



Congress Forces DHS To Look More Closely At Pipeline Security

The security of pipelines in the event of a terrorist attack, and post-attack planning, will become a bigger issue within the industry over the next few years as the Department of Homeland Security (DHS) initiates a congressionally-mandated program to inspect the most critical facilities and develop industry-wide pipeline security and incident recovery protocol. That was the charge given to the DHS, who will work with the Pipeline and Hazardous Materials Safety Administration (PHMSA) at the Department of Transportation, by implementing the 9/11 Commission Recommendations Act of 2007. That bill was passed by Congress and signed by President Bush in July.

One of the key mandates in the bill is that the DHS set up a program for reviewing pipeline operator adoption of recommendations in the Pipeline Security Information Circular issued in September 2002 by the DOT. By summer 2008, the DHS will have to implement a plan for inspection of critical facilities of the 100 most critical pipeline operators covered by the September 2002 circular, where such facilities have not been inspected for security purposes since Sept. 5, 2002, by either DHS or DOT. Those inspections will have to be done based on a risk assessment methodology which prioritizes risks so that inspections are focused on the highest risk pipeline assets. If, based on those inspections, the DHS is unhappy with the state of pipeline security, it can propose regulations that would apply to all pipelines.

The Pipeline Security Information Circular has never been made public, according to Terry Boss, senior vice president at INGAA. He explains that the Transportation Security Administration (TSA), an agency within the DHS which is mostly focused on aviation safety, has done "lots of auditing" of transmission company compliance with the circular.

Amy Kudwa, a spokeswoman for the TSA, says the circular is used by the TSA's Pipeline Security Division under what is called the Corporate Security Review (CSR) program. These are somewhat cursory security reviews of pipeline companies aimed at gathering data so that the TSA can rank the facility based on its Pipeline System Relative Risk Ranking and Prioritization Tool, which DHS characterizes as a "rough screening" tool. The CSR is a "get-to-know-you" kind of audit, as opposed to a detailed inspection of a pipeline.

About 70 pipeline CSRs have been completed since the start of the program in 2003, according to Kudwa. The TSA estimates there are 2,200 operators of hazardous liquid, natural gas transmission and natural gas distribution pipelines in the U.S. The TSA has not

gotten to the point apparently, where it has done any detailed system and asset assessment programs, where it actually evaluates physical security, operations and processes in a more detailed way than is possible with the current CSR program.

The small number of CSRs, and the DHS's failure to do any more detailed security assessments on pipelines, apparently played a part in the inclusion of the new mandates implementing the 9/11 Commission Recommendations Act of 2007. In fact, the DHS broadly came under withering criticism in a Sept. 6, 2007 report from the Government Accounting Office (GAO) for failing to meet required performance goals. That report does not address DHS actions in the pipeline industry specifically. But in a chart looking at how the DHS has fared in meeting "Surface Transportation Security Performance Expectations," the GAO states that the DHS has generally achieved the expectation that it conduct assessments of surface transportation assets, which include aviation, marine, truck, railroad and other sectors besides pipelines. All of these sectors, particularly aviation, probably carry a higher priority in the DHS's universe of limited resources, so it would be hard to consider 70 CSRs out of 2,200 companies to be admirable. In addition, the GAO says DHS has generally not achieved the goal of issuing standards for securing those assets or conducting compliance investigations for the surface transportation sector.

Besides the inspection of 100 major pipelines, the 9/11 Commission Recommendations Act requires the DHS to develop a pipeline security and incident recovery protocols plan. Industry groups would be involved in its development. This will be aimed at providing increased federal security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations when they come under either "severe" security alerts or when information becomes available which seems to indicate that a threat is in the offing. The plan will include protocols for restoring essential services supporting pipelines and granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident. Another set of protocols will address the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses.

PHMSA Considering Regulatory Changes On Ethanol In Pipelines

The prospect of pipelines carrying ethanol/gasoline blends, or the possibility of

new pipelines being built for ethanol only, has the Pipeline and Hazardous Materials Safety Administration (PHMSA) wondering whether its safety regulations are adequate to the new "Ethanol Era." The House and Senate energy bills now being reconciled by Congress each have a number of provisions aimed at increasing the production of ethanol, which is currently delivered to the truck rack, usually in the form of 10 or 15 percent ethanol/gasoline blends, by trucks, railroad cars and barges. But so-called bio-fuel pipelines could move E10 much more efficiently – PHMSA calls them a "high volume" option – and presumably safer.

The question is whether PHMSA has to change its regulatory structure to allow that, which presupposes that E10 can be safely transported in liquid pipelines. The focus of industry's current efforts, according to Raymond Paul, director of public affairs for the Association of Oil Pipe Lines (AOPL), is to determine whether liquid lines could carry E10 or E20 without a need to modify the pipeline or without additional corrosion damage over and above what exists with gasoline. There is also a concern that ethanol carried in a pipeline would pick up moisture, or lacquers, gums and deposits in the systems. That could compromise the product's integrity. Paul says the industry is doing research on these two questions and hopes to have answers within the next 12-18 months.

With regard to E10 blends, Paul says he isn't sure whether pipelines would need PHMSA approval to carry them. The PHMSA considers all biofuel-gasoline blends to be "petroleum products," regardless of their relative biofuel/gasoline content. They would be subject to PHMSA's existing standards for hazardous liquid pipelines because they may pose "unreasonable risks to life or property." Under those standards, the pipeline operator is responsible for establishing that any material moved in the pipeline "is chemically compatible with both the pipeline, including all components, and any other commodity that it may come into contact with while in the pipeline."

However, PHMSA's regulations don't mention biofuels expressly. That is why the agency is undertaking a review to determine whether it is necessary to amend the definition of hazardous liquid to expressly include ethanol and biofuels. Such an amendment would confirm that the transportation of pure ethanol or biofuels by dedicated biofuel pipelines is subject to current safety requirements. ■