



441 G St. N.W.
Washington, DC 20548

B-330546

December 10, 2018

The Honorable John Thune
Chairman
The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Bill Shuster
Chairman
The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Pipeline and Hazardous Materials Safety Administration:
Pipeline Safety: Plastic Pipe Rule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) entitled “Pipeline Safety: Plastic Pipe Rule” (RIN: 2137-AE93). We received the rule on November 23, 2018. It was published in the *Federal Register* as a final rule on November 20, 2018. 83 Fed. Reg. 58,694. The effective date of the final rule is January 22, 2019. The incorporation by reference of certain publications listed in the rule is approved by the Director of the *Federal Register* as of January 22, 2019.

The final rule amends the Federal Pipeline Safety Regulations that govern the use of plastic piping systems in the transportation of natural and other gas. According to PHMSA, the amendments are necessary to enhance pipeline safety, adopt innovative technologies and best practices, and respond to petitions from stakeholders. The changes include increasing the design factor of polyethylene pipe; increasing the maximum pressure and diameter for Polyamide-11 pipe and components; allowing the use of Polyamide-12 pipe and components; new standards for risers, more stringent standards for plastic fittings and joints; stronger mechanical fitting requirements; the incorporation by reference of certain new or updated consensus standards for pipe, fittings, and other components; the qualification of procedures and personnel for joining plastic pipe; the installation of plastic pipe; and a number of general provisions.

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was received by Congress on November 26, 2018. It was published in the *Federal Register* on November 20, 2018. 83 Fed. Reg. 58,694. The rule

has a stated effective date of January 22, 2019. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of PHMSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Julia C. Matta
Managing Associate General Counsel

Enclosure

cc: James O. Payne
Honors Attorney/Regulatory Affairs
PHMSA Office of Chief Counsel
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
ENTITLED
“PIPELINE SAFETY: PLASTIC PIPE RULE”
(RIN: 2137-AE93)

(i) Cost-benefit analysis

The Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) estimated the costs and benefits of this final rule. PHMSA quantified positive net benefits of \$32.7 million, mostly from cost savings due to the change in the polyethylene (PE) design factor. According to PHMSA, other changes enhance pipeline safety, expand flexibility in pipe material choice, and incorporate more modern technical consensus standards.

PHMSA quantified approximately \$391,000 in annualized safety benefits from the revisions to plastic pipe installation requirements. PHMSA states that this estimate is based on the historical frequency and consequences of incidents on plastic pipe systems that could have been prevented by the changes in the final rule. PHMSA also determined unquantified safety benefits from enhanced standards for fittings and risers, prohibiting the permanent use of temporary leak repair clamps, and other general provisions. PHMSA estimated that the revised design factor for PE, relaxed restrictions on polyamide-11 (PA-11), incorporation of polyamide-12 (PA-12), and updated standards for all three materials would have negligible impacts on pipeline safety.

PHMSA also quantified \$32 million in costs savings for the revision to the design factor of PE pipe from 0.32 to 0.40. PHMSA states that the change in design factor leads to pipe material cost savings as it permits pipe to operate at higher pressures for a given pipe size and wall thickness. PHMSA also determined that the provisions for expanded use of PA-11 and incorporation of PA-12 materials would lead to unquantified cost savings to operators from greater flexibility in pipeline material choice. PHMSA states that the other provisions have unquantified costs; however PHMSA expects these to be minimal as they generally incorporate existing industry best practices by incorporating by reference technical consensus standards.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

Based on the results of PHMSA's Final Regulatory Flexibility Analysis, PHMSA determined that the final rule will not have a significant economic impact on a substantial number of small entities. According to PHMSA, the final Regulatory Flexibility Act Analysis is included in the Regulatory Impact Analysis, available at regulations.gov.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

PHMSA determined that the final rule does not impose unfunded mandates. PHMSA states that it would not result in costs of \$100 million, adjusted for inflation, or more in any one year to

either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the final rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551*et seq.*

On May 21, 2015, PHMSA published the plastic pipe notice of proposed rulemaking (NPRM) and requested feedback and public comments on the proposed changes to the natural gas pipeline safety regulations. 80 Fed. Reg. 29,263. PHMSA states that the comments and all other related rulemaking materials are available at www.regulations.gov, under docket ID PHMSA-2014-0098. The final rule includes a summary of the regulatory changes proposed in the NPRM, the public comments regarding those changes, and PHMSA's responses to those comments.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

PHMSA determined that the final rule does not impose any new information collection requirements.

Statutory authorization for the rule

The final rule was promulgated pursuant to the federal pipeline safety statutes, 49 U.S.C. §§ 60101 *et seq.*

Executive Order No. 12,866 (Regulatory Planning and Review)

PHMSA found that the rule was a significant regulatory action under the Order. PHMSA stated that the Office of Management and Budget reviewed the rule.

Executive Order No. 13,132 (Federalism)

PHMSA stated that the rule does not have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. PHMSA also stated that the rule does not impose substantial direct compliance costs on state and local governments, and does not preempt state law for intrastate pipelines.