



MEMORANDUM

June 24, 2019

To: Subcommittee on Energy Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Subcommittee Markup of H.R. 3432, the Safer Pipelines Act of 2019

On Wednesday, June 26, 2019, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building, the Subcommittee on Energy will hold a markup of H.R. 3432, the “Safer Pipelines Act of 2019”.

I. BACKGROUND

The Subcommittee on Energy held an oversight hearing on May 1, 2019, entitled, “The State of Pipeline Safety and Security in America,”¹ and a legislative hearing on June 19, 2019, entitled, “Legislative Solutions to Make Our Nation’s Pipelines Safer.”² For background on the federal pipeline safety program, legislative history and an overview of recent pipeline incidents, please see the memoranda from the above-mentioned oversight and legislative hearings.

II. H.R. 3432, TO AMEND TITLE 49, UNITED STATES CODE, TO IMPROVE THE SAFETY OF THE NATION’S NATURAL GAS AND HAZARDOUS LIQUID PIPELINE SYSTEMS, AND FOR OTHER PURPOSES

Subcommittee on Energy Chairman Bobby L. Rush (D-IL) introduced H.R. 3432, known as the “Safer Pipelines Act of 2019”, on June 24, 2019, to reauthorize the federal pipeline safety program, which expires on September 30, 2019.³

¹ House Committee on Energy and Commerce, *The State of Pipeline Safety and Security in America*, 116th Cong. (May 1, 2019) (Memorandum available online at: https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Ener.2019.05.01.Hrg%20Memo.Oversight%20Hearing_1.pdf).

² House Committee on Energy and Commerce, *Legislative Solutions to Make Our Nation’s Pipelines Safer*, 116th Cong. (Jun. 19, 2019) (Memorandum available online at: <https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/2019.06.19%20ENER%20Pipeline%20Safety%20Legislative%20Hearing%20Memo.pdf>).

³ The Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016 reauthorized the federal pipeline safety program through fiscal year (FY) 2019.

The bill authorizes appropriations for the following Pipeline and Hazardous Materials Safety Administration (PHMSA) programs from fiscal year (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.

H.R. 3432 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 bill requires PHMSA, within two years of enactment, to promulgate a regulation to prioritize more effective technologies over direct assessment for interstate pipelines to fulfill statutory assessment obligations. For distribution systems, the bill requires PHMSA to study and report on the feasibility of reducing reliance on direct assessment for inspections.

H.R. 3432 also makes changes to PHMSA's enforcement regime. First, it increases PHMSA's civil penalty authority. Second, the bill removes the limit on total penalties in current law. Finally, it strengthens the criminal penalty standard, moving the standard from "knowingly and willfully" to "knowingly or recklessly."

For pipelines located in high consequence areas, the legislation requires operators, based on a risk assessment, to install automatic or remote shutoff valves for liquid and gas pipelines, as appropriate according to the individual pipeline facility. The language would only take effect if PHMSA fails within two years to promulgate a rule on such valves already required by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112-90).

H.R. 3432 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.