

PHMSA's Pipeline Safety Reauthorization: Funding Issues

Updated August 10, 2020

Introduction

The federal pipeline safety program is administered by the Department of Transportation's (DOT's) [Pipeline and Hazardous Materials Safety Administration](#) (PHMSA), working with state pipeline safety regulators. Together, the federal and state agencies regulate the safety of the nation's hazardous liquid (e.g., crude oil) and natural gas pipelines. Under the PIPES Act of 2016 (P.L. 114-183), funding authorization for PHMSA's pipeline safety program expired on October 1, 2019. Although the Further Consolidated Appropriations Act, 2020 (P.L. 116-94) includes pipeline safety appropriations for FY2020, Congress is debating at what levels the program should next be authorized. The Trump Administration's FY2019 and FY2020 budgets have proposed reducing PHMSA's pipeline safety funding whereas House and Senate bills would authorize increased funding at different levels.

Past Budget Authority

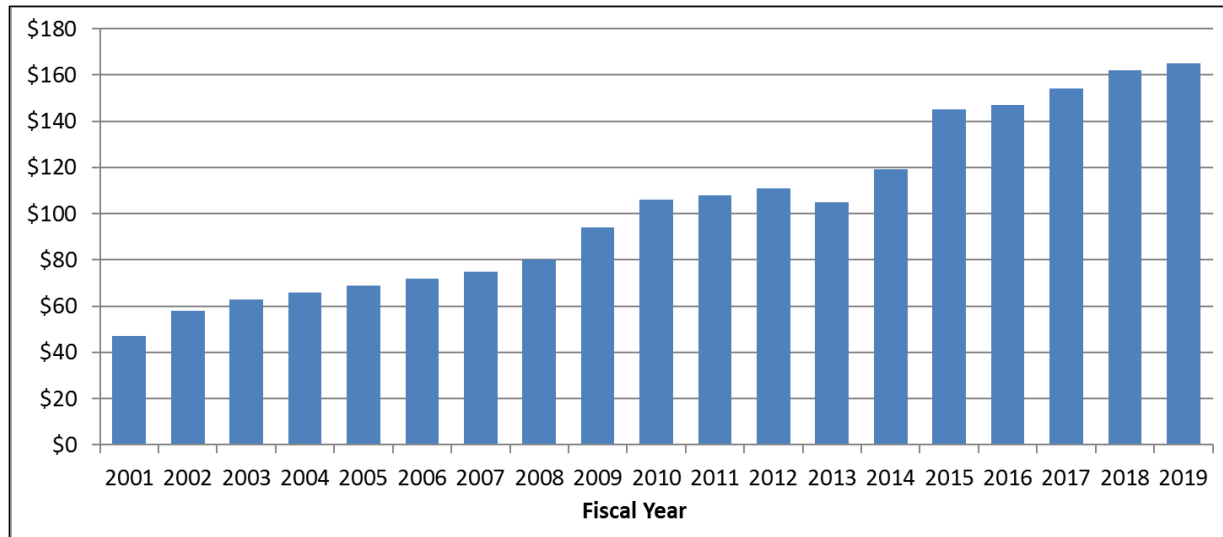
PHMSA's pipeline safety program is funded primarily by user fees assessed on each regulated pipeline operator. PHMSA collects additional fees from underground natural gas storage facility operators to fund storage regulatory activities as part of its pipeline safety program. Much of PHMSA's budget is used to pay safety inspectors, either directly as federal employees or indirectly as state employees through state grants. By statute, PHMSA may pay [up to 80%](#) of the cost of personnel, equipment, and activities of a certified state pipeline safety agency. PHMSA's total annual budget authority for pipeline safety has grown since 2001 (**Figure 1**). For FY2019, PHMSA's enacted authority was \$165 million—more than double the agency's budget authority in FY2008 (not adjusted for inflation).

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Figure 1. PHMSA Pipeline Safety Total Annual Budget Authority FY2001-FY2019
(Millions of Dollars)



Sources: U.S. Office of Management and Budget, Department of Transportation.

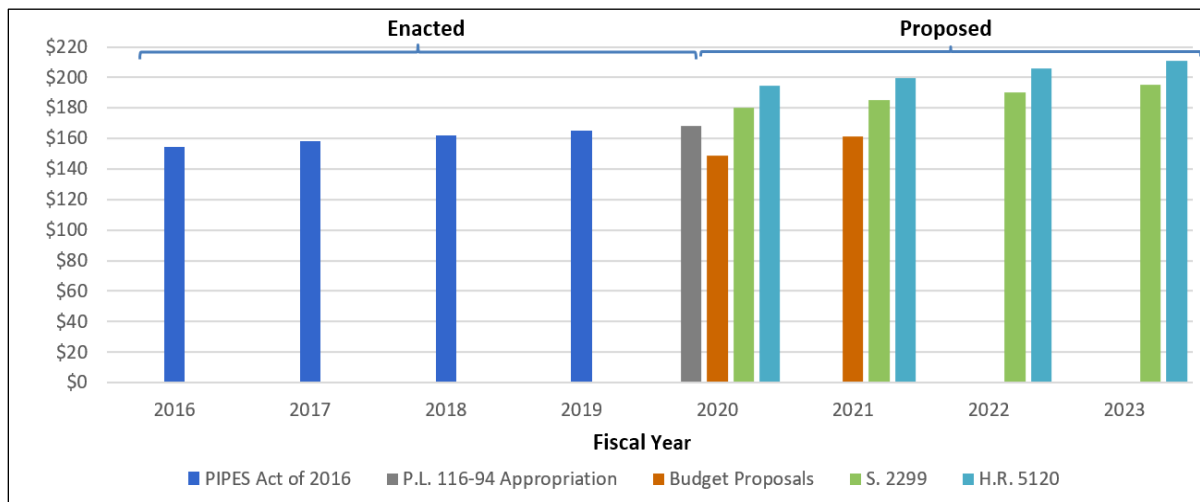
Notes: Includes funds from the Pipeline Safety Fund, the Oil Spill Liability Trust Fund, and the Underground Natural Gas Storage Facility Safety accounts.

Reauthorization Proposals

On June 3, 2019, Transportation Secretary Elaine Chao [proposed](#) pipeline safety budget authority for PHMSA of approximately \$149 million for FY2020, which would have been roughly 10% less than the FY2019 budget authority (\$165 million). The Trump Administration's pipeline safety [budget request](#) of February 11, 2020, is for \$161 million for FY2021.

On August 6, 2020, the Senate passed the PIPES Act of 2019 (S. 2299) with proposed budget authority of \$180 million in FY2020 rising to \$195 million in FY2023. On November 19, 2019, the House Energy and Commerce Committee reported the SAFER Pipelines Act of 2019 (H.R. 5120) with proposed pipeline safety budget authority of approximately \$195 million in FY2020 rising to approximately \$211 million in FY2023. On November 20, 2019, the House Transportation and Infrastructure Committee also reported H.R. 5120 with the same budget authority. Compared to PHMSA's FY2019 budget authority, the House and Senate bills would increase PHMSA's pipeline safety authorization by roughly 18% and 9%, respectively, for FY2020. P.L. 116-94 appropriates \$168 million for pipeline safety in FY2020, a 1.8% increase over the FY2019 authorization. **Figure 2** compares the administration's budget requests, the FY2020 appropriation, and the funding proposals in the Senate and House bills.

Figure 2. Pipeline Safety Budget Authority FY2016-FY2023, and FY2020 Appropriation
(Millions of Dollars)



Source: U.S. Office of Management and Budget, Department of Transportation, S. 2299 as reported by the Senate Commerce, Science, and Transportation Committee; H.R. 5120 as reported by the House Energy and Commerce Committee.

Notes: Includes funds from the Pipeline Safety Fund, the Oil Spill Liability Trust Fund, and the Underground Natural Gas Storage Facility Safety accounts. The FY2020 DOT proposal contains “such sums as may be necessary” for fiscal years 2021 through 2023, and does not specify an amount for each year. All values are authorization amounts, except P.L. 116-94, which is an appropriation.

PHMSA Resource Considerations

As Congress has considered funding levels for pipeline safety, the following have been key issues:

- State Grant Levels.** Although PHMSA may reimburse states for up to 80% of their pipeline safety expenditures, in 2017 (the latest year for which the data are published) [actual grant awards](#) to states covered 68% of state expenditures, on average. Pipeline [safety advocates argue](#) that grant levels below 80% hamper the states’ ability to maintain the most qualified workforce and perform critical functions. However, DOT and [some state officials](#) have countered that states may increase pipeline safety agency funding through state-levied pipeline user fees if they believe they need more resources.
- Inspector Pay.** PHMSA has long faced challenges hiring and retaining its own federal inspectors, largely due to industry recruitment of the same candidates PHMSA seeks (engineers). A 2017 DOT Inspector General (IG) [report](#) confirmed “a significant gap between private industry and Federal salaries for the types of engineers PHMSA hires.” Some in Congress [have proposed granting PHMSA special pay authority](#) for engineers to compete with industry. Higher pay for inspectors could require more funding for salaries.
- Rulemaking Resources.** Congress has used prior reauthorizations to impose on PHMSA various mandates. Many Members of Congress are concerned that major mandates remain unfulfilled years beyond the deadlines specified in statute. For example, as of July 1, 2019, according to its own assessment PHMSA had [not fulfilled six mandates](#) under the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112-90). According to an IG [report](#), PHMSA’s rulemaking processes have contributed to the delays, but some have suggested that staffing limitations may also be a factor. However,

- the PHMSA administrator [testified](#) in 2018 that the agency had adequate staffing and funding for rulemaking.

Authorization Lapse

In situations where PHMSA's authorization expires before reauthorization, the agency's pipeline safety program can continue to operate and can still be funded—as it has been by P.L. 116-94—based upon its expired authorization, subject to any instructions in an appropriations act. In such cases, PHMSA looks to legislative history to indicate that Congress did not intend for its programs to terminate. Such a circumstance would differ from an appropriations lapse, such as occurred during the 2018-2019 government shutdown. In that specific instance, DOT published a [plan for continuing operations](#) which included extensive furloughs of PHMSA's pipeline safety staff, primarily in administrative functions.

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