress every 60 days on outstanding statutory mandates, including the status of each mandate, reasons for its incompleteness, and estimated completion date. The PIPES Act instructed PHMSA to complete 19 mandates, 13 of which are complete. Important outstanding mandates in the 2016 Act include emergency order authority, nationwide integrated pipeline safety regulatory database, and underground natural gas storage.

Emergency Order Authority

Section 16 of the PIPES Act directed PHMSA to issue temporary Emergency Order regulations for pipelines within 60 days after the date of enactment, and final regulations not later than 270 days after enactment. This section would allow the Secretary to impose on an owner or operator of gas or hazardous liquid pipeline facilities an emergency order to abate an imminent hazard caused by an unsafe condition or practice, or combination of unsafe conditions or practices. Prior to issuing such an emergency order, the Secretary is required to consult with appropriate federal agencies, state agencies, and other entities, including hazardous liquid and gas pipeline owners, operators, and trade associations. The Secretary shall consider the impact of the order on public health and safety, including the health and safety of end users, the economy, national security, owners and operators of pipelines, and consumers.

The emergency order shall contain a detailed written description of the condition or conditions, entities subject to the order, the restrictions imposed, the standards and procedures for obtaining relief from the order, how the order is tailored to abate the imminent hazard, why other authorities, such as corrective actions orders, are insufficient to abate the hazard, and how the pre-issuance considerations were taken into account.

Section 16 also provides an entity subject to an order an opportunity for petition and review by an administrative law judge (49 CFR 109.19 (d) and (g)), and if the Secretary fails to make a decision within 30 days of receiving a petition for review, the

emergency order would be voided. The Secretary has yet to issue the final regulations, which were due March 19, 2017.

Nationwide Integrated Pipeline Safety Regulatory Database

Section 11 of the PIPES Act requires the Secretary to establish a national integrated pipeline safety regulatory inspection database. The purpose of the database is to improve communication and collaboration between PHMSA and state pipeline regulators. The due date was June 22, 2017.

Underground Natural Gas Storage

Section 12 of the PIPES Act requires the Secretary to develop minimum safety standards for underground natural gas storage facilities, including a depleted hydrocarbon reservoir, an aquifer reservoir, and a solution-mined salt cavern reservoir. It also allows for a state authority to adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities, so long as such standards are compatible with the minimum safety standards prescribed in this section. PHMSA published an IFR on December 19, 2016, and reopened the comment period on October 19, 2017 for 30 days.

Charts detailing PHMSA's progress in meeting the mandates of the 2011 Act and the PIPES Act are attached to this memorandum. As evidenced in the chart, PHMSA has completed 34 of the 42 mandates from the 2011 Act and 13 of the 19 for the PIPES Act. The Subcommittee looks forward to hearing from the agency, industry, and safety advocates on the status and impact of the mandates included in the 2011 Act and PIPES Act.

WITNESS LIST

Panel I

The Honorable Howard “Skip” Elliot
Administrator
Pipeline and Hazardous Materials Safety Administration

Panel II

Mr. Andrew Black
President and CEO
Association of Oil Pipe Lines

Mr. Robin Rorick
Group Director, Midstream and Industry Operations
American Petroleum Institute

Mr. Chad Zamarin
Senior Vice President, Corporate Strategic Development
Williams
On behalf of the Interstate Natural Gas Association of America

Mr. Carl Weimer
Executive Director
Pipeline Safety Trust