

## House Oversight Hearing Previews Challenges and Opportunities for Pipeline Safety Act Reauthorization

On June 21, 2018, the U.S. House of Representatives, Transportation and Infrastructure Committee, Subcommittee on Railroads, Pipelines, and Hazardous Materials, held an oversight hearing related to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) implementation of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (2016 Act) and its predecessor, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act).

The primary focus of the hearing, the first since the appointment of Howard "Skip" Elliott as the new PHMSA Administrator, was the status of several outstanding statutory mandates from the 2011 Act. Those mandates directed PHMSA to make appropriate changes to the federal pipeline safety regulations to address the National Transportation Safety Board's (NTSB) recommendations following its investigation of two significant pipeline accidents that occurred in 2010.

The members of the Subcommittee expressed bipartisan concern with PHMSA's failure to satisfy the mandates from the 2011 Act, which largely address concerns that the NTSB identified following its investigation of pipeline accidents that occurred nearly eight years ago. As Administrator Elliott acknowledged during the hearing, PHMSA has not yet made all of the changes necessary to address the mandates in the 2011 Act. Administrator Elliott indicated that some of the mandates will be addressed in a rule relating to the safety of hazardous liquid pipelines that is in the final stages of review.

Other mandates will be addressed in a rule relating to the safety of gas transmission lines that PHMSA recently presented to the Gas Pipeline Advisory Committee, the federal advisory committee that reviews proposed changes to the gas pipeline safety regulations, for consideration. Another mandate dedicated to the use of valves and rupture detection equipment will be addressed in a separate rule that is in a much earlier stage of development. The mandates also included certain statutory deadlines for taking action that PHMSA did not meet. For these reasons, the oversight hearing was contentious at times, despite the fact that Administrator Elliott has only been in his position at PHMSA since October 2017.

Additional hearings in the U.S. House of Representatives and U.S. Senate are likely to occur in the coming months as Congress considers the next reauthorization of the Pipeline Safety Act. The 2016 Act only authorized the pipeline safety program through September 30, 2019, and new legislation to extend that authorization for future years



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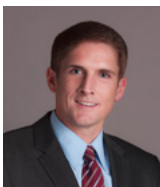
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should be introduced next year. While traditionally a bipartisan exercise, the results of the November 2018 midterm elections could affect the provisions that end up in that legislation. Current events, particularly pipeline incidents, and PHMSA's progress in addressing the mandates from the 2011 Act are two other factors that may also play a role. Proposed amendments that did not garner sufficient support in the past could resurface as well. The pipeline industry should consider these factors in developing a strategy for addressing reauthorization.

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