



American  
Petroleum  
Institute

## 2023 PIPELINE SAFETY REAUTHORIZATION LEGISLATIVE PRIORITIES

**The need for sound energy policy has never been more**

**critical.** A modern U.S. infrastructure system, including robust pipeline infrastructure, is crucial to providing a reliable energy supply to every community in America. Every day, a vast network of pipeline infrastructure serves Americans across the country including more than 530,000 miles of transmission pipelines, the majority underground, safely delivering crude oil, petroleum products, natural gas, natural gas liquids and ethanol. With abundant natural resources, America can champion a reliable path that directly addresses today's energy challenges – strengthening our country's energy security while helping allies around the world.



Policies supporting American energy resources can spur community growth and security, and we can develop American energy while protecting the environment. The pipeline industry is developing new technologies and innovations every day to safely deliver affordable, reliable energy to consumers while reducing greenhouse gas (GHG) emissions. As our industry continues to advance a lower carbon future, it is imperative that the regulatory environment and the Pipeline and Hazardous Materials Safety Administration (PHMSA) are responsive to both current and potential future safety challenges faced by operators.



As Congress considers the reauthorization of the Pipeline Safety Act, PHMSA and pipeline safety programs over the coming year, we urge policymakers to enact policies that capitalize on the power of American natural gas, oil and other fuels and support the development of carbon dioxide and hydrogen pipeline infrastructure to meet climate change mandates. The following provisions maximize our investment in state-of-the-art technology and sustainable operations while recognizing the important role our communities play in advancing safety.

## TOP INNOVATION AND TECHNOLOGY PRIORITY

### 1. Reauthorization of the Technology Pilot Program

Reauthorize the technology pilot program from PIPES Act of 2020, to provide operators with a vehicle to demonstrate and apply proven technologies and engineering practices in support of risk based regulatory changes. Reauthorization should include changes to the current program to make the application and approval process practicable and distinct from the special permit process while ensuring an equivalent level of safety.

*This provision would facilitate operators' use of state-of-the-art technology and risk-based approaches in assessing and carrying out pipeline inspections and repairs through leading industry practices.*

## OTHER INNOVATION AND TECHNOLOGY PRIORITY

### 2. Timely Incorporation by Reference

Review and consider industry standards for incorporation by reference every 2 years that have been adopted, in whole or in part, in the gas and hazardous liquid pipeline safety regulations, in the manner suggested by a petition for rulemaking by industry. It would also require PHMSA to review any new industry standards relating to pipeline safety proposed to be incorporated by reference through a petition for rulemaking from the industry. If PHMSA does not incorporate an industry standard or partially incorporates one, PHMSA must publish an explanation in the Federal Register with the basis for its decision.

*This provision would facilitate the incorporation of standards in a timely manner, ensuring operators can employ the latest leading industry practices in construction, maintenance, and operations.*

### 3. Voluntary Information Sharing System (VIS)

Establish a multi-stakeholder center of excellence for the energy pipeline sector taking into consideration the proposed framework from the PHMSA Voluntary Information Sharing (VIS) effort that affords industry adequate protections for proprietary and security sensitive information. Consider including language that encourages the use of academic institutions to house or play a role in the new Center location, in particular, institutions that have strong energy programs.

*This provision, through the articulation of key elements, sets in motion the framework for a sharing and learning program incorporating aspects of PHMSA's Voluntary Information Sharing (VIS) effort.*

### 4. Valve Inspection Requirements Clarification

Revise regulations to clarify that the requirements for the semi-annual inspection requirements in section 195.420(b) apply to only "mainline" valves. The word "mainline" was taken out of the Valve Installation and Minimum Rupture Detection final rule, and now the semi-annual inspection applies to "each valve." This change was not part of the original scope of the NPRM and was never discussed during the rulemaking process. It is a significant change in the meaning of the regulation that imposes a significant new burden on operators (about 10x as many inspections). This is a circumvention of the rulemaking process and should be retracted as an "editorial error."

*This provision would return the inspection requirement to the original application to main line valves based on the original rulemaking process.*

### 5. National Pipeline Mapping System Transparency

Require PHMSA to provide transparency into the process for how and when NPMS databases are updated, how the HCA datasets in NPMS are validated and who is qualified to make the decisions on the sources of data used in the databases. The NPMS represents the system of record upon which pipeline operators determine whether a pipeline segment directly intersects or "could affect" a High

Consequence Area (HCA) and, as a result, which segments of a pipeline system require an Integrity Management Program (IMP). Recent experience of pipeline operators in updating HCA analysis for their systems has shown errors in the NPMS data layers for certain HCA categories and questions have been raised about the sources of scientific studies and frequency of updating the information used to develop the data layers. Transparency and improvements in the process followed by PHMSA needs to be provided and industry review and participation in the process should be considered.

*This provision would require that PHMSA use technically and scientifically defensible peer-reviewed data as the basis for determining where integrity management programs are required to ensure pipeline safety is focused on higher-risk pipeline segments.*

## 6. Streamline and Optimize the Pipeline Safety Inspection Program

Mandate an independent study that evaluates the effectiveness of PHMSA's pipeline safety inspection program and opportunities for improved efficiency in the process, including better communication within and among the regulatory agencies that perform pipeline inspections. Multiple repetitive and redundant inspections are conducted of operator procedures and programs by PHMSA regional offices, state pipeline regulatory agencies, and local authorities (e.g., state utility boards, public utility commissions) that evaluate a consistent set of company procedures regardless of jurisdiction. Having a process for communication among the agencies will improve efficiencies for the regulatory agencies and allow pipeline operating companies to focus resources on improving safety programs rather than reviewing them.

*This provision would require that an evaluation be conducted to identify improvement opportunities for improved collaboration among regulatory agencies to reduce redundancy and apply resources to improving operator IMPs.*

## 7. In Plant Piping Exemption through Revised Definition of Transporting Gas

Refineries across the country have hundreds of pipelines that very briefly cross into the public domain (usually crossing a street or railroad) in order to transfer products from one process unit of a refinery to another process/part of the same refinery. For liquid pipelines, a statutory exemption exists for "in-plant piping" associated with refining facilities. PHMSA has interpreted the statutory exemption for "in-plant" piping to include crossing of a single public thoroughfare (e.g., single road or railroad). However, since this language is missing from the definition of transporting gas, there are very short portions of refinery process lines (often in the same ROW as many other exempt liquid lines) for which PHMSA and the states are inconsistently asserting jurisdiction.

*This provision would simplify the statutory language to match the existing language for liquid pipelines and leave the regulation of refineries to OSHA's PSM.*

## 8. Criminal Penalties for Pipeline Attack

Expand the scope of federal criminal penalties for attacks on pipeline infrastructure. Proposal, based on similar state legislation, would fill gaps in current law at 49 USC 60123(b) limited to "damaging or destroying" interstate pipelines with additional measures covering disruption of service and attacks on construction sites.

*This proposal would help protect critical pipeline facilities by deterring criminal behavior that pose a potential safety hazard to people and the environment.*

## 9. Proposal to Clarify Federal Regulatory Jurisdiction Over LNG Facilities

Broadly define the jurisdictional boundaries of PHMSA, FERC, and Coast Guard and minimize inefficient and unnecessary overlap in regulatory oversight. Create a working group to address and improve multi-agency coordination and clarify jurisdictional boundaries. Within the context of the working group, the agencies are directed to enter



into interagency agreements to further delineate jurisdictional oversight pursuant to the direction provided by Congress. Following the development of the interagency agreements outlining jurisdiction, agencies would meet regularly to coordinate overlapping federal authority.

*This Provision would promote the safe operation of large-scale LNG facilities through improved, efficient, and coordinated federal oversight.*

## TOP SUSTAINABILITY PRIORITY

### 10. Allowing for greater use of risk-based inspections for tanks.

Expand risk-based inspection and fitness-for-service assessment processes through regulatory update to allow operators to use these tools to collect data and implement safeguards to maintain tank integrity, in lieu of requiring tank inspections at defined, prescribed intervals. The most current industry standards (which incorporate risk-based inspection intervals) accepted by other federal and state agencies, including the EPA's SPCC program. Consider the Incorporation by reference API Standard 653, 5th Edition (November 1, 2014, and subsequent addenda) within 1 year of enactment.

*This provision would incorporate risk-based industry practice eliminating unnecessary inspections and VOC emissions when taking tanks out of service.*

## OTHER SUSTAINABILITY PRIORITIES

### 11. Advancing CO2 Pipeline Safety through regulatory/standards updates

Develop updates to CO2 pipeline safety regulations that consider existing industry standards pertaining to CO2 pipeline construction and operation and incorporate the latest findings from PHMSA-sponsored and industry research on construction and operation of new CO2 pipeline systems and repurposing of existing energy pipeline infrastructure. Regulatory updates should include an assessment of whether a new Part to 49 CFR that specifically

addresses CO2 pipeline safety for all phases of CO2 in pipeline transportation (i.e., supercritical, liquid, gas). As industry continues to develop new standards and Recommended Practices for CO2 pipeline safety, ensure timely incorporation by reference into regulations.

*This provision would support the development of updates to CO2 pipeline safety regulations based on existing standards developed through API, ASME, AMPP, ISO, and others that enhance current regulations in 49 CFR Part 195 to cover all aspects of CO2 transportation and underground storage. Will require close coordination with DOE, PHMSA, and PRCI to ensure incorporation of research and technology development programs that address design, construction, operations, and inspection and maintenance, and to defer development of new regulations until the research is completed and results from that work are available. Updates to 49 CFR Part 194 regarding Emergency Response may also be appropriate.*

### 12. Class Location Rulemaking

Issue regulation within 90 days of bill enactment to expedite the completion of rulemaking required by the 2020 PIPES Act. The rulemaking should remove the pressure reduction and pipe replacement requirements associated with a change in class location for pipelines that are covered by integrity management programs if appropriate. In finalizing the regulation, PHMSA should consider, among other things, the extent to which other rules have mitigated the need for class location change regulations, the costs of pressure reduction, pipe replacement, and existing special permits, and the need to avoid supply disruptions.

*This provision recognizes years of demonstrated value and the successful implementation of class location special permits and looks to incorporate these safety risk-based practices in regulations as required by Congress in the 2020 pipeline safety reauthorization.*

### 13. PIPES Act Section 114 Clarification

Clarify the applicability of Section 114 of the PIPES Act of 2020 for updating Inspections and Maintenance plans is limited to natural gas pipelines only and remove the term “leak prone pipe” as that is a term undefined by regulation and has no specific meaning within the pipeline industry.

*This provision would align with the original intent of Congress with Section 114 of the PIPES Act of 2020 which was to reduce methane emissions through operators taking additional proactive steps through their inspection and maintenance programs. Removing the term “leak prone pipe” eliminates confusion of an undefined term elsewhere in the regulations.*

### 14. Pipeline Operating Status Rulemaking

Within 90 days of bill enactment, publish rulemaking in accordance with the mandate in the PIPES Act of 2020 on idled pipe. Rulemaking will allow for additional clarity regarding the inspection and maintenance requirements for pipelines that are “idled”, outside the current “active” and “abandoned” status currently allowed by PHMSA. The rulemaking should specify operations and maintenance activities that an operator can defer given the lower risk posed by “idled” pipelines consistent with PHMSA’s 2016 Advisory Bulletin.

*This provision, with appropriate safety measures in place, ensures pipeline operators can continue current practices for pipelines operating in a state outside the scope of active, abandoned, and expedited PHMSA rulemaking required in the 2020 pipeline safety reauthorization. Market and commercial drivers often result in pipelines being placed in an “idled” status where certain inspection, preventative, and mitigative measures may not be able to be performed, add no safety value, and/or do not have an impact on pipeline integrity for the given operational status.*

### 15. Public Awareness Program Regulatory Updates

Update regulations to reflect more forward leaning industry approaches to engaging with and raising public and stakeholder awareness of pipeline operations and important safety programs along pipeline rights-of-way that protect the public and environment. PHMSA should consider the inclusion of the latest edition of RP 1162 (3rd edition), *Public Awareness Programs for Pipeline Operators*.

*This provision would expand the current requirements of pipeline operator public awareness programs, incorporating the latest mechanism for sharing information, expanding risk communications, and establishing processes for evaluating the effectiveness of programs.*

### OTHER COMMUNITY ENGAGEMENT PRIORITIES

#### 16. Alternative Approaches to Maintaining ROWs

Allow pipeline operators to maintain rights-of-way using non-traditional methods including conservation, habitat management and other related programs while ensuring pipelines can be effectively monitored for leaks through required surveys. Conservation and habitat management programs may require alternatives to existing requirements for line markers and leak detection methodologies, etc.

*This provision would recognize the importance of approaching right of way maintenance in non-traditional ways while still meeting regulatory requirements.*

