

## INSIGHTS

## Protecting Critical Energy Infrastructure from Pipeline Sabotage

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By: [Catherine D. Little](#), [Annie Cook](#) and [Mandi Moroz](#)

Oil and gas provides nearly two thirds of all energy used in the United States, which is primarily transported by pipelines. The United States currently has roughly 2.8 million miles of pipelines. Most of this infrastructure is buried, but aboveground components exist along pipeline routes, including pump stations and valve stations and compressor stations as well as other aboveground equipment and facilities. Historically, incidents of pipeline sabotage have been rare but in just the past year, they have increased in response to high profile pipeline construction projects. These attacks are well coordinated and appear to be well funded. Impacts could be catastrophic to public safety, the environment, and reliability of energy infrastructure in the United States. The federal government has expressly designated oil and gas pipelines as critical energy infrastructure for increased protection and current law provides for significant penalties and imprisonment for those who attempt to damage these facilities.

Last October, a group referring to itself as “Climate Direct Action” [claimed](#) to have shut down five major cross-border oil pipelines in various states on Tuesday October 11, 2016 in Minnesota, Montana, North Dakota and Washington State. Activists with bolt cutters broke into valve stations prompting operators to temporarily shut down four major pipelines (the fifth was not in service when activists attempted to turn it off). More recently, there have been other [attacks](#) on pipelines across the country, some involving blow torches to damage safety valves.

Any person who knowingly and willfully damages or even attempts or conspires to damage or destroy an oil or gas pipeline or component may be subject to criminal prosecution under the federal Pipeline Safety Act (as revised by the Patriot Act), with sentencing of up to 20 years in prison and/or significant penalties. *49 U.S.C. § 60123(b)*. If a death results from such tampering, the individual may be sentenced to life in prison. *Id.* In addition, individuals damaging pipeline facilities or those providing support to those individuals could be investigated and/or prosecuted under other statutes depending on the circumstances, such as the Patriot Act or the Homeland Security Act for domestic acts of terrorism, as pipelines have been designated as “critical energy infrastructure.”

Despite federal prohibitions on these activities and the availability of significant penalties and prison sentences, acts of pipeline sabotage are on the rise. Existing federal criminal laws are rarely invoked by federal prosecutors and these facilities remain at risk. More effective deterrence and enforcement of these federal prohibitions is needed to protect this critical infrastructure. Charges are most frequently brought under state criminal laws—such as

trespass, nuisance, burglary and criminal mischief/sabotage. Further, in some cases, criminal charges have been reduced or dropped entirely. Recent coordinated intentional attacks on pipeline infrastructure appear to be more than simply trespass or mischief, however, and prosecutors should avail themselves of the penalties under applicable federal laws to more effectively deter these crimes.

Pipelines are considered to be the ***safest mode*** of transportation of oil and gas products, and pipelines carrying oil and gas are necessary to fuel our country's energy needs and to assist the United States in transitioning to more renewable forms of energy. Tampering with existing pipeline infrastructure is highly dangerous and illegal.