

PHMSA

Pipeline Safety Regulatory Update



PIPES ACT OF 2016

The **Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016**, was passed by Congress and signed into law on June 22, 2016

- It authorizes funding for PHMSA from 2016 to 2019



RULEMAKING ACRONYMS

- ANPRM – Advance Notice of Proposed Rulemaking
 - Used to gather information
- NPRM – Notice of Proposed Rulemaking
 - Defines intent and scope of proposed regulations
- SNPRM – Supplemental Notice of Proposed Rulemaking
 - Additions to, or changes in, intent or scope



RULEMAKING ACRONYMS

- IFR – Interim Final Rule
 - Typically used for an identified safety issue
- FR – Final Rule
 - Implementation date, depending on significance of regulation and time to implement
- DFR – Direct Final Rule
 - Used for non-controversial issues



RULEMAKING PROCESS

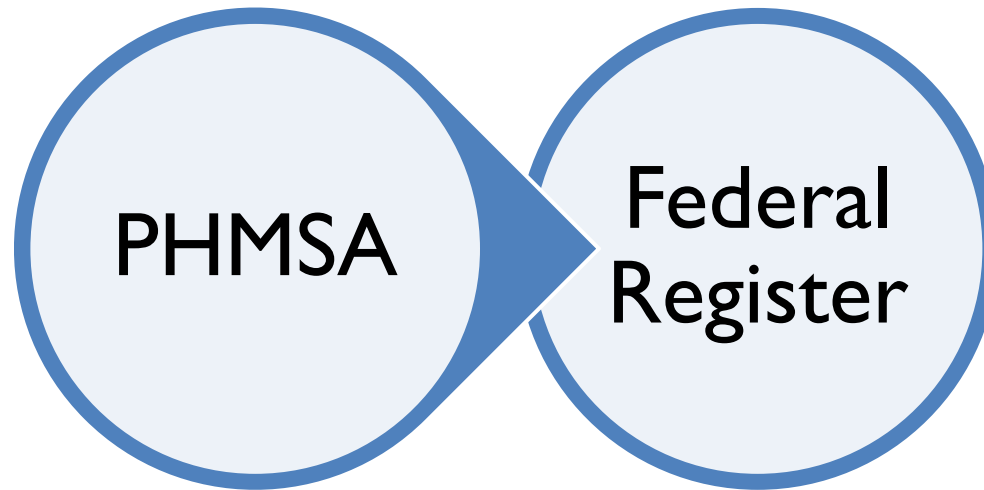
- Where can I find information on the Status of Significant rulemakings?
 - DOT
 - Report on DOT Significant Rulemakings (Monthly reports)
 - [http://www.dot.gov/regulations/report on significant rulemakings](http://www.dot.gov/regulations/report%20on%20significant%20rulemakings)
 - OMB
 - www.reginfo.gov



Significant Rules



Non-significant Rules



OMB Determines what rules are Significant



UPCOMING RULE MAKING

The timeline for all future rulemaking is pending Departmental determinations on implementing and maintaining compliance with the applicable Executive Orders and Memorandums.



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Enforcing the Regulatory Reform Agenda – 1/24

- The EO states it is the policy of the United States is “to alleviate unnecessary regulatory burdens placed on the American people.” The order requires the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO).



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Enforcing the Regulatory Reform Agenda – 1/24

- The Regulatory Reform Officer will “oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law.”



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Enforcing the Regulatory Reform Agenda – 1/24

- Each agency must also establish a Regulatory Reform Task Force responsible for making recommendations regarding the repeal, replacement or modification of existing regulations.



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Reducing Regulation and Controlling Regulatory Costs – 1/30

- The EO directs agencies to identify for elimination at least two prior regulations for every one new regulation that is issued and to prudently manage and control the cost of planned regulations through a budgeting process.
- The EO requires that the total incremental cost of all new regulations finalized in FY 2017, including repealed regulations, shall be no greater than zero, unless...



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Reducing Regulation and Controlling Regulatory Costs – 1/30

- During the Presidential budget process, the Director of OMB shall identify to agencies a total amount of incremental costs that will be allowed for each agency in issuing new regulations and repealing regulations for the next fiscal year. No regulations exceeding the agency's total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the Director.



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch – 3/13

- “...directing the Director of the Office of Management and Budget (Director) to propose a plan to reorganize governmental functions and eliminate unnecessary agencies (as defined in section 551(I) of title 5, United States Code), components of agencies, and agency programs.”
- “...the Director shall consider, in addition to any other relevant factors:



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch – 3/13

- (i) whether some or all of the **functions** of an agency, a component, or a program are appropriate for the Federal Government or would be **better left to State or local** governments or to the **private** sector through free enterprise;
- (ii) whether some or all of the **functions** of an agency, a component, or a program are **redundant**, including with those of another agency, component, or program;



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch – 3/13

- (iii) whether certain **administrative capabilities** necessary for operating an agency, a component, or a program are redundant with those of another agency, component, or program;
- (iv) whether the **costs of continuing to operate** an agency, a component, or a program are justified by the public benefits it provides; and
- (v) the costs of **shutting down or merging** agencies, components, or programs, including the costs of addressing the equities of affected agency staff.”



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Promoting Energy Independence and Economic Growth – 3/28

“It is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time **avoiding regulatory burdens** that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.”



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Promoting Energy Independence and Economic Growth – 3/28

“Executive departments and agencies (agencies) immediately review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.”



EXECUTIVE ORDERS (SINCE JAN 20, 2017)

Promoting Energy Independence and Economic Growth – 3/28

“Section 2 directs immediate review of all agency actions that potentially burden the Safe, Efficient Development of Domestic Energy Resources, with specified deadlines. Such review “shall not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth in section 1.” Section 2(b) states that **"burden"** means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.”



REMINDER

- The following PHMSA regulatory updates are simply an overview
- Details can be found in the Federal Register postings



INTERIM FINAL RULE

Emergency Order Authority

Effective Date: October 14, 2016

- Required by Section 16 of the PIPES Act
 - Establishes temporary emergency order procedures to address unsafe conditions or practices imposing an imminent hazard
 - Augments PHMSA's existing enforcement authority (e.g. Corrective Action Order, Safety Orders)



MAJOR PROVISIONS

- Expands enforcement authority to address imminent safety hazards that exist across a subset or larger group of owners and operators.
- Applies only when PHMSA determines that an unsafe condition or practice is causing an imminent hazard.



MAJOR PROVISIONS

- Provides PHMSA authority to issue an emergency order without advance notice or opportunity for a hearing.
- Applies only to the extent necessary to abate the imminent hazard.



Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes

(Docket: PHMSA-2013-0163)



NOTE:

Many provisions related to OQ were discussed in the NPRM but were not carried through to the final rule. However, the Agency may decide to initiate a rulemaking re-proposing similar provisions at a later date.



KEY DATES

- Publication Date: January 23, 2017
- Effective Date: March 24, 2017



SUMMARY OF FINAL RULE

- Specifies an operator's accident and incident reporting time to within 1 hour.
- Sets up a cost recovery fee structure for design review of new gas and hazardous liquid pipelines.
- Provides a renewal procedure for expiring special permits.



SUMMARY OF FINAL RULE

Requires operator to contact NRC within 48 hours to revise or confirm the initial telephone report

- Amount of product lost
- Estimate number of fatalities and injuries
- Known significant facts that are relevant to the cause of the incident or extent of damage
- If there is no change from original report, the operator must confirm



SUMMARY OF FINAL RULE

- Requiring pipeline operators to report to PHMSA a change in product (e.g., from liquid to gas, from crude oil to highly volatile liquids (HVL)) or a permanent reversal of flow that lasts more than 30 days.



SUMMARY OF FINAL RULE

- Requires electronic reporting of drug and alcohol testing results in part 199, and modifying the criteria used to make decisions about conducting post accident drug and alcohol tests.
- Adds a procedure to request PHMSA keep submitted information confidential.



SUMMARY OF FINAL RULE

- Adds reference to Appendix B of API 1104 related to in-service welding in parts 192 and 195.
- Provides methods for assessment tool selection by incorporating consensus standards by reference in part 195 for stress corrosion cracking direct assessment.



SUMMARY OF FINAL RULE

- Develops and clarifies requirements for team training of control center staff **involved in pipeline operational decisions.**
- Develops requirements for team training of control center staff **involved in pipeline operations** similar to those used in other transportation modes.



ALERT NOTICES & ADVISORY BULLETINS

- **Alert Notices** - a notice of a situation of immediate safety concern
- **Advisory Bulletins** - an advisory of a safety concern that an operator should follow as it applies to their facilities and operations
 - matters that have potential to become
 - safety or environmental risks



CONTACT INFORMATION



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