



MEMORANDUM

June 17, 2019

To: Subcommittee on Energy Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on “Legislative Solutions to Make Our Nation’s Pipelines Safer”

On **Wednesday, June 19, 2019, at 10:30 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Energy will hold a hearing entitled, “Legislative Solutions to Make Our Nation’s Pipelines Safer.” This legislative hearing will examine a discussion draft entitled the “Safer Pipelines Act of 2019” and H.R. 2139, the “Leonel Rondon Pipeline Safety Act,” introduced by Reps. Trahan (D-MA), Kennedy (D-MA) and Moulton (D-MA) on April 8, 2019.

I. BACKGROUND

The pipeline network in the United States is comprised of approximately three million miles of mainline and other pipelines that connect production areas, storage facilities, and consumers.¹ The Department of Transportation (DOT) is responsible for administering federal programs that ensure the safety of the network through the Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA is supported in its efforts by the Federal Energy Regulatory Commission (FERC) and the National Transportation Safety Board (NTSB) through memoranda of understanding.

PHMSA collects data on the nation’s pipeline infrastructure in order to develop and implement federal safety regulations. The agency provides oversight of over 2.2 million miles of natural gas and hazardous liquid pipelines.² PHMSA administers the minimum pipeline safety standards, accident and safety reporting procedures, pipeline integrity management, data monitoring, leak detection, and emergency response plans.

¹ U.S. Energy Information Administration, *Natural Gas Explained: Natural Gas Pipelines* (www.eia.gov/energyexplained/index.php?page=natural_gas_pipelines) (accessed Apr. 18, 2019).

² Pipeline and Hazardous Materials Safety Administration, *Annual Report Mileage Summary Statistics* (Apr. 3, 2019) (www.cms.phmsa.dot.gov/data-and-statistics/pipeline/annual-report-mileage-gas-distribution-systems).

The Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016 reauthorized the federal pipeline safety program through Fiscal Year (FY) 2019.³ Among other things, the law requires PHMSA to issue federal safety standards for underground natural gas storage facilities and report regularly on the status of unmet statutory mandates. The PIPES Act also grants PHMSA the authority to issue emergency orders to address urgent “industry-wide safety conditions” without advanced notice. Several Congressional mandates from this law remain unfulfilled.⁴

Several recent pipeline incidents have resulted in loss of life and serious property damage.⁵ On September 13, 2018, the accidental release of high-pressure natural gas into a low-pressure gas distribution system caused a series of explosions and fires in the northeast region of Merrimack Valley in Massachusetts.⁶ The NTSB’s preliminary report records the death of one person—later identified as 18-year-old Leonel Rondon⁷—and the injury of “at least” 21 individuals, including two firefighters.⁸

II. LEGISLATION

³ Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016, Pub. L. No. 114-183.

⁴ Congressional Research Service, *DOT’s Federal Pipeline Safety Program: Background and Key Issues for Congress* (Mar. 29, 2019) (R44201).

⁵ See Marshall Independent, *Damaged pipeline spills 8,000 gallons of diesel fuel* (April 26, 2019) (<http://www.marshallindependent.com/news/local-news/2019/04/damaged-pipeline-spills-8000-gallons-of-diesel-fuel/>); National Transportation Safety Board, *Preliminary Report: Natural Gas-Fueled Explosion of Residence Dallas, Texas* (www.nts.gov/investigations/AccidentReports/Reports/PLD18FR002-preliminary.pdf) (accessed Apr. 19, 2019); CBS Los Angeles, *Energy Secretary: Porter Ranch Gas Leak Symptom Of Age* (Feb. 16, 2016) (<https://losangeles.cbslocal.com/2016/02/16/energy-secretary-porter-ranch-gas-leak-symptom-of-age/>); California Public Utilities Commission, *Report of the Independent Review Panel, San Bruno Explosion* (June 8, 2011).

⁶ National Transportation Safety Board, *Preliminary Report: Over-pressure of a Columbia Gas of Massachusetts Low-pressure Natural Gas Distribution System* (www.nts.gov/investigations/AccidentReports/Reports/PLD18MR003-preliminary-report.pdf) (accessed Apr. 19, 2019).

⁷ MassLive, *‘His name was Leonel Rondon. No one should ever forget that.’ Bill named for Lawrence gas disaster victim seeks to regulate federal pipeline safety* (Apr. 8, 2019) (<https://www.masslive.com/boston/2019/04/his-name-was-leonel-rondon-no-one-should-ever-forget-that-bill-named-for-lawrence-gas-disaster-victim-seeks-to-regulate-federal-pipeline-safety.html>).

⁸ PHMSA notification to Congressional Staff April 25, 2019.

A. H.R. ____, The “Safer Pipelines Act of 2019”

The “Safer Pipelines Act of 2019” authorizes appropriations for the following PHMSA programs from FY 2020 through FY 2023:

- *Operational expenses*: \$24,215,000 in FY 2020; \$24,941,450 in FY 2021; \$26,460,000 in FY 2022; and \$27,254,000 in FY 2023.
- *Gas and hazardous liquid management*: \$160,800,000 in FY 2020; \$165,624,000 in FY 2021; \$170,600,000 in FY 2022; and \$175,700,000 in FY 2023.
- *Hazardous liquid funds from the Oil Spill Liability Trust Fund*: \$25 million each year in FY 2020 and FY 2021; and \$26 million each year in FY 2022 and FY 2023.
- *Underground natural storage facility safety*: \$9 million each year from FY 2020 through FY 2023.
- *Emergency response grants*: \$12,000,000 each year from FY 2020 through FY 2023.
- *Pipeline safety information grants*: \$2,000,000 each year from FY 2020 through FY 2023.
- *State damage prevention programs*: \$2,000,000 each year from FY 2020 through FY 2023.
- *One-call notification programs*: \$2,000,000 each year from FY 2020 through FY 2023.

The legislation expands the definition of regulated gathering lines to include all onshore gathering lines operating above a specified pressure and eliminates the “grandfather clause” that, under current law, allows pipelines built prior to July 1, 1970, to be exempt from testing for their maximum allowable operating pressure. The bill also removes duplicative statutory cost-benefit requirements imposed solely on PHMSA and no other federal agency. Major pipeline safety rules would remain subject to the same economic analysis by the Office of Management and Budget that is applied to all other major rules.

The legislation further requires PHMSA to develop and implement a plan to eliminate direct assessment as a method of fulfilling statutory assessment requirements, and requires installation of automatic leak detection and shutoff valves for pipelines located in high consequence areas. It also increases PHMSA’s civil penalty authority, removes the limit on total penalties in current law, and strengthens the criminal penalty standard.

The discussion draft restores an individual’s ability to bring civil action against PHMSA to compel the agency to carry out its statutory obligations. Additionally, the legislation strikes language in current law that prohibits pipeline safety information grants from being funded by user fees. Finally, it requires owners and operators of gas or hazardous liquid pipeline facilities to make critical operational information available on a segment basis to surrounding communities and first responders.

B. H.R. 2139, The “Leonel Rondon Pipeline Safety Act”

H.R. 2139 addresses deficiencies within pipeline distribution systems uncovered during investigations into the Merrimack Valley incident. The bill aims to improve management of distribution systems and overall safety by eliminating regulatory shortfalls and applying stringent safety standards to owners, operators, and regulators.

Under current law, operators are required to develop distribution integrity management plans to identify threats to pipeline systems, evaluate risks and implement measures to address potential risks.⁹ An investigation by the NTSB into the Merrimack Valley disaster found the operator did not conduct individual risk assessments for each of its construction projects in the area resulting in a series of recommendations for the parent company, including ensuring adequate identification of system threats that could conceivably lead to failure.¹⁰

H.R. 2139 directs the Secretary of Transportation to promulgate regulations to strengthen requirements for distribution integrity management plans, including by prohibiting companies from assigning a risk rating of “zero” for low-probability events. The bill also directs the Secretary to issue regulations to strengthen emergency response plans and strengthen gas distribution operators’ procedural manuals for operations, maintenance, and emergencies.

In its review of the Merrimack Valley incident, NTSB recommended improvements to pipeline safety management systems.¹¹ The bill requires the Secretary to issue regulations directing each operator of a distribution pipeline to develop and implement a pipeline safety management systems framework in accordance with industry best practices.

The bill also enhances pipeline safety practices by requiring distribution system operators to assure that changes to the pipeline system are approved by a professional engineer, maintain up-to-date maps of the system, and assure that a qualified gas employee is on-site to monitor gas pressure during construction. Finally, H.R. 2139 increases PHMSA’s civil penalty authority and increases the limit on total penalties in current law.

III. WITNESSES

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⁹ 49 C.F.R. § 60109(e).

¹⁰ National Transportation Safety Board, *Safety Recommendation Report: Natural Gas Distribution System Project Development and Review (Urgent)* (Dec. 6, 2019) (<https://www.nts.gov/investigations/AccidentReports/Reports/PSR1802.pdf>).

¹¹ National Transportation Safety Board, *NTSB Issues 5 Urgent Safety Recommendations as Investigations of Merrimack Valley Gas Explosions, Fires Continues* (Nov. 15, 2018) (<https://www.nts.gov/news/press-releases/Pages/NR20181115b.aspx>).

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