

Pipeline agency braces for Biden climate overhaul

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Pipeline and Hazardous Materials Safety Administration employees inspecting a natural gas storage site. Government Accountability Office

Federal pipeline regulators are starting out the new administration with a new mission — protecting the climate.

Congress, in the massive spending bill approved just before Christmas, ordered the Pipeline and Hazardous Materials Safety Administration (PHMSA) to aggressively police leaks of methane, a potent greenhouse gas. The agency is to write and enforce rules requiring natural gas pipeline operators to use advanced technology to find and fix leaks.

It was a significant expansion of responsibility for the relatively small agency created in 2004. The new requirements give PHMSA, part of the Department of Transportation, a role in President Biden's climate agenda.

"Now, I think the agency will have to think in a different way," said Cynthia Quarterman, who led the agency during the Obama administration. Limiting methane emissions, she added, is "something they have not been looking at very closely."

Responsibility is expected to fall to Pete Buttigieg, the former Democratic presidential candidate whom Biden has chosen to run DOT. PHMSA's new duties could also lead the Biden administration to seek an administrator with strong environmental or climate credentials. No names have been floated publicly for the agency chief, beyond Carl Weimer of the Pipeline Safety Trust. Weimer, who lives in Bellingham, Wash., has not signaled any interest in taking the job.

The methane language is part of a five-year pipeline safety reauthorization for PHMSA. The legislation had appeared stalled over partisan differences until a breakthrough in August that included compromise methane provisions from then-Sen. Tom Udall (D-N.M.).

Democrats had hoped to adopt stricter methane restrictions, but House Transportation and Infrastructure Chairman Peter DeFazio (D-Ore.) called the legislation a "good start."

"As we work to phase out fossil fuels, we need to ensure that current pipelines are safe and do not leak or vent dangerous methane into the environment," DeFazio said in a statement.

House Democrats had proposed language to reestablish Obama-era methane regulations at EPA, but Sen. Deb Fischer (R-Neb.), who led Senate Republican efforts on the bill, stressed that it addresses safety and methane "without making changes to the jurisdiction of other agencies."

Methane is a greenhouse gas 84 times more potent than carbon dioxide on a 20-year time scale. Oil and gas are the largest industrial source of methane emissions in the United States. EPA estimates that about one-third of the oil and gas industry's emissions comes from transmission, storage, processing and distribution.

Studies coordinated by the Environmental Defense Fund and other researchers have found that emissions from the oil and gas industry — including pipelines — were far higher than EPA estimates ([*Climatewire*](#), May 4, 2020). EDF also says methane emissions can be reduced 40% at a cost of less than 1 cent for each thousand cubic feet of gas.

"The methane detection industry has really taken off," said Elgie Holstein, a senior director at EDF, which pressed the case for including methane in the pipeline bill. "It's the regulators that need to catch up."

The oil and gas industry in recent years has split between small operators, which tend to see methane regulation as onerous and expensive, and major oil and gas

conglomerates, which see regulation as a way to preserve the image of natural gas as a cleaner fuel.

The new requirements won't happen right away. The law requires the agency to draft regulations about performance standards, what leaks must be fixed and how companies must look for them.

The law orders the agency to complete the regulations within a year, but there's no enforcement mechanism for that. PHMSA rules have often taken years. It took nine years for the agency to enact regulations arising from a fatal 2010 pipeline explosion in San Bruno, Calif. Members of Congress have complained repeatedly about the agency's failure to meet deadlines.

Bill writers included several provisions that they hope will speed the process, including more rule-writing staff, more inspectors and language aimed at heading off legal challenges. For example, the bill adds eight new positions to help move rules through the process.

The bill adds eight new positions to speed the progress of regulations mandated by Congress. It also increases the number of inspectors from 208 to 247 by 2023.

Congress also added language requiring the agency to weigh environmental benefits along with safety benefits when tabulating the cost of new regulations. Safety advocates have long complained that PHMSA is hobbled by a uniquely strict cost-benefit requirement written into the agency's rulemaking authority. That makes it easier for opponents to challenge rules as too costly for industry. A statutory requirement to tally environmental benefits could change the calculus.

But others say methane leak regulations shouldn't take nearly as long as the safety measures arising from San Bruno, sometimes called the "mega rule," because the task assigned by Congress is much narrower.

"It's not of the size and depth of the mega rule," said Brianne Kurdock, a former PHMSA attorney now at the Washington office of the law firm Babst Calland.

The law does not contain provisions limiting leaks at liquefied natural gas facilities or underground gas storage sites such as Aliso Canyon, Calif., the source of the largest known release of methane in U.S. history. But it does require new, detailed updates to be publicized every 30 days on the status of regulations Congress has ordered the agency to draft. Those updates are to list any "resource constraints" slowing progress, which entity is reviewing the regulations (such as the Transportation secretary's office or the White House), and how long they have been there.

Environmental issues have long been part of PHMSA's mandate. But its past interests focused mostly on preventing and dealing with spills of hazardous liquids such as crude oil.

Its gas efforts have focused on physical safety. Gas pipeline leaks in unpopulated areas, if they didn't explode or catch fire, were not considered a major safety threat.

"The traditional focus has been on safety," said Keith Coyle, a Babst Calland lawyer who also once worked for PHMSA.

The Biden administration may have to limit its climate ambitions to get a pipeline methane rule through the process. Bill Caram, executive director of the Pipeline Safety Trust, said he expects the final product to be modest.

"I still imagine that cost-benefit will hinder and slow them down," Caram said.

For example, the agency might need to limit requirements to certain sectors or set thresholds for fixing leaks rather than requiring all of them to be repaired immediately.

Quarterman said her old agency will need to look outside its ranks for expertise in setting standards for methane leaks. She thinks agency officials might seek to partner with EPA as they examine what the standards should be.

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