

# Congress Reauthorizes Pipeline Safety Programs and Increases Department of Transportation's Enforcement Authority

December 11, 2006

Last week, Congress passed The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Act) re-authorizing federal pipeline safety programs through 2010. The Act, which is expected to be signed by President Bush, also will strengthen the regulatory and civil enforcement authority of the Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA).

## Key Provisions of the Act

The Act, which is expected to become effective before the end of the year, contains the following key provisions:

- **Low Stress Hazardous Liquid Pipelines.** DOT must issue regulations subjecting low-stress hazardous liquid pipelines (*i.e.*, operating in their entirety at a stress level of 20% or less of the specified minimum yield strength of the line pipe) to the same standards and regulations as other hazardous liquid pipelines, unless such lines are gathering lines, subject to U.S. Coast Guard safety regulations, or are less than 1-mile long and serve refining, manufacturing, or truck, rail, or vessel terminal facilities that do not cross an offshore area or a waterway currently used for commercial navigation.
- **Distribution System Pipelines.** DOT must require natural gas distribution pipelines to adopt minimum standards for integrity management programs. Such standards, for example, must require that operators of distribution systems install excess flow valves on single family residential service lines under the circumstances specified in the Act.
- **Safety Orders.** DOT may, after notice and hearing, order pipeline facility operators to take necessary corrective action to remedy a condition, if DOT determines that a pipeline facility poses a pipeline integrity risk to public safety, property, or the environment.
- **Emergency Waivers.** DOT may waive compliance with any pipeline safety standard, without opportunity for notice and comment, if the waiver is in the public interest, is not inconsistent with pipeline safety, and is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or manmade disaster.
- **One-Call Civil Enforcement.** DOT may conduct civil enforcement proceedings and assess civil penalties against excavators failing to comply with state one-call notification programs when engaged in any construction activity, or failing to report damage caused to a pipeline facility that may endanger life or cause serious bodily damage, if DOT determines that a state's one-call notification program lacks an adequate enforcement procedure.
- **Enforcement Transparency.** By December 31<sup>st</sup>, 2007, DOT must provide and make publicly available monthly summaries of all enforcement actions taken by PHMSA involving gas and hazardous liquid pipelines.
- **Re-assessment Intervals for Natural Gas Transmission Lines.** The Act does not modify the existing 7-year interval for gas pipeline operators to reassess the integrity of transmission lines, but directs DOT to recommend legislation to implement the conclusion of the

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September 2006 Government Accountability Office Report that pipeline operators be permitted to reassess their gas transmission pipeline segments at intervals based on risk factors, technical data, and engineering analysis.

### **Other Provisions of the Act**

In addition, the Act requires DOT or PHMSA to:

- Issue regulations requiring gas and hazardous liquid pipeline operators to develop and implement management plans designed to reduce human factor risks (including fatigue) in pipeline control rooms.
- Review the incident reporting requirements applicable to natural gas pipeline operators and modify the criteria so that they accurately reflect incident trends.
- Establish procedures requiring that a senior executive officer of a company operating a pipeline certify annual and semi-annual pipeline integrity management program performance reports.
- In conjunction with the Department of Energy, analyze domestic pipeline transportation of petroleum products and identify areas of the United States where an unplanned loss of individual pipelines may cause shortages of petroleum products or price disruptions, and report their recommendations to reduce the likelihood of shortages and price disruptions of petroleum products to Congress.
- Report to Congress on leak detection systems used by hazardous liquid pipeline operators, including discussion of inadequacies of current leak detection systems, and recommend steps that can be taken to foster development of better technologies.
- Review existing internal corrosion control regulations applicable to hazardous liquid pipelines and report results and recommendations to Congress.

Finally, the Act sets forth elements for effective damage prevention programs and authorizes DOT to issue grants to states that have established, or made substantial progress establishing, programs that comply with such elements.

### **Implications**

The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 reflects the continuing efforts of Congress to ensure that DOT possesses adequate authority to implement and enforce regulations designed to ensure the safety of the nation's gas and hazardous liquids pipeline network. When enacted, the Act will, among other things, expand DOT's authority to establish new federal safety standards for low-stress hazardous liquid pipelines and natural gas distribution lines, order corrective action deemed necessary to remedy a condition presenting a pipeline integrity risk, and address excavation damage, the leading cause of pipeline accidents. Following enactment, DOT will face ambitious deadlines for implementing new regulatory programs that will have potentially far-ranging impact.

### **For Additional Information**

If you would like more information on this Act or other pipeline safety matters, please contact Susan Moore, Pat Godley, Bill Frick, or any member of our Pipeline Safety practice at (202) 298-1800 or [www.vnf.com](http://www.vnf.com).

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