



441 G St. N.W.
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January 25, 2021

Chair
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

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

*Subject: Department of Transportation, Pipeline and Hazardous Materials Safety
Administration: Pipeline Safety: Gas Pipeline Regulatory Reform*

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: Gas Pipeline Regulatory Reform” (RIN: 2137-AF36). We received the rule on January 8, 2021. It was published in the *Federal Register* as a final rule; withdrawal of enforcement discretion on January 11, 2021. 86 Fed. Reg. 2210. The effective date of the rule is March 12, 2021.

According to PHMSA, the final rule amends the Federal Pipeline Safety Regulations, 49 C.F.R. parts 191 and 192, to ease regulatory burdens on the construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety. PHMSA stated that the amendments in the rule are based on rulemaking petitions from stakeholders, and the Department of Transportation and PHMSA initiatives to identify appropriate areas where regulations might be repealed, replaced, or modified, and PHMSA’s review of public comments. Additionally, PHMSA stated that, as of the effective date of this rule, it withdraws the March 29, 2019, announcement of enforcement discretion, “Exercise of Enforcement Discretion Regarding Farm Taps,” 84 Fed. Reg. 11253, and the unpublished October 27, 2015, letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Robert B. Ross
Assistant Chief Counsel for
Regulatory Affairs
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: GAS PIPELINE REGULATORY REFORM”
(RIN: 2137-AF36)

(i) Cost-benefit analysis

The Pipeline and Hazardous Materials Safety Administration (PHMSA) stated that the amendments promulgated in this final rule are deregulatory, with the intention and effect of reducing regulatory burdens, increasing flexibility, improving efficiency, and adding clarity to existing rules without adversely affecting safety. PHMSA stated that it expects the incremental cost savings to accrue on an ongoing annual basis and estimates the total quantified annualized cost savings to be approximately \$129.8 million (at a discount rate of 7 percent) or approximately \$132.5 million (at a discount rate of 3 percent). PHMSA stated that it does not anticipate that the rule will have an adverse impact on safety or a significant effect on the environment.

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

PHMSA determined that the cost savings in this final rule may result in significant economic impacts on a substantial number of small entities. PHMSA stated that it included a Final Regulatory Flexibility Analysis within the final Regulatory Impact Assessment posted in the docket for this rulemaking.

(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 this final rule does not impose enforceable duties on state, local, or tribal governments or on the private sector of \$164 million in 2019 dollars or more in any one year.

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

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

On June 9, 2020, PHMSA published a proposed rule. 85 Fed. Reg. 35240. PHMSA received 46 comments, including late-filed comments. PHMSA received comments from groups representing the regulated pipeline industry; groups representing various public interests, including environmental groups; state utility commissions and regulators; individual pipeline operators; and private citizens. PHMSA received late-filed comments from the National Association of State Pipeline Safety Representatives, the Gas Piping Technology Committee, a coalition of several industry trade associations, and GPA Midstream. PHMSA also had a conversation with a member of the Gas Pipeline Advisory Committee and representatives of the

Pipeline Safety Trust after the end of the comment period. PHMSA responded to comments in this final rule.

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

PHMSA determined that this final rule revises information collection requirements (ICRs) under PRA, and stated that it will submit an information collection revision request to the Office of Management and Budget (OMB) for approval. PHMSA stated that the following ICRs are estimated to be revised as follows: Incident Reports for Gas Pipeline Operations (OMB Control Number 2137-0635), total annual burden hours of 3,108; Annual and Incident Reports for Gas Pipeline Operations (OMB Control Number 2137-0522), total annual burden hours of 71,801; Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines (OMB Control Number 2137-0625), total annual burden hours of 723,192; and Gas Distribution Annual Report (OMB Control Number 2137-0629), total annual burden hours of 25,305.

Statutory authorization for the rule

PHMSA promulgated this final rule pursuant to section 185(w)(3) of title 30, United States Code, and sections 5103 and 60101 *et seq.* of title 49, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

PHMSA determined that this final rule is significant under the Order and stated that the rule was reviewed by OMB.

Executive Order No. 13132 (Federalism)

PHMSA determined that this final rule does not impose 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 determined that the rule does not impose substantial direct compliance costs on state and local governments.