

Enhanced Emergency Order Procedures: PHMSA Issues Interim Final Rule



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The United States Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued on October 3rd an Interim Final Rule ("IFR") to implement the agency's expanded authority to address unsafe pipeline conditions or practices that pose an imminent hazard to life, property or the environment.

The IFR addresses a provision of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 ("PIPES Act") that provides the agency the authority to impose emergency restrictions, prohibitions and safety measures on owners or operators of gas or hazardous liquid pipeline facilities to address safety concerns affecting multiple owners or operators.

PHMSA states that the IFR solely affects agency enforcement to implement the emergency order provisions of the law. As a result, the rulemaking is stated to pose no additional burden or compliance costs to industry. The regulations are being issued in the form of an IFR because the PIPES Act directs the agency to first issue temporary regulations.

The PIPES Act was signed into law by the President on June 22nd. The legislation amended the Pipeline Safety Laws in Title 49 of the United States Code. See 130 Stat. 514.

Congress is stated to have enacted Section 16 to address the "current gap" in PHMSA's authority that prevents it from addressing conditions or practices that extend beyond or affect more than a single pipeline owner or operator and must be addressed immediately in order to protect life, property or the environment.

Section 60117(o) authorizes the agency to issue an emergency order if it determines that a violation, unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes or is causing an imminent hazard. An emergency order may impose restrictions, prohibitions, and safety measures on an owner or operator of gas or hazardous liquid pipeline facilities without notice or an opportunity for a hearing.

PHMSA cites examples of when the agency may need to use such enhanced authority. These include instances where a serious manufacturing flaw has been discovered in pipe, equipment or other materials, or when an accident reveals a specific industry practice that is unsafe and needs immediate correction.

[A link to the IFR can be found here.](#)