



June 14, 2019

The Honorable Peter DeFazio
Chairman, Committee on Transportation and
Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Sam Graves
Ranking Member, Committee on Transportation
and Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

Dear Chairman DeFazio and Ranking Member Graves,

The Distribution Contractors Association (DCA) represents contractors, suppliers and manufacturers who provide distribution construction services including installation, replacement and rehabilitation of gas pipelines in communities across the country. As the committee develops legislation to reauthorize the nation's pipeline safety program, DCA offers the perspective of those in the field who build gas distribution systems as well as gas transmission infrastructure.

Earlier this year, the Leonel Rodon Pipeline Safety Act was introduced in large part in response to the gas distribution incident in the Merrimack Valley area of Massachusetts in September of last year. On June 3, the Pipeline and Hazardous Materials Safety Administration (PHMSA) released the agency's legislative proposal for pipeline safety reauthorization that included a range of issues, many of which will impact the gas distribution construction industry. As additional legislation is expected out of your committee and others, DCA offers the following positions on several issues expected to be addressed during the reauthorization process.

Pipeline Replacement Programs. There have been calls for requirements to expedite the replacement of antiquated piping in distribution systems. Local distribution companies (LDCs) already maintain expedited programs to replace remaining cast-iron and bare steel piping with superior polyethylene pipe in America's gas distribution network. DCA contractors have a full plate replacing large amounts of cast-iron piping on a regular basis, and Congress should avoid attempts to further expedite distribution replacement programs.

Safety Management Systems. As the pipeline industry continues to instill a "culture of safety" through implementation of pipeline safety management systems (SMS), DCA believes mandating the use of SMS would be shortsighted. SMS is a top-to-bottom, cyclical approach to pipeline safety that requires buy-in from senior management and a commitment to pursuing continuous improvement.

Through the continuous "Plan-Do-Check-Act" process, SMS also requires a commitment to continuous improvement. There is strong support of the SMS approach by PHMSA and within the industry, but SMS should not be included in the pipeline safety regulations. Ensuring a safety *culture* in a pipeline company must be the responsibility of the operator, just as contractors must be responsible for maintaining SMS in construction operations. To that end, DCA is working with other contractor associations to develop a template on SMS for contractors to use while implementing SMS or improving existing SMS programs.

Therefore, DCA strongly opposes language that would mandate SMS in the pipeline safety regulations.

Review of Work Packages. Since the Merrimack Valley incident, there have been knee-jerk reactions in some states and a calling from some in Congress to require approval of work packages and even qualifications of pipeline workers by a professional engineer. Gas distribution contractors follow the work packages provided to them by their LDC customers and comply with “operator qualification” regulations while doing so. Requiring professional engineers to approve these qualifications is unnecessary and might delay critical replacement of antiquated gas distribution piping.

Data Collection on Project Shutdowns. PHMSA’s proposal would authorize the collection of information on pipeline construction projects and require operators to report any shutdowns of pipeline infrastructure projects, thereby allowing PHMSA to take timely action regarding safety matters as appropriate. DCA supports policy that will help avoid unnecessary delays or shutdown of pipeline projects, and collection of data needed to allow PHMSA to address any safety matters needed to get projects up and running.

Permit Delays. Permitting of pipeline projects is not within the jurisdiction of PHMSA – that responsibility lies with the Federal Energy Regulatory Commission (FERC). However, many federal, state, and local agencies with a role in the permitting process lack expertise in pipeline systems, which can lead to construction permitting delays. Unfortunately, other delays sometimes stem from government entities using permitting authority to obstruct pipeline projects for political reasons.

DCA supports language included in PHMSA’s proposal that would prohibit other federal agencies (other than FERC) from imposing requirements that conflict with the federal pipeline safety regulations with respect to permitting.

Overpressure Protection. DCA agrees that gas distribution operators must be able ensure overpressure protection at regulator stations and be able to respond to overpressure alarms. At the same time, work packages provided to distribution contractors must include all information with expectations related to over-pressurization.

Additionally, contractors should be brought into the discussion early in the planning process of a pipeline construction project, and communication should continue through the duration of the project. This is not to suggest a need for new regulations on this matter – industry efforts intended to bolster operator/contractor communications are ongoing. For example, DCA works with LDCs and their associations at an annual joint workshop on ways to enhance cooperation among LDCs and the contractors who work for them.

Management of Change. There is considerable attention to management of change (MOC) and a push for new regulations to require all pipeline operators to prepare and implement a detailed set of control procedures to follow when performing pipeline tie-in operations. Attention to MOC processes also stems from the Merrimack Valley incident. Regardless of if/how Congress addresses MOC in a reauthorization bill, pipeline operators must clearly describe any and all changes to contract personnel performing the work.

DCA addresses MOC in the contractor SMS template under development, stating that contractor SMS programs should ensure that contractors “aware of operator’s Management of Change (MOC) procedures and related risks associated with pipeline construction.”

Operator Qualification. PHMSA's proposal looks to Congress to extend the scope of OQ regulations to include new construction. This provision has been pending in PHMSA's regulatory agenda for the past several years, and for the most part, distribution contractors already apply OQ elements to covered tasks for new construction.

In fact, DCA is working with the "OQ Integrity Coalition" on a new approach aimed at increasing the integrity of OQ programs through increased consistency and standardization of OQ procedures. The coalition has cooperatively developed the OQ Integrity Process (OQIP), that includes a range of necessary provisions related to the people, processes, and program validation elements associated with OQ programs.

Criminal Penalties. While DCA supports the right for peaceful activism, including peaceful protests, we strongly support legislative language that would hold those who engage in criminal activities during protests more accountable. PHMSA's proposal would adjust existing criminal penalty measures for damaging or destroying a pipeline facility by specifying that vandalism, tampering or disrupting the operation of a pipeline facility would be punishable by criminal fines and imprisonment. Importantly, it would also specify that pipeline facilities under construction are included within the scope of the damage prohibitions in addition to operational pipeline facilities.

While interfering or tampering with the operation of a pipeline would clearly compromise pipeline safety, vandalism and destruction of nearby equipment used to build a pipeline can be just as dangerous. For example, setting construction equipment on fire near a natural gas pipeline can be as dangerous as turning a valve.

Several states have enacted laws intended to deter pipeline vandalism. Tampering with or vandalizing critical infrastructure or nearby equipment used to build it can create serious safety risks to the public, pipeline employees and even the perpetrators. Additionally, acts of vandalism could result in devastating environmental impacts. Therefore, we encourage the committee to adopt PHMSA's proposed language regarding criminal penalties.

DCA contractors perform the vast majority of construction work on gas distribution systems, and some gas transmission pipelines across the country. We stand ready to answer any questions you or members of the committee may have.

Best Regards,



Rob Darden
Executive Vice President