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REAUTHORIZATION OF THE U.S. DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM

(114–35)

HEARING

BEFORE THE

SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

FEBRUARY 25, 2016

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Committee on Transportation and Infrastructure
U.S. House of Representatives

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Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

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February 19, 2016

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Railroads, Pipelines, and Hazardous Materials
FROM:	Staff, Subcommittee on Railroads, Pipelines, and Hazardous Materials
RE:	Subcommittee Hearing on "Reauthorization of DOT's Pipeline Safety Program"

PURPOSE

The Subcommittee on Railroads, Pipelines, and Hazardous Materials will meet on Thursday, February 25, 2016 at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony from the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Association of Oil Pipe Lines (AOPL), the Interstate Natural Gas Association of America (INGAA), the American Gas Association (AGA), and the Pipeline Safety Trust on matters relating to the reauthorization of the Department of Transportation's (DOT) pipeline safety program.

BACKGROUND

PHMSA was created under the Norman Y. Mineta Research and Special Programs Improvement Act of 2004 (P.L. 108-426). Prior to enactment of the 2004 Act, DOT's Research and Special Programs Administration handled pipeline and hazardous materials safety. On the pipeline safety side, PHMSA oversees the safety of the nation's 2.6 million miles of gas and hazardous liquid pipelines, which account for the transportation of 64 percent of the energy commodities consumed in the United States.

PHMSA regulates the safety of pipeline facilities used in the transportation of gas and hazardous liquids. A state agency that is certified by PHMSA to enforce federal safety standards may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with federal regulations. A state agency may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.

PHMSA's pipeline safety functions include developing, issuing, and enforcing regulations for the safe transportation of natural gas and hazardous liquids by pipelines.

Regulatory programs are focused on ensuring safety in the design, construction, testing, operation, and maintenance of pipeline facilities.

In support of these regulatory responsibilities, PHMSA administers grants to aid states in conducting intrastate gas and hazardous liquid pipeline safety programs; monitors performance for those state agencies participating in the programs; collects, compiles, and analyzes pipeline safety and operating data; and conducts training programs through the Transportation Safety Institute for government and industry personnel in the application of pipeline safety regulations. PHMSA also conducts a pipeline safety technology program with emphasis on applied research for improved safety.

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

The last reauthorization of the DOT's pipeline safety programs was the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112-90), which was enacted on January 3, 2012 and authorized PHMSA's pipeline safety programs until September 30, 2015. The 2011 Act included 42 congressional mandates for PHMSA, the most consequential of which PHMSA has yet to implement. Of the 42 mandates, only 26 are complete. Although PHMSA has released a major rulemaking on hazardous liquids requirements, it has not yet issued many other important rulemakings required by the 2011 Act, including a major natural gas rulemaking. Important outstanding mandates in the 2011 Act include:

Automatic and Remote-Controlled Shut-Off Valves for New Transmission Pipelines: Section 4 of the 2011 Act directs the Secretary, if appropriate, to require by regulation the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule.

Maximum Allowable Operating Pressure: Section 23 of the 2011 Act directs the Secretary to require each pipeline owner or operator of an interstate and intrastate gas transmission pipeline in high consequence areas (HCA) (populations of 50,000 or more, environmentally-sensitive areas, and commercially navigable waterways) or within close proximity of homes, buildings, or an area that is frequently occupied to: (1) verify the physical and operational standards of each pipeline segment; (2) identify and submit documentation to the Secretary on the maximum allowable operating pressure (MAOP) of each pipeline segment; and (3) report any exceedances of MAOP within five days of when the exceedance occurs. The 2011 Act also requires the Secretary to issue regulations for testing the material strength of previously untested gas transmission pipelines in HCAs. PHMSA has issued three advisory bulletins to industry on establishing and reporting of MAOP and verification of records. A rulemaking is still under consideration.

Integrity Management: Currently, owners or operators of gas and hazardous liquid pipelines are required to develop and implement written integrity management programs to ensure the integrity of their pipelines in HCAs and to reduce risk of injuries and property damage from pipeline failures. These programs must include procedures and

processes to identify HCAs, determine likely threats to a pipeline within a HCA, evaluate the physical integrity of a pipe within a HCA, and repair or remediate any pipeline defects found.

Section 5 of the 2011 Act requires the Secretary to transmit a report to Congress evaluating (1) whether gas and hazardous liquid pipeline integrity management programs should be expanded beyond HCAs; and (2) whether applying integrity management program requirements to additional areas would mitigate the need for class location requirements (with respect to gas transmission pipeline facilities). Additionally, the 2011 Act directs the Secretary to issue final regulations, if the Secretary finds, in the report, that integrity management requirements should be expanded beyond HCAs. Though the Congressionally-mandated deadline for the report was January 3, 2014, the report has not been completed.

Leak Detection: Section 8 of the 2011 Act required the Secretary to study and transmit a report to Congress on leak detection systems utilized by operators of hazardous liquid pipelines and transportation-related flow lines to detect ruptures and small leaks. In conducting the study, the Secretary must analyze the technical limitations of current leak detection systems and consider the practicability of requiring technical, operational, and economically feasible leak detection standards for operators.

The Secretary completed the study, submitted the report and found that it was practicable to establish such standards, and therefore the Administration plans to issue final regulations to require operators to use leak detection systems where practicable and establish standards for the capability of such systems to detect leaks. PHMSA reports a rule is currently under agency review.

A chart detailing PHMSA's progress in meeting the mandates of the 2011 Act is attached to this memorandum. As evidenced in the chart, PHMSA has yet to complete 26 of the 42 mandates from the 2011 Act. For proper enforcement, inspection, safety, and productivity in the industry, these mandates need to be implemented by the agency. The Subcommittee looks forward to hearing from the agency, industry, and safety advocates on the status and impact of the 2011 Act's mandates and what matters are important to them in light of the upcoming reauthorization.

x

WITNESS LIST

The Honorable Marie Therese Dominguez
Administrator
Pipeline and Hazardous Materials Safety Administration

Mr. Andrew Black
President and CEO
Association of Oil Pipe Lines (AOPL)

Mr. Donald Santa
President and CEO
Interstate Natural Gas Association of America (INGAA)

Ms. Cheryl Campbell
Senior Vice President, Gas
XCEL Energy
On behalf of the American Gas Association

Mr. Carl Weimer
Executive Director
Pipeline Safety Trust

Track PHMSA's progress on implementing the Act section by section in the chart below. This will be updated as the agency completes more Act mandates.

26 OF 42 MANDATES COMPLETE
2 OF 6 NON-MANDATED ACTIONS COMPLETE

Topic	Act	Section	Mandate	Deadline	Status
Administrative Enforcement and Civil Penalties	2		No mandate, but PHMSA should update Part 190 to be consistent with new penalty provisions.	None	**Complete** Final Rule published 9/25/2013.
Damage Prevention	3	(a)-(c)	Incorporate into PHMSA's grant program new standards for state one call programs, such as no state and local exemptions.	1/3/2014	**Complete**
Damage Prevention	3	(d)	Conduct a study and report to Congress on the impact of excavation damage on pipeline safety, including frequency, severity and type of damage, and a survey of state exemptions.	1/3/2014	**Complete** Report submitted to Congress 10/9/14.

Topic	Act	Section	Mandate	Deadline	Status
Automatic and Remote-Controlled Shut- Off Valves	4		Require the use of automatic or remote-controlled shut-off valves on transmission pipelines constructed or entirely replaced after the date of the rule, if appropriate.	1/3/2014	**In progress** Studies for the Requirements of Automatic and Remotely Controlled Shutoff Valves completed 10/31/2012. Report submitted to Congress 12/27/12. Activity extends beyond deadline.
Integrity Management Program (IMP) Expansion and Class Location Replacement	5	(a)-(d)	Conduct an evaluation on whether Integrity Management Program (IMP) should be expanded beyond High Consequence Areas (HCAs) and whether gas IMP should replace class locations.	7/3/2013	**In progress** Comments solicited regarding the "Pipeline Safety: Class Location Requirements" on 8/18 2013. Comment period extended until 11/1/2013. Activity extends beyond deadline.
IMP Expansion and Class Location Replacement	5	(a)-(d)	Report findings from the evaluation to Congress.	1/3/2014	**In progress** Evaluation still underway. Activity extends beyond deadline.

Topic	Act	Section	Mandate	Deadline	Status
IMP Expansion and Class Location Replacement	5	(e)	PHMSA may extend a gas pipeline operator's 7-year reassessment interval by 6 months if the operator submits written notice with sufficient justification of the need for an extension. PHMSA should publish guidance on what constitutes sufficient justification.	None	**In progress** Published NPRM, "Pipeline Safety: Safety of Hazardous Liquid Pipelines" (80 FR 61609) Published ANPRM, "Pipeline Safety: Safety of Gas Transmission Pipelines" (76 FR 53086), and extended comment period (76 FR 70953).
IMP Expansion and Class Location Replacement	5	(f)	If appropriate, issue regulations expanding IMP and/or replacing class locations (but may not issue during review period unless there is a risk to public safety).	As soon as practicable after review period (1/3/2015)	Determinate on 5(a)-(d)
Public Education and Awareness	6		Maintain operators' most recent oil facility response plans (FRP) and provide a copy to any requester,	Immediately	**Complete** Implemented with continuing improvements to FRP program.

Topic	Act	Section	Mandate	Deadline	Status
			but exclude sensitive information.		
Public Education and Awareness	6		Maintain a map of all HCAs as part of National Pipeline Mapping System (NPMS).	Immediately	**In progress** HCA data is part of the NPMS database for all PHMSA GIS users. Currently working to identify information sources to refresh drinking water and ecological data.
Public Education and Awareness	6		Update the map biennially.	Every 2 yrs	See above.
Public Education and Awareness	6		Implement a program for promoting greater awareness of NPMS to state and local emergency responders and other parties.	1/3/2013	**Complete** PHMSA conducts an ongoing outreach program for emergency responders.
Public Education and Awareness	6		Issue guidance to operators on providing system-specific information to emergency	7/3/2013	**Complete** Issued Communication During Emergency Situations advisory

Topic	Act	Section	Mandate	Deadline	Status
			responders after consulting with them on current practice.		bulletin 10/11/2012. Issued Emergency Preparedness Communications advisory bulletin 11/3/2010.
Cast Iron Gas Pipelines	7		Conduct a follow-up survey on industry's progress in replacing cast iron gas pipelines.	12/31/2012 and every 2 yrs thereafter	**Complete** Online inventory available.
Cast Iron Gas Pipelines	7		Submit status report to Congress.	12/31/2013	**Complete** Report to Congress submitted 12/27/2012.
Leak Detection	8	(a)	Submit a report to Congress on leak detection systems used by hazardous liquid operators.	1/3/2013	**Complete** Leak Detection Study completed 12/10/2012. Report to Congress submitted 12/27/2012.
Leak Detection	8	(b)	If appropriate, issue regulations requiring leak	As soon as practicable after	**In progress** Rulemaking linked

Topic	Act	Section	Mandate	Deadline	Status
			detection on hazardous liquid pipelines and establishing leak detection standards (but may not issue during review period unless there is a risk to public safety).	1/3/2014	with valve rulemaking. Published NPRM, "Pipeline Safety: Safety of Hazardous Liquid Pipelines" (80 FR 61609)
Accident and Incident Notification	9	(a)-(b)	Revise regulations to require telephonic reporting no later than 1 hour following "confirmed discovery" and to require revising initial telephonic report after 48 hours if practicable.	7/3/2013	**In progress** Published NPRM "Operator Qualification, Cost Recovery and Accident Notification" 7/10/2015. Activity extends beyond deadline. Issued Accident and Incident Notification Time Limit advisory bulletin 1/30/2013. Issued Communication During Emergency Situations advisory bulletin 10/11/2012. Issued Emergency Preparedness Communications advisory bulletin

Topic	Act	Section	Mandate	Deadline	Status
					11/3/2010.
Accident and Incident Notification	9	(b)(2)	Review and revise, as necessary, procedures for operators and the NRC to notify emergency responders, including 911.	7/3/2013	**Complete** Issued Communication During Emergency Situations advisory bulletin 10/11/2012. Issued Emergency Preparedness Communications advisory bulletin 11/3/2010.
Administrative Enforcement and Civil Penalties	10		No mandate, but PHMSA should update Part 190 to be consistent with new authority to enforce Part 194 regulations.	None	**Complete** Final Rule published 9/25/2013.
Data collection (flow lines, etc.)	11		No mandate, but PHMSA may collect other geospatial and technical data for NPMS.	None	**In Progress** Published NPMS Information Collection (80 FR 23854).
Data collection (flow lines, etc.)	12		No mandate, but PHMSA may collect geospatial and other data on	None	Under consideration

Topic	Act	Section	Mandate	Deadline	Status
			"transportation-related oil flow lines," as defined in the Act.		
Cost Recovery for Design Reviews	13		Prescribe fee structure and procedures for assessment and collection in order to implement authority to recover design review costs for projects that cost over $2.5 billion or that involve "new technologies."	None	**In progress** Published NPRM "Operator Qualification, Cost Recovery and Accident Notification" 7/10/2015.
Cost Recovery for Design Reviews	13		Issue guidance on the meaning of the term "new technologies."	1/3/2013	**Complete** Interim guidance published 12/27/2012.
Biofuel Pipelines	14		No mandate, but PHMSA may issue regulations for pipelines transporting non-petroleum fuels, such as biofuels.	None	**In progress** Published NPRM, "Pipeline Safety: Safety of Hazardous Liquid Pipelines" (80 FR 61609)
CO_2 Pipelines	15		Issue regulations for transporting	None	**In progress**

Topic	Act	Section	Mandate	Deadline	Status
			carbon dioxide by pipeline in a gaseous state.		
Diluted Bitumen	16		Review and report to Congress on whether current regulations are sufficient to regulate pipelines transporting diluted bitumen.	7/3/2013	**Complete** Effects of Diluted Bitumen on Crude Oil Transmission Pipelines study released 2013.
Non-Petroleum Hazardous Liquids	17		PHMSA may analyze the extent to which pipelines are transporting non-petroleum hazardous liquids, such as chlorine, whether they are unregulated, and whether being unregulated presents risks to the public. The results of any analysis must be made available to Congress.	None	**In progress**
Maintenance of State Efforts	19		Grant waivers of the maintenance of effort clause in FY12 and FY13 to States that	FY12 and FY13	**Complete**

Topic	Act	Section	Mandate	Deadline	Status
			demonstrate an inability to maintain funding to their safety program due to economic hardship.		
Maintenance of State Efforts	19		PHMSA may grant such a waiver for FY14.	FY14	**Complete**
Administrative Enforcement and Civil Penalties	20		Issue regulations for enforcement hearings that require a presiding official, implement a separation of functions, prohibit ex parte, etc.	1/3/2014	**Complete** Final Rule published 9/25/2013.
Gathering lines	21	(a)-(b)	Review and report to Congress on existing Federal and State regulations for all gathering lines, existing exemptions, and the application of existing regulations to lines not presently regulated.	1/3/2014	**Complete** Report sent to Congress May 8,2015.

Topic	Act	Section	Mandate	Deadline	Status
Gathering lines	21	(c)	If appropriate, issue regulations subjecting offshore liquid gathering lines to the same standards as other liquid gathering lines.	None	Determinate on 21(a)-(b)
Excess Flow Valves	22		Issue regulations requiring the use of excess flow valves on new or entirely replaced distribution branch services, multi-family facilities, and small commercial facilities, if appropriate.	1/3/2014	**In progress** Issued NPRM, "Pipeline Safety: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other Than Single-Family Residences" on 7/8/2015. Activity extends beyond deadline.
Maximum Allowable Operating Pressure (MAOP) Verification	23		Require tests to confirm the material strength of previously untested gas transmission pipelines in HCAs.	7/3/2013	**In progress** Integrity Verification Process Workshop held 8/7/2013. Extended comment period until 10/7/2013. Published ANPRM, "Pipeline

Topic	Act	Section	Mandate	Deadline	Status
					Safety: Safety of Gas Transmission Pipelines" (76 FR 53086), and extended comment period (76 FR 70953). Activity extends beyond deadline. Issued Establishing Maximum Allowable Operating Pressure advisory bulletin 1/10/2011.
MAOP Verification	23		Require operators to report any exceedance of MAOP within 5 days, and regulations to ensure safety of pipelines without records to confirm MAOP.	None	**In progress** Issued Reporting of Maximum Allowable Operating Pressure advisory bulletin 12/21/2012. Published ANPRM, "Pipeline Safety: Safety of Gas Transmission Pipelines" (76 FR 53086), and extended comment period (76 FR 70953).
MAOP	23		Require operators to	Prior to	**Complete**

Topic	Act	Section	Mandate	Deadline	Status
Verification			report by 7/3/2013 any pipelines without sufficient records to confirm MAOP.	7/3/2013	Issued Verification of Records advisory bulletin 5/7/2012. Issued Reporting of Maximum Allowable Operating Pressure advisory bulletin 12/21/2012. Published Gas Transmission Reporting Form.
MAOP Verification	23		Issue Advisory Bulletin regarding existing requirements to verify records confirm MAOP in Classes 3 and 4 and in HCAs.	Prior to 7/3/2012	**Complete** Issued Verification of Records advisory bulletin 5/7/2012.
Limitation on Incorporation By Reference	24		PHMSA may not incorporate by reference into its regulations or guidance material any document that is not made publicly available free of charge on an internet website.	1/3/2015	**Complete**

Topic	Act	Section	Mandate	Deadline	Status
Training for State Personnel	25		No mandate, but PHMSA may provide training personnel at state-operated training facilities, and may require reimbursement for expenses, such as travel.	None	**Complete**
Cover Over Buried Pipelines	28		Conduct a study and report to Congress on hazardous liquid pipeline accidents at water crossings to determine if depth of cover was a factor.	1/3/2013	**Complete**
Cover Over Buried Pipelines	28		If study shows depth of cover was a factor, review the sufficiency of existing depth of cover regulations and make any legislative recommendations to Congress.	1 yr from completion of study	**Complete** Submitted Letters to Congress 11/19/2013.
Seismicity	29		No mandate, but PHMSA should issue regulations to be consistent	None	**In progress** Published NPRM, "Pipeline Safety:

Topic	Act	Section	Mandate	Deadline	Status
			with requirement in statute that operators consider seismicity in identifying and evaluating all potential threats to each pipeline pursuant to Parts 192 and 195.		Safety of Hazardous Liquid Pipelines" (80 FR 61609) Published ANPRM, "Pipeline Safety: Safety of Gas Transmission Pipelines" (76 FR 53086), and extended comment period (76 FR 70953).
Tribal Consultation	30		Develop and implement a protocol for consulting with Indian tribes to provide technical assistance for the regulation of pipelines that are under the jurisdiction of Indian tribes.	1/3/2013	**Complete** Developed and posted Protocol.
Pipeline Inspection and Enforcement Needs	31		Report to Congress on the total number of FTEs for pipeline inspection and enforcement, the number of such FTEs that are not presently filled and the reasons they are not filled, the actions being	1/3/2013	**Complete** Submitted Letters to Congress 11/30/2012.

Topic	Act	Section	Mandate	Deadline	Status
			taken to fill the FTEs, and any additional resources needed. PHMSA may increase the number of such FTEs by 10 in FY14 only if all the original FTEs are filled on or before 9/30/14.		
Pipeline Transportation R&D	32		After the initial 5-year program plan under § 12 of the Pipeline Safety Improvement Act of 2002 has been carried out, prepare a research and development program plan every 5 years, in coordination with the National Institute of Standards and Technology (NIST), as appropriate.	Immediately, and every 5 yrs thereafter	**Complete** Five-Year Plan submitted 7/25/2013. Held Government/ Industry Research & Development workshop on 7/2013. Workshop Results posted.
Pipeline Transportation R&D	32		Transmit a report to Congress on the status and results-to-date of	1/3/2014 and every 2 yrs	**Complete** Report submitted to Congress

Topic	Act	Section	Mandate	Deadline	Status
			implementation of the program every 2 years.	thereafter	3/4/2015.
Pipeline Transportation R&D	32		Ensure at least 30% of the costs of program-wide R&D activities are carried out using non-Federal sources.	Immediately	**Complete**

REAUTHORIZATION OF THE U.S. DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM

THURSDAY, FEBRUARY 25, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m. in room 2167, Rayburn House Office Building, Hon. Jeff Denham (Chairman of the subcommittee) presiding.

Mr. DENHAM. The subcommittee will come to order.

Good morning and welcome to the Subcommittee on Railroads, Pipelines, and Hazardous Materials.

Our hearing today will focus on the reauthorization of the Department of Transportation's pipeline safety program, which is administered by the Pipeline and Hazardous Materials Safety Administration, PHMSA. We are glad that they are here with us this morning.

The United States has the largest network of energy pipelines in the entire world, and they power nearly every facet of our daily activities. In order to ensure that pipelines continue to be the safest and most cost-effective means to transport energy products, diligent oversight of DOT's [Department of Transportation's] pipeline safety programs is a top priority.

Pipelines account for the transportation of 64 percent of the energy commodities consumed in the United States. Pipeline safety is carried out in a partnership between PHMSA, State regulators, and the private sector.

Over the past decade, private entities and the Government have taken many steps to ensure the safety of U.S. pipelines. Congress enacted the 2011 pipeline safety bill to strengthen our efforts, and we have been carefully monitoring DOT's progress of completing the remaining mandates from the 2011 act.

This hearing follows two hearings and a roundtable we had last year on these pipeline safety issues.

The 2011 law included 42 congressional mandates, of which only 26 are complete. Although PHMSA has released a major rulemaking on hazardous liquids requirements, it has yet to produce several other important rulemakings. Today we will hear from PHMSA and other stakeholders on where all the 2011 act mandates are.

We will also look towards the next pipeline reauthorization bill, which is a top priority of ours this year. We want to ensure that this legislation provides regulatory certainty for our citizens, the safety of our communities, and for industry stakeholders.

The bill is going to be a bipartisan bill, and we are looking forward to continuing to work with our colleagues from the Committee on Energy and Commerce as we move a bill forward.

I look forward to hearing from stakeholders on how we can build on the 2011 act and what the 2016 reauthorization needs to accomplish.

I also look forward to hearing how industry is being proactive in its own safety initiatives to ensure best practices for inspections, detecting leaks, and other important safety initiatives.

In closing I want to thank our witnesses for coming today to explore these issues concerning pipeline safety.

I now recognize Ranking Member Mike Capuano from Massachusetts for any opening statement he may have.

Mr. CAPUANO. Thank you, Mr. Chairman.

Yes, what he said. I pretty much agree with all of it, and I especially like the idea of getting a bill out this year. I think we can make a bipartisan bill. I am looking forward to it, and it will be wonderful to have.

I look forward to hearing our panelists. I particularly welcome my colleagues. I know that each of you have important issues in your districts and that is why you are here, and I look forward to hearing your testimony, and thank you all for being here.

Mr. DENHAM. Thank you.

I will now call on the chairman of the full committee, Mr. Shuster, who also authored the 2011 act which we are talking about here today.

Mr. SHUSTER. Thank you very much, Mr. Chairman. Thank you and for Mr. Capuano for holding this hearing today.

I want to welcome our colleagues, which I know each of you have great interest in pipeline safety and hazmat issues that we will deal with on this legislation. So thank you for being here.

And also I want to welcome Administrator Dominguez for her first appearance before the subcommittee. Welcome.

Pipeline safety reauthorization is one of the priorities of the committee and certainly of this subcommittee, and I look forward to moving it forward with Chairman Denham and Ranking Member Capuano.

As mentioned, I was the chairman in 2011 when we passed the last pipeline safety reauthorization. We were also working with our colleagues on the Energy and Commerce Committee to develop this important piece of legislation.

In the last bill we wanted risk-based, data-driven processes at PHMSA. The 2011 act included a number of significant mandates, but PHMSA is behind in completing them. However, these are complex issues. I want the agency to get the rulemakings right, and I am glad to see that PHMSA did release one of the major rulemakings on hazardous liquids late last year, and I would like to hear from them on other items and where they stand.

The work on this reauthorization needs to make sure that PHMSA can stay focused on closing out the 2011 act. I understand

that PHMSA is currently undergoing reorganization to become more data driven in its rulemaking procedures, which is positive, and I hope to hear how that reorganization will help the agency carry out pipeline safety mission and help PHMSA do a more effective job overseeing pipeline safety.

I finally would like to ask for unanimous consent to enter into the record the written testimony from the American Public Gas Association, which represents many small communities and gas distribution centers.

I again welcome my colleagues and also the Administrator.

Without objection?

Mr. DENHAM. Without objection.

[The written statement of the American Public Gas Association is on pages 122–129.]

Mr. SHUSTER. And I yield back. Thank you, Mr. Chairman.

Mr. DENHAM. I now call the ranking member of the full committee, Mr. DeFazio, for any opening statement he may have.

Mr. DEFAZIO. Thank you, Mr. Chairman.

According to PHMSA, the number of significant incidents involving gas and hazardous liquid pipelines has increased slightly since 2010, but you know, pipelines remain one of the safest modes of transport: on average, 288 significant pipeline incidents a year, 13 fatalities, 66 injuries.

Those numbers are low, but you know, PHMSA set a goal of zero. I remember when we had a visionary leader at DOT about 20 years ago who talked about zero fatalities in aviation. People thought that was not achievable. Well, we have now achieved it. So I would hope that we can get to the same place with PHMSA in terms of serious incidents, and particularly in terms of any future fatalities or serious injuries.

Obviously one incident can cause catastrophic damage. You know, the Enbridge pipeline failure in Marshall, Michigan, spilled nearly 1 million gallons of heavy crude—oh, wait a minute, sorry, they reclassified it as tar sand so they could save money on taxes—into the Kalamazoo River.

It has been 6 years since that spill, and yet 80,000 gallons of heavy crude tar sands remain imbedded in the riverbed along shorelines and not recoverable. That kind of thing is inexcusable. It also went on for quite a period of time because of problems with detection and shutoff, which are issues that are pending with PHMSA.

We had the San Bruno event the same year, which killed eight people. That was absolutely an extraordinary incident.

So those incidents drove us here to pass the 2011 pipeline safety bill. Unfortunately, many of the mandates in that bill have not been implemented by PHMSA: the automatic shutoffs, which I mentioned a moment ago; leak detection, which I mentioned a moment ago; excess flow valves; the expansion of integrity management requirements beyond high consequence areas.

They only issued a—I just hate this stuff—a notice of proposed rulemaking on October 13th, 2015, on the hazardous liquids rule, and that took a year to get out of OMB [Office of Management and Budget]. I am working with our colleague, Jason Chaffetz, on an

OMB reform bill. They are a major problem in many, many areas of Government.

But, you know, nothing has been issued on gas transmission 5 years after enactment. I do not know whether to blame OMB, the Secretary or perhaps the prior leadership at PHMSA because the agency has had a history of dragging its feet.

I think the new Administrator is a breath of fresh air in that agency.

Unfortunately, the Senate took the wrong approach on this issue. They told PHMSA it could not initiate any new rulemaking until all of the outstanding pipeline mandates are completed unless the Secretary of Transportation certifies to Congress there is a significant need to move forward.

That sounds an awful lot like the tombstone rule that we imbedded in the FAA [Federal Aviation Administration] bill a couple of weeks ago precluding any action to regulate lithium batteries until there is another fatal accident.

So you know, we should not be tying their hands like that, and that is not the way to go forward. You know, it applies not only to pipelines but to all their activities, which is just extraordinary, but you know, the Senate is known for being sloppy in legislating. Perhaps they just meant pipelines, but they ended up restricting everything.

So I believe, you know, we have an opportunity on this side to do a lot better. We should give them the opportunity to finish what they have been tasked to do. I do not think we should add any new rulemaking mandates in the reauthorization bill.

I would like to see us put some things in the bill that could actually help them get the job done and the goals and the objectives and the mandates that we put forward in 2011. Also I think we could give them authority for emergency order authority, which most other agencies which act for public safety do have. They don't if there is an industrywide issue, you know, just like the crude by rail issue.

So I think there are things we can do to make the agency work better, but I think the Senate really went down the wrong path, and I would hope that we do not choose to follow the Senate in this matter.

Thank you, Mr. Chairman.

Mr. DENHAM. Thank you.

We have two panels today. First of all, my esteemed colleagues from the great State of California, we welcome them, Steve Knight, Brad Sherman and Jackie Speier.

After their testimony we will have the second panel, which is the Honorable Marie Therese Dominguez, Administrator of PHMSA; Mr. Andrew Black, president and CEO of the Association of Oil Pipe Lines; Mr. Donald Santa, president and CEO, Interstate Natural Gas Association of America; Ms. Cheryl Campbell, senior vice president of Gas for Xcel Energy; and Mr. Carl Weimer, executive director of the Pipeline Safety Trust.

I ask unanimous consent that our witnesses' full statements be included in the record.

Without objection, so ordered.

Since your testimony has been part of the record, the subcommittee would request that you keep your oral testimonies to less than 5 minutes.

Mr. Knight, welcome. You may proceed.

TESTIMONY OF HON. STEPHEN KNIGHT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA; HON. BRAD SHERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA; AND HON. JACKIE SPEIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. KNIGHT. Thank you, Mr. Chair.

I want to thank the committee for allowing this to happen today.

You know, on October 23rd, an incident, a national incident happened in my district. It happened to a community where my esteemed colleague lives. It is in the Aliso Canyon gas facility in Porter Ranch, which is in the northern tip of Los Angeles City.

We had a leak there that is of a proportion that we have not seen very often in our lifetimes. An amount of gas leaked out of this facility that would fill the Empire State Building every day.

This went on for about 4 months until just recently we have been able to cap the well and kill the well. This is a facility that has 115 wells, that has the biggest gas facility west of the Mississippi.

One of these wells sprung a leak on October 23rd, and like I said, for 4 months that leak had continued to go.

During this time, our priorities were to make sure that the people were taken care of, make sure that as quickly and as safely as possible this leak was going to be capped, and in the future make sure that this was not going to happen again. So if there was going to be legislation, we are going to have to work with the State legislators as much as we worked with the Federal congressional delegation.

We worked with the families to make sure that they were relocated. Two complete schools were relocated. Those kids will stay relocated through the end of the semester. So they will be at two different schools until the end of the semester, and then they will come back to their schools.

Over 3,000 people have been relocated during this timeframe, and again, this has taken 4 months to fix. We are nowhere near the end of this tragedy. Getting people back in their homes, getting the faith that they are safe, making sure that the other wells have been checked, making sure that there are no other leaks has been a priority by not just my office, but by Congressman Sherman's office and the local elected folks.

The next set of challenges is just this. What do we do at the State level? What do we do at the Federal level?

I have authored legislation, and I know that Congressman Sherman has authored legislation. We are looking at setting standards at the Federal level and then making sure that the other 35 or so States that have these types of underground facilities, this underground piping, have some sort of a baseline.

Now, States can take it over. In the State of California we have DOGGR [Division of Oil, Gas, and Geothermal Resources], and we have the CPUC [California Public Utilities Commission]. We have

the Governor's office. They can take these limits and raise them, but there should be some sort of standards.

This facility is probably the largest facility in the country. Twenty-one million people have something to do with Aliso Canyon for their gas or for their electricity in the summer.

When the leak happened, we found that there were several problems with the mercaptans that went in the air, the benzenes that went in the air. We had kids; we had elderly; we had folks that had nosebleeds, headaches, could not go to work, all of these types of medical problems that happened from the leak.

Now, over these next couple of months I vow to work to make sure that we do have these standards in place, make sure that Federal legislation sets that bar, that baseline, and to make sure that the State legislators are doing their part.

There are already two packages moving forward by the senator in the area and by the assemblyman in the area to make sure that they have their standards at the State level.

This is a terrible tragedy. It impacted tens of thousands of people in a 5-mile radius. Some people say it is larger than that. I do believe it is larger than the 5-mile radius. This is something that we never want to see again, and this will take months if not years to build back the faith that this is a safe facility and to make sure that the people have the faith that we are doing the right thing.

Now, next door there is another facility that is also in my district, and that is on El Rancho, and that is another facility that is about one-quarter as big as Aliso Canyon. So with those two facilities you have the largest underground gas area in the country, and they are within 15 miles.

So this is something that impacts not just me, not just Congressman Sherman, but all of the people in the area, the 11 million people that live in L.A. [Los Angeles] County, and this is something that we take extremely seriously, and I appreciate you having us here for this hearing.

Mr. DENHAM. Thank you, Mr. Knight. Thank you for your testimony.

Mr. Sherman, you may proceed.

Mr. SHERMAN. Thank you for having us here.

For 117 days the northern Los Angeles community Porter Ranch was the victim of the largest natural gas leak in American history. My home is about as close as any to a well that leaked 5 to 6 billion cubic feet of methane, methane plus the mercaptan, which is the odorant, which turns out to be possibly toxic, and volatile organic compounds, including benzene which is a carcinogen.

That, Congressman Knight said, an Empire State Building filled with gas every day for 117 days. Over 7,500 families including my nextdoor neighbors have been forced to relocate for months. Schools have been closed, businesses have suffered.

The industry subculture was that methane could only be a problem if it burned or exploded, and as long as you were a few hundred feet away, everything was fine.

Now we have discovered that a natural gas leak with mercaptan, with volatile organic compounds can be an air toxin 5 miles or Congressman Knight says even further than 5 miles away.

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, PHMSA, has established Federal safety regulations for natural gas transportation, which my colleague from northern California will address, but they have no regulation for natural gas storage.

Our California regulations are weak. The history will show you—this incident will show you how weak. Wells were drilled in the 1950s, and they were then used to create the fifth largest natural gas facility in the country located just blocks outside the Los Angeles City limits. It stores 160 billion cubic feet of natural gas that is roughly 80 billion of working gas, 80 billion of cubic gas.

The pipes are eligible for Social Security. That is how old they are, but even in the 1950s they knew that there should be a subsurface safety valve, and they installed one on well SS25. In 1979 they took it out and did not replace it, and here is the bad part. And they were in compliance with the nonexistent Federal regulations and with the weak State regulations because the State regulations just require you have a subsurface safety valve if you were in 300 feet of a home or school.

Yet we have learned that this is dangerous 5 miles away.

The testing that was required every year was just to determine whether there was actual leaking gas at that moment, not testing to find whether there were anomalies in the pipe and to repair those anomalies. That is why along with 17 colleagues I have introduced the Gas Storage Safety Act and Congressman Knight has a similar bill that would require PHMSA to promulgate and enforce safety standards for natural gas storage facilities.

In addition, it creates a grant program to do some research to find a less toxic version of mercaptan so that we do not put something in the gas for safety and then discover that it is causing health problems for a 5-mile radius.

We need tough national standards. So far PHMSA has issued an advisory asking please, pretty please, for the industry to follow the American Petroleum Institute's standards. At a minimum we should immediately require that those standards be followed and then move up from there, not just ask.

And if you are concerned that the API standards might be too tough, I have checked with Bernie. The American Petroleum Institute is not a socialist organization.

Not only do we have to look at the safety of each storage facility and each well, but you need a robust system. As Mr. Capuano has heard me say many times, too big to fail is too big to exist. This facility by itself provides 80 percent of the natural gas storage for the L.A. metro area. So our regulators are told it may not be safe to reopen, but it is necessary to reopen if people are going to generate electricity and be able to heat their homes and heat water in the Los Angeles area.

Never again should a major metropolitan area be dependent or so dependent on just one facility.

So I look forward to working with you to address this issue. I am relatively confident my own State will get tough regulations because there is huge political pressure to do so, but this incident needs to be an alarm clock that goes off and is a wake-up call, and

it needs to be loud enough to be heard here in Washington 3,000 miles away.

And I yield back.

Mr. DENHAM. Thank you, Mr. Sherman.

Mr. Speier, welcome back. Thank you for joining us this morning.

Ms. SPEIER. Mr. Chairman, thank you. To Ranking Member Capuano and Chairman Shuster, thank you again for the opportunity to come before you.

I was here about a year ago to speak to you about the last gas pipeline safety measures at PHMSA, and here we are again. It has been 5½ years since the explosion in San Bruno that killed 8 of my constituents, leveled more than 30 homes, destroyed a neighborhood, and I cannot go back to them and face them eye to eye and say that things are any better on the Federal level.

Once again we have a bipartisan group of lawmakers who are willing to point out that PHMSA has not yet implemented the most important mandates in the 2011 law. Now, mind you one of those mandates was to strike the grandfather clause that allows pipes that are older than the 1970s from being subject to any kind of regulation.

Now, how difficult is it to strike a line from the existing law?

So all of that pre-1970s hype is still not subject to the kind of rigor that we impose on more recent pipes. It does not make a lot of sense.

The 2 years that I spent on this issue working with the National Transportation Safety Board, looking at PHMSA, meeting with the former Administrator of PHMSA, has taught me one thing. The relationship between PHMSA and the industry is too cozy, much like the California Public Utilities Commission has too cozy a relationship with the utilities in California. That is really a disaster in the making as we have seen over and over again.

So what we have here is a situation where curbing bad corporate behavior is not a priority, and for all of the people in this country who are concerned about the lack of accountability in our institutions, we do not have to look very far, and PHMSA is a great example.

I hope our new Administrator is going to shake it up, but when you have a law that has been put into effect back in 2011 and we still do not have the regulations out, you know, shame on us, too, for not just yanking the funding from that agency until they get their act together.

Now, I will tell you that there is a litany of disasters that have happened, San Bruno; Mayflower, Arkansas; Porter Ranch in California. What it appears is that these corporations seem to think that destroying people's lives, destroying their homes, destroying the quality of their lives is just the cost of doing business.

This cavalier attitude is made worse by a dangerous inconsistency in the law. For hazardous materials there are criminal penalties for a person who knowingly or willfully or recklessly violates the law, but for gas pipelines, it is only a standard of knowingly and willfully. So you cannot actually get to that bad behavior because even though it is reckless, it is not knowingly or willfully sometimes.

This difference has had real consequences, and we only have to look again at PG&E [Pacific Gas and Electric Company]. Just last month a former PG&E employee said management ordered her to destroy documents, and that she found a telltale pre-blast analysis of the San Bruno pipe in the garbage.

Now, was that reckless? Was it knowingly and willfully? Maybe knowingly and willfully, but you could not be certain. You could certainly call that reckless, but again, that standard does not apply.

The same holds true for an incident in Carmel, California, just 2 years ago where PG&E's careless recordkeeping practices caused an explosion that flattened a house which was fortunately vacant.

There is plenty of evidence that the current law is not enough to stop corporate wrongdoing. In 2011, a leak from an 83-year-old cast-iron pipe in Allentown, Pennsylvania, I believe in the chairman's district, caused a blast that killed five people.

In 2012, a gas pipeline explosion outside Charleston, West Virginia, destroyed several properties. The list goes on and on.

Mr. Chairman and Ranking Member, let those responsible for these tragedies be held responsible for their actions or for their lack of actions. We need PHMSA to be a strong voice for safety, not a toothless tiger and not a lapdog for the industry.

And we need a fair criminal statute to ensure that those in industry who are currently apologists for lethal mediocrity are held responsible for the lives they take. Please hold gas pipelines to the same legal standard as hazardous material transportation.

I thank you and I yield back.

Mr. DENHAM. I thank you to the Members on our first panel. We will now go to our second panel.

I would like to welcome our witnesses. And we will start this morning on our second panel with Administrator Dominguez.

Thank you for joining us. We welcome your testimony.

TESTIMONY OF HON. MARIE THERESE DOMINGUEZ, ADMINISTRATOR, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION; ANDREW J. BLACK, PRESIDENT AND CEO, ASSOCIATION OF OIL PIPE LINES; DONALD F. SANTA, PRESIDENT AND CEO, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; CHERYL CAMPBELL, SENIOR VICE PRESIDENT, GAS, XCEL ENERGY, ON BEHALF OF THE AMERICAN GAS ASSOCIATION; AND CARL WEIMER, EXECUTIVE DIRECTOR, PIPELINE SAFETY TRUST

Ms. DOMINGUEZ. Chairman Denham, Ranking Member Capuano, members of the subcommittee, thank you very much for inviting me to testify today on the reauthorization of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's pipeline safety program.

PHMSA operates in a dynamic and challenging environment. The demand for our work has increased, as has the complexity and scope of our mission and responsibilities. The development of new energy resources, advancements in technology and the use of hazardous materials in everyday products impact transportation safety.

Recent incidents and increased public awareness and sensitivity to safety hazards and environmental consequences have resulted in increased scrutiny of the agency and a demand that we become proactive, innovative, and forward looking in all that we do.

Addressing the mandates in the Pipeline Safety Act of 2011 is a priority for PHMSA. The act included 42 new congressional mandates to advance PHMSA's safety mission, and we have completed 26 mandates to date.

Since I was appointed last summer, we have made progress in addressing four outstanding rulemakings from the act, including publishing a final rule on pipeline damage prevention programs, and proposing rulemakings on expanding the use of excess flow valves and distribution lines, operator qualification, cost recovery, and accident notification, and a significant rule addressing the safety of hazardous liquid pipelines.

We are currently working to issue our proposed rulemaking on natural gas transmission within the next month.

Congress has made investments in PHMSA, providing 100 new positions for the pipeline safety program alone in the last year, and we have filled over 91 percent of these positions. Moving forward we must continue to utilize the investments that Congress has provided wisely.

Over the past 6 months I have worked to better understand PHMSA's strengths, capability gaps, and areas for improvement. We have undertaken an organizational assessment that evaluated the agency's structure and processes. This assessment provided PHMSA's leadership team deeper insight into an organization where safety is a personal value for all of our talented and dedicated employees and highlighted critical investment areas.

As a result, PHMSA has updated its strategic framework, recognizing the need to improve our capacity to leverage data and economic analysis, promote continuous improvement in safety performance through the establishment of safety management systems both within the agency and across industry, and by creating a division that will support consistency in mission execution.

This new framework, called PHMSA 2021, was directly informed by PHMSA employees and will allow us to be more predictive, consistent, and responsive as we fulfill our mission of protecting people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to daily lives of all Americans.

PHMSA 2021 will allow us to better prioritize our work and be proactive in informing, planning, and execution. It will also allow us to be more predictive in our efforts to mitigate future safety issues and to implement data-driven, risk-based inspections, leading our regulated communities in a direction that powers our economy, cultivates innovation, and prioritizes safety.

Thank you for continuing to invest in PHMSA. I look forward to continuing to work with the Congress to reauthorize PHMSA's pipeline safety program, and I would be pleased to answer any questions you may have.

Mr. DENHAM. Thank you, Ms. Dominguez.

Mr. Black, you may proceed.

Mr. BLACK. Hi. I am Andy Black, president and CEO of the Association of Oil Pipe Lines.

AOPL represents transmission pipeline operators who deliver crude oil, refined products like gasoline, diesel fuel and jet fuel, and natural gas liquids, such as propane and methane.

I am also testifying today on behalf of the American Petroleum Institute.

Our U.S. pipelines extend over 199,000 miles across the country, safely delivering more than 16.2 billion barrels of crude oil and energy products a year. Pipelines play a critical role in delivering energy to American workers and families.

Americans use the energy our pipelines deliver in their cars and trucks to commute to work or drive on the job; provide rural heating and crop drying and support good-paying manufacturing jobs.

The average barrel of crude oil or petroleum products reaches its destination safely by pipeline greater than 99.99 percent of the time. According to PHMSA data, significant liquids pipeline incidents that could affect high consequence areas are down 8 percent over the last 5 years. Significant liquid pipeline incidents per mile that are over 50 barrels in size are down 19 percent over the last 5 years.

But even with these positive pipeline safety performance numbers, the member companies of AOPL and API are constantly working to improve pipeline safety further. Last year operators completed development of a number of industrywide recommended practices and technical reports to improve our ability to detect pipeline cracking, integrate safety data, manage safety efforts holistically, manage leak detection programs, and better plan for and respond to pipeline emergencies.

This year we turned to the implementation of these safety recommendations industrywide. A prime example is our effort to encourage and assist implementation of API Recommended Practice 1173 for Pipeline Safety Management Systems. Recommended by NTSB [National Transportation Safety Board] and developed in conjunction with PHMSA and State pipeline regulators, the tool is helping pipeline operators comprehensively manage all of the safety efforts across the company.

The aviation, nuclear power, and chemical manufacturing industries have benefitted from safety management systems. Now more pipeline operators are benefitting, too.

In 2016, pipeline operators will also complete expansion of industrywide guidance on river crossings, develop a new recommended practice for construction quality management, and update our industrywide recommended practice for pipeline integrity program management, API RP 1160.

This last safety improvement action brings us to last summer's pipeline release near Refugio, California. We echo the words of Transportation Secretary Foxx last week calling the preliminary incident report from PHMSA an important step forward that will help us learn what went wrong so that everyone involved can take action and ensure that it does not happen again. Our members are committed to using the lessons learned from the incident to take that industrywide action to prevent a release like this from happening again.

PHMSA's preliminary factual findings could be described as the "what" of an incident. We expect PHMSA's final report later this year will contain root cause analysis and recommendations describing the still unknown "how" and "why" this event occurred. At a minimum, we know there is an opportunity for further industrywide discussion and perhaps guidance for those operators that use a specific type of pipeline involved with that release, insulated pipe transporting heated crude.

As part of our update of RP 1160, industrywide integrity management guidance, we will ensure that learnings from industrywide review of that release and PHMSA incident report recommendations are reviewed and incorporated where appropriate. This effort will be finished later this year more expeditiously than could occur through an agency notice and comment rulemaking process.

Turning to the next reauthorization of the national pipeline safety program, there is still much left to do for PHMSA from the 2011 law. PHMSA is working to finalize a liquid pipeline rulemaking, as Administrator Dominguez said. Another PHMSA rulemaking on valves is likely to be proposed this spring.

We commend Congress for its recent oversight of PHMSA which has resulted in the Administration releasing several proposals and promising additional ones, and we encourage your continued oversight.

PHMSA under its new leadership has certainly expressed its resolve to move more expeditiously to meet its statutory and regulatory mandates. Pipeline operators have not stood by and instead have advanced safety initiatives on inspection technology, cracking, data integration, safety, leak detection and emergency response.

With the numerous recent industry initiatives addressing current pipeline safety topics and additional PHMSA regulatory actions still to come, we encourage Congress to reauthorize the pipeline safety program without adding significant new provisions.

Thank you for inviting me here, and I look forward to answering any questions.

Mr. DENHAM. Thank you.

Mr. Santa, you may proceed.

Mr. SANTA. Good morning, Chairman Denham, Chairman Shuster, Ranking Member Capuano and members of the subcommittee. My name is Donald Santa, and I am president and CEO of the Interstate Natural Gas Association of America, or INGAA.

INGAA represents interstate natural gas transmission pipeline operators in the U.S. and Canada. The pipeline systems operated by INGAA's 24-member companies are analogous to the Interstate Highway System, transporting natural gas across State and regional boundaries.

My written statement references the numerous pipeline safety efforts that have been undertaken by industry and policymakers over many years. We have a safe industry, but we know we can and should be doing more.

In the wake of the natural gas pipeline accident in California in 2010, INGAA's board of directors committed the association and its member companies to the goal of zero pipeline safety incidents. While this is a tough and some would say impossible goal to meet, the emphasis is in the right place, the pursuit of excellence.

As progress towards INGAA's goal of zero incidents is made, we also want to see regulations finalized that will consistently move us in the same direction. As you know, several key mandates from the 2011 reauthorization have not been completed by the Pipeline and Hazardous Materials Safety Administration or even proposed for comment.

We recognize that these delays have been caused at least in part by issues beyond PHMSA's control. We, therefore, hope Congress will continue to press PHMSA and more broadly the Obama administration to accelerate fulfillment of the 2011 mandates.

It is worth recalling that the title of the most recent law reauthorizing the Pipeline Safety Act is the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Regulatory certainty is imperative.

INGAA has three principal goals for the pending reauthorization. First, we support reauthorization of the pipeline safety program during this Congress at funding levels that are consistent with the recent Senate Commerce Committee action.

Establishing authorized funding levels for appropriators to consider remains an important element of legislative oversight.

Second, INGAA believes that PHMSA in the near term should dedicate the bulk of its rulemaking efforts to completing the 2011 act mandates, and we hope the Congress will emphasize this imperative in the reauthorization.

Many critical regulatory questions remain, and until these questions are answered, it is difficult to move forward on either a voluntary or a compliance basis. Save for the issue I will mention next, PHMSA should focus on eliminating its backlog before moving on to new issues.

Our third principal goal and the one exception to the preceding statement would be new regulations for underground natural gas storage. INGAA identified safety regulations for underground natural gas storage as an area that needed attention as far back as 2011. While the recent accident in California has intensified interest in this issue, the need for Federal standards and regulation predated this development.

INGAA suggests that Congress direct PHMSA to adopt regulations for underground natural gas storage facilities by a date certain; use newly developed consensus standards as the basis for such regulation; and allow PHMSA to fund this regulation through new user fees assessed on storage operators.

The Senate legislation and several House bills would meet these objectives.

Thank you for the opportunity to testify today, and I am happy to answer any questions from the subcommittee.

Mr. DENHAM. Thank you.

Ms. Campbell.

Ms. CAMPBELL. Good morning, Chairman Denham and members of the committee. My name is Cheryl Campbell, and I am the senior vice president of gas for Xcel Energy. We provide the energy that powers millions of homes and businesses across eight Western and Midwestern States.

Headquartered in Minneapolis, we are an industry leader in responsibly reducing carbon emissions and producing and delivering

clean energy solutions from a variety of renewable sources at competitive prices.

Today I am testifying on behalf of the American Gas Association, which represents more than 200 local distribution companies, also known as LDCs, which serve more than 71 million customers.

AGA's member companies operate 2½ million miles of underground pipelines, safely delivering clean, affordable natural gas to residential, commercial and industrial customers.

LDCs provide the last critical link in the energy delivery chain, connecting interstate pipelines directly to homes and businesses. Our focus every day is ensuring that we keep the gas flowing safely and reliably.

As part of an agreement with the Federal Government, most States assume primary responsibility for safety regulation of LDCs, as well as intrastate transmission pipelines. State governments are encouraged to adopt minimum standards promulgated by the U.S. Department of Transportation.

Many States also choose to adopt standards that are more stringent than the Federal rules.

Additionally, our companies are in close contact with State pipeline safety inspectors, and we work in a collaborative manner that provides for far more inspections than required under Federal law.

LDCs do not operate strictly in a compliance culture but rather in a culture of proactive collaborative engagement. Each company employs trained safety professionals; provides ongoing employee evaluations and safety training; conducts rigorous system inspection, testing, maintenance, repair and replacement programs; and educates the public on natural gas safety.

AGA's Commitment to Enhancing Safety adopted in 2011 provides a summary statement of those commitments, and as an aside, AGA member companies have included the API Recommended Practice for storage, API RP 1170 and 1171. It was recently approved by the board and incorporated in what was in my written testimony.

The association has also developed numerous pipeline safety initiatives focused on raising the bar on safety, including peer-to-peer reviews and best practice forums to share best practices and lessons learned throughout the industry.

Each year LDCs spend approximately $22 billion on safety. Approximately half of that is on voluntary activities. The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 and the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, both outline several programs to help continue to improve the safety of the industry. AGA member companies have implemented aspects of these programs either through DOT regulations or on a voluntary basis.

Many of these programs are in their infancy in terms of implementation, and we encourage Congress to allow these programs to develop and mature in order to realize their full impact.

In the case of the unanimously passed 2011 act which dealt with a number of key issues, several of the required regulations have yet to be promulgated or finalized. Progress is being made, and thus, we strongly encourage the committee to be judicious in making major changes to the law at this time.

PHMSA has issued a number of significant guidance documents, released the results of a congressionally mandated study on leak detection and created a database to track progress in replacing cast-iron and bare steel pipelines.

Likewise, the industry, NARUC [National Association of Regulatory Utility Commissioners], State regulators and State legislators have combined to produce significant pipeline safety improvements over the last several years. We should continue building on that record.

With regard to the replacement of cast-iron mains, the quantity of these mains continues to steadily decrease and now makes up less than 2 percent of the overall inventory in the Nation. The industry estimates that it will cost over $80 billion to complete this replacement. Natural gas utilities are working with our legislators and regulators to accelerate this process, and today 39 States and the District of Columbia have adopted specific rate mechanisms to facilitate accelerated replacement of pipelines no longer fit for service.

The cumulative result of all these important actions is that industry is replacing cast-iron pipe as well as bare steel as quickly as possible in a safe and cost-effective manner.

In addition to what I have highlighted today, my written testimony provides industry updates on incident notification, data collection and information sharing, and I would be happy to answer any questions you have.

Mr. DENHAM. Thank you.

Mr. Weimer.

Mr. WEIMER. Good morning, Chairman Denham, Ranking Member Capuano, and members of the committee. Thank you for inviting me to speak today on the important subject of pipeline safety.

The Pipeline Safety Trust came into being after a pipeline disaster that occurred nearly 17 years ago. At that time we were asked by the Federal courts to create a watchdog organization over both the industry and the regulators. We have been trying to fulfill that vision ever since, but the increase in the number of significant incidents over the past decade driven primarily by releases from liquid pipelines from causes well within pipeline operators' control makes us sometime question whether our message is being heard.

Today I would like to dedicate my testimony in the memory of Peter Hayes, who I met shortly after a Chevron pipeline dumped oil into Red Butte Creek in Salt Lake City. Mr. Hayes, a schoolteacher, was raising his family in a home that sat on the banks of Red Butte Creek, and he was extremely concerned about the possible long-term health effects to the people in that area who were not evacuated and experienced many different health symptoms associated with exposure to crude oil.

He pushed hard for better emergency response and for someone to follow up with a study to determine whether people so exposed would experience any long-term health effects. No one ever did such a study, and in a tragic twist of fate, Mr. Hayes came down with the rare lung disease that may, in part, be caused by such exposure to environmental pollutants. He died last year.

The need for studies on the health effects from exposure to oil spills has long been a void in our pipeline safety system and was recently again called for by a National Academy of Sciences panel.

Often in these hearings the focus in on how PHMSA has failed to implement various mandates or moved too slowly on regulatory initiatives. While we agree that those things are all important and certainly fair game at such hearings, today we would like to focus our testimony on how the pipeline safety system that Congress has created also has much to do with PHMSA's inability to get things done.

PHMSA can only implement rules that Congress authorizes them to enact, and there are many things in the statutes that could be changed to remove unnecessary barriers to more effective and efficient pipeline safety.

The pipeline safety statutes are the responsibility of Congress and today we will speak to issues where Congress needs to act if there is a real desire to improve pipeline safety.

Some of the things that Congress could change fairly easily would be to provide PHMSA with emergency order authority like other transportation agencies have. This would allow PHMSA to quickly correct dangerous industrywide problems, such as the lack of minimum rules for underground gas storage or the lack of valid verification for maximum allowable operating pressures.

At the same time, by eliminating the unique and duplicative cost-benefit requirements in the pipeline statute, normal rulemakings could proceed at more than the current glacial speed.

Congress also needs to harmonize the criminal penalty section of PHMSA statutes so in the rare case when pipeline companies willfully or recklessly cause harm to people or the environment they can be prosecuted as necessary, and Congress should also add a strong mandamus clause to allow Federal courts to force PHMSA to fulfill their duties when it is the agency dragging its feet.

The National Academy of Sciences, as I mentioned earlier, recently completed a congressionally mandated study that showed there were a number of serious issues with the way PHMSA oversees spill response planning and the contents of those plans. We hope you will rapidly move to ensure that PHMSA is reviewing these plans not only for completeness, but also for efficacy as other agencies do and require companies to provide clear information so first responders know what they are up against.

We also ask that you honor the memory of Peter Hayes and request an additional study by the National Academy of Sciences to help alleviate the lack of information about how to better protect people from the short- and long-term health effects of pipeline failures.

Finally, we have a few concerns with the language included in the reauthorization bill that the Senate has been working on and hope you can address these concerns in your own bill. In particular, we think the wording in the statutory preference section of the Senate bill may actually slow needed rules.

We also think the language regarding underground gas storage needs to be clarified to ensure that an open rulemaking process happens and that whatever is passed allows States to set stricter standards for facilities within their borders.

And finally we think the language in that bill regarding small LNG (liquefied natural gas) facilities pushes PHMSA too much to rely on industry development standards and hard-to-enforce, risk-based systems.

I see my time is about up. So I want to thank you for the opportunity to testify today, and I would be glad to answer questions now or in the future.

Mr. DENHAM. Thank you, Mr. Weimer.

One of the things that we are going to be struggling with or at least having a great deal of discussions about as we are finalizing and continuing to work on our reauthorization bill is the 2011 bill, 46 different mandates. Only 26 of them are completed already.

I know that there is some work in progress on some of those, but before we get into those mandates themselves, you and I, Ms. Dominguez, have talked about the reorganization. You did not touch on that much in your opening testimony. I was hoping you could expand upon that a little bit now, but specifically how the reorganization is going to help you to meet these 2011 mandates.

Ms. DOMINGUEZ. Thank you, Chairman Denham.

There are two things that we are looking to do at PHMSA. One, we have created a strategic framework that addresses our ability to actually be more proactive, to look at market trend analysis, understand what is occurring in a very changing energy environment. Clearly the energy market in this country has fundamentally transformed over the last few years, let alone the last decade, and in an ability for PHMSA to remain cutting edge, to actually be more proactive and be more predictive, we want to establish two particular offices that will help drive information collection, data analysis, and a more rigorous economic analysis of our regulatory framework.

So bottom line, create two positions. One would be an executive director position, which would be a career position at the agency. That would help drive operational consistency, application of our programs, and really be the force that drives, again, consistency across the agency.

The other one is an Office of Planning and Data Analysis. That would be the place where we would actually do more performance-based planning, look at doing a whole bunch of data collection and analysis that would inform our rulemakings, but also inform the way we are better in forming our regulations so that, one, we are timely in our regulations. We are looking to see what is down the road and knowing what the energy market is providing and being more predictive. And so we have got the data. We are ready to go. We can do some rigorous economic analysis and move regulations forward in a more rigorous way.

We are not waiting to collect data. We are not being reactive to situations, but we are actually being more forward leaning.

So that is the intention with the reorganization.

Mr. DENHAM. OK. With that reorganization now put in place, we would ask you to give us a little more definitive timelines on the 26 mandates that are not complete yet.

The hazardous liquid rule, I think you said that was going to be done in the next several months. If you could define that specifi-

cally now and give us a better idea of when specifically that one will be done, and then we can go through.

I know you had some timelines on some of the 26. We would expect a timeline on all 26.

Ms. DOMINGUEZ. So, in particular, the hazardous liquid rule, the notice of proposed rulemaking was published on October 13th of last year. Comments were received in January. The advisory committee met in February. We are in the process of finalizing that rule right now.

We are going through not just the comments, but working through all the details of the hazardous liquid rule. We hope to submit that shortly to the Department for final review, and then it will go to OMB, and we would hope to publish it in the coming months as the final rule. That is the hazardous liquid rule.

The other very important rule, I think, that is pending from the 2011 act is the gas transmission rule. The gas transmission rule has been something that I have personally worked on. Both the hazardous liquid rule and the gas transmission rule are two of the most significant rulemakings that have been in the works since I have come onboard.

Again, we have got the hazardous liquid rule going. We are also doing the same on the gas transmission rule. We literally hope that within a matter of weeks here, we will be publishing the notice of proposed rulemaking on the gas transmission rule.

That will include a number of the requirements that are in the mandate from the act of 2011 and hope to cover those.

Mr. DENHAM. Thank you.

My time has expired. I now recognize the ranking member for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman.

I want to thank the panel today.

Ms. Dominguez, have you got the authority right now to immediately implement the API standards relative to underground storage facilities?

Ms. DOMINGUEZ. We do have the authority to promulgate rulemaking.

Mr. CAPUANO. No, that is not what I asked. Do you have the authority to immediately implement them right now?

Ms. DOMINGUEZ. We have the authority to take these standards and turn them into rules, yes.

Mr. CAPUANO. All right. So that—answer my question. I am trying to be friendly.

Ms. DOMINGUEZ. Yes, we do.

Mr. CAPUANO. To do it right now. Not a rule that takes 2 years to get passed because OMB does not do a damn thing.

Ms. DOMINGUEZ. There is just——

Mr. CAPUANO. I know. You do not have to comment on that last part.

Ms. DOMINGUEZ. So there are different standards for rulemaking. So it is meant to be as you know a methodical process. If we were to go to——

Mr. CAPUANO. No, no, no. I just want to know one simple thing. Do you have the authority right now to go back to your office and

implement the API standards for underground gas tanks starting now?

Ms. DOMINGUEZ. No.

Mr. CAPUANO. Why not?

Ms. DOMINGUEZ. Because we have to go through a rulemaking process, and that——

Mr. CAPUANO. Because you do not have emergency order authority; is that right?

Ms. DOMINGUEZ. Correct.

Mr. CAPUANO. If you had that authority could you do it?

Ms. DOMINGUEZ. If we had, yes.

Mr. CAPUANO. OK. I say that because I think you should have emergency order authority. Corrective action authority takes too damn long and jeopardizes people's lives when we know there is a problem.

When there is a problem like the one we know about in California, I think thoughtful regulators should have the ability to immediately implement especially standards that are already accepted by the industry, and to have to wait any longer, that is crazy.

We need to get emergency order authority into this legislation.

And I guess I want to go to Mr. Santa. Mr. Santa, my colleague, Ms. Speier, made a comment that PHMSA and the utility companies and others are a little bit too cozy. Do you agree with that?

Mr. SANTA. No, sir, Mr. Capuano, I do not agree with that.

Mr. CAPUANO. OK.

Mr. SANTA. I believe we are the regulated entities. We are subject to their authority.

Mr. CAPUANO. Just out of curiosity, one of my concerns is as I understand it, and I read an article from the San Francisco Chronicle that is actually several years old now that basically said two-thirds of the studies, two-thirds of the studies conducted by PHMSA are funded by the utility companies themselves that PHMSA regulates.

And when you fund a study, and I do not mind some funding that is blind funding. That does not bother me. That happens all the time in business, but when it is not blind funding, but when the funder is the regulated person who also then manages the study, who can have faith that that study is neutral and not self-serving and does not look a little too cozy?

Mr. SANTA. Sir, first of all, all of PHMSA's funding comes from user fees that are assessed from the industry.

Mr. CAPUANO. I do not have a problem with the funding as long as it is blind funding.

Mr. SANTA. And also PHMSA has advisory committees that include representatives not only from the regulated entities, but also from the State regulators, public advocates such as Mr. Weimer.

Mr. CAPUANO. All well and good. You do not think there is a problem when a regulated entity and I mean not just here, but any regulated entity also not just pays for, but then hires and conducts the study that then says what safety regulations should be?

Who is the regulator? That does not happen in any other industry. I happen to come from a district where research is what we do. More than any other segment of this country or, in fact, the

world, research is done in my district and is funded all the time by private companies.

I do not have a problem with the funding. Those private companies fund them in a blind study so that they can't affect the outcome. That does not mean they are not advised. That does not mean that their opinions are not listened to. It means that they can't control the study. Therefore, we have faith in the results that those studies are at least the opinions of independent scientific research as opposed to simply self-serving anointments by the very people who are trying to get something done.

You do not think that is a problem?

Mr. SANTA. Mr. Capuano, I think that it is important for the process to have integrity, and I think that if PHMSA believed that what was being produced did not have that integrity it has the ability to conduct it in a——

Mr. CAPUANO. Here you go, Ms. Dominguez. We will be talking again. These are not my favorite forums. I prefer roundtables where we can have discussions, but when it comes to these studies, you can expect to be talking to me.

Again, it is not the funding and not about advising. I actually think that is important. It is about making sure that the results of those studies are independent and seen as independent by the rest of the world, and I think without that, those studies are maybe not worthless, but become very suspect and the agency becomes very suspect as being seen as too cozy with the people it regulates.

With that my time is expiring, and I thank the chairman.

Mr. DENHAM. Thank you, Mr. Capuano.

Mr. Hanna.

Mr. HANNA. I yield my time back to the chairman.

Mr. DENHAM. Thank you, Mr. Hanna.

Ms. Dominguez, what role does PHMSA play in regards to underground gas storage currently?

Ms. DOMINGUEZ. With regard to underground gas storage, we have worked for many years with the States and looked primarily to the States to regulate in this area. Given the incredible occurrences at Aliso Canyon, I actually had the opportunity to go out there and visit last week with Secretary of Energy Ernest Moniz and take a look firsthand at what happened, and it is very clear that there is a role for the Federal Government to play in terms of regulating underground storage.

There has been a lot of work that has been done, including development of two recommended practices in this area, one for reservoirs and one for salt caverns that could be addressed moving forward.

In doing so, we would actually look to work very comprehensively with the States to make sure that we worked with them and understood some of their particular geologic formations.

Mr. DENHAM. If you rely on the States, does that not create a patchwork across the country?

Ms. DOMINGUEZ. I think the bottom line is if PHMSA has the authority to actually set Federal regulations in this area, if we did that, in doing so as we move forward in regulating in this area, we would set the minimum standards. The States have every ability to go above and beyond those standards and actually provide more

details that are specific to their States, specific to their concerns, whatever their geologic formations may be, but again, they can go above our minimum requirements.

Mr. DENHAM. Currently, PHMSA's authority stops at the pipeline even though the pipeline goes into the reservoir?

Ms. DOMINGUEZ. Currently our authority stops at the well. We do not go down the hole at all.

Mr. DENHAM. Thank you.

You recently sent out a safety advisory in response to the Aliso Canyon underground gas storage. Can you tell us about the advisory, why you sent it out, what the goal of the advisory was?

Ms. DOMINGUEZ. We issued an advisory opinion on February 5th to all operators of natural gas storage facilities. We asked the operators to review their operations, identify potential leaks and failures, identify any threats, whether it is corrosion, chemical or mechanical damage, any kind of material deficiency that they may have.

The advisory bulletin also asked operators to look at the location and operations of any kind of shutoff valves or isolation valves that they may have and make sure that they are testing their emergency plans as well.

So it was a fairly comprehensive advisory bulletin to all operators of underground storage across the country.

Mr. DENHAM. Thank you.

Ms. Campbell, Representative Stephen Knight has introduced an act that would authorize minimum Federal standards. What position does AGA and the industry take on that proposal?

And what Federal standards do you think would be helpful in this area?

Ms. CAMPBELL. AGA supports the adoption of the API standards for natural gas storage fields as a Federal minimum standard and also the ability of the States to add additional standards as they deem necessary for their area.

Mr. DENHAM. And does AGA support Mr. Knight's bill?

Ms. CAMPBELL. I believe so, yes.

Mr. DENHAM. Thank you.

Mr. Santa, pipeline safety is a partnership between PHMSA and the States. PHMSA sets standards for interstate facilities and States take those standards and apply them to interstate facilities. Can you describe how preemption works?

Are the States able to retain the flexibility with interstate pipeline safety while still meeting Federal standards?

Mr. SANTA. Mr. Chairman, the States with regard to the regulation of intrastate natural gas transmission pipelines and distribution pipelines can go beyond the Federal standards if they are consistent with them. However, with regard to interstate facilities, the facilities that are operated by the members of INGAA, we are subject to the PHMSA promulgated standards.

There are some instances in which PHMSA, I believe, has delegated to the States the ability to do inspections. However, enforcement is within the province of PHMSA as the Federal regulator over interstate facilities.

Mr. DENHAM. Thank you.

I yield back.

Mr. Larsen is recognized for 5 minutes.

Mr. LARSEN. Thank you, Mr. Chairman.

And I want to welcome Carl Weimer here today. He is also a Whatcom County Council member in my district and the Pipeline Safety Trust is located in the top floor of a renovated house in downtown Bellingham, Washington, and they do a lot with a little, and so welcome. Welcome, Carl.

And I also have a few questions for you as well, as it happens. I did not want you to fly all the way out here and not have any questions asked of you.

But the San Bruno disaster is an example where emergency order authority could have addressed some systematic deficiencies immediately, and we talked a little bit about emergency order authority.

Are there other instances that you believe would back up an argument for emergency order authority?

Mr. WEIMER. Yes, certainly. Thank you for the question.

There have been a number of instances in the last 10 years that I can think of. You know, San Bruno was a good example where it became apparent that that particular company was not interpreting the rules correctly.

We heard from other companies around the country perhaps they were not either, but through the corrective action order, PHMSA could only deal with PG&E. They could not deal industrywide. That is where emergency orders could step in.

We have seen certain types of pipe that it has become, after accidents, obvious that it is a problematic type of pipe. You can correct the one company that is dealing with the pipe. You cannot correct things industrywide. So emergency order authority would allow PHMSA to move forward on things rapidly to correct things that become known to be an industrywide problem.

Mr. LARSEN. Is there a reason that you've looked at why PHMSA does not have it versus these other Federal agencies that do have emergency order authority?

Mr. WEIMER. I do not know why it is not in the statute. I know there are other agencies like the Federal Railroad Administration that do have that authority. I think others do also, and it certainly is needed.

Mr. LARSEN. Yes. Do you have experience with the State inspection program in Washington State?

Mr. WEIMER. Yes. I am actually appointed by the Governor to be on an oversight committee of that program.

Mr. LARSEN. Yes, and how does that work? Is that working in Washington State in terms of PHMSA delegation of inspection?

Mr. WEIMER. It is, and that is one of the areas where the Washington Utilities and Transportation Commission actually has a citizen-led pipeline safety committee that looks at what the industry and what the regulators are doing, and it works pretty well.

I think that gives an added layer in Washington State of inspectors looking at interstate pipelines. As Mr. Santa said, they cannot set regulations that go above what the minimum Federal standards are, but it does give us another layer of inspectors, and I think the Washington Utilities and Transportation Commission takes that and does a lot of added value to that.

They post all of the inspection results for both interstate and intrastate on their Web site. You know, I think that is the only State that I know of that posts actually the inspection results.

Mr. LARSEN. And finally for you, can you comment on the funding pipeline safety information grants to communities and what the law allows and what we are doing now for that?

Mr. WEIMER. Right. I think that was a grant program that was authorized in the 2002 bill. We helped push that through. It is a fairly small grant program that allows communities to hire technical expertise to help them understand pipeline issues. A lot of good stuff has come out of it.

A lot of communities have upgraded their GIS [geographic information system] so that their public works people and their emergency responders actually understand where pipelines are in those communities; have done a lot of first responder training, Call Before You Dig training. It is allowed in particular communities to have a concern where you have a particular pipeline to hire an expert to come in.

We recently did one of those in California in the East Bay area where a neighborhood association asked us to come in and look at it, and they had a very big concern with a particular pipeline owner. When we looked at it, we pointed out to them that particular pipeline probably was not as high a risk as they thought, but we pointed out some issues where local governments really needed to think about how they were training their emergency responders in school districts that had pipelines running right next to schools and had never thought about evacuation plans for that.

So I think it has been a valuable program that helps build trust in pipeline safety.

Mr. LARSEN. Thanks.

And, Ms. Dominguez, can you comment on the State program and what your plans are for that in this PHMSA 2021 plan?

Ms. DOMINGUEZ. Well, the State program has been a very successful program. It is our way to actually work very directly with the States, and we want to make sure that not only that that continues to be a robust program where the State inspectors carry out, as was stated, the Federal requirements, but that it go above and beyond what any particular State requirements may be.

We hope to continue to reinvest in that and make sure that it is just as robust moving forward.

Mr. LARSEN. Well, I appreciate hearing that as you are moving forward and reorganizing that that stays a major part of what you do.

Ms. DOMINGUEZ. Absolutely.

Mr. LARSEN. Thank you.

I yield back.

Mr. HANNA [presiding]. Mr. Nolan.

Mr. NOLAN. Thank you, Mr. Chairman.

And I want to thank the panel for being here. I particularly welcome Ms. Campbell from our great Minnesota-based company and the great work that you do. We are very proud of that company and all of its performance standards and services that you provide. Thank you for being here.

I want to bring to the attention of the committee as well as the panel something that has not been brought up. So I want to give the committee a little heads-up on it when we get around to the markup, and that is the Pipeline Jobs and Safety Act that I have introduced into the Congress here and want the committee to carefully consider and for a variety of reasons.

First of all, what the bill would do, and I intend to offer it as an amendment if given the opportunity, is to require that steel tubular goods produced and used in the pipeline industry after the enactment of our reauthorization be required to be U.S. steel and made from products that are mined and processed, quite frankly here in the United States.

I do so for several reasons. First is not necessarily in order of importance either, but one of them is the economics of it. We have 15,000 steelworkers in America that are on the bench and unemployed at this moment. They estimate for every one of them there is another six or seven people who are laid off. Grocery stores closed down and drug stores closed down and communities devastated and families devastated.

By that standard there are probably at least 120,000 people who are suffering. Clearly it is in our national interest that they have a strong and viable steel industry for this country. Thirteen percent of the Nation's gross national product goes through the locks at the Soo Narrows, which gives Lake Superior access to the Great Lakes. They say that if that lock, for example, were devastated for one reason or another, obsolescence, which quite frankly is a possibility as it is greatly in need of repair, but they have Army protection there against war or acts of terrorism.

They say if that lock for any reason, including the collapse of American mining and steel, were not there, it would throw the country into a great depression with 13 percent of the Nation's gross national product going through that.

But of equal and great importance is the safety factor. In talking with the men and women who do the welding and do the construction of these pipelines, I know it is anecdotal, but they have attested time and time again to the superior quality of U.S. steel. I did some work myself in the pipeline industry in my youth, selling pipelines in the Middle East, and the smart ones all waned to use U.S. steel even though it was cheaper some other places, but because of the superior quality and the benefits that related to that with regard to production and safety.

But I have also seen a number of studies where expert analysts, you know, have looked at U.S. steel and tubular goods in particular and compared them to the steel that is produced in some of these other countries, and clearly U.S. steel always ends up being superior.

And then lastly, I have seen some studies and analysis that show that, well, imported steel and tubular goods in particular are required to meet U.S. standards. The fact is they are not inspected, and they are not regulated the way U.S. steel is in its production process.

So there is an important safety factor here. Thirty percent of the steel that is being used in this country comes from foreign countries, that steel of an inferior quality, and so I want to just give

everybody a heads-up on the importance of this and my intentions to pursue it, given the opportunity under the new regular order proceedings that Speaker Ryan is calling for, which of course calls for open rules and committee consideration of any and all things that emanate from this Congress of the United States.

And I applaud Speaker Ryan for calling for the reestablishment of regular order. That is how we find common ground. That is where we come together. That is how we produce nonpartisan, bipartisan legislative efforts to fix things and get things done for this country.

So thank you for the moment, and thank you for your testimony, and I look forward to working with the members of the committee and the industry and all the workers and people involved.

Thank you very much.

Mr. DENHAM [presiding]. Thank you, Mr. Nolan.

I recognize Mr. Barletta for 5 minutes.

Mr. BARLETTA. Thank you, Mr. Chairman.

In my district and across the State of Pennsylvania we are rooted in the heart of the Marcellus shale. I have seen new access to cheap natural gas prices lower my constituents' heating and electricity bills, bring new manufacturing to our area, and save jobs at power plants that would have been shut down by the President's war on coal.

During the height of the Marcellus shale boom, we had more than 1,000 wells drilled, but no way to move the gas to market. That is like being in college and having a keg of beer without a tap.

[Laughter.]

Mr. BARLETTA. Still energy costs in surrounding States remain high and have not been able to take advantage of the cheap energy in the Marcellus shale because of the lack of pipeline infrastructure.

Now, in my district we have multiple pipelines in the process of being built, and this has raised my constituents' awareness of both the new and old pipelines in their communities.

Ms. Campbell, you mentioned significant investment in repair and replacement programs that focus on updating the old cast-iron infrastructure. Can you explain the steps natural gas companies are taking to ensure that the pipeline infrastructure that is already in the ground is safe?

Ms. CAMPBELL. Certainly. It kind of comes in a lot of different categories. It depends on what service it is under, but effectively there is a pretty rigorous process of inspection. Transmission lines have a very prescriptive process that we go through to ensure that they are safe, and when you find an issue or problem, they are classified to be repaired immediately or during a certain time period.

For our distribution systems, there are regular requirements for inspection, leak surveys, for instance, cathodic protection surveys, things of that nature, and again, pipeline companies' operators take action based on what they see.

In a number of instances companies go above and beyond those minimum requirements. When you believe you have an issue or risk that needs to be addressed, we might, for instance, do additional surveys, leak surveys. We might proactively replace pipeline.

We also, by the way, watch carefully what PHMSA puts out on its Web sites and watch what other companies are finding, lessons learned from other companies, and investigate our own infrastructure and determine whether or not we need to take proactive action based on the results of those other issues.

Mr. BARLETTA. Thank you.

Administrator, at a field hearing last September in Billings, Montana, on pipeline safety, you stated that PHMSA would issue a proposed rulemaking on the safety of natural gas transmission by the end of 2015. While that deadline was not met, I was glad to read in your testimony that you are moving forward with this rule and that it should be complete within a month, which I take it to mean March 25th, 2016; is that correct?

Ms. DOMINGUEZ. We are working diligently on it, and I really do hope that it is out within the next few weeks, yes.

Mr. BARLETTA. My constituents' energy companies and I, we all need these deadlines to be met and for PHMSA to issue its guidance so that we can be confident in the quality of our energy infrastructure safety.

How are you prioritizing this and other rules in light of the action needed to respond to recent incidents, as well as the many new and ongoing pipeline projects in Pennsylvania and across the country?

Ms. DOMINGUEZ. Thank you for the question.

As I stated in my testimony, completing the requirements of the 2011 act are absolutely a priority for PHMSA. We are addressing some of the most significant ones first, including the hazardous liquid rule, which we have moved last fall, and now with the gas transmission rule we are doing the same.

That said, there is always ongoing emerging risk that is identified in different ways. Just recently underground storage is clearly on the table now, given the incident in Aliso Canyon.

So the bottom line is that PHMSA actually needs to not only be an agency that addresses risk. We actually need to be more forward-thinking and be able to identify some of these emerging trends before they actually occur, and part of the PHMSA 2021 strategy is actually to make sure that we have those capabilities in place, we are able to move forward with some aggressive rulemaking and do it in a timely way.

Mr. BARLETTA. For those of you in the private sector building infrastructure right now, have you made your long-term capital infrastructure plans absent the guidelines that have continually been delayed and when you do not know the regulatory challenges down the road?

I am going to have to be quick because my time is expiring here.

Mr. SANTA. Might I respond to that, Mr. Barletta?

Mr. BARLETTA. Sure.

Mr. SANTA. We are committed to our safety commitments and goal of zero incidents. By the same token I think there is some risk when you do not have the standards out there. For example, some of the testing that must be done is expensive. It requires taking pipelines out of service, and there is the risk that, for example, a pipeline company might test pursuant the voluntary program and

then find out when PHMSA puts out the rules that it needs to repeat that because it did not quite meet it.

So I think that having that certainty of knowing that what we are committed to do is consistent with what PHMSA will require of us in the rules I think will be very helpful.

Mr. DENHAM. Thank you, Mr. Barletta.

Ms. Hahn is recognized for 5 minutes.

Ms. HAHN. Thank you, Chairman Denham, for holding this hearing.

As the chairman knows and actually called for another hearing on an issue specifically related to my district in Los Angeles, we had a pipeline spill 2 years ago in Wilmington, a working class community near the Port of Los Angeles. Over 1,000 gallons was spilled into this residential neighborhood.

I remember running over there that morning of the spill and the smell was so nauseating, and then the residents had to deal with jackhammers tearing up the streets to locate the leak. Some people could not even get out of their houses because of the heavy equipment on a residential street to even go to work.

At the time of the rupture there was confusion over the classification of the pipeline. Phillips 66 had classified this pipeline as idle, a category that apparently does not exist. When they bought the pipeline, they were told by the previous operator that it was empty.

The State of California and PHMSA were told it was empty. So in 15 years it was never inspected. No one ever verified that the pipeline was empty, and my residents, of course, paid a price for that. I think that oil spill endangered the health and safety of many of my constituents as well as property damage.

So I am reintroducing legislation today that will ensure that a company purchasing a pipeline does its due diligence and inspects the status of the pipelines they have purchased—I think it is reasonable to say within 180 days of the sale—but I believe there needs to be a third-party verification by either PHMSA or a State authority, and I hope, Chairman Denham, you will work with me as we reauthorize PHMSA to maybe include this in the legislation.

The other thing that really upset me and my residents was at the end of the day Phillips was only fined $75,000 for this egregious act of misidentifying a pipeline, making up a category of idle, and causing enormous health and safety risk to my constituents.

So, Administrator Dominguez, you know, I have been asking for better oversight of our pipelines. Can you share with us today how you believe PHMSA has improved pipeline oversight, particularly instances like this?

Ms. DOMINGUEZ. Thank you for the question.

I think that there were a lot of lessons learned as a result of the incident that occurred in your district. First and foremost, our regulations require, as you stated, there is not an idle pipeline. It is either operating or it is not operating, and the requirements need to be met for both of those incidents.

So moving forward, you know, again, there were a lot of lessons that were learned and applied and how we can actually better work with operators.

Ms. HAHN. How do we close that loophole, you know, without my legislation? How do we close the loophole of a company purchasing a pipeline and just sort of having the previous owner say it is empty?

Ms. DOMINGUEZ. Well, there are requirements in place right now for how any operator actually uses their pipeline. So if it is not in, quote-unquote, current use, the bottom line is there are requirements for how it is supposed to be operating.

So if it is not filled with a particular gas or liquid, there are requirements, especially in a liquid situation, for how it should be treated, and so——

Ms. HAHN. And what is the verification of a purchased pipeline by a new operator? Is there a third party? Is it you? Is it the State? Who says whether or not everybody is telling the truth?

Ms. DOMINGUEZ. I am not aware that there is a national verification process or not, but I would be happy to look at it.

Ms. HAHN. Good. Thank you. Because I think that is what, you know, our constituents are hoping from the Federal Government, that we sort of have this third-party verification.

You know, one of the other issues was particularly in Wilmington and very populated Los Angeles County, this is considered a high consequence area because there are so many underground pipelines running underneath the streets of this residential community, and last year I asked the Acting PHMSA Administrator about pipelines in these so-called high consequence areas.

Do you know if we have made any progress to increase the safety in these high consequence areas besides just alerting them to evacuation procedures?

Ms. DOMINGUEZ. Certainly in the hazardous liquid role we looked at how we actually address incidents of liquid in high consequence areas, but also as we move forward in the gas rule, we are also looking to identify opportunities that will look all kinds of consequences.

Ms. HAHN. Thank you. Thank you very much.

Thank you.

Mr. DENHAM. Thank you, Ms. Hahn.

Mr. Mica, you are recognized for 5 minutes.

Mr. MICA. Thank you, Mr. Chairman.

I have a couple of questions, first for Ms. Dominguez.

Recently API and AOPL released some new recommended practices for improving safety management systems. Did you participate in the development of those recommended practices?

Ms. DOMINGUEZ. Yes, we did.

Mr. MICA. You did?

Ms. DOMINGUEZ. Absolutely.

Mr. MICA. And maybe I could ask Mr. Black. Can you take a minute and maybe tell us the safety management systems; describe what you have recommended and how you think they will improve safety of pipelines?

Mr. BLACK. This was an extraordinary effort done under the American Petroleum Institute, recommended by the National Transportation Safety Board to develop a safety management system program unique to pipelines. We worked with PHMSA. PHMSA staff participated at every step of the way. The NTSB had

the opportunity to watch it as it moved. We brought State regulators along and also our companions in the gas transmission distribution sector.

Mr. MICA. Tell me though specifically. OK. Everybody was cooperating.

Mr. BLACK. Sure.

Mr. MICA. Tell me specifically what safety recommendations, again, what we will see and what you expect the results to be.

Mr. BLACK. Thank you, Congressman.

It provides guidance to a company on how to manage safety efforts holistically across the company from line managers to line employees, middle managers to CEOs and how to continuously improve. It has got a continuous cycle of plan, do, check and adjust, and PHMSA has cheered us on. It has encouraged every pipeline operator to implement that.

One of our major initiatives this year is to try to make every company aware of it and to educate them and encourage their implementation of this.

Mr. MICA. And that is a voluntary compliance?

Mr. BLACK. Yes.

Mr. MICA. OK. PHMSA, I guess, has checked off, and you all are on the same page, and you feel that again, this will provide us a better measure of safety?

Mr. BLACK. Well, we know that PHMSA is watching carefully. We know the NTSB said that this effort exceeded its expectation. PHMSA has said in settings that safety management systems require companies to go beyond prescriptive regulations, and the worst thing you could do right now is try to just somehow measure compliance with the safety management system.

Mr. MICA. But the compliance is strictly voluntary. This is not mandated by PHMSA, is it?

You have not incorporated this into your mandate?

Ms. DOMINGUEZ. No, we have not, but I——

Mr. MICA. You are using this as the new standard in evaluating on that basis and then what do you do? Write them up if they are not meeting the standard or what?

Ms. DOMINGUEZ. What we have done is actually——

Mr. MICA. Because the standard really is not something that you have. This is a voluntary new standard, right?

Ms. DOMINGUEZ. It was a collaborative effort to develop a recommended practice.

Mr. MICA. Should that be more codified in regulations or law or something?

Ms. DOMINGUEZ. What I have said very directly and what we have proposed in our strategic framework is that moving to a safety management system is imperative for the industry. The work that has been done on the recommended practice is a great step forward in actually moving in that direction.

Mr. MICA. But technically you have no ability to enforce the higher standards of this sort of agreed upon new standard, right?

Ms. DOMINGUEZ. We have not said that we are actually looking to regulate in this area. The first step forward is actually to, first and foremost, educate everyone, industry, all of our stakeholders.

Mr. MICA. Would you anticipate codifying in a regulation some of these?

Ms. DOMINGUEZ. I would never take codification off the table, but I think that first and foremost we have seen in other transportation modes like aviation that voluntary compliance is actually one of the most integral parts of how we collect data voluntarily, have a third party look at it, identify risk, and that is actually what will reduce——

Mr. MICA. And I support that. I think that industry working with Government regulatory agencies needs to cooperate. But, again, you want the highest standards. You also want those to be met, and if you agree on them, I am not sure if you develop some system to identify noncompliance with what they have agreed on.

Just a last question. In the 2011 pipeline bill, and this might have been asked. I was not here. We put some provisions to accelerate the replacement of cast-iron pipes. This is for Chery Campbell. And I want to know how much progress we have made since 2011.

Has that been mentioned here?

Ms. CAMPBELL. Off the top of my head, I cannot give you exact numbers.

Mr. MICA. Can you check that and make it part of the record?

Ms. CAMPBELL. Absolutely.

Mr. MICA. I would just like to say, you know, you pass a law. You put in some new standards, and then you want to see what the result is. We had some issues before and we tried to put improvements in and work with the industry to make those improvements, and some of that was replacement, I believe, of the cast-iron pipes, and if that could be made a part of the record I would appreciate it. Maybe you could respond back.

Ms. CAMPBELL. Absolutely, we can do that.

[The information can be found on pages 130–133.]

Mr. MICA. I yield back.

Mr. DENHAM. Thank you, Mr. Mica.

Ms. Esty, you are recognized for 5 minutes.

Ms. ESTY. Thank you, Chairman Denham and Ranking Member Capuano, for holding this hearing on the reauthorization of DOT's pipeline safety program.

This is what happens when you have four hearings before noon. So I apologize.

I want to thank my colleagues, too, from California for their appearing today and really underscoring the important role we all play in ensuring the safety of the American public.

In Connecticut we know all too well the consequences that can happen from procedures not being followed. In 2010 we lost six workers with the explosion of a natural gas facility right as it was nearing completion.

So we have important work to do, and I have seen the effects right in my own State.

Safety is paramount when it comes to producing and transporting energy across the United States, and I too am frustrated as you have heard from others up here about the lack of progress in ensuring all of the criteria are being met in fulfilling the 2011

law. We need to be making forward progress in each and every one of those elements.

And I hope that PHMSA and this committee can work together to improve pipeline safety in the United States so that we can avoid tragic accidents in the future.

Before I get to my questions, I want to add my voice in support of ensuring that PHMSA has emergency order authority to protect public safety. It just makes no sense that you lack this authority, and as we have seen particularly with changes in the energy composition in this country, it is particularly important that you be accorded this authority, and I hope we can work together to ensure that that happens sooner than later.

So, Administrator Dominguez, a couple of questions for you. In an October 2015 notice of proposed rulemaking, PHMSA indicated that it was considering whether to require emerging technologies to be considered when evaluating types of leak detection systems that are appropriate for a particular pipeline and that PHMSA will consider in its report to us to Congress on pipeline safety whether the use of specific leak detection technologies should be required.

I would encourage PHMSA to address this issue in that report, and I would ask you whether you know whether PHMSA is going to be addressing this issue when writing the regulations, and specifically, will PHMSA be making specific recommendations about types of technologies to be used in certain circumstances?

Ms. DOMINGUEZ. Thank you for the question.

I believe you were referring to a rule. I believe it was the hazardous liquid rule. That is a proposed rulemaking that we issued in October of last year, which indeed required looking at leak detection systems for both new and existing hazardous liquid lines.

So there is a provision in that notice of proposed rulemaking to do exactly that.

Ms. ESTY. That is a question that I know historically agencies understandably have been reluctant to specify particular technologies because the technologies change, but there are new technologies coming online that are vastly superior to what we have been using, and I guess the question is are you going to either be specifying new technologies or at least setting standards that are in accordance with what new technologies now allow us to achieve?

Ms. DOMINGUEZ. I agree with you that there are emerging technologies constantly on the forefront of advancement. That said, one of the things that we are looking at as one of the mandates that is in the 2011 act is looking at how we best addressed leak detection, but a good portion of that is also on rupture detection to actually understand the sensitivity of any particular line.

So as one, we have been investing very heavily in the R&D [research and development] on leak detection. About 10 percent of our overall R&D dollars that Congress has provided has gone to research in leak detection.

Moving forward we want to make sure that we advance and continue to understand all of the technology that is emerging, and as we do so, we will look to regulate particularly on the areas that we think are very clear right now based on the data that we have in particular on rupture detection, and then we will move forward on leak detection.

Ms. ESTY. All right. Thank you very much. I think it is particularly important that we do support the R&D efforts, but continue to raise those standards, especially as we again are becoming more reliant on this for basic energy for so much of the country. It is important that we continue to raise those standards in accordance with what is going to best protect the American public.

So please let us know if there is anything that we need to do on our end to ensure that we do not lock in stone a lower standard than is possible, and I guess that is part of my concern, that we lock ourselves into the past rather than moving forward in a safer direction.

Thank you very much, and I yield back.

Mr. ROKITA [presiding]. I thank the gentlelady.

I am Todd Rokita from Indiana, acting as chairman temporarily, and because of that I am going to recognize myself for 5 minutes.

[Laughter.]

Mr. ROKITA. No, I was next in line, for the record.

Thank you all for your comments today so far. I will start with Administrator Dominguez.

Do you think that PHMSA has so many mandates, most given by Congress, that they have yet to meet that we should look at devolving actually more oversight and inspections to the States?

I know that currently States have approximately 80 percent of intrastate pipeline inspections, but could that increase even more or have we reached the limit of State capacity?

Ms. DOMINGUEZ. Thank you for the question, sir.

I think the Congress has clearly recognized the need for Federal oversight of pipelines, and with the recent investment in the omnibus from a year ago we got 100 new pipeline inspector positions. We have been not only hiring very quickly, but training all of those new inspectors.

As we do so, PHMSA runs a training and qualifications center out in Oklahoma City, and we are also training a number of the State inspectors. They really are our partners and help us do our job on a daily basis.

Mr. ROKITA. Thank you, but my question was to devolution. I mean, could they be doing more? Could we transfer more power to the State level instead of in your office?

Ms. DOMINGUEZ. I think that there is definitely a very significant role for Federal oversight in this area and for the Feds to continue to work with our State partners as we move forward.

Mr. ROKITA. Right. I am not saying eliminate your authority, but should we give more to the States? Yes or no?

Ms. DOMINGUEZ. I think that the balance that exists right now is a good balance.

Mr. ROKITA. OK. Administrator Dominguez, going now with your budget authority, $149 billion in fiscal year 2015, more than double the agency's budget in fiscal year 2006, what is that increase going towards?

Ms. DOMINGUEZ. Primarily the inspectors that we just talked about.

Mr. ROKITA. OK.

Ms. DOMINGUEZ. And looking at how we would train them and deploy them.

Mr. ROKITA. Are you able to hire enough inspectors?

Ms. DOMINGUEZ. I will tell you that it has been an interesting process. So 6 months ago when I came onboard oil prices were through the roof and competition was steep with industry to hire people.

That has changed, and we have been able to really bring some great people onboard, and we are able to reach our 91 percent hiring at this point in time. We will get to 100 percent here hopefully by the end of March.

That said, I think, you know, the bottom line is the economy is constantly going to be changing, and we need to make sure that we are in a position regardless of what the economic state is to be able to bring people onboard to serve in these positions.

Mr. ROKITA. So to that end does your outreach strategy include—I am going to get parochial here for a minute—does it include Purdue University, one of the best engineering schools in the country?

Ms. DOMINGUEZ. I am familiar with the Boilermakers.

Mr. ROKITA. OK. I would suggest I would be happy to facilitate a meeting if we are not applying. I think they would serve you well, and they would be thrilled to know that they have opportunities at your agency.

Ms. DOMINGUEZ. I would be happy to work with you on that.

Mr. ROKITA. And to be even State inspectors to my previous question.

Ms. DOMINGUEZ. I will tell you that I have had the opportunity in previous jobs to work with the engineering students from Purdue and, indeed, they do produce great folks.

Mr. ROKITA. Yes. So just a little seed for you there.

And I do not know. Maybe you already are. It was just an open question. So honestly I am happy to help facilitate that.

Mr. Black, continuing on with my parochialism, I guess, my Indiana constituents appreciate the importance of energy delivered by pipeline, gasoline and diesel for driving, propane for heating and drying, but my constituents also need to know that the pipelines are safe.

What industrywide actions are pipeline operators taking to improve pipeline safety so I do not have to deal with this?

Mr. BLACK. So liquid pipeline operators spent $2.2 billion in 2014, the last year we have collected data on managing the pipeline safety. So it is evaluating those pipelines, inspecting them, and doing repairs when necessary.

We operate under a full series of PHMSA codes on the operation of a pipeline, title 49, 195.452 requires an extensive integrity management program where pipeline operators have to assess pipelines that could affect high consequence areas and review the inspection results and take actions by pipeline accordingly.

So there is a full set of regulations and administrative activity to continue to improve pipeline safety.

Mr. ROKITA. Are you satisfied with the record?

Mr. BLACK. Well, our goal is zero incidence, and we are never there. We are proud of the safety record now. We are the safest mode, but we are working to get better.

Mr. ROKITA. Thank you.

I know I am over, but before going to Mr. Lipinski, let me ask one short question to close this out.

Mr. Santa, do you feel PHMSA has the resources and authority to properly conduct safety checks on the lines or do you feel that we could be doing more? Is the industry taking steps to do any self-regulation?

Mr. SANTA. First, I believe PHMSA does have the resources that they need to do it, as has been noted. Their appropriation has gone up in recent years and is giving them that capability. Beyond compliance with the PHMSA rules like others have mentioned on this panel from the industry, our respective boards have adopted safety programs with the goal of zero incidence. We are pursuing those programs and getting out ahead of this.

Mr. ROKITA. I thank you all.

Mr. Lipinski, you are recognized for 5 minutes.

Mr. LIPINSKI. Thank you.

I want to start off by thanking Chairman Denham and Ranking Member Capuano for holding the hearing today, and I look forward to moving ahead with the reauthorization of pipeline safety legislation.

Illinois is a key pipeline hub for crude, natural gas and refined products, and certainly my district is home to many, many miles of pipeline, though my constituents really don't know that. Most people don't know that, understand that.

Now, this means that they do not know how important these are, but unfortunately a 2011 spill in Romeoville highlighted that there are pipelines there and also highlighted that we need to have a greater focus, I believe, on safety and prevention.

So I wanted to look at a couple of ways to do this. First I want to look at the use of drones. Rulemaking on leak detection standards is still in progress, I understand, but new technologies are emerging that could make proactive inspections more efficient and less costly for operators.

I also serve on the Science, Space, and Technology Committee where we have examined the use of unmanned aerial systems. I am cochair of the Unmanned Systems Caucus here. So I am very interested in the use of these systems.

At this subcommittee's April 2015 hearing, PHMSA testified that some companies are already using these systems, but I am aware that obtaining this section 333 exemption from the FAA can be a very lengthy process.

So I want to ask a question. Let me just open this up to everyone here, but especially to Mr. Santa and Mr. Black. Do you think there is better opportunity for better collaboration between your industry, PHMSA, and the FAA to expedite the use of UAS for pipeline inspection?

I also want to ask the Administrator that question if you think more can be done on this.

Mr. Santa?

Mr. SANTA. Yes, Mr. Lipinski. As you note, a lot of the inspections of pipeline rights-of-way have been done by aerial inspection, and so certainly the ability to use unmanned vehicles to do that offers an opportunity. We, in fact, have talked to some vendors who

have got some interesting technologies in terms of being able to really optimize that.

In addition, remote sensing technologies can be valuable in terms of the types of studies that need to be done in connection with permitting for new pipelines. As a matter of fact, there is legislation pending before the Energy and Commerce Committee in terms of authorizing that and specifying to Federal agencies that they should accept that in terms of satisfying the requirements for surveys and inspections.

So I think there is a lot of potential here to improve the effectiveness by the use of these vehicles, and we certainly would be interested in pursuing that.

Mr. BLACK. You are absolutely right, Congressman. There are safety benefits that come from aerial patrols. Right now PHMSA regulations require operators to conduct aerial patrols, but now of course they are manned. We would be very interested in the ability to use unmanned aerial surveillance.

Like you, I am aware that one of the issues in the FAA rulemaking is the requirement right now that an operator stay within a line of sight. For long linear infrastructure like pipelines, that is not practical. So we would need some changes to the FAA regulations on UAS to be able to use those vehicles to patrol a pipeline and we could accomplish great things.

My understanding, if somebody is along that right-of-way getting ready to dig and did not call the one-call program, we would have that evidence.

Mr. LIPINSKI. Is there anything you think could be done better to get this technology out there more quickly?

Ms. DOMINGUEZ. We have been working not only with our partners at FAA, but across the board to look at any and all technologies that are available for leak detection and other inspection capabilities. So I would not take anything off the table, and I think there is opportunity moving forward.

Mr. LIPINSKI. All right. If the chair will let me ask a second question I will try to make this as short as possible.

I know that a big issue is excavation causing ruptures to pipelines. The last reauthorization directed PHMSA to collaborate with pipeline operators to collect geospatial data to improve the accuracy of National Pipeline Mapping Systems.

So my two questions: do we have good mapping now?

And let me just also throw this in there. Is there a possibility, and I know everyone has a smartphone; does this give us more of an opportunity to use this mobile technology rather than or in addition to the Call Before You Dig Program?

Do you think that is a possibility to also have that opportunity to know where pipelines are before digging?

Anyone? Mr. Black.

Mr. BLACK. You said "or" or "in addition to," and I think it is very important, Congressman, that any use of mapping to identify pipelines be "in addition to" the one-call notification program. We do not want anybody to think that there is a reason not to call.

If you call, there is a 99 percent chance that nobody is going to strike a pipeline. You cannot count on the mapping being as good

as those utility locators who spray paint and put out those flags and really help you identify where to dig.

Ms. DOMINGUEZ. I would have to say that it is critical, one, to make sure that the call is made for 811, but, two, as we move forward on the National Pipeline Mapping System, we have, indeed, opportunity to improve with more specificity some of the data that PHMSA presently collects and informs the NPMS system.

So we are continuing to work on that and provide more data to that system, but first and foremost I think the first line of defense is 811, but we also need to make sure that people understand what's there and then appropriately share it, given security concerns, only when necessary.

Mr. LIPINSKI. All right. Thank you very much.

Mr. ROKITA. I thank the gentleman. The gentleman's time has expired.

We are going to have a one committee member round two. The gentlelady is recognized for 5 minutes.

Ms. HAHN. Thank you, Mr. Chairman. I appreciate that.

Just being, you know, a member of the L.A. County delegation here in Congress, I really felt it was incumbent on me to just ask a couple of questions about the Porter Ranch incident. While that is not in my particular congressional district, certainly in L.A. County it has been a huge problem.

Mr. Weimer, I was just going to ask you a couple of questions about that, and I appreciate my colleagues, Congress Members Knight, Sherman and Speier, for coming and talking about the devastations in their own districts as it related to pipeline and gas storage issues.

So, you know, Mr. Sherman has introduced a bill and so has Mr. Knight. Now, in Mr. Knight's bill, the PHMSA regulation would rely heavily on consensus standards, which in the case of underground gas storage refers to standards developed by the API.

I know I am concerned about the way these standards were developed and whether they are truly the best practices or rather just an average practice of the industry.

In your opinion are these practices just a ratification of the current average practice in the industry?

Should they go further?

And are consensus standards generated by the industry the best way to identify adequate safety measures?

Mr. WEIMER. Well, thank you for the question.

Certainly underground gas storage is not something that we focused on much. We think that from what we have seen of the recommended practices that they would be a good first step. We think that it needs to go farther than that, and I think that is some of the difference in the language between the two congressional bills that have been introduced.

So, you know, if there was a way maybe through emergency order authority that those standards could be implemented as soon as possible, that would be good, but we would like to see a regular rulemaking that would open it up so the public, academia, other folks could chime in and make sure it is as strong as possible.

We have heard mention that there are concerns with the standards that are being pushed forward, that they do not include everything that needs to be.

There are also some concerns about whether it precludes State authority based on whether such facilities end up being defined as interstate or intra because if they are defined as interstate, the States could be precluded from going above and beyond what the Feds——

Ms. HAHN. Thank you.

And my last question would be Mr. Sherman's bill included a State non-preemption clause so that States have the option of implementing standards more stringent than the Federal ones.

Do you feel that States like California should have the option of requiring measures like shutoff valves, pressure monitors, testing of downhill devices if the Federal regulations fail to do so?

Mr. WEIMER. Absolutely.

Ms. HAHN. OK. Thank you very much.

And, Mr. Chairman, thank you for indulging me for my personal second round.

Mr. ROKITA. I appreciate the gentlewoman's questions.

Thank you all for your testimony. I say that for the committee members and on behalf of Chairman Denham. Your comments have been very helpful for today's educational hearing.

And seeing no further questions, I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

I would like to thank our witnesses again for their testimony today. If no other Members have anything to add, this subcommittee stands adjourned.

[Whereupon, at 12:02 p.m., the subcommittee was adjourned.]

WRITTEN STATEMENT OF
THE HONORABLE MARIE THERESE DOMINGUEZ
ADMINISTRATOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
HEARING ON PIPELINE REAUTHORIZATION

February 25, 2016

Chairman Denham, Ranking Member Capuano, and members of the Subcommittee, thank you for inviting me to testify today on reauthorization of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's (PHMSA) pipeline safety program.

PHMSA's mission is to protect people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives. PHMSA operates in a dynamic and challenging environment, which has increased the complexity of the agency's mission and responsibilities. Driven by new technology and market forces, the industries and operators PHMSA regulates are changing, as are the ways the American public consumes and interacts with energy and other hazardous materials. To better anticipate and address these changing market dynamics, PHMSA is updating our organizational framework to enhance our planning, performance, data and economic analysis. This new framework will better inform our inspection, enforcement and regulatory capabilities and overall program execution, allowing PHMSA to be more predictive, consistent and responsive as we execute our mission.

My testimony today will provide an overview of our pipeline safety program, including an update on our progress in implementing the Pipeline Safety Act mandates and our efforts to become a more forward looking, proactive, innovative, and data-driven agency.

Overview of PHMSA's Pipeline Safety Program

Today, there are 2.6 million miles of pipelines that carry oil and natural gas in the U.S. The Nation relies on these pipelines and the products in them for economic growth and to support the daily lives of its citizens, and it's PHMSA's job to ensure they operate safely.

PHMSA establishes Federal pipeline safety, inspection and enforcement standards, and PHMSA's state pipeline safety partners are a critical part of the Nation's pipeline safety regime. PHMSA and its state partners are dedicated to ensuring pipeline operators comply with pipeline safety regulations. PHMSA also works with a variety of other partners, including other Federal agencies, state and local officials, emergency responders, environmental groups, and the public to ensure the Nation's pipeline network continues to operate safely and reliably.

PHMSA's FY 2017 request includes funding for 343 pipeline safety program positions. to ensure the safe operation of pipelines in some of the most remote corners of our nation and 128 staff that manage the pipeline safety programs including developing regulations that guide the safe operation of pipelines, grant management and research.

The growth of PHMSA's pipeline safety program advances a safe and reliable pipeline network. Resources Congress has provided over the years have enabled PHMSA to advance new functions and programs in its pipeline safety program. PHMSA launched a new pipeline safety auditing function that operates in tandem with Federal engineers to provide technical expertise, enhance PHMSA's field presence, and enable more robust inspection and enforcement oversight. PHMSA will also establish a pipeline Accident Investigations Division to investigate incidents and share lessons learned with all stakeholders to improve safety. PHMSA is in the process of finalizing the new Accident Investigation Division framework and resource construct, and anticipates initial stand-up in later this year. The division will strengthen our capacity and focus on root cause investigations for all significant pipeline incidents and accidents; improve ability to identify lessons learned and evaluate safety data for emerging trends; develop robust process to exchange lessons learned with diverse stakeholders – internal and external – to improve safety;

incorporate lessons learned into policy and planning processes as well as training; bring consistency to safety investigations; strengthen expertise through a career ladder and well-honed skill sets; and enhance training program for federal and state inspectors.

PHMSA is moving into its fourth year of a new inspection protocol for integrated inspections, where inspections are tailored to the risk profile of a pipeline operator. Inspection protocols are customized to focus resources on risks and are flexible enough to reflect new knowledge gained during an inspection. Inspections include multiple facilities and more miles of pipeline; they are performed by a team of engineers and are completed over several months. As a result, PHMSA's inspection results are more comprehensive, and result in more expansive enforcement cases.

PHMSA's pipeline safety focus includes non-regulated stakeholders, such as the public, emergency responders, and others through investments in public outreach and education. Educating stakeholders through outreach activities and training programs like the 811 Call Before You Dig program plays an important role in reducing pipeline excavation damage related incidents, which continue to be one of the leading causes of pipeline incidents where people are injured or killed.

PHMSA also collaborates with industry and academic partners to fund research and development across all aspects of pipeline safety, including leak and mechanical damage detection and prevention, improved line system controls; and improved pipeline materials. Since 2002, this collaboration and investment has helped bring 47 technology demonstrations and 26 new technologies to market to prevent damage, and detect leaks and defects in difficult to inspect pipelines.

PHMSA's Competitive Academic Agreement Program (CAAP) supports university-level pipeline safety research. Since 2013, CAAP has invested in a wide set of solutions for corrosion and other pipeline integrity challenges, and exposed a new generation of students to the field of pipeline safety.

I. SUSTAINED EFFORTS TO SATISFY MANDATES

Safety is the Department of Transportation's top priority and completing Congressional mandates will result in critical improvements that advance PHMSA's safety mission. The

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act) included 42 new requirements. PHMSA has completed 26 of the Act's mandates. Ten of the remaining mandates will be addressed as part of current rulemaking activities or reports. The remaining six are tied to reports and information collections that will inform future rulemaking.

A. Hazardous Liquid Final Rule

PHMSA published a Notice of Proposed Rulemaking (NPRM) for the safety of hazardous liquid pipelines on October 13, 2015. The rule proposed critical updates to the way that pipelines are assessed, operated and maintained across the U.S. The rule addresses several mandates from the 2011 Act, including:

- Section 5 – integrity management, which requires PHMSA to conduct a study on whether integrity management system requirements, or elements thereof, should be expanded beyond high-consequence areas and the appropriateness of applying repair criteria, such as pressure reductions and special requirements for scheduling remediation, to areas that are not high-consequence areas and periodic reassessments changes;
- Section 8 – leak detection, which requires PHMSA to promulgate regulations that require operators of hazardous liquid pipeline facilities to use leak detection systems where practicable; and establish technically, operationally, and economically feasible standards for the capability of such systems to detect leaks;
- Section 14 – biofuels, which requires PHMSA to update the definition of hazardous liquid to include the term biofuels; and
- Section 29 – seismicity, which requires PHMSA to amend 49 CFR Part 195 to require pipeline operators to consider the seismicity of an area when evaluating potential threats to their pipeline systems.

The proposed rule also addresses two recommendations from the National Transportation Safety Board (NTSB) and the Government Accountability Office (GAO). The rule was designed to improve protection of the public, property, and the environment by ensuring that operators detect and address unsafe conditions before an incident occurs.

PHMSA received more than 70 comments from stakeholders, including members of industry, environmental and advocacy groups, Federal, State and local government agencies and members of the public. The Liquid Pipeline Advisory Committee met on February 1, 2016, and voted to approve the proposed rule with several recommendations. PHMSA is considering all of the comments and recommendations, and plans to finalize the rule in the coming months.

B. Gas Transmission Proposed Rule

PHMSA plans to propose a NPRM for the safety of gas transmission lines in the next month. The NPRM will propose updates and clarifications regarding integrity management requirements and maximum allowable operating pressures for gas transmission lines and will address several mandates from the Pipeline Safety Act, including:

- Section 5 – integrity management, which requires PHMSA to evaluate whether integrity management system requirements, or elements thereof, should be expanded beyond high consequence areas. The mandate also requires PHMSA to evaluate whether integrity management mitigates the need for class location requirements and to establish guidelines for what constitutes sufficient justification to allow operators to extend reassessment intervals for gas transmission lines by 6 months;
- Section 23 – testing, which directs PHMSA to require operators to reconfirm the maximum allowable operating pressure of pipe lacking sufficient records and located in specific areas, and to require operators to conduct pressure testing or alternative equivalent means, such as in-line inspection programs for pipe not previously tested. The mandate also directs PHMSA to require the self-reporting of operators that do not have sufficient records to substantiate their pipeline's maximum allowable operating pressure.

C. Other Rules: Operator Qualification, Excess Flow Valves, and Automatic and Remote Controlled Shut-Off Valves

In July 2015, PHMSA published the Operator Qualification, Cost Recovery and Accident Notification proposed rule that addresses four NTSB recommendations and the following mandates from the Pipeline Safety Act:

- Section 9 – accident and incident notification: requiring PHMSA to revise regulations to require telephonic reporting no later than 1 hour following the "confirmed discovery" of an incident or accident; and

- Section 13 – cost recovery for design reviews: requiring PHMSA to prescribe a fee structure and procedures for assessment and collection in order to implement authority to recover design review costs for projects that cost over $2.5 billion or that involve new technologies.

The agency is currently considering the comments received, and preparing to present the rulemaking proposal to the Gas and Hazardous Liquids Advisory Committees this spring.

The Excess Flow Valves Final Rule will fulfill Section 22 of the Pipeline Safety Act, which requires the agency to issue regulations requiring the use of excess flow valves on new or entirely replaced distribution branch service lines, or lines servicing multi-family facilities and small commercial facilities, if appropriate. The rule will also address one NTSB recommendation and would increase the level of safety for homes by requiring excess flow valves on all new and renewed gas service lines.

The Rupture Detection and Valves NPRM will address Section 4 of the Pipeline Safety Act, which directs PHMSA to, if appropriate, issue regulations requiring the use of automatic or remote-control shut-off values, or equivalent technology, where it is economically, technically, and operationally feasible, on newly constructed or entirely replaced pipelines. The rule will also address Section 8 of the Pipeline Safety Act, which requires PHMSA to study and, if appropriate, issue regulations requiring the use of leak detection systems where practicable and establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks. . PHMSA intends to release the NPRM later this year.

D. Reports and Other Actions: Study of Transportation of Diluted Bitumen

In accordance with the Pipeline Safety Act of 2011, PHMSA commissioned the National Academy of Sciences (NAS) to perform a study on diluted bitumen (dilbit) to analyze the risk of transporting dilbit, including its effects on transmission pipelines, the environment and oil spill response activities. The NAS study determined that while dilbit does not pose an increased risk in transportation, it behaves differently than light and medium crude oils in the environment following a spill. Based on their findings, the NAS issued recommendations to PHMSA, the Environmental Protection Agency (EPA), U.S. Coast Guard (USCG), National Oceanic and Atmospheric Administration (NOAA), and the oil pipeline industries to ensure an adequate response to spills of dilbit.

In response to the recommendations in the NAS study, PHMSA will:

- Develop and publish an Advisory Bulletin highlighting the findings of the study and suggest voluntary improvements that onshore oil pipeline operators should make to their oil spill response plans to address plan improvement recommendations.
- Host a public workshop in the spring of 2016 to solicit input from interested parties, government agencies and members of the public on how it can improve and enhance 49 CFR Part 194 and address the NAS recommendations.
- Work with the National Response Team (NRT) and the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR) to advance the recommendations included in the report.
- Continue to work with the American Petroleum Institute's Spill Advisory Committee, Spill Control Association of America, and other industry organizations to improve oil spill response planning and preparedness.

Completion of the mandated actions of the 2011 Pipeline Safety Act is a top priority and PHMSA is working to complete the outstanding requirements as quickly as possible. PHMSA posts regular updates about our progress in completing the outstanding requirements on our website at www.phmsa.dot.gov.

II. RESPONDING TO EMERGING RISKS

The consequences of pipeline failures can have a tremendous impact on people and the environment. PHMSA implements a comprehensive oversight program that is data driven to forecast and address safety issues before they occur. PHMSA also takes proactive steps to incorporate lessons learned from accidents into new policies and regulations in order to prevent future occurrences of safety issues that are affecting the American people right now.

A. Pipeline Damage Prevention

Pipeline excavation damage related incidents continue to be one the leading causes of pipeline incidents where people are injured or killed. In July 2015, PHMSA published a final rule to establish the process for evaluating State excavation damage prevention law enforcement programs and enforcing minimum Federal damage prevention standards in States where damage prevention law enforcement is deemed inadequate or does not exist.

PHMSA launched a comprehensive and transparent strategy to evaluate the adequacy of state programs, and to notify states of their adequacy determination. In addition to the final rule, PHMSA has undertaken a variety of efforts over many years to reduce excavation damage to pipelines. These efforts include performing studies, advocacy, grant making, rulemaking, and partnership with a wide spectrum of excavation damage prevention stakeholders.

B. Underground Storage

The gas leak at the Southern California Gas Aliso Canyon underground natural gas storage facility in California has underscored the potential risks associated with the underground storage of natural gas. PHMSA has the authority to regulate the underground storage of natural gas and hazardous liquids incidental to the movement of these products by pipeline, but there are currently no federal regulations specific to the storage of natural gas at underground storage facilities such as Aliso Canyon.

PHMSA and a number of states participated in the development of national consensus standards that were published in the fall of 2015. These standards promote best practices to ensure the safety and integrity of underground storage facilities. On February 5, 2016, PHMSA issued an advisory bulletin directing operators to immediately review the overall integrity of underground natural gas storage facilities, to identify the potential for leaks and failures, and to review and update their emergency plans.

PHMSA is considering additional safety standards for underground natural gas storage facilities. Building off of the February 5 advisory bulletin on underground storage, PHMSA will host a public workshop for all stakeholders to seek input on new regulatory enhancements. The agency will work with states that currently have regulations in place and we will work with our state partners who have or want to develop regulations that exceed the minimum federal regulations.

C. Liquefied Natural Gas

The U.S. is experiencing significant increase in the production of natural gas. This has resulted in a new market for liquefied natural gas (LNG) and the need for strong safety standards that regulate the transport and storage of LNG in the United States.

PHMSA's regulations establish the minimum federal safety standards for the design, operation and maintenance of LNG facilities. PHMSA is working to update codes and standards for the safe design and operation of LNG facilities to include current market trends and new technology. PHMSA also continues to offer its assistance to the Federal Energy Regulatory Commission as a coordinating agency in the siting and review of LNG facilities under the National Energy Policy Act.

D. Water Crossings

Recent oil spills from pipelines in Montana and California underscore the importance of routinely assessing the condition, and evaluating the potential for external threats and mitigate risks associated with pipelines that cross or are close to the Nation's waterways.

Following the 2011 ExxonMobil spill, PHMSA conducted a joint study with the State of Montana which revealed that many of the state's pipeline water crossings could be threatened by river flooding and channel migration. PHMSA worked closely with Montana state organizations, as well as Montana pipeline operators, to ensure that necessary steps were taken to safeguard existing crossings. These steps include: in-place safety procedures during flood conditions or increased river flow rates; increased frequency of patrols and depth of cover surveys during and after significant river-flow events; swift remediation measures, if needed; strengthening emergency response preparedness; and replacing trenched crossings with Horizontal Directional Drilled (HDD) pipelines.

While HDD pipelines are a critical and successful tool, operators must take a comprehensive approach to improving safety. PHMSA's pipeline safety Integrity Management regulations require all operators of pipelines located in environmentally sensitive areas ("High Consequence Areas") such as river crossings to carefully monitor their systems and take extra precautions to prevent and mitigate the potential impacts of accidents in such areas.

In April 2015, PHMSA issued an advisory bulletin to ensure operators were aware of the inherent risks associated with river crossings and remind them of the need to take extra steps to protect such environmentally sensitive areas.

III. PRINCIPLES FOR REAUTHORIZATION

A critical part of PHMSA's safety program is to continually strive for improvement and to find new ways to raise the bar on safety. PHMSA will continue to improve safety through the development of data-informed regulations, investment in research and development, education and outreach, and by enhancing inspections and enforcement.

A. Incentivize High Performance Among State Partners

Through agreements and certifications, states assume authority over more than 80 percent of intrastate gas and hazardous liquid distribution and transmission pipelines by inspecting and enforcing both Federal and state regulations. PHMSA supports pipeline safety by providing grant funding to support state damage prevention programs and technical assistance related to pipeline safety issues.

It is critical that state partners participate in activities that benefit pipeline safety on a national basis. Such activities include programs like PHMSA's Pipeline Safety Mentoring program, which pays for state inspectors to travel to and observe inspections being conducted by Federal or state personnel, service on pipeline safety standards setting committees and work groups.

B. Establish A Workforce to Address Evolving Safety Challenges

Thanks to resources provided by Congress, PHMSA's pipeline safety program is growing. In FY 2015, Congress funded 109 new positions (93 of those in our Field Operations), nearly a 50 percent increase in the size of PHMSA's pipeline safety program. PHMSA has hired 91 percent of the new positions and is continuing to bring new staff on board over the coming months. PHMSA has developed a robust recruitment and outreach strategy that uses the hiring authorities we currently have available, and is also developing new partnerships with colleges and universities with engineering programs to help the agency recruit for these critical positions. Even so, the dynamic energy market means that PHMSA frequently has to compete with industry to hire engineers and other technical experts. Direct Hire Authority would complement our recruitment efforts by reducing the agency's time to hire from more than 100 days to less than 30 days.

As PHMSA increases its workforce, training is critical to ensure the highest possible level of safety. PHMSA is enhancing training opportunities for both Federal and state inspectors by tailoring training and delivering the right mix of classroom and distance learning to provide an efficient and effective training program. Federal and state inspectors train side-by-side at PHMSA's Training and Qualifications Center in Oklahoma City, Oklahoma. This year, PHMSA hired a new Director of Training at PHMSA's Training and Qualifications Center and developed a new pipeline safety inspection boot camp. The first boot camp courses are scheduled this month for new Federal and state inspectors.

As PHMSA carries out this hiring surge and looks ahead to reauthorization of the pipeline safety program, the agency is committed to using the resources Congress has provided to stay ahead of industry trends, strengthen state partnerships, and ensure the highest safety standards.

C. Balance Composition of Advisory Committees

The rulemaking process is methodical and transparent to ensure that new rules are effective, efficient, and reflect feedback from all stakeholders. In addition to advancing the gas and liquid rules, PHMSA is working to balance representation on the gas and liquid pipeline technical advisory committees to ensure that the committee recommendations are borne out of balanced and robust conversations. While the Department of Transportation continues to make progress in filling vacant seats on these advisory committees, there are challenges retaining committee members, including changes in membership due to new appointments, retirements and career changes.

PHMSA's advisory committees, as prescribed under Section 60115 of Title 49, United States Code, contain five members on each committee, appointed from three distinct categories. The statute provides the Secretary the authority to appoint to each committee: (1) five individuals from departments, agencies, and instrumentalities of the U.S. Government and of the states; (2) five individuals from the natural gas or hazardous liquid industry, selected in consultation with industry representatives; and (3) five individuals selected from the general public. Section 60115(b)(4)(A) further directs the Secretary to appoint state commissioners to the category of individuals selected from departments, agencies, and instrumentalities of the U.S. Government and of the states. Adding flexibility to the requirement that the two members of each committee

must be members of state public utility commissions would allow PHMSA to fill these positions with individuals who represent State and local government agencies.

D. Use Data to Inform Regulation

To develop rules that are effective in mitigating risk and efficient, PHMSA needs to better understand market trends and collect and analyze reliable and accurate data. To that end, a nationwide integrated database of pipeline inspection and enforcement data is required. PHMSA inspects 20 percent of the 2.6 million miles of pipeline within the United States; the remaining 80 percent is inspected by certified state partners. Linking state and federal inspection, enforcement, and geospatial data, and providing a consolidated national view of all pipeline data, is a vital component in identifying current and emerging risks that drive improved safety performance and informed regulations. PHMSA's FY 2017 request includes funding for communication efforts that will enable Federal and State inspectors and pipeline operators to share critical information such as the results of inspections and the condition of our Nation's aging network of pipelines.

Through PHMSA's Information Sharing System, federal and state inspection and enforcement data will be combined with current incident and annual reporting data to provide complete safety records for all pipeline operators and a more complete view of the pipeline landscape to inform future regulation. This information will help inform risk models that will enable the agency to identify pipelines that pose a higher risk of failure and, when combined with information about the location of High Consequence Areas and other locations where a pipeline failure is likely to cause the greatest amount of harm to people or the environment, will give the agency more complete information when assessing significant determinations such as enforcement actions, expected consequences of failures by location or when considering the issuance of special permits.

E. Enhance PHMSA's Enforcement Capabilities to Maximize Safety

Pipeline safety would be enhanced by a comprehensive enforcement tool to address time-sensitive, industry-wide safety conditions through emergency orders. Unlike a Corrective Action Order (CAO) issued to a single operator, an emergency order would affect all operators and/or pipeline systems that share a common characteristic or condition. This situation could occur when a particular component, vintage of pipe, or other condition was broadly utilized or installed

by industry, and the Department needs to address a safety issue in comprehensive and timely way.

This new enforcement tool would allow the Secretary to issue an emergency order prohibiting a dangerous practice or imposing a requirement when an unsafe condition, practice, or activity in the transportation of gas/hazardous liquids in interstate pipelines poses a threat to life or significant harm to property or the environment.

F. Drive Innovation to Enhance Pipeline Safety

PHMSA collaborates with industry and other stakeholders on research and development to identify gaps in current technology and reach consensus on the sector's most pressing challenges. Current law requires that "at least 30 percent of the costs of program-wide research and development activities are carried out using non-federal sources." Although this 30 percent co-funding requirement is appropriate for technology development projects, it is not appropriate for work that is inherently governmental in nature, such as research and development related to our rulemaking efforts.

Also, PHMSA needs the ability to collect and expend funds needed to recoup costs under cost recovery provisions included in the Pipeline Safety Act of 2011. The Act authorized PHMSA to recover costs for facility design safety reviews where the project has design and construction costs totaling at least $2.5 billion or involves new or novel technologies or design, such as Liquefied Natural Gas (LNG) or new materials. , While the 2011 Act allowed PHMSA to recover cost for the design safety reviews, the Act did not authorize PHMSA to expend the recovered funds to take advantage of those cost recovery provisions. PHMSA seeks such authorization.

IV. PHMSA 2021: A NEW DIRECTION FOR PHMSA

Given the dynamic operating environment of the energy industry and advances in technology, PHMSA has updated the transportation agency's strategic framework and developed a bold new vision and mission that better reflect the Agency's focus on safety, innovation, and trust in the transportation of hazardous materials

PHMSA is undergoing a transformation to better align resources and capabilities to more effectively deliver on its safety mission: To protect people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives.

A. Becoming the Most Innovative Transportation Safety Organization in the World

PHMSA's transformation focuses on strategic investments in people and processes; it restructures the organization, building upon the three key principles of safety, innovation, and trust. The five goals that enable this new framework are to:

- Invest in safety innovation to become more proactive and forward-looking by building PHMSA's innovation and analytics capabilities through partnerships;
- Build stakeholder and public trust through proactive and targeted outreach, engagement, responsiveness, and transparency;
- Cultivate organizational excellence by investing in employees and key capabilities, and strengthening PHMSA's safety culture;
- Pursue operational excellence through consistent and efficient business processes and by transforming how PHMSA leverages data to drive decision-making; and
- Promote continuous improvement in safety performance, including establishment of a framework and approach for implementing Safety Management Systems (SMS) internally and externally.

These changes will transform PHMSA into a next-generation safety agency that invests in people, safety innovation and technology and sets the standard for a strong safety culture.

B. Leading the Implementation of SMS

Safety Management Systems, or SMS, is the safety policy of the U.S. Department of Transportation. Actively advancing implementation of SMS and a strong safety culture within the pipeline and hazardous materials sectors is the next step in continuous safety improvement for America's hazardous materials transportation system. Continuous improvement is the foundation of SMS, and PHMSA is committed to adopting the implementation of SMS within PHMSA and supporting the broad implementation of SMS within the industries we regulate. PHMSA will focus on better informing and controlling risk, detecting and correcting safety problems earlier, sharing and analyzing safety data more effectively, and measuring safety performance more accurately. These are just some of the benefits of an SMS focus and as

PHMSA advances SMS, it is critical that industry share safety data with both regulators and other parts of industry so lessons learned can improve pipeline safety across the entire country. In 2010, the National Transportation Safety Board (NTSB) recommended that the American Petroleum Institute (API) facilitate the development of a safety management system standard specific to the pipeline industry, in collaboration with industry, regulators and other stakeholders. PHMSA participated in the development of API Recommended Practice 1173, the recently published recommended standard for implanting Safety Management Systems in the pipeline industry.

PHMSA fully supports the implementation of RP 1173 and plans to promote vigorous conformance to this voluntary standard. The recommended practice is a proactive, system-wide approach to reducing risks and provides operators with a comprehensive framework to address risk across the entire life cycle of a pipeline. The standard promotes pipeline safety, while implementing guidelines for continuous improvement.

Moving forward, PHMSA will leverage the powerful working relationships we have with states and other stakeholders to encourage the widespread adoption of SMS.

C. Improving Transparency and Public Engagement

PHMSA values and will continue to create opportunities to educate and engage with all pipeline stakeholders to collaborate on ideas and actions that enhance pipeline safety and expand transparency.

PHMSA is committed to making pipeline safety data more readily available and accessible to the American public. PHMSA maintains a public database of all our enforcement actions as well as operator incident, inspection, mapping, and other safety related records.

In addition to making pipeline safety data available, public education is vital to reducing pipeline risks. It is critical to engage local communities in the pipeline safety processes and decisions that impact their daily lives. PHMSA's Community Assistance and Technical Services program provides local communities and other stakeholders with a direct line to PHMSA.

V. CONCLUSION

As PHMSA works diligently to complete the remaining mandates from the 2011 Pipeline Safety Act, we must also look forward to reauthorizing and further advancing PHMSA's pipeline safety program. PHMSA's vision for 2021 is to become the most innovative transportation safety organization in the world. This vision for PHMSA's safety program will ensure the Agency is responsive and able to address emerging safety risks and other priorities. It will enable PHMSA to invest in the capabilities and skills necessary to utilize data to provide timely and effective regulations, enforcement, implementation of innovative technology, research and development investments, and public outreach to become a more forward-looking, proactive, innovative, and data-driven organization. These and future changes will transform PHMSA into a next-generation safety agency and enable PHMSA's staff and other stakeholders to take advantage of new and exciting opportunities to advance transportation safety. We look forward to working with the Congress to continue to enhance PHMSA's safety mission.

Thank you again for the opportunity today to discuss PHMSA's pipeline safety program.

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QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
HEARING ON
REAUTHORIZATION OF THE DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM

Administrator Marie Therese Dominguez, PHMSA

- **Have you completed the class location regulation report, required as part of the 2011 Act, and can you share that with the Committee?**

RESPONSE: PHMSA's report to Congress on the expansion of integrity management programs is currently under review. PHMSA intends to issue a final report in the next 30 days.

- **Could you describe the ways in which integrity management regime is duplicative of the older, 1970s regime of replacing pipe based on "class locations"? What are some of the real world impacts of having operators manage their systems under two overlapping regulatory frameworks?**

RESPONSE: Gas transmission pipelines are currently classified as Class 1, 2, 3, or 4 locations with a Class 4 location being defined as the highest density location where buildings of four (4) or more stories are prevalent. Since the inception of the gas pipeline safety regulations, the class location designation has been integral to basic design and construction parameters of pipeline systems such as design pressure, pipe wall thickness, valve spacing, and initial non-destructive and hydrostatic testing. Class location is also involved in determining maximum allowable operating pressure (MAOP), pipeline repairs, high consequence areas (HCAs), and various operating and maintenance requirements.

The integrity management regulations for gas transmission pipelines (Part 192, Subpart O) require gas pipeline operators to have processes and procedures to integrate and analyze system data, identify threats, perform assessments, and mitigate pipeline risks in order to reduce both the likelihood and consequences of incidents in HCAs. HCAs are a limited portion of pipeline transmission mileage (approximately 6%) and are based upon a potential impact circle around the pipeline determined through calculations using pipe diameter and pressure.

The integrity management regulations supplemented the pipeline safety regulations that were in place at the time of their adoption. While these risk mitigation programs are an important part of operating HCA segments safely, class locations affect 12 subparts and 28

sections of the Part 192 regulations including the above-referenced aspects related to pipeline design and construction.

In evaluating various approaches to the question of retaining class location, stakeholders have expressed the view that more efficient and practical class location approaches that improve safety and avoid certain pipe replacements where class location has changed may be appropriate where safety can be maintained with other robust measures including mature integrity management programs. PHMSA is considering these issues in the context of other issues it is addressing related to new construction quality management systems (QMS) and safety management systems (SMS). Upon its release, PHMSA's report to Congress on the expansion of integrity management programs will describe how PHMSA has carefully examined the relationship between class location and integrity management in light of their respective purposes and need.

On behalf of Rep. Cresent Hardy (NV-04)

I want to thank Chairman Denham for his efforts on this issue. With one of the most intricate and largest ecosystems of pipelines in the world, this committee has continued to keep safety and efficiency top of mind.

I want to direct my questions today on the mandates that Congress pressed upon you in the 2011 law. In total, I believe we required roughly 40 plus mandates back in 2011. I understand that you have completed approximately half of them.

- **First, any comment on the remaining mandates? Potential roadblocks preventing completion?**

RESPONSE: Safety is the Department of Transportation's top priority and completing Congressional mandates will result in critical improvements that advance PHMSA's safety mission. In the last seven months, PHMSA has made significant progress in addressing the requirements in the 2011 Act. The Federal rulemaking process is designed to be thoughtful, thorough and transparent. The multi-step process includes the introduction of a Notice of Proposed Rulemaking, receiving and reviewing public comments, consultation with technical pipeline safety advisory committees, obtaining executive level clearance, and other actions and the process can take time to complete.

- **Administrator Dominguez can you provide the Committee with an estimate of when the remaining half will be completed? This will be instrumental as we continue to craft the next pipeline safety reauthorization.**

RESPONSE: The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act) included 42 new requirements. PHMSA has completed 27 of the Act's mandates. Ten of the remaining mandates will be addressed as part of current rulemaking activities or reports. The rulemaking activities include four proposed rules PHMSA has issued, which are: natural gas transmission pipelines, hazardous liquid pipelines, expansion of excess flow valve usage, and operator qualification, cost recovery, and accident notification. With the exception of the Notice of Proposed Rulemaking on gas transmission pipelines, which is currently in the comment phase, PHMSA is in the process of finalizing each of these proposed rules. Additionally, PHMSA is planning to issue a separate rulemaking proposal that will propose new standards for leak detection and automatic shut-off valves for both hazardous liquid and gas transmission pipelines. The remaining five mandates are all tied to reports and data collections.

On behalf of Rep. Mimi Walters (CA-45)

- **Is PHMSA the sole agency that would set the minimum safety standards for interstate underground natural gas storage?**

RESPONSE: PHMSA is the primary safety regulator for *interstate* (i.e., certificated by FERC) underground gas storage facilities, and would enforce Federal pipeline safety requirements on the portions of an interstate facility covered by 49 C.F.R. Part 192.
A state agency would be the primary safety regulator of an *intrastate* facility (i.e., subject to the authority of a state public utility commission). If the state has an annual certification with PHMSA under 49 U.S.C. § 60105, then the state would be the primary safety regulator and would enforce with respect to the portions covered by 49 C.F.R. Part 192. Currently, 48 of the 50 states have such a certification.

Under 49 U.S.C. § 60104(c), a certified state authority may establish and enforce additional regulations beyond any PHMSA regulations in place. Since PHMSA does not currently have regulations affecting underground gas storage, certified state authorities are free to adopt their own regulations for intrastate underground gas storage facilities. State agencies that do not currently have a certification with PHMSA can still have some role in overseeing the operation of wells if they have independent authority (i.e., not pipeline-related) under state law. These state laws often cover the commissioning or permitting of wells and can add to

the state's oversight ability, but only a state authority with certification from PHMSA can regulate intrastate gas storage facilities under authority derived from the Pipeline Safety Act.

Federal pipeline safety regulations in 49 C.F.R. Parts 192 and 195 apply to various surface piping at storage facilities served by pipeline. With some exceptions, the piping system on the grounds of a facility, including piping up to the wellhead, headers, valves, pumps, meters, dehydrators, and other components, are generally subject to the current Federal pipeline safety regulations.

Underground storage wells, reservoirs, and well-bore piping that are vertically "down hole" from the wellheads are part of storage incidental to transportation, which is subject to PHMSA jurisdiction. PHMSA, however, has not yet promulgated regulations that would apply to the wells and underground storage reservoirs.

PHMSA recently issued an advisory bulletin that encouraged operators to review and implement American Petroleum Institute (API) and Interstate Oil and Gas Compact Commission (IOGCC) Recommended Practices, and will also initiate regulatory actions to help ensure the safety of natural gas storage facilities across the country, which may include requiring operators to follow some or all of the industry consensus standards recommended by PHMSA's recent safety bulletin.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
HEARING ON
REAUTHORIZATION OF THE DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM

The Honorable Marie Therese Dominguez, Administrator, Pipelines and Hazardous Materials Safety Administration

- **You mentioned that you are considering developing regulations on underground natural gas storage. Currently, with respect to pipeline transportation, States that have certifications with PHMSA can adopt additional or more stringent standards for intrastate pipeline as long as they adopt Federal standards as a minimum. Do you think that authority exists, or should exist, for intrastate underground natural gas storage tanks? And what happens in the case of state agencies that do not have a state agreement with PHMSA? Would they still have the authority to regulate intrastate underground natural gas storage tanks? If so, through what authority?**

  RESPONSE: Underground natural gas storage facilities must be operated in a safe and reliable manner and PHMSA encourages State Pipeline Safety Programs to obtain full safety authority available at the state level for all intrastate pipeline facilities, including both gas and hazardous liquid underground storage facilities.

  Federal pipeline safety regulations in 49 C.F.R. Parts 192 and 195 apply to various surface piping at storage facilities served by pipeline. With some exceptions, the piping system on the grounds of the facility, including pipe up to the wellhead, headers, valves, pumps, meters, dehydrators, and other components, are generally subject to Federal pipeline safety regulations. Underground storage wells, reservoirs, and well-bore piping that are vertically "down hole" from the wellheads are part of storage incidental to transportation which is subject to PHMSA jurisdiction. PHMSA, however, has not yet promulgated regulations that would apply to the wells and underground storage reservoirs.

  PHMSA is the primary safety regulator for *interstate* (i.e., certificated by FERC) gas storage facilities and would enforce Federal pipeline safety requirements on the portions of an interstate facility covered by Part 192.

  A state agency would be the primary safety regulator of an *intrastate* facility (i.e., subject to the authority of a state public utility commission). If the state has an annual certification with PHMSA under 49 U.S.C. § 60105, then the state would be the primary safety regulator and would enforce with respect to the portions covered by 49 C.F.R. Part 192. Currently, 48 of the 50 states have such a certification.

  Under 49 U.S.C. § 60104(c), a certified state authority may establish and enforce additional regulations beyond any PHMSA regulations in place. Since PHMSA does not currently have regulations affecting underground gas storage, certified state authorities are free to adopt

their own regulations for intrastate underground gas storage facilities. State agencies that do not currently have a certification with PHMSA can still have some role in overseeing the operation of wells if they have independent authority (i.e., not pipeline-related) under state law. These state laws often cover the commissioning or permitting of wells and can add to the state's oversight ability, but only a state authority with certification from PHMSA can regulate intrastate gas storage facilities under authority derived from the Pipeline Safety Act.

- **You mentioned that through agreements and certifications, states assume authority over more than 80 percent of intrastate gas and hazardous liquid pipeline by inspecting and enforcing both Federal and state regulations. What happens if those state programs are deficient? Can you rescind their certification, and what authority do you have for also rescinding their grants that they are supposed to be using to implement their pipeline safety program?**

  RESPONSE: PHMSA currently has the authority under 49 USC 60105(f) to reject a state certification where PHMSA has determined that the State authority is "not enforcing satisfactorily compliance" with the Federal minimum safety standards. Under 49 USC 60106(e), PHMSA may also terminate an interstate agency agreement if the State fails to establish a program that adequately enforces compliance with Pipeline Safety Regulations or other requirements. PHMSA works with State partners to forestall conditions leading to a rejection of State certification. PHMSA continues to work on strengthening the Federal/State safety partnership that has existed for many years to improve safety and reduce risk.

  The grant funding given by PHMSA to state pipeline safety programs is based on PHMSA's pipeline safety base grant formula. The formula calculates factors such as a state's budget amount, annual performance score, and the total amount of appropriated funds for PHMSA's state base grant program for a given year. To determine a state's annual performance score, PHMSA conducts annual evaluations of state pipeline safety programs to ensure they are compliant with PHMSA's pipeline safety requirements. These annual evaluations determine a state's total point award for the following year's pipeline safety grant. If a state loses points on the program evaluation and progress report scoring, a state would lose grant funding, which could, in some cases, result in restricted travel for inspections or training. As an alternative to reducing grant funding amounts for states with deficient programs, PHMSA makes concerted attempts to work with states to identify and take corrective actions to address performance issues, rather than holding grant funding at jeopardy when a state performance issue is identified. If corrective action is not taken then grant funding is reduced until the State Program makes the necessary corrections. PHMSA also conducts reviews of the grant expenditures of State Pipeline Safety Programs to assure grant funding is spent appropriately.

- **Currently, there are seven vacancies on the technical advisory committees, which are used as negotiated rulemaking committees. No industry slot is vacant, yet some of the general public and state and federal government slots remain vacant, and have remained vacant for quite some time. What are you doing to fill the vacancies, and what will you do in the future to ensure they remain filled?**

RESPONSE: The rulemaking process is methodical to ensure that new rules are effective, efficient, and reflect feedback from all stakeholders. PHMSA is working to balance representation on the gas and liquid pipeline technical advisory committees to ensure that their recommendations are borne out of balanced and robust conversations. PHMSA's advisory committees, as prescribed under 49 U.S.C. § 60115, contain 15 members on each committee, appointed from three distinct categories. The statute provides the Secretary of Transportation the authority to appoint to each committee: (1) five individuals from departments, agencies, and instrumentalities of the U.S. Government and of the states; (2) five individuals from the natural gas or hazardous liquid industry, selected in consultation with industry representatives; and (3) five individuals selected from the general public. Section 60115(b)(4)(A) further directs the Secretary to appoint state commissioners to the category of individuals selected from departments, agencies, and instrumentalities of the U.S. Government and of the states.

PHMSA continues to make progress in filling vacant seats on its committees, but challenges remain. Membership on the committees is in constant flux, due in part to changes in appointments, appointment limitations, retirements, and career considerations. In the last 24 months, PHMSA has filled seven vacant slots, including four of its government representatives, in addition to two public, and one industry. Unfortunately, PHMSA lost five advisory committee members in the same period, including four government members, three of whom were state utility commissioners, and one public member. Members who are state commissioners can be difficult to retain because they are appointed officials who serve three-year terms and can only remain a member of a public advisory committee as long as they continue to hold their commissioner status.

There are definite advantages to making a minor adjustment to the membership requirements for the state utility commission members. By allowing these two positions on each committee to be drawn from "State officials," as opposed to "State commissioners" this change would enable PHMSA to fill these positions with individuals who would continue to represent the interests of State and local government agencies while reducing the frequency of vacancies that occur within the government category. These State officials would continue to consist of individuals who are knowledgeable about pipeline safety and who are aware of the effects pipeline safety decisions can have on their states and communities.

- **Why is it important for PHMSA to have emergency order authority? How is that different from your authority to issue Corrective Action Orders and advisories?**

RESPONSE: Pipeline safety would be enhanced by an additional comprehensive enforcement tool to address time-sensitive, regional or industry-wide safety conditions through emergency orders. Unlike a Corrective Action Order (CAO) generally issued to a single operator, the scope of an emergency order issued by the Secretary could potentially apply to multiple operators and/or pipeline systems that share a common characteristic, dangerous practice, or condition that is or would pose an imminent hazard to life, property, or the environment, and where the Department needs to address a safety issue in a comprehensive and timely way.

- **The Government Accountability Office has stated that only 10% of gathering lines in high-consequence areas are regulated. What is PHMSA doing to address the safety of gathering lines?**

  RESPONSE: PHMSA currently regulates both gas and hazardous liquid gathering lines that meet certain size, location, and operating pressure criteria. Those gathering lines that do not meet these criteria are exempt from regulation, including lines associated with onshore production, refining or other manufacturing facilities or transferring product to non-pipeline modes of transportation. Regulation of certain crude oil gathering lines is precluded by statute, including some small-diameter crude oil gathering lines in rural areas.

  PHMSA issued two requests for public comment on whether regulations should include additional rural gathering pipelines not currently subject to regulation. PHMSA conducted an independent study through Oak Ridge National Laboratories on current gathering line regulations. Based on the independent study and the ANPRMs, PHMSA is considering the need for additional coverage to ensure the safety of natural gas and hazardous liquid gathering lines, and continues to gather data on the need to further regulate gathering lines.

  PHMSA's gas transmission NPRM will address further regulating natural gas gathering lines, including adding them to PHMSA's current inspection and enforcement schedules to ensure they receive proper oversight and scrutiny for their operator's adherence to federal pipeline safety requirements. PHMSA's gas and hazardous liquid proposed rules would extend reporting requirements to all gathering lines (including unregulated lines), allowing PHMSA to obtain a better picture of all the existing gathering lines in the nation.

- **In the 2010 Enbridge pipeline spill, the pipeline was leaking 17 hours before it was shutdown. In the recent Plains Pipeline incident in Refugio, California, the pipeline ruptured at about 10:55 am but the valve wasn't closed until about 1:49 pm and the incident wasn't reported to the National Response Center until about 2:56 pm. We see all-too-often a lag time for response by pipeline controllers. What specific actions should pipeline operators take to detect leaks, ensure that controllers recognize a problem, and promptly shut down the pipeline?**

  RESPONSE: Current Pipeline Safety Regulations require pipeline operators to have a means for detecting leaks in high consequence areas, evaluate the capability of their leak detection systems, and modify them as necessary to provide adequate protection.

  Section nine of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 directed PHMSA to revise Federal Pipeline Safety regulations to establish time limits for the telephonic notification of pipeline releases to the National Response Center (NRC). In its January 30, 2013 Advisory Bulletin, PHMSA advised owners and operators of pipeline

facilities to notify the NRC of a confirmed discovery of an accident or incident at the earliest practicable opportunity that is not later than one hour following the time of such confirmed discovery. The proposed rule adds to the 2013 Advisory Bulletin by further establishing an enforceable time limit for pipeline failure notifications of at the earliest practicable moment following discovery of the incident, but no later than one hour after confirmed discovery. The proposed rule also clarifies the practical meaning of the term "confirmed discovery" to when there is sufficient information to determine that a reportable event has occurred, even if an evaluation has not been completed.

In addition to notifying the NRC, pipeline operators are required to take prompt action to identify the location of the failure; control the release of any hazardous product, including shutting down or reducing pressure on the affected pipeline; and minimize the effect the failure could have on the public or surrounding environment. The failure to do so may expose an operator to being found in violation of existing regulations.

- **The National Academy of Sciences has recommended that oil pipeline operators include Safety Data Sheets in their oil spill response plans. Do you believe this is important, and why?**

RESPONSE: Currently, pipeline operators are required to meet the Department of Labor's Occupational Safety and Health Administration (OSHA) requirements and possess safety data sheets (SDS) to communicate the hazards of chemical products; the data sheets must be readily accessible to employees. PHMSA regulations require gas, liquefied natural gas, and hazardous liquid pipeline operators to have procedures and plans for emergencies which include ensuring emergency response personnel know the characteristics and hazards of the products transported by the pipeline, but do not specifically require SDSs or reference OHSA regulations. Additionally, under 49 CFR Part 194, onshore pipeline operators transporting oil are required to have oil spill response plans. While crude oil pipeline operators are required to identify the type(s) of oil transported, the regulations do not require these operators to use SDSs to meet this requirement.

Requiring operators to include the safety information contained in SDSs as part of their oil spill response plans and sharing these documents with responders for materials that are transported in pipelines, can provide critical safety information to responders. The information included within these documents are important, as they assist individuals handling hazardous products to become familiar with their chemical properties, safe handling procedures, environmental health hazards, and other necessary information. In addition, the effort would provide responders with the information needed to make important emergency-control and other decisions regarding the types of products transported by pipelines in the event of a failure. PHMSA will also continue to work with other Federal agencies involved in the National Academies of Science's (NAS) study of diluted bitumen to address NAS recommendations and improve oil spill response planning and preparedness.

- **Do you believe the Technical Assistance Grant program is important and why? What specific internal controls exist for issuing the grants and monitoring how they are used?**

RESPONSE: The Technical Assistance Grant (TAG) provides funding to local communities and groups of individuals (excluding for-profit entities) for technical assistance related to pipeline safety. The grants fund engineering or other scientific analyses of pipeline safety issues and help promote public participation in official proceedings. The TAGs provide funding assistance to get local communities more involved in pipeline safety issues through public education about pipelines in a given area and fostering open communication between the public and pipeline operators on pipeline safety and environmental protection.

Since the inception of the program in 2009, the Department has awarded over $7,000,000 for 166 individual grant projects. The awards have funded diverse pipeline-safety activities, including: improvement of local pipeline emergency response capabilities; improvement of safe digging programs; development of pipeline safety information resources; implementation of local land use practices that enhance pipeline safety; community and pipeline awareness campaigns; and public participation in official proceedings pertaining to pipelines.

All grant proposals and project scopes are thoroughly reviewed to ensure the proposed projects align with the grant requirements and eligibility criteria, which are outlined in detail in the TAG solicitation. For example, PHMSA conducts an initial administrative review of each completed TAG application to determine if it is complete and meets the eligibility and responsibility requirements. A technical evaluation team comprised of local, state, and the Federal Government representatives with expertise in pipeline safety then reviews and evaluates each completed application meeting the eligibility requirements, and provides recommendations for award. The evaluation criteria align with the challenges and strategies in PHMSA's Strategic Plan. The final award decisions are made by the Department after taking into consideration the recommendations made by the technical evaluation team. PHMSA may, at its discretion, award a grant based on an application in its entirety, award only portions of a grant based on its application, or not award a grant at all. In total, four (4) reports including a mid-term progress report, a mid-term financial status report, a final report, and a final financial report on the deliverables funded by the grant are required. Funds provided under the TAG may not be used in direct support of litigation, lobbying, or for direct advocacy for or against a pipeline construction or expansion project.

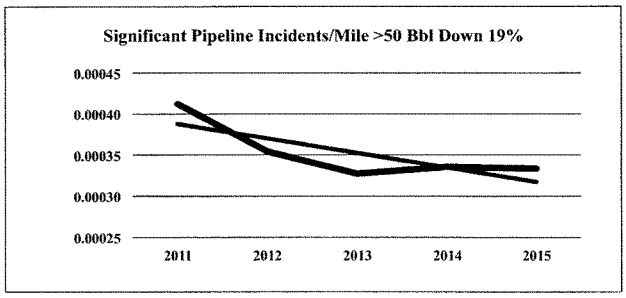
The TAG program is important because it facilitates community involvement in pipeline safety at the local level. Pipeline safety is a shared responsibility and these grants allow communities and local governments to develop specific solutions to individual pipeline safety challenges. Through the TAG program, PHMSA impacts pipeline safety at the local level and helps our pipeline safety partners in educating the public and developing safety solutions for their respective communities.

Testimony of Andrew J. Black
Association of Oil Pipe Lines, President & CEO
before the
U.S. House Committee on Transportation & Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials
February 25, 2016

Thank you. I am Andy Black, President and CEO of the Association of Oil Pipe Lines (AOPL). I am also testifying today on behalf of the American Petroleum Institute (API). We represent transmission pipeline operators who deliver crude oil, refined products like gasoline, diesel fuel and jet fuel, and natural gas liquids such as propane and ethane. Our U.S. pipelines extend over 199,000 miles throughout the country, safely delivering more than 16.2 billion barrels of crude oil and energy products a year.

Pipelines play a critical role in delivering energy to American workers and families. Americans use the energy our pipelines deliver in their cars and trucks to commute to work or drive on the job. Our pipelines also transport products like propane that farmers use for rural heating and crop drying and raw materials such as ethane that American workers use for their good-paying manufacturing jobs.

Pipelines are an exceedingly safe way to deliver the energy America needs. The average barrel of crude oil or petroleum products reaches its destination safely by pipeline greater than 99.999 percent of the time. According to Pipeline and Hazardous Materials Safety Administration (PHMSA) data, significant liquids pipeline incidents that could affect an environmentally sensitive area or population center, so-called "high consequence areas", are down 8 percent over the last 5 years. Significant liquids pipeline incidents per mile that are over 50 barrels in size are down 19 percent over the last 5 years meaning incidents of significant size are not increasing, but decreasing.



Data Source: PHMSA Pipeline Safety - Flagged Incidents at www.phmsa.dot.gov

Even with these positive pipeline safety performance numbers, the member companies of AOPL and API are constantly working to improve pipeline safety even further. While pipelines may be one of the safest modes of energy transportation, our ultimate goal is zero pipeline

incidents. While pipeline incidents compared to the amount of product we deliver are infrequent, we are committed to continuously developing new ways to improve pipeline safety.

The AOPL and API *Pipeline Safety Excellence* initiative embodies the work of nearly a dozen industry-wide pipeline groups to improve pipeline operations and safety. We are funding research and development on pipeline inspection technologies, enhancing our threat detection and response capabilities, expanding safety culture and management systems, and boosting our emergency response capabilities.

In 2015, liquids pipeline operators completed development of a number of industry-wide recommended practices and technical reports to improve our ability to detect pipeline cracking, integrate safety data, manage safety efforts holistically, manage leak detection programs, and better plan for and respond to pipeline emergencies.

With development now complete, we have turned in 2016 to the implementation of these safety recommendations industry-wide and throughout the country. A prime example is our effort to encourage and assist implementation of the API Recommended Practice (RP) 1173 for Pipeline Safety Management Systems. Recommended by the National Transportation Safety Board (NTSB) and developed in conjunction with PHMSA and state pipeline regulators, Pipeline Safety Management Systems is helping pipeline operators comprehensively and holistically manage all the safety efforts underway across a company. Other industry sectors, such as aviation, nuclear power and chemical manufacturing, have benefited from safety management systems. Now, more pipeline operators are benefiting, too.

Pipeline Safety Management System RP implementation efforts by liquids pipeline operators include:

- *Implementation Workshop* - Mid-level managers responsible for implementing the pipeline safety management system recommended practice gathered in Houston last week for a full day meeting to share implementation strategies
- *Implementation Overview Booklets* – Three handy, easy to digest implementation overview booklets describing the new recommended practice, illustrating its benefits to pipeline operators, and providing implementation advice
- *Gap Analysis Tool* – An implementation tool for operators to analyze their current programs, compare them to the new recommended practice, and identify any gaps requiring implementation action
- *Peer-to-Peer Guide* – An implementation tool to facilitate small groups of pipeline operators coming together and sharing their pipeline safety management system challenges and successes
- *Evaluation Tool* – An evaluation tool expected later this year to help pipeline operators identify and review the 100-plus key activities associated with the Pipeline Safety Management System RP

- *Implementation Website* – This resource will serve as a repository for all the booklets and tools for operators, as well as a location for information allowing the public to learn more about the value of a safety management system

In addition to these implementation activities, in 2016 pipeline operators within AOPL and API will also complete expansion of industry-wide guidance on river crossings, develop a new recommended practice for construction quality management, and update our industry-wide recommended practice for pipeline integrity program management, API RP 1160.

This last safety improvement action brings us to last summer's pipeline release in Refugio, California. Pipeline operators recognize the impacts a spill can have on surrounding communities and the environment. The operator involved in this incident has expressed regret for the hardship this incident has caused and has worked with authorities on appropriate post-incident actions.

From an industry-wide perspective, we echo the words of Transportation Secretary Foxx last week at the release of PHMSA's preliminary incident report calling it, "an important step forward that will help us learn what went wrong, so that everyone involved can take action and ensure that it doesn't happen again." AOPL and API members are committed to using the lessons learned from the incident to take industry-wide action to prevent a release like this from happening again.

The February 17, 2016, PHMSA preliminary factual findings could be described as the "what" of the Refugio incident. Therein PHMSA provided a chronology of events the day of the incident and a basic rupture location description. We eagerly anticipate PHMSA's final report later this year with root cause analysis and recommendations describing the still unknown "how" and "why" this incident occurred.

We know that the pipe operated in this incident was different than the majority of pipelines operating across the country. As the report indicated, the pipe at Refugio involved insulated pipe transporting heated crude oil. Pipe in much of the rest of the country does not transport heated crude, and therefore, does not have an extra insulation layer. Whether and how these factors contributed to the corrosion, how fast it spread, possible interference with smart pig results, the access of moisture to the pipe surface, or the ability of cathodic protection systems to ward away corrosion are still unknowns. Without this information, we do not know if the incident was rooted in the unique pipe attributes or whether there are broader nationwide lessons to be learned.

At a minimum, we know there is opportunity for further industry-wide discussion and perhaps guidance for those operators that use heated insulated pipe systems. Further, many of the operators running these systems are already taking action above and beyond current integrity practices. We want to ensure all operators in the pipeline industry have access to the benefits of this knowledge. This year, as part of our 2016 update of API RP 1160 on pipeline integrity management, we will ensure lessons learned from industry-wide review and discussion of these

matters and PHMSA Refugio incident report recommendations are reviewed and incorporated where appropriate. This will be in addition to liquids pipelines incorporating lessons learned on crack management, data integration and pipeline safety management systems. Coming in 2016, the revised RP 1160 will accelerate implementation efforts more expeditiously than could occur through an agency notice and comment rulemaking process.

As we move closer to the next reauthorization of the national pipeline safety program, there is still much left for PHMSA to do from the 2011 reauthorization law. PHMSA is working to finalize a broad liquids pipelines rulemaking, which was started before the 2011 law was enacted. A PHMSA rulemaking on valves from the 2011 law likely to be proposed this spring will also not be finalized until later this year or beyond. We commend Congress for its recent oversight of PHMSA, which has resulted in the Administration issuing several rulemaking proposals and promising additional proposals, and encourage your ongoing oversight. PHMSA under its new leadership has certainly expressed its resolve to move expeditiously to meet its statutory and regulatory mandates.

As described above, pipeline operators have not stood by, and instead have advanced safety initiatives on inspection technology, cracking, data integration, safety management, leak detection and emergency response. With the numerous recent industry initiatives addressing current pipeline safety topics and additional PHMSA regulatory actions still to come, we encourage Congress to reauthorize the PHMSA pipeline safety program soon without adding significant new provisions.

Thank you for inviting me here today, and I look forward to answering any questions you may have for me.

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STATEMENT OF
DONALD F. SANTA
PRESIDENT AND CEO
THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

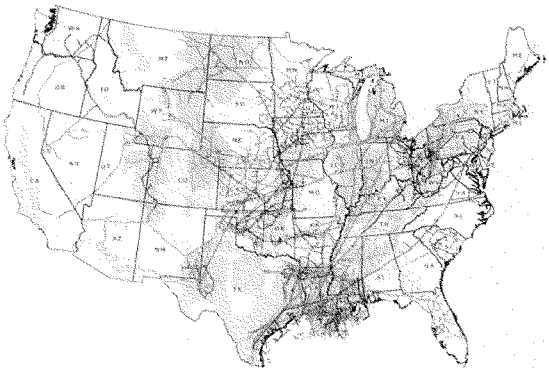
BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

REGARDING
REAUTHORIZATION OF DOT'S PIPELINE SAFETY PROGRAM

FEBRUARY 25, 2016

Good morning Chairman Denham, Ranking Member Capuano and members of the Subcommittee. My name is Donald F. Santa, and I am President and CEO of the Interstate Natural Gas Association of America, or INGAA. INGAA represents interstate natural gas transmission pipeline operators in the U.S. and Canada. The pipeline systems operated by INGAA's 24 member companies are analogous to the interstate highway system, transporting natural gas across state and regional boundaries. As you can see from the map below, this is an extensive energy infrastructure system.

U.S. Interstate Natural Gas Transmission Pipelines



INGAA and its members' core mission is the safe and reliable transportation of natural gas. Through a variety of initiatives – including best practices and standards development, regulatory compliance and damage-prevention efforts – this association has been committed to the continuous improvement of pipeline safety since its founding in 1944. As part of this commitment, INGAA supported the most recent reauthorization of

the Pipeline Safety Act, enacted in 2011. We also support implementation of the new law through regulations.

To date, however, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has not yet implemented several of the key regulatory mandates from the 2011 Act. INGAA hopes PHMSA will release these proposed regulations for public comment soon, so stakeholders can participate in a process that culminates in final rules within the next year. Another important step for pipeline safety is reauthorization of the Pipeline Safety Act during this Congress. Decisive action by Congress and PHMSA will keep pipeline safety moving in the right direction.

INGAA Safety Commitments

As mentioned, INGAA has a long history of engagement to improve pipeline safety. This began with the development of construction and operating standards during the early years of the natural gas transmission pipeline industry. In 1968, Congress enacted the Natural Gas Pipeline Safety Act, formalizing these standards and making them enforceable. In the decades since, Congress has added new requirements as technology has advanced and the ability to monitor safety performance has improved.

We have long maintained – and regulators agree – that the natural gas pipeline industry operates with a high degree of safety. Accidents are rare, and the number of fatalities and injuries from pipeline accidents is very low. The Department of Transportation states that pipelines are the safest mode of energy transportation.

Still, the pipeline failure in San Bruno, California in 2010 was a wake-up call for our industry. It reinforced for pipeline operators that pipeline safety is not just a matter of regulatory compliance; it is central to the industry's social license to operate. We recognize that safety must be our highest priority.

In the wake of that pipeline failure, INGAA's board of directors committed the association and its member pipeline companies to the goal of zero pipeline safety incidents. INGAA identified the commercial aviation sector as a model of an industry with a similar "zero incident" goal. While this is a tough, and some would say, impossible, goal to meet, the emphasis is in the right place – a pursuit of excellence.

INGAA's overarching goal of zero incidents is anchored by four core principles. These are: (1) a commitment to a strong safety culture as a critical dimension of continuous improvement; (2) a relentless pursuit of improving by learning; (3) a commitment to apply integrity management principles on a system-wide basis; and (4) a commitment to engage with stakeholders at all levels.

These core principles provided the basis for a nine-point pipeline safety action plan that the INGAA board endorsed in early 2011. This action plan – known as the INGAA Integrity Management Continuous Improvement (or IMCI) initiative – addresses all of the major issues raised in relevant reports by the National Transportation Safety Board (NTSB) as well as the key natural gas pipeline issues addressed within the Pipeline

Safety, Regulatory Certainty and Job Creation Act of 2011 (the 2011 Act). In connection with this, two items deserve specific mention: (1) expanding integrity management beyond High Consequence Areas, and (2) demonstrating that pre-regulation pipelines remain fit for service.

Consistent with our guiding principle of a relentless pursuit of improvement, INGAA's members worked with our peers in the hazardous liquid pipeline and gas distribution pipeline industries, as well as federal and state regulators, to develop a standard for pipeline safety management systems, called API recommended practice (or RP) 1173. This standard consolidates best practices within the industry and addresses a recommendation made by the NTSB. Our members are now implementing the safety management system elements established in RP 1173.

Recent Pipeline Safety Legislation

The Pipeline Safety Improvement Act of 2002 incorporated a new, risk-based approach to safety for natural gas transmission pipelines in federal pipeline safety law. The 2002 reauthorization law directed the Secretary of Transportation to develop a regulation on integrity management for natural gas transmission pipeline segments located in populated areas. Regulations subsequently required the operators of such pipelines to: (1) identify pipeline segments located in defined, populated areas, known as High Consequence Areas or HCAs; (2) conduct baseline inspection on such segments within 10 years; and (3) re-assess those segments every seven years thereafter.

This integrity management directive emphasized achieving the greatest enhancement to public safety by reducing risks in populated areas. For interstate natural gas transmission pipelines, only about six percent of total pipeline mileage is located in a defined HCA. Still, because the majority of these segments were inspected using in-line inspection tools ("smart pigs"), over 70 percent of INGAA's membership mileage is now being inspected periodically with this enhanced process in order to capture the six percent within HCAs. This has resulted in a 72 percent reduction in leaks attributable to corrosion, material or construction defects.

As part of its pipeline safety action plan, INGAA members committed to the phased expansion of integrity management beyond HCAs. INGAA's plan would cover 90 percent of pipeline segments located near people by 2020, and 100 percent of segments located near people by 2030. We advocate a phased approach in part to minimize delivery service disruptions. Testing some pipeline segments will be challenging because the pipeline must be removed from service for inspection and possible repair or replacement. INGAA's members are on schedule, and to date have inspected segments located in proximity to over 70 percent of the public along pipelines.

The 2011 Act directs PHMSA to examine the expansion of the integrity management program beyond the 2002 requirements, report its findings to Congress and issue any new rules that might be warranted.

The other major issue addressed in the 2011 Act involved whether pipelines constructed before federal pipeline safety regulations took effect in 1970 remain "fit for service." Many of the nation's natural gas transmission pipelines were constructed before 1970. Industry standards then called for operators to test new pipe to confirm its ability to operate safely at the system's maximum allowable operating pressure prior to placing such pipe in service. Beginning in 1970, operators were required by federal regulations to conduct this testing and retain related records for all new pipelines.

The accident in San Bruno highlighted the need for pipeline operators to ensure that they have adequate testing records. INGAA's members support the validation of testing records, as well as re-testing segments located in populated areas if traceable, verifiable and complete testing records cannot be produced.

The 2011 Act requires regulations on records/testing for pre-1970 pipe in highly populated areas. INGAA members have validated the material strength records for approximately 85 percent of the pipeline in HCAs and are far along in addressing the remaining segments. While these regulations have not yet been proposed, PHMSA engaged in a robust pre-rulemaking dialogue with pipeline safety stakeholders, including INGAA and its members, to develop a process to implement this requirement. We anticipate that PHMSA will address this topic, as well as the proposed expansion of integrity management, in its comprehensive natural gas rule currently under review by the Office of Management and Budget (OMB).

Natural Gas Safety Regulations – Importance of Certainty

INGAA's members remain committed to the goal of zero incidents, and progress toward that target must continue whether new regulations are issued, or not. Nonetheless, consistency between INGAA's voluntary commitments and the regulations that will implement the 2011 Act is both important and desirable. INGAA has engaged in an active dialogue with PHMSA (and other stakeholders) over the past four years to achieve this goal. This has been constructive, and we have every reason to believe that PHMSA's proposed rule will reflect INGAA's input.

Still, these proposed regulations are behind the schedule prescribed by Congress in 2011. INGAA acknowledges that regulations should be considered thoughtfully and include an analysis of costs and benefits. The practical consequence of this delay, however, is to erode the confidence of some pipeline companies that their voluntary safety commitments will be consistent with the final rules adopted by PHMSA. Therefore, operators may be reluctant to dedicate the enormous resources needed to implement the voluntary pipeline safety commitments. This hesitancy is rooted in the perceived risk that the rules ultimately might compel a repeat of certain steps in the pipeline safety action plan. This is not insignificant. For example, testing pipelines for material strength is both costly and disruptive to service because pipelines are removed from operation to complete the testing. Therefore, progressive pipeline operators are at risk if they act while new regulations are pending.

Our purpose here is not to be critical of, but instead to work collaboratively with, PHMSA. The regulatory process goes far beyond what PHMSA can control, and policymakers should avoid assigning PHMSA too much blame for the delays in implementing the 2011 Act. Indeed, some press articles have taken the simplistic view that PHMSA can simply draft new regulations and unilaterally bring such regulations into force. This narrative ignores the role of the Department of Transportation and OMB in vetting proposed rules before they can be published for public comment. This process is arduous at best. We need to recognize that reality and work with the agencies to make this difficult regulatory process as efficient as possible.

In the end, we need the regulatory certainty that will come with completion of the regulations implementing the 2011 Act. The title of that legislation makes the point. It is "The Pipeline Safety, *Regulatory Certainty* and Job Creation Act of 2011" (emphasis added). Without certainty, in the form of new safety regulations that clearly define expectations, the path forward on natural gas transmission pipeline safety will be far more disjointed.

Legislative Recommendations

INGAA encourages Congress to reauthorize the Pipeline Safety Act during this Congress. Our suggestions for a reauthorization bill include:

Finalize PHMSA Rulemakings Required by 2011 Reauthorization

As mentioned, several major natural gas rulemakings from the 2011 Act are incomplete. INGAA's highest priority for this next reauthorization is providing greater certainty on what those rulemakings will entail, such that industry can continue with confidence its initiatives to fulfill the purposes of the 2011 Act and other guidance even before regulations are finalized. Given how long it has taken to send these proposed rules to OMB for review, and the record of delay in other rulemakings across the executive branch, we have good reason to be apprehensive that final action is still months away. For example, if a proposed rule on gas transmission is released for public comment in the coming months, it is unlikely that such a rule could be finalized until 2017.

Create Safety Regulations for Underground Natural Gas Storage Facilities

There are approximately 425 underground natural gas storage facilities in the U.S. The facilities use underground geologic formations, such as depleted oil and gas wells, to store natural gas. While PHMSA has the statutory authority to do so, to date it has not promulgated federal safety regulations for these facilities. In an Advanced Notice of Proposed Rulemaking on gas transmission safety issues in 2011, PHMSA asked whether it should create safety standards and regulation for natural gas storage. INGAA responded in the affirmative, and over the past four years, we have worked with American Gas Association, the American Petroleum Institute, PHMSA and state officials to develop industry consensus standards that could form the basis for future regulations. These consensus standards, or recommended practices, were completed last September.

INGAA believes PHMSA should undertake a rulemaking to adopt new regulations for underground natural gas storage, and our hope is that the new recommended practices will help to facilitate the more rapid adoption of such rules. We recommend that Congress require the creation of federal regulations by a date certain. We also support the appropriate delegation of oversight authority to state entities for intrastate storage facilities, similar to the existing delegation of authority for intrastate pipeline regulation. Finally, INGAA recommends that Congress give PHMSA the authority to collect user fees from storage operators to fund federal and state oversight of storage facilities. Closing this gap in safety oversight would be an important step forward.

In connection with this, on February 10, INGAA's board of directors reaffirmed its commitment to underground storage integrity and voted to accelerate implementation of industry storage standards and to support PHMSA advancing federal regulation of natural gas storage based on existing consensus standards.

Eliminate Duplicative Requirements

Beginning with the federal rules promulgated in 1970, natural gas pipeline safety regulations always have prioritized achieving the greatest margin of safety where pipelines are in close proximity to population. At that time, regulators created four classes of pipe, based on the number of buildings in close proximity to the pipeline right-of-way. At one end of the scale are pipeline segments in rural areas; at the other end are segments in urban areas. A pipeline's class location changes if the number of structures along the pipeline increases. This can trigger a requirement that the operator either operate at a lower pressure – which is usually impractical from an operations standpoint – or completely replace pipelines with thicker-walled pipe.

Pipeline inspection technology now has advanced to a point where operators can inspect pipes internally and assess integrity without removing pipelines from service. This was not possible when the class location rules were adopted in the 1970s. As mentioned, regulations now require natural gas transmission pipeline operators to employ integrity management programs designed to increase the margin of safety for pipe segments located in populated areas. These programs include a thorough risk assessment and detailed pipeline inspections on a regular interval. Smart pig internal inspection technology is the principal method that INGAA members use to comply with integrity management regulations.

Consequently, pipeline operators now must comply with redundant regulatory requirements (integrity management and pipe replacement based on class location) that are intended to address the same problem. Today's use of integrity management principles, and associated inspection technology, is a more sophisticated approach to pipeline safety in populated areas. If pipes can be inspected so that their condition is known, there is no reason for replacing pipeline that remains safe to operate. Eliminating unneeded pipeline replacement also would reduce burdens on landowners and significantly reduce methane emissions and service disruptions.

In the 2011 pipeline safety reauthorization, Congress required PHMSA to assess "whether applying the integrity management program requirements, or elements thereof,

to additional areas would mitigate the need for class location requirements." Congress required a report from PHMSA by January 2014. To our knowledge, PHMSA has not submitted this report. We hope PHMSA and Congress will agree to eliminate the overlap between these two regulations.

Update Outmoded PHMSA User Fee Funding

While not INGAA's top priority, the PHMSA user fee and funding regime needs to be updated. The law authorizing the user fee, enacted in 1986, has not kept up with the times. PHMSA's user fees need scrutiny and a legislative update.

As part of the appropriations process, the Department of Transportation recently advocated amending the statutory authority for one of these user fees. To their credit, the House and Senate Appropriations Committees refused to legislate on an appropriations bill. The Senate Appropriations Committee also weighed in on another PHMSA user fee matter, related to the allocation of the Pipeline Safety Fund user fee. The committee's report on the Transportation/HUD appropriations bill[1] included the following statement:

> *Pipeline Safety User Fee Allocation.—The pipeline safety program is largely funded through user fees on natural gas transmission pipelines, jurisdictional hazardous liquid pipelines, and liquefied natural gas terminal operators. Recent authorizations have increased the responsibilities for PHMSA and the States with respect to the safety of our Nation's pipelines. Given this change in scope of the pipeline safety program, the Committee directs PHMSA to review the user fee collection process to determine if it should be modified to more equitably allocate the cost of the pipeline program across the industry segments covered by Federal and State oversight. PHMSA shall submit a report to both the House and Senate Committees on Appropriations within 60 days of enactment of this act, that summarizes the agency's statutory authority to revise the fee structure, its assessment of the current fee structure, and any recommendations for changes to the fee structure that should be considered by Congress as it considers reauthorization of PHMSA.*

INGAA agrees, and urges that this be done in a comprehensive fashion. The existing Pipeline Safety Fund fee is not assessed on all regulated sectors of the natural gas industry, but rather only on gas transmission operators. This gives rise to an important question: If a large block of "users" is not paying the user fee, is it still a "user fee" under budget rules and precedent? The answer to this question has implications for both Congressional committee jurisdiction and whether the dollars raised must be sent to the Treasury rather than reserved to offset PHMSA's costs.

We respectfully suggest that the authorizing committees review the current state of this user fee, and amend the statute to make this a true user fee assessed on all regulated sectors of the natural gas industry. At the very least, Congress should clarify that PHMSA is authorized to collect user fees from any new industry sectors added to PHMSA oversight either by statute or regulation.

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[1] H.R. 2577, as amended; S.Rrpt. 114-75.

Collaborative Pipeline Safety Research and Development

For many years, the pipeline industry worked in a collaborative fashion with DOT and PHMSA to identify and fund pipeline safety research and development (R&D) projects. This collaboration worked well in identifying key priorities and avoiding duplication of effort. Many of the pipeline inspection technology successes of the past were the product of this process. In 2011, however, the Secretary of Transportation suspended collaborative R&D efforts due to conflict-of-interest concerns.

We do not believe that such a conflict of interest, in fact, exists here. To the contrary, we contend that the government, public and industry share an identical interest in a robust and successful pipeline safety R&D effort. INGAA, therefore, suggests that PHMSA return to a collaborative R&D effort. For example, the existing pipeline safety advisory committees could serve as a forum for R&D discussion and approval. These advisory committees include equal representation from three different stakeholder groups – government, industry and the public. The pipeline safety advisory committees are a logical choice for establishing pipeline safety R&D priorities in a transparent and inclusive manner.

Conclusion

INGAA urges Congress to pass a pipeline safety reauthorization bill this year. Industry continues to make significant system-wide investments in advancing its goal of zero pipeline incidents. Congress should reauthorize PHMSA's pipeline safety programs for an additional four years, further emphasize the importance of completing the regulatory mandates from the 2011 Act, require action on underground storage safety, and address duplicative and outdated provisions that do not contribute to enhancing public safety. Mr. Chairman, thank you for the opportunity to share our views. I would be happy to answer questions at the appropriate time.

Testimony of
Cheryl Campbell
Senior Vice President, Gas
Xcel Energy

On Behalf of the American Gas Association

Before the
House Transportation and Infrastructure Committee
Subcommittee on Railroads, Pipelines and Hazardous Materials

Reauthorization of DOT's Pipeline Safety Program

February 25, 2016

Good morning, Mr. Chairman and members of the Committee. Thank you for this opportunity to provide testimony on the important issue of pipeline safety. I commend you and your colleagues on the work this committee has done over the years to ensure that America has the safest, most reliable pipeline system in the world.

My name is Cheryl Campbell. I am the Senior Vice President of Gas for Xcel Energy, which provides the energy that fuels millions of homes and businesses across eight Western and Midwestern states. Headquartered in Minneapolis, we are an industry leader in responsibly reducing carbon emissions and producing and delivering clean energy solutions from a variety of renewable sources at competitive prices.

Xcel Energy is committed to our customers, the communities we serve and the environment. Because of this commitment, safety is paramount among our company's core values. I am very proud of our safety track record; we continuously strive to improve safety performance in every aspect of our work.

I am testifying today on behalf of the American Gas Association (AGA). AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 72 million residential, commercial and industrial natural gas customers in the U.S., of which

95 percent - nearly 69 million customers - receive their gas from AGA members. Natural gas pipelines, which transport approximately one-fourth of the energy consumed in the United States, are an essential part of the nation's infrastructure. Indeed, natural gas is delivered to customers through a safe, 2.5 million mile underground pipeline system. This includes 2.2 million miles of local utility distribution pipelines and 300,000 miles of transmission pipelines that stretch across the country, providing service to more than 177 million Americans.[1]

Shale production has resulted in abundant supplies of domestic natural gas, and this robust supply situation has translated into affordable and stable natural gas prices for our customers. America needs clean and abundant energy and America's natural gas provides just that. This has made the safe, reliable and cost-effective operation of the natural gas pipeline infrastructure even more critically important. It is our job to ensure the safe and reliable delivery of natural gas, and I assure you we take this responsibility very seriously. Indeed, safety is our number one priority. Through an effective partnership between America's natural gas utilities, state regulators, Congressional and state legislators, governors and other key stakeholders working together to advance important safety policies, we have been able to both enhance system integrity and support increased access to natural gas service for homes and businesses.

DISTRIBUTION PIPELINES

Distribution pipelines are operated by natural gas utilities, sometimes called "local distribution companies" or LDCs. The gas utility's distribution pipes are the last, critical link in the natural gas delivery chain. Gas distribution utilities bring natural gas service to their customers we are seen as the "face of the gas industry." Our customers see our name on their bills, our trucks in the streets and our company sponsorship of many civic initiatives. We live in the communities we serve and interact daily with our customers and with the state regulators who oversee pipeline safety. We take very seriously the responsibility of continuing to deliver natural gas to our communities safely, reliably, responsibly and affordably.

AGA and its members support the development of reasonable regulations to implement new federal legislation as well as the recommendations of the National Transportation Safety Board, the U.S. Department of Transportation (DOT) Inspector General, Government Accountability Office, National Association of Pipeline Safety Representatives (NAPSR) and the National Association of Regulatory Utility Commissioners (NARUC). Within this testimony are actions

[1] See Attachment 1: *Natural Gas Pipelines Across the U.S.*"

that are being, or will be, implemented by AGA or individual operators to help ensure the safe and reliable operation of the nation's 2.5 million miles of natural gas pipelines. In implementing these actions, AGA and its individual operators recognize the significant role that their state regulators or governing body will play in supporting and funding these actions to fulfill our commitment to our customers.[2]

REGULATORY AUTHORITY

As part of an agreement with the federal government, in most states, state pipeline safety authorities have primary responsibility to regulate natural gas distribution utilities as well as intrastate transmission pipeline companies. Under these agreements, state governments adopt as a minimum the federal safety standards promulgated by the U.S. Department of Transportation.

The states may also choose to adopt standards that are more stringent than the federal regulations, and many have done so. LDCs are in close contact with state pipeline safety inspectors on a regular basis and as a result of these interactions, distribution operator facilities are subject to more frequent and closer inspections than required by the federal pipeline safety regulations.[3]

In addition to state pipeline safety inspectors, state public utility commissions are also a key part the safety matrix. We believe state commissions play a critically important role in ensuring pipeline safety and thus support NARUC's request that there be adequate funding for state pipeline safety programs. It is essential that the states have sufficient funding so that their inspectors can receive adequate training, participate in pipeline safety initiatives, and support excavation damage prevention efforts.

COMMITMENT TO SAFETY

Our commitment to safety extends beyond just government oversight. Safety is our core value – a source of pride and a matter of corporate policy for every company. Each company employs safety professionals; provides on-going employee safety training; conducts rigorous system inspections, testing, and maintenance, repair and replacement programs; distributes public safety information; and complies with a wide range of federal and state safety regulations and requirements. Individual company efforts are supplemented by collaborative activities in the safety and technical committees of regional and national trade

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[2] See Attachment 2: "*Natural Gas Delivery System*"
[3] See Attachment 3: "*Regulators and Stakeholders*"

organizations. Examples of these groups include AGA, the American Public Gas Association, the Interstate Natural Gas Association of America, the Southern Gas Association, the Northeast Gas Association, the Western Energy Institute, the Midwest Energy Association, and the Northwest Gas Association.

When last AGA testified before this committee on the topic of pipeline safety in 2014, natural gas utilities were spending an estimated $19 billion a year in safety-related activities. Today, that number has grown to $22 billion—and it will continue to grow as more of the recently approved replacement programs commence. Approximately half of this money is spent in complying with specific federal and state regulations. The other half is spent as part of our companies' voluntary commitment to help ensure that our systems are safe and that the communities we serve are protected. Moreover, we are continually refining our safety practices to help improve overall safety and reliability.

On October 26, 2011, AGA released our "Commitment to Enhancing Safety," which outlines just a few of the industry's commitments above and beyond regulations. Our companies feel so strongly about these voluntary actions that the AGA "Commitment to Enhancing Safety" has been updated twice in the past six months to incorporate lessons learned from implementation of pipeline safety regulations and recent industry incidents. This is just one example of how the industry is leading on safety by demonstrating the highest level of commitment to constant improvement and by upholding pipeline safety as our number one priority.[4]

Outside of regulation and legislation, AGA members are striving to improve pipeline safety:

- Through AGA's Safety Culture Statement, each AGA member has committed to promoting positive safety cultures among their employees throughout the natural gas distribution industry. All employees as well as contractors and suppliers providing services to AGA members, are expected to place the highest priority on employee, customer, public and pipeline safety.

- As noted above, AGA's Commitment to Enhancing Safety outlines industry's continued commitment to improving pipeline safety through voluntary actions above and beyond federal regulations. This includes actions beyond regulations to build pipelines safely, operate pipelines safely, and enhance pipeline

[4] See Attachment 4: "*AGA's Commitment to Enhancing Safety*"

safety. A recent addition to the Commitment to Enhancing Safety is promotion of the use of recently released recommended practices for underground storage facilities. AGA and its member companies also state their commitment to proactively collaborate with public officials, emergency responders, excavators, consumers, safety advocates and members of the public to continue to improve the industry's longstanding record of providing natural gas safely and effectively to 177 million Americans.

- AGA has also developed numerous pipeline safety initiatives focused on raising the bar throughout the natural gas distribution industry. Two such programs are AGA's Peer Review Program and AGA's Gas Utility Operations Best Practices Program. Both allow subject matter experts from AGA member companies to help improve industry practices through reviewing and sharing individual company policies, procedures and practices.

REVIEW OF PIPELINE SAFETY LEGISLATION AND REGULATION

From a regulatory perspective, the past ten years have easily included more significant pipeline safety mandates and rulemakings than any other decade since the creation of the federal pipeline safety code in 1971. I want to assure the committee that the natural gas distribution industry has worked vigorously to implement those provisions that are related to our sector. In some cases, it takes considerable time for complicated rules to be promulgated, vetted, finalized and then fully implemented, but please know that we are constantly working on ways to better manage the system and improve safety and, in most cases, take actions to begin implementing proposed regulations before they become final.

The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 and the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 each outlined significant industry-changing pipeline safety programs. While AGA members have implemented aspects of these programs either through DOT regulation or voluntarily, it is important to note that many of the programs are still in their infancy. Thus, we urge Congress to allow these programs to continue to be developed and mature in order to realize their full impact.

Over the years we have found that it is best to fully implement new safety programs and regulations prior to layering on additional requirements. This allows for the gathering of conclusive data to aid in determining specifically what, if any, adjustments or changes need to be made. In the case of the unanimously passed Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, several of the bill's required regulations have yet to be promulgated or finalized. Therefore, we

would strongly encourage the committee to be judicious in making new changes to the law.

The specifics of the 2011 Act included very substantive changes to the federal pipeline safety law, such as changes to incident notification timelines, testing of certain gas transmission lines, requirements for valves, as well as changes in areas related to gathering lines, leak detection, and integrity management. DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) is still working to address a number of those significant requirements through rulemakings and other initiatives. These efforts impact such comprehensive issues as expansion of transmission integrity management, additional pressure testing requirements on transmission pipelines, excavation damage prevention, rupture detection and valves, excess flow valves beyond single family homes, and plastic pipe regulations. We are pleased that PHMSA is continuing to work on these outstanding regulations and we look forward to the certainty that final rules will bring. In the interim, PHMSA has issued a number of significant guidance documents, released the results of a congressionally-mandated study on leak detection, conducted research and development focused on improving pipeline safety, provided pipeline safety grants to states and local communities, and created an online database to track progress in replacing cast iron and bare steel pipelines. Each of these actions has been very important and impactful.

Given that so many of the mandates from the 2011 bill remain to be completed, we believe it would be unwise to legislate a bevy of new requirements on PHMSA at this time. We are concerned that additional mandates could lead to a detour from the significant work that is already underway. Companies work day in and day out to make sure they continue to improve the safety of their systems, and it is critical that progress on pending regulations remains the focus so as to help ensure that these safety improvements are not negated. The work that PHMSA has completed to date, the important initiatives taken by industry on its own, and the significant actions taken by NAPSR, NARUC, individual public utility commissions and state legislatures around the country have produced significant improvements in pipeline safety over the last several years. While natural gas distribution companies are eager to move forward with other aspects of the 2011 Act, they and their state commissions are hesitant to do so without the certainty that will come for the issuance of final rules. The predicament that is presented to pipeline operators is the desire to meet the intent of specific legislative language, but the fear that their work will need to be redone once a final rule is issued. Any requirement to undo actions or else add further requirements would result in additional costs. These costs would be paid for by the customers of the natural gas distribution company

and could create significant disruption to the public. AGA members desire a path forward that entails regulatory certainty rather than a path filled with uncertainty, potential duplicative actions, or additional cost burdens on their customers.

CAST IRON

Natural gas utilities continue to be ever vigilant and committed to systematically upgrading infrastructure based on enhanced risk-based integrity management programs. A lot of discussion during the development of the 2011 bill focused on cast iron and unprotected bare steel, and the need to increase efforts to replace those materials in a more accelerated fashion. As a result, there is a continually growing effort underway to accelerate the replacement of pipelines that may no longer be fit for service. This work is being facilitated by specific state regulatory and state legislative policies that establish innovative rate mechanisms which allow for accelerated replacement and modernization of natural gas pipelines. As a result, of more of these specific replacement programs being approved, and existing programs being expanded around the country, the quantity of cast iron main continues to steadily decline. I am delighted to be able to report that as of today, overall cast iron makes up less than two percent of the total distribution mileage -- and that number is continuing to go down.[5]

Today, PHMSA reports that there are 29,358 miles of cast iron pipelines in use. The approximate cost of removing these pipelines is over $80 billion. The specific costs associated with replacement vary depending on the size of the pipeline, if the pipeline is in a rural or very urban setting, if the pipeline is under pavement or under grass, the depth of the pipeline, and the difficulty of continuing to provide natural gas to the customers served by that pipeline. To be certain, all utilities have an infrastructure replacement program and seek to remove pipelines no longer fit for service as rapidly as they are able and allowed through their regulatory construct. However, since the industry and regulators across the country have stepped forward to respond to the Call to Action set forth by former Secretary of Transportation Ray LaHood back in 2011, we have gone from 18 states that had a specific rate mechanism facilitating accelerated replacement of pipelines no longer fit for service, to now 39 states and the District of Columbia having such mechanisms. In 2013, nine states moved to adopt such programs and three more and the District of Columbia moved to do so in 2014. In 2015, WV also passed legislation to allow for faster pipeline replacement, while IL, MA, MI, MS, NJ, NY and PA each moved to strengthen and expand upon existing replacement programs

[5] See Attachment 5: "*Total Cast Iron Main*"

and efforts.[6] Of the states without a specific accelerated replacement rate mechanism, AK, ID, ND, VT and WI have all finished replacing their cast iron and bare steel. Additionally, WY has finished replacing its cast iron and bare steel mains and has a limited quantity of bare steel services remaining.[7] The cumulative result of all of these important actions is that the industry is replacing cast iron pipe, as well as bare steel, as quickly as possible in a safe and cost-effective manner.

NARUC has always considered pipeline safety a leading priority and in 2013 demonstrated real leadership by prioritizing the issue of accelerating pipeline replacement by passing a resolution calling on commissions to: "explore, examine and consider adopting alternative rate mechanisms as necessary to accelerate modernization, replacement and expansion of the nation's gas pipeline systems." We commend NARUC for its leadership on this critically important issue.[8]

EXCAVATION DAMAGE

Excavation damage continues to represent the single greatest threat to distribution system safety, reliability and integrity. A number of initiatives have helped to prevent excavation damages and resulting incidents. These include a three digit number, "811," for excavators to call before they dig, a nationwide education program promoting 811, "best practices" to reduce excavation damage and regional "Common Ground Alliances" that are focused on preventing excavation damage. Additionally, AGA and other partners established April as National Safe Digging Month, encouraging individuals to dial 811 before embarking on any digging or excavation project. Since the Call 811 campaign was launched, there has been approximately a 40 percent reduction in excavation-related incidents. A significant cause for this reduction is the work done by the pipeline industry, regulators, other underground facilities and excavators in promoting the use of 811.

Regulators, natural gas operators, and other stakeholders are continually working to improve excavation damage prevention programs. This concerted effort, combined with the effort that states are undertaking to create robust, and effective, state damage prevention programs based on the elements contained in the 2006 PIPES Act, is having a positive impact. But as always, more can be done – and the industry will continue to remain vigilant in collaborating with other stakeholders and the public to help ensure the safety of our pipeline systems. To support the industry's efforts, it is important that states have sufficient funding for their

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[6] See Attachment 6: "*States with Accelerated Infrastructure Replacement Programs*"
[7] See Attachment 7: "*States with Limited Cast Iron or Bare Steel Inventory*"
[8] See Attachment 8: "*NARUC Resolution*"

excavation damage prevention efforts, including state one call systems, public excavation damage prevention education, and effective excavation damage prevention enforcement.

DISTRIBUTION INTEGRITY MANAGEMENT

The 2006 PIPES Act required DOT to establish a regulation prescribing standards for integrity management programs for distribution pipeline operators. The DOT published the final rule establishing natural gas distribution integrity management program (DIMP) requirements on December 4, 2009. The effective date of the rule was February 12, 2010. Operators were given until August 2, 2011 to write and implement their program.

The DIMP final rule is a comprehensive regulation that provides an added layer of protection to the already-strong pipeline safety programs implemented by local distribution companies. It represents the most significant rulemaking affecting natural gas distribution operators since the inception of the federal pipeline safety code in 1971. It impacted more than 1,300 operators, 2.1 million miles of pipe, and 70 million customers. The final rule effectively took into consideration the wide differences that exist between natural gas distribution operators. It also allows operators to develop a DIMP plan that is appropriate for the operating characteristics of their distribution delivery system and the customers that they serve.

PUBLIC EDUCATION/AWARENESS

AGA appreciates DOT's work with the public, emergency responders, and industry to improve the public's awareness of pipelines and natural gas safety. The public awareness initiative has been successful and has effectively improved the public and emergency responders' awareness of pipeline infrastructure and appropriate actions to be taken in the event of a pipeline emergency. We are eager to work with DOT to identify performance metrics that are critical in assessing program effectiveness. Industry is working to help ensure that 911 operators are identified as an important stakeholder audience and receive all needed pipeline awareness information. AGA and the industry look forward to continuing to work with all regulatory agencies to help improve the methods utilized to educate the public regarding pipeline awareness.

VERIFICATION OF MAXIMUM ALLOWABLE OPERATING PRESSURES

There is significant uncertainty in the pipeline industry surrounding the method by which PHMSA will implement provisions in the 2011 Act pertaining to

Maximum Allowable Operating Pressure (MAOP). PHMSA has developed the Integrity Verification Process (IVP), but has yet to incorporate this concept into a proposed rulemaking. While waiting for action by PHMSA, AGA members have completed a verification of records as mandated in the legislation, for class 3 and class 4 locations and class 1 and class 2 high consequence areas. However because proposed regulations pertaining to MAOP verification and the drafted IVP have not yet been published, and because what has been proposed by PHMSA varies significantly from the directive provided by Congress, operators are uncertain if their actions and use of state-of-the-art technologies, such as in-line inspection tools, to address missing or incomplete records will be nullified by future DOT regulations.

INCIDENT NOTIFICATION

AGA members are committed to finding new and innovative ways to inform and engage stakeholders, including emergency responders, public officials, excavators, consumers and safety advocates and members of the public living in the vicinity of pipelines. AGA and INGAA sponsored a workshop that was presented by the National Association of State Fire Marshals. The workshop had approximately 60 emergency responders, PHMSA staff and 40 operator personnel in attendance. There are also a number of efforts at the state and local level to engage emergency responders, government officials and the public in pipeline safety efforts.

DATA COLLECTION AND INFORMATION SHARING

Collecting quality data, data analysis, and data integration are all integral to making informed decisions on areas for potential pipeline safety improvement. AGA and PHMSA co-chair a data quality and analysis team made up of representatives from government, industry and the public, similar to the PHMSA technical advisory committees. The team analyzes data collected by PHMSA and determines opportunities to improve pipeline safety based on the analysis of that data. The team is also identifying gaps in data that are collected by PHMSA and others, opportunities to improve the quality of the collected data, and is working on consistent messages based on the data.

AGA has 16 technical committees and an Operations Managing Committee focusing on a wide range of operations and safety issues. The technical committees develop and share information, including those issues raised by PHMSA, the National Transportation Safety Board, and other pipeline safety stakeholders. In addition, AGA has a Gas Utilities Operations Best Practices Program focused on identifying superior performing companies and innovative work practices that can be shared with others to improve operations and safety. AGA's newest information

sharing initiative, launched in 2015, is the Peer Review Program. This program promotes open dialogue among program participants and aids natural gas distribution operators in continuing to elevate safety within the industry. AGA is also the Secretariat for the National Fuel Gas codes, the Gas Piping Technology Committee, and manages the Plastic Pipeline Database which includes more than 45,000 records of plastic material and component failures that have been voluntarily submitted by the industry.

RESEARCH AND DEVELOPMENT

More industry research is necessary to improve in-line inspection tool quality and capabilities, operator use of tool data, direct assessment tools, non-destructive testing and leak detection, and inspection tool platforms. Many pipeline companies have direct memberships in research consortiums and contribute towards research, development and deployment. These research consortiums include the Pipeline Research Council International (PRCI), NYSEARCH, Operations Technology Development (OTD), Utilization Technology Development (UTD) and Sustaining Membership Program (SMP). In the last five years, hazardous liquid and gas pipeline operators have contributed more than $115 million to research and development. However, R&D cannot be successful without cooperative planning between industry and government. As noted above, AGA is committed to improving the transparent collaborative relationship with PHMSA that has historically enhanced pipeline safety R&D.

SUMMARY

The natural gas utility industry has a strong safety record. Recognizing the critical role that natural gas can and should play in meeting our nation's energy needs, we are committed to working with all stakeholders to consistently make improvements to the safety and reliability of our systems. To that end, we applaud this committee's focus on the common goal: to enhance the safe delivery of this vital energy resource.

Recent pipeline safety reauthorizations contained significant changes to pipeline safety programs. Many of these changes are not yet in federal regulation and others are in their infancy. PHMSA is working on a number of significant rules that will substantially change the federal gas pipeline safety regulations and the industry looks forward to the certainty that those final rules will bring.

Natural gas distribution companies are eager to take action on the aspects of the 2011 Act that have yet to be finalized, but their actions may be nullified if DOT's final regulations do not follow the specifics in the legislation. If there are

differences, operations would then need to take additional actions or repeat their work, adding unnecessary cost to customers and a disruption to the public. AGA members desire a path forward with certainty rather than with uncertainty, duplicative actions, or additional cost burdens on their customers.

We would urge that we stay the course in developing comprehensive, risk based rules to comply with the legislation and provide the regulatory certainty that is essential to ensuring a safe and reliable natural gas distribution system. Many of these rules have been implemented recently and need time to work before assessing whether additional changes need to be made in order to enhance safety.

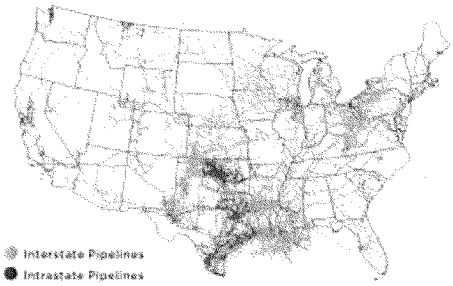
Natural gas is a key to our energy future and America's natural gas utilities are upgrading our delivery systems to meet this growing demand. We see a future where natural gas is the foundation fuel that heats our homes, runs our vehicles, and supports other forms of renewable energy and there is a tremendous opportunity for consumers and our nation as a whole through greater use of natural gas. We are building and continually improving our infrastructure to deliver on this promise.

Attachment 1: Natural Gas Pipelines across the U.S.

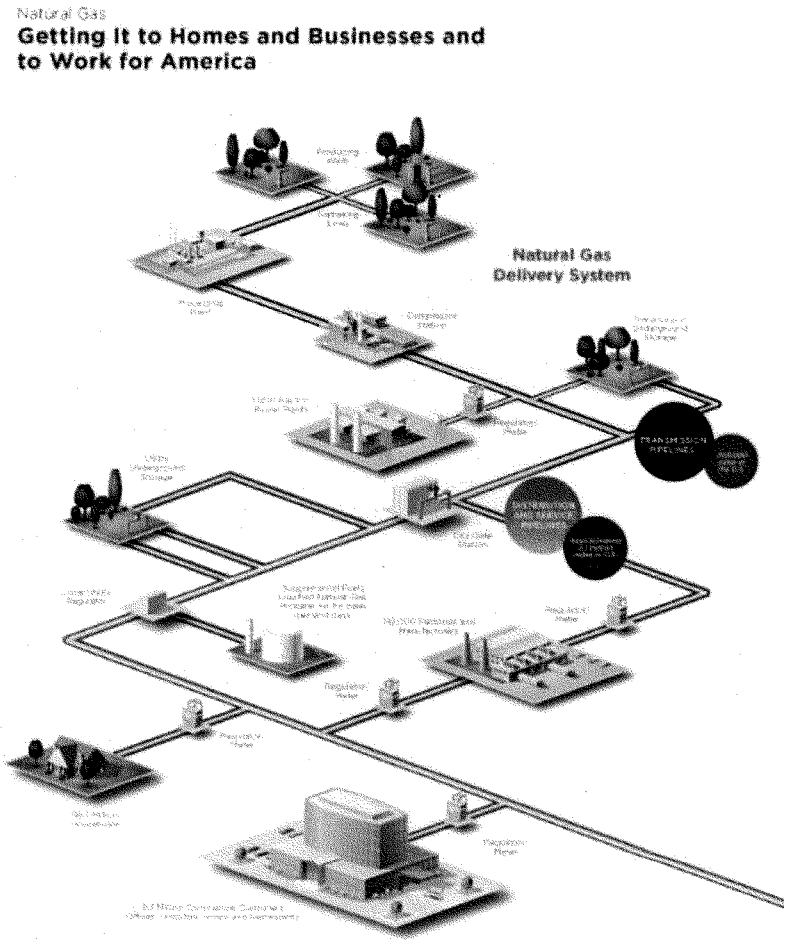
Safely transported

Across the Country

Natural gas pipelines, which transport approximately one-fourth of the energy consumed in the U.S., are an essential part of the nation's infrastructure. Transportation by pipeline is the safest form of energy delivery in the country.



Attachment 2: Natural Gas Delivery System



Attachment 3: Regulators and Stakeholders

Many Regulators and Stakeholders

PHMSA
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration

The National Transportation Safety Board

Pipeline Safety TRUST

CGA
Common Ground Alliance

Attachment 4: AGA's Commitment to Enhancing Safety

AGA's Commitment to Enhancing Safety: Revised February 2016

AGA and its members are dedicated to the continued enhancement of pipeline safety. As such, we are committed to proactively collaborating with federal and state regulators, public officials, emergency responders, excavators, consumers, safety advocates and the public to continue improving the industry's longstanding record of providing natural gas service safely, reliably and efficiently to 177 million Americans. AGA and its members support the development of reasonable regulations to meet federal objectives and National Transportation Safety Board recommendations.

Below are voluntary actions that are being taken by AGA or individual operators to help ensure safe and reliable operation of the nation's 2.5 million miles of natural gas pipeline which span all 50 states with diverse geographic and operating conditions. AGA and its individual operators recognize the significant role that their state regulators or governing bodies play in supporting and funding these actions.

It is the consensus of AGA members that the actions listed below enhance safety, gas utility operations, and reduce greenhouse gas emissions when implemented as an integral part of each operator's specific safety programs. However, both the need to implement and the timing of implementation of these actions will vary with each operator. Each operator will need to evaluate the actions in light of system and geographic variables, the operator's independent integrity assessment, risk analysis and mitigation strategy and what has been deemed reasonable and prudent by their state regulators. Therefore, not all of these recommendations will be applicable to all operators.

Building Pipelines for Safety

Construction

- Expand requirements of the Operator Qualification rule to include new pipeline construction.
- Review established pipeline construction oversight procedures to ensure adequacy and compliance with those procedures.
- Implement industry leading practices when installing new pipelines to help prevent damage to other facilities.

Emergency Shutoff Valves

- Support a risk based approach to the installation of automatic and/or remote control isolation valves where technically and operationally feasible on newly constructed or entirely replaced transmission lines.
- Work with regulatory agencies and policy makers to develop guidelines for consideration of automatic and/or remote control isolation valves on transmission lines that are in service.
- Expand the use of excess flow valves (EFVs) to new and fully replaced branch services, small multi-family facilities, and small commercial facilities where technically and operationally feasible.

Operating Pipelines Safely

Integrity Management

- Advance integrity management programs and principles to mitigate system specific risks. This includes operational activities, repair, replacement or rehabilitation of pipelines and associated facilities where it will most improve safety and reliability.
- Collaborate with stakeholders to develop and promote effective cost-recovery mechanisms to support pipeline assessment, repair, rehabilitation, and replacement programs.
- Develop industry guidelines for data management to advance data quality and knowledge related to pipeline integrity.
- Support development of processes and guidelines that enable the tracking and traceability of new pipeline components.

Excavation Damage Prevention

- Support strong enforcement of the 811 – Call Before You Dig program, and advocate for the reduction of excavator exemptions within state damage prevention laws.

- Improve engagement between the operator and excavators on the need to call before digging to reduce excavation damage.

Physical and Cybersecurity/System Controls

- Take actions that help strengthen the physical and cybersecurity of the gas utility industry.
- Enhance system monitoring and control of gas systems.

Enhancing Pipeline Safety

Safety Knowledge Sharing

- Expand the voluntary national Peer Review Program to allow companies to observe their peers, identify what is working well, identify opportunities to improve, and share leading practices.
- Evaluate the work of other industries to improve safety. Identify and implement models that will assist in enhancing safety and encourage knowledge exchange among operators, contractors, government and the public.

Workforce Development

- Collaborate with industry, government, educational institutions and labor groups to develop solutions to address the need for a qualified, diverse workforce.

Public Awareness and Emergency Response

- Evaluate methods to effectively communicate with public officials, excavators, consumers, safety advocates and the public about the presence of pipelines. Implement tested and proven communication methods to enhance those communications.
- Partner with emergency responders to share information and improve emergency response coordination.

Pipeline Planning Engagement

- Work with a coalition of Pipelines and Informed Planning Alliance (PIPA) Guidance stakeholders to increase awareness of risk based land use options and adopt existing PIPA recommended best practices.

Advancing Technology Development

- Increase investment, continue participation, and support research, development and deployment of technologies to improve safety.

***AGA's Commitment to Enhancing Safety:* Industry Actions That Exceed 49 CFR Part 192**

Building Pipelines for Safety

Construction

- Maintain a clearinghouse on effective cost-recovery mechanisms that states have used to fund infrastructure repair, replacement and rehabilitation projects.

Emergency Shutoff Valves

- Install EFVs on new and fully replaced branch services, small multi-family facilities, and small commercial facilities where technically and operationally feasible.

Operating Pipelines Safely

Integrity Management

- Advocate programs to accelerate the risk-based repair, rehabilitation and replacement of pipelines.
- Support development of processes and guidelines that enable tracking and traceability of pipeline components.
- Continue the Plastic Pipe Database Committee's work to collect and analyze plastic material failures.
- Incorporate systems and/or processes to reduce human error.
- Promote the use of API RP 1171, *Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs*, and API RP 1170, *Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage. This includes teleconferences, workshops and roundtables to share lessons learned from companies voluntarily adopting the recommended practices,*

Excavation Damage Prevention

- Use a risk-based approach to improve excavation monitoring.
- Support the Common Ground Alliance, the use of 811 and other damage prevention initiatives through outreach, education, intervention and enforcement.
- Influence and/or support state legislation to strengthen damage prevention programs.
- Encourage participation in One-Call by all underground operators and excavators.

Physical and Cybersecurity/System Controls

- Participate in a Downstream Natural Gas Information Sharing & Analysis Center (DNG ISAC).
- Conduct cybersecurity vulnerability assessments.
- Collaborate with government to develop and implement guidance, such as *DOE ONG-C2M2, DOE Energy Sector & TSA Transportation Sector Framework Implementation Guidance* and NIST *Energy Sector Cybersecurity Framework Implementation Guidance*
- Create industry guidance and hold events to strengthen the physical and cybersecurity of the natural gas infrastructure, including the *Natural Gas Utility Threat Analysis Elements & Mitigations Guidance,*

Cybersecurity Procurement Language Guidance, an AGA Energy Delivery Cybersecurity Executive Summit, cyber threat analysis workshops, insider threat workshops, workshops on the Oil and Natural Gas Cybersecurity Capability Maturity Model (ONG C2M2), and an annual AGA/EEI Security Conference.

Enhancing Pipeline Safety

Pipeline Safety Management Systems

- Promote the use of API RP 1173, Pipeline Safety Management System (PSMS) Recommended Practice, including piloting of the PSMS, teleconferences and workshops to share lessons learned, and tools that can help the industry implement the PSMS.
- Promote the AGA Safety Culture Statement and a positive safety culture throughout the natural gas industry.

Safety Knowledge Sharing

- Continue AGA Board Safety Committee initiatives, such as sharing lessons learned through the Safety Information Resource Center, safety alerts through the AGA Safety Alert System, safety communications with customers, supporting AGA's Safety Culture Statement, and holding an annual Executive Leadership Safety Summit.
- Recognize statistical top safety performers, promote safety performance and encourage knowledge sharing through AGA Safety Awards.
- Continue the work of the AGA Best Practices Programs to identify superior performing companies and innovative work practices that can be shared with others to improve operations and safety.
- Conduct workshops, teleconferences, discussion groups, and other events to share information including pipeline safety reauthorization, DIMP/TIMP, fitness for service, records, in-line inspection, emergency response, and other key safety initiatives

Workforce Development

- Support of the efforts of the Center for Energy Workforce Development, Energetic Women, natural gas boot camps, regional gas associations, and educational institutes on solutions to address the need for a qualified, diverse workforce.

Public Awareness and Emergency Response

- Explore ways to educate, engage and provide appropriate information to stakeholders to increase pipeline public awareness and the need to call if you smell gas.
- Support public awareness programs targeted at damage prevention and pipeline safety awareness
- Use industry training facilities and evaluate opportunities to expand outreach/education programs to external stakeholders.
- Reach out to emergency responder community in order to enhance emergency response capabilities.
- Collaborate with stakeholders near existing transmission lines to increase awareness/adoption of appropriate PIPA recommended best practices.
- Conduct organizational response drills to improve emergency preparedness.
- Participate in state, regional and national multi-agency emergency response training exercises.
- Support industry participation in a mutual assistance program.
- Search for new and innovative ways to inform, engage and provide appropriate information to stakeholders, including emergency responders, public officials, excavators, consumers, safety advocates, and the public living near pipelines.
- Educate the Pipeline Safety Trust and other public stakeholders on distribution and intrastate transmission pipelines, AGA and industry initiatives to improve pipeline safety, and receive input.
- Develop publications dedicated to improving safety and operations.

Pipeline Planning Engagement

- Build an active coalition of AGA member representatives to work with PHMSA and other stakeholders to implement PIPA recommended practices pertaining to encroachment around existing transmission pipelines.

Advancing Technology Development

- Support R&D investment, pilot testing and technology implementation.
- Work with PHMSA and other stakeholders on opportunities to increase R&D funding and deployment of technologies.
- Advocate to state commissions the inclusion of research funding in rate cases.

***AGA's Commitment to Enhancing Safety:* Actions Completed**

Building Pipelines for Safety

Construction

- ✓ Review and revise established construction procedures to provide for appropriate (risk-based) oversight of contractor installed pipeline facilities.
- ✓ Extend Operator Qualification to include tasks related to new main & service construction.
- ✓ Implement applicable portions of AGA's technical guidance document, "Oversight of new construction tasks to ensure quality."

Emergency Shutoff Valves

- ✓ Expand EFV installation beyond single family residential homes to small commercial and multi-family residential services.

- ✓ Begin risk-based evaluation on the use of automatic shutoff valves, remotely controlled valves or equivalent technology in HCAs.

Operating Pipelines Safely

Integrity Management

- ✓ Confirm the established Maximum Allowable Operating Pressure (MAOP) of transmission pipelines.
- ✓ Under DIMP, evaluate risk associated with trenchless pipeline techniques and implement initiatives to mitigate risks.
- ✓ Under DIMP, identify distribution assets where increased leak surveys may be appropriate.
- ✓ With PHMSA, create a Data Quality & Analysis Team to analyze data PHMSA collects, determine what the data is telling us, issue reports, identify missing information and how best to collect that data, and key metrics that indicate safety concerns.
- ✓ Implement appropriate meter set protection practices identified through AGA Gas Utility Best Practices Program.

Excavation Damage Prevention

- ✓ Implement applicable portions of AGA's technical guidance, "Ways to improve engagement between operators & excavators."

Physical and Cybersecurity/System Controls

- ✓ Create a DNG ISAC.
- ✓ Create a Cybersecurity Task Force to develop products and programs that strengthen cybersecurity.
- ✓ Conduct an all hazard threat analysis and physical security benchmarking survey.
- ✓ Work with TSA to develop and implement Pipeline Security Guidelines.
- ✓ Create a Cybersecurity Assessment Program, including workshops that will allow industry to address their cybersecurity risks.
- ✓ Hold workshops and events: Workplace Violence Prevention & Insider Threats, SCADA, Control Room Management.

Enhancing Pipeline Safety

Safety Knowledge Sharing

- ✓ Create a voluntary AGA Peer Review Program that allows subject matter experts from gas utilities to review peer companies, identify areas that are working well and areas for potential improvement.
- ✓ Work with INGAA, API, AOPL, Canadian Gas Association and Canadian Energy Pipeline Association on a comprehensive safety management study that explores initiatives currently utilized by other sectors and the pipeline industry.
- ✓ Create a Safety Information Resources Center for the sharing of safety information.
- ✓ Hold regional operations executives' roundtables annually to discuss safety initiatives.
- ✓ Annually host roundtables focused on operator experience and lessons learned during the AGA Operations Conference.
- ✓ Develop guidance: To determine a distribution or transmission pipeline's fitness for service and MAOP, and the critical records needed for that determination; For oversight of new construction tasks to ensure quality; For trenchless pipeline installations; That presents benefits and disadvantages of the installation of ASV/RCV block valves on new, fully replaced and existing transmission pipelines; On intergenerational transfer of knowledge for Field Supervisors; Emergency response; Natural gas infrastructure physical security.

Workforce Development

- ✓ Annual AGA Executive Leadership Development Program.
- ✓ Annual Center for Energy Workforce Development (CEWD) Summits.
- ✓ Create an AGA Diversity & Inclusion Task Force.
- ✓ Participate in government/industry initiatives to foster workforce development, such as the Utility Workforce Advisory Council composed of the Departments of Energy, Defense, Labor, Veterans Affairs; AGA, Edison Electric Institute, Nuclear Energy Institute, National Rural Electric Cooperative Association, American Public Power Association, International Brotherhood of Electrical Workers, Utility Workers Union of America, and CEWD.

Public Awareness and Emergency Response

- ✓ Incorporate an Incident Command System (ICS) type of structure into emergency response protocols.
- ✓ Integrate applicable provisions of AGA's emergency response white paper and checklist into emergency response procedures.
- ✓ Create a Safety Alert Notification System that will allow AGA or its members to quickly notify other AGA members of safety issues that require immediate attention.
- ✓ Develop an Emergency Planning Resource Center and a Mutual Assistance Database.
- ✓ Implement AGA discussion groups to address safety issues including technical training and knowledge transfer, material supply chain issues, DIMP implementation, TIMP risk models, Pipeline Safety Management Systems, pipeline safety/compliance/oversight, GPS/GIS and work management systems, contractor/quality management, management of company standards, odorization, compressor operations, public awareness, and damage prevention.

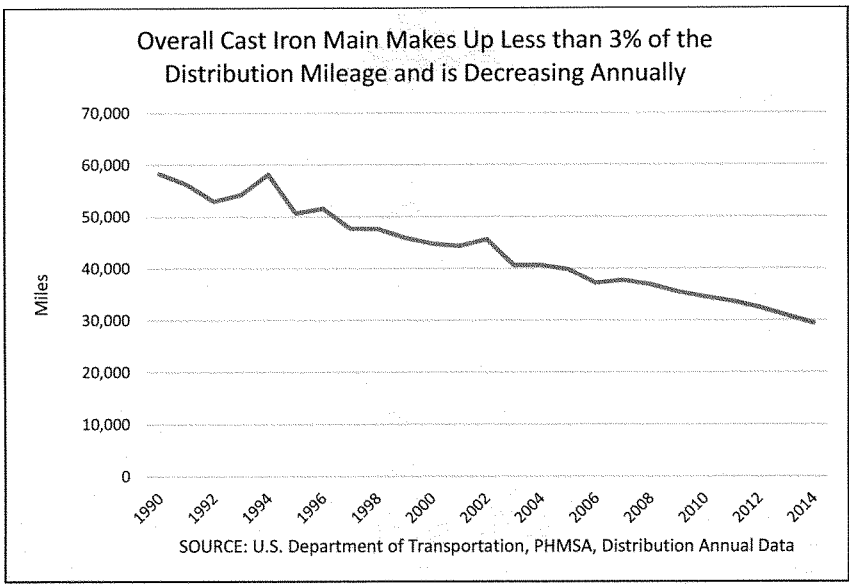
Pipeline Planning Engagement

- ✓ Develop a task group comprised of AGA staff and members to work closely with Pipelines and Informed Planning Alliance (PIPA) to ensure AGA member concerns are addressed in joint PIPA initiatives.

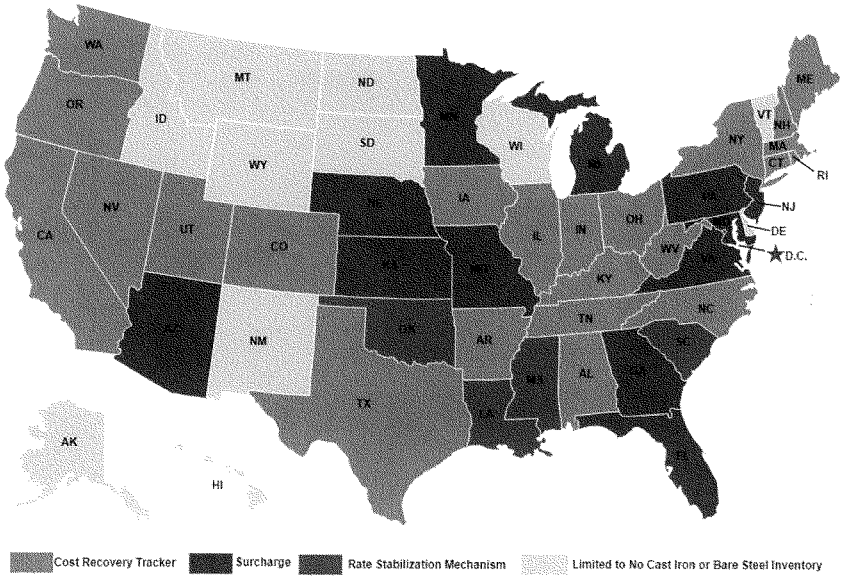
Advancing Technology Development

- ✓ Work with INGAA, research consortiums and other pipeline trade associations to provide the NTSB with a compilation of the progress that has been made in advancing in-line inspection technology.

Attachment 5: Overall Cast Iron Main



Attachment 6: States with Accelerated Infrastructure Replacement Programs



**As of February 2016*

- ***The overall trend is positive***
- ***States address this issue differently***
- ***The basis for these decisions is always just and reasonable rates for consumers***

Attachment 7: States with Limited to No Cast Iron or Bare Steel Inventory

State	Main -Steel Unprotected Bare (Miles)	Main - Cast/Wrought Iron (Miles)	Estimated Miles of Services - Steel Unprotected Bare	Estimated Miles of Services - Cast/Wrought Iron
AK	0	0	0.00	0.00
DE	11.122	82.173	9.97	0.00
HI	105	0	86.06	0.00
ID	0	0	0.00	0.00
MT	5.43	0	6.98	0.00
ND	0	0	0.00	0.00
NM	6	0	0.0	0.0
SD	0.068	2.65	3.20	0.00
VT	0	0	0.00	0.00
WI	0	0	0.00	0.00
WY	0	0	22.67	0.00
Totals	127.62	84.823	128.88	0

Source: U.S. Department of Transportation Data

- ***Alaska, Idaho, North Dakota, Vermont and Wisconsin have finished replacing their cast iron and bare steel pipe***
- ***Wyoming has finished replacing its cast iron and bare steel main, and has a limited quantity of bare steel services remaining***
- ***Other states on the list are on the verge of completing their cast iron and bare steel replacement***

Attachment 8: NARUC Resolution

2013 NARUC Resolution

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners... *encourages regulators and industry to consider sensible programs aimed at replacing the most vulnerable pipelines as quickly as possible along with the adoption of rate recovery mechanisms that reflect the financial realities of the particular utility in question*; and be it further;

RESOLVED, That State commissions should explore, examine, and *consider adopting alternative rate recovery mechanisms as necessary to accelerate the modernization, replacement and expansion of the nation's natural gas pipeline systems*.

AGA

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
HEARING ON
"REAUTHORIZATION OF THE DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM"

Cheryl Campbell, Senior VP, Xcel Energy— On behalf of the American Gas Association

- My understanding is that municipalities are exempt from one-call membership requirements. Should these municipalities be required to join One-Call? If not, why not?

  ANSWER: Some state exempt municipalities and other entities from one-call membership requirements. AGA supports removing all exemptions unless data indicates that these exemptions are not detrimental to pipeline safety.

- INGAA recommended that PHMSA review the user fee collection process to determine if it should be modified to more equitably allocate the cost of the pipeline program across various industry segments, which would mean distribution pipelines paying a user fee. What is your response to that?

  ANSWER: User fees are collected for PHMSA by natural gas transmission operators from their downstream customers. The pipeline safety user fees are part of the rates within the "cost of service" paid by the customers of the transmission operators. Which means that natural gas distribution operators already pay user fees to transportation operators in their transportation rates.

  After collecting the user fees from their customers, natural gas transmission operators pass those fees to PHMSA in the annual pipeline safety user fee assessment. The collection of user fees by transmission operators is similar to retailers that collect sales tax from their customers. This process has been determined to be the most efficient manner in which to collect such fees, versus collecting them from the thousands of downstream transmission customers

TESTIMONY OF THE PIPELINE SAFETY TRUST

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Presented by:

Carl Weimer, Executive Director

FOR THE

SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
OF THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON

REAUTHORIZATION OF DOT'S PIPELINE SAFETY PROGRAM

February 25, 2016

Summary of Testimony

Today we would like to focus our testimony on the following issues that represent things that Congress can fix within the pipeline safety statutes

Lack of Emergency Order Authority

Needed Harmonization of Criminal Penalties - 49 USC § 60123

Needed Improvements in Spill Response Planning

Cost-Benefit Requirements - 49 USC § 60102

Actions of Private Persons - Title 49 USC § 60121

No Permit Required to Operate a Pipeline

Funding Pipeline Safety Information Grants to Communities - 49 USC § 60130

We also would like to speak to some concerns we have with some of the language in the **Securing America's Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act** that the Senate has been considering

Section 6005 - Statutory Preference

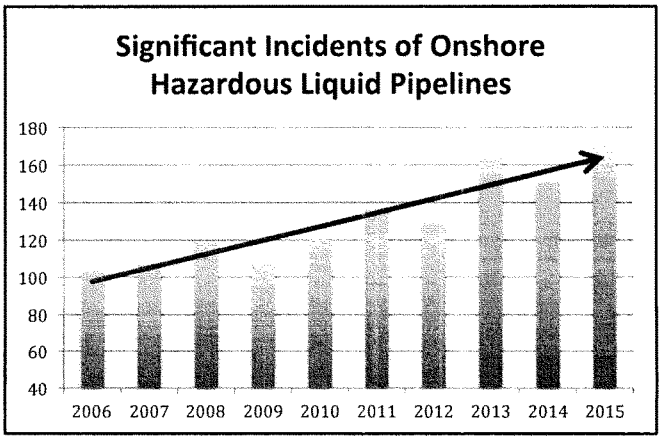
Section 6009 - Inspection Report Information

Section 6016 - Underground Natural Gas Storage Facilities

Section 6021 – Small Scale Liquefied Natural Gas Facilities

Good morning Chairman Denham, ranking member Capuano, and members of the Committee. Thank you for inviting me to speak today on the important subject of pipeline safety. My name is Carl Weimer and I am the Executive Director of the Pipeline Safety Trust. I am also a member of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Technical Hazardous Liquid Pipeline Safety Standard Committee. I also serve on the Governor-appointed Washington State Citizens Committee on Pipeline Safety, and bring a local government perspective to these discussions as a three term elected member of the Whatcom County Council in Washington State.

The Pipeline Safety Trust came into being after a pipeline disaster that occurred nearly seventeen years ago - the 1999 Olympic Pipeline tragedy in Bellingham, Washington that left three young people dead, wiped out every living thing in a beautiful salmon stream, and caused millions of dollars of economic disruption. While prosecuting that incident the U.S. Justice Department was so aghast at the way the pipeline company had operated and maintained their pipeline, and equally aghast at the lack of oversight from federal regulators, that they asked the federal courts to set aside money from the settlement of that case to create the Pipeline Safety Trust as an independent national watchdog organization over both the industry and the regulators. We have been trying to fulfill that vision ever since, but the increase in the number of significant incidents over the past decade, driven primarily by releases from liquid pipelines from causes well within pipeline operators' control, makes us sometimes question whether our message is being heard.



PHMSA Significant Incident Data – 2/19/2016

Today I would like to dedicate my testimony in the memory of Peter Hayes. I met Mr. Hayes in 2010 shortly after a Chevron pipeline dumped oil into the Red Butte Creek drainage in Salt Lake City for the second time in a single year. Mr. Hayes was raising his family in a home that sat on the banks of Red Butte Creek and he was extremely concerned about the possible long-term health effects to the people in that area who were not evacuated immediately and experienced many different health symptoms associated with exposure to crude oil. He pushed hard for better emergency response, and for someone

to follow up with a study to determine whether people so exposed would experience any long-term health problems. No one ever did such a study. In a tragic twist of fate Mr. Hayes came down with a rare lung disease that may in part be caused by exposure to environmental pollutants, and died last year. The need for studies on the health effects from exposure to oil spills has long been a void in our pipeline safety system, and was recently again called for by a National Academy of Science panel working on a study required by Congress. I will speak to that more in my testimony, and hope you will read the Op-ed attached at the end regarding Mr. Hayes to give you some context for why this is so important.

Last year as discussions regarding PHMSA's reauthorization began we told the House Energy and Commerce Committee:

> ***"While we have many ideas for further ways to increase pipeline safety, perhaps a straight reauthorization of the current program this year would allow PHMSA to expand and train staffing as new levels of funding allow, finally produce all the rules and reports they have yet to produce, and address the long list of recommendations from the NTSB. We would support a quick straight reauthorization, as long as Congress remains actively involved in oversight to ensure the Administration is doing the things they have been charged with."***

We still believe that a relatively quick and simple reauthorization without a huge new load on mandates on PHMSA is preferable, but as others have suggested ideas for reauthorization we would like to provide you with some of our thoughts as well.

Often in these hearings on reauthorization or oversight the focus is on how PHMSA has failed to implement various mandates, moved too slowly on regulatory initiatives, not provided information to the public in a timely manner, or even lacks the will to make the pipelines safer. While we agree that those things are all important and fair game at such hearings, and you have heard many of those complaints from us in the past, today we would like to focus our testimony on how the pipeline safety system that Congress has created also has much to do with PHMSA's inability to get things done. PHMSA can only implement rules that Congress authorizes them to enact, and there are many things in the statutes that could be changed to remove unnecessary barriers to more effective and efficient pipeline safety. The pipeline safety statutes are the responsibility of Congress, and today we will speak to issues where Congress needs to change things if there is a real desire to improve pipeline safety.

Lack of Emergency Order Authority

If after incidents or through inspections PHMSA finds a significant problem that cannot be remedied through the existing rules it can order an individual pipeline operator to immediately change their operation, but under the current rules PHMSA has no authority to issue such emergency orders industry-wide if the situation has the potential to cause significant harm from more than a single operator. Recent pipeline failures, such as the 2010 San Bruno tragedy, have highlighted this problem since during that investigation it became clear that potentially a significant portion of the entire industry had not been implementing necessary safety procedures. Currently all PHMSA can do in such situations is issue non-binding "advisories", hope the industry pays attention, and then go through a multi-year rulemaking process to correct the problem. Other transportation administrations, such as the Federal Railroad Administration, do have authority to quickly issue emergency orders to correct potentially

deadly situations as evidenced by **Title 49 USC § 20104. Emergency authority.** We ask that you put into this reauthorization bill a similar provision for PHMSA so they have the ability to rapidly address critical industry-wide safety issues.

Needed Harmonization of Criminal Penalties - 49 USC § 60123

Fortunately it is very rare that a pipeline operator violates the regulations in a way that would be considered criminal. Our organization, the Pipeline Safety Trust, was born from one of those rare incidents where an operator's actions were proven to be so reckless as to kill members of the public and do uncounted environmental harm. In that case the U.S. Justice Department under President Bush did an outstanding job prosecuting that case, fining the company, and actually getting jail time for company employees. There have only been a handful of other incidents caused by such reckless behavior from pipeline companies since that case 16 years ago, but it is important not to create barriers that make it difficult to hold companies accountable when they knowingly or recklessly ignore the laws meant to keep people safe. The current statute that applies to pipeline safety - **Title 49 USC § 60123. Criminal Penalties –** sets an unusually high bar for holding companies accountable for criminal behavior. We ask that you align the pipeline safety rules under PHMSA with the Hazmat rules under PHMSA and change 60123 to adopt the "willfully or recklessly" language from the Hazmat statute in **Title 49 USC § 5124. Criminal Penalties.**

Needed Improvements in Spill Response Planning

Based on a congressional mandate the National Academy of Sciences (NAS) recently completed a study entitled **Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response.** In that study NAS noted some serious issues with the way that PHMSA reviews spill response plans and the required content of these important plans. For instance the study notes this significant shortcoming of how PHMSA reviews these spill plans compared to other agencies that review spill plans:

> ***"At PHMSA, the review of plans is focused on completeness, using the Part 194 regulations as a checklist to ensure that all necessary components are present. Assuming the plan is complete, PHMSA's long-standing position is that it is legally obligated to approve the plan, and that it has no discretion to evaluate its likely adequacy and effectiveness or to recommend improvements. By contrast, USEPA and USCG review plans in two stages, the first focusing on completeness and the second on adequacy."***[1]

The study also found that different companies use different terminology for naming the fuels moving through their pipelines, and there was no requirement that specific Safety Data Sheets be included in the spill response plans

> ***"In addition to the response plan itself, the Safety Data Sheet (SDS) submitted by the pipeline operator is potentially a vehicle for identifying the type of crude oil and its properties. In conjunction with the plan and other information sources, a detailed SDS containing the pertinent information would assist responders setting near-term priorities directly following a***

[1] National Academy of Sciences, Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response, page 90

spill of diluted bitumen. It would also assist the public in understanding the nature and consequences of the spill. The Part 194 regulations recommend but do not require that response plans include SDSs for the crude oil being transported by the pipeline section."[2]

These noted shortcomings put the public, emergency responders, and pipeline company employees at risk when responding to spills.
After the nearly one-million-gallon spill into the Kalamazoo River in Michigan in 2010 the National Transportation Safety Board recommended that the Secretary:

Audit the Pipeline and Hazardous Materials Safety Administration's onshore pipeline facility response plan program's business practices, including reviews of response plans and drill programs, and take appropriate action to correct deficiencies.[3]

Allocate sufficient resources as necessary to ensure that the Pipeline and Hazardous Materials Safety Administration's onshore pipeline facility response plan program meets all of the requirements of the Oil Pollution Act of 1990.[4]

That audit has been underway in the Secretary's Office for years now, but has still not been released. So we ask that as part of this reauthorization you direct PHMSA by a date certain to review and improve their regulations on spill response planning contained in Part 194, make necessary changes as noted by the NAS study, and at a minimum require:

- plans to be reviewed for adequacy and effectiveness
- language that makes it clear that specific Safety Data Sheets need to be included for each different type of oil carried
- language that makes it clear that plans need to identify all of the different types of transported crude oils using specific industry standard names

Spill response planning also brings up the need to clearly understand and address the human health effects of spills. The NAS study listed as a research need "Ecological and human health risks." In many fairly recent pipeline failures, such as the Enbridge spill into the Kalamazoo River, the Chevron spill in Salt Lake City, and the Exxon Mobil spills into the Yellowstone River and in Mayflower Arkansas, people, and particularly children, experience a range of similar immediate health issues, some of them quite acute. This leaves the public wondering whether they were evacuated adequately and what the future long-term health effects of such exposures to a wide range of possibly toxic chemicals might be. The story I started my testimony off with regarding Peter Hayes who was exposed to chemicals during a pipeline spill in Salt Lake City, and then later developed and died of a rare lung disease helps bring this public concern home.

At the recent Aliso Canyon natural gas leak it was reported that ***"people from 600 households near the***

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[2] National Academy of Sciences, Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response, page 92.

[3] http://www.ntsb.gov/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=P-12-001
[4] http://www.ntsb.gov/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=P-12-002

leak at the Aliso Canyon gas storage unit reported headaches, nosebleeds, nausea and other symptoms to county officials." That same article[5] went on to report:

> ***"We're dealing with a gap in the science," said Michael Jerrett, professor and chairman of the Department of Environmental Health Sciences at the University of California, Los Angeles. "We just don't have a very good scientific understanding of what that means for long-term health effects."***

In my own experience as an elected official serving on our Local Emergency Planning Committee and attending various tabletop emergency exercises I have often asked what is the threshold for particular chemicals that we use to inform the need to evacuate, and who has that monitoring equipment and how soon is it deployed? When I ask these questions the lack of answers confirms what we have heard nationally – no one really knows what the critical chemical thresholds are, and often equipment to monitor for chemical exposure at appropriate low levels is not available soon enough to make a difference.

If you are interested in more information about the lack of federal exposure guidelines, long-term health studies, and how this translated into confusion at a particular pipeline oil spill, we suggest you read the article **What Sickens People in Oil Spills, and How Badly, Is Anybody's Guess**[6] by the Pulitzer Prize winning news organization InsideClimate News.

For these reason we ask that as part of this reauthorization you direct PHMSA to undertake another study with the National Academy of Sciences to better understand the potential long term health effects from pipeline failures, and provide recommendations for threshold levels that should inform evacuation decisions and necessary equipment to measure such thresholds as part of spill response plans.

Cost-Benefit Requirements Under 49 USC § 60102

The 5 years between 2010 and 2015 found us too often examining the failures that led to major pipeline incidents: Marshall, Michigan; San Bruno, California; Allentown, Pennsylvania; Sissonville, West Virginia; Harlem, New York; Mayflower, Arkansas; two spills into the Yellowstone River, and too many more. Against that backdrop of incidents and Congressional directives, NTSB and GAO recommendations, those five years also provided a perfect example of a broken regulatory process that left PHMSA incapable of producing a single major new safety rule. The reasons for the process not working are numerous. Among them:

1) information needed to produce new rules under the current cost benefit requirements is predominantly controlled by pipeline operators who are reluctant to agree to new reporting requirements that are necessary for PHMSA to meet cost benefit requirements to strengthen its rules - that is, if PHMSA can't find out where there are problems or how big they are, they can't make rules to fix them;

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[5] **What Will Be the Health Impact of 100+ Days of Exposure to California's Methane Leak?** http://insideclimatenews.org/news/17022016/health-impacts-aliso-canyon-porter-ranch-methane-leak-california-socal-gas

[6] http://insideclimatenews.org/news/20130618/what-sickens-people-oil-spills-and-how-badly-anybodys-guess

2) too few staff for PHMSA to undertake investigations and studies that might provide the agency additional information to quantify the potential costs and benefits;

3) a costly, duplicative, and unnecessary cost benefit analysis process; and

4) delays from the Secretary's Office and OMB that are beyond PHMSA's control

Some of those issues are being ameliorated by recent increases in PHMSA staffing levels, and we're hopeful those new staffers will allow PHMSA to more efficiently move rules forward. The duplicative and procedural hurdles are a different question, but they are something that Congress can do away with in this reauthorization.

In 1996, a concerted Congressional effort was made to insert cost-benefit analysis requirements into rulemaking requirements under a whole host of environmental protection and health statutes, presumably as a way to codify the requirements for regulatory cost benefit analyses put in place by Presidents Reagan and Clinton in Executive Orders. While those Congressional efforts ultimately fell short of wide spread success, the 1996 reauthorization of the pipeline safety program represents the only health and safety or environmental protection statute to contain an explicit directive to an administrative agency to base regulation of risk on a cost-benefit test.

PHMSA rulemaking is therefore subject to two sets of cost-benefit requirements - one under the Pipeline Safety Act and one under the Executive Order that requires an economic analysis of every major rule reviewed by OMB before being published as a proposed rule and subject to comment. We urge you to put PHMSA's rulemaking on an even playing field with all other agencies by amending 49 USC § 60102 to eliminate references to the risk assessment/cost-benefit analysis in §60102(b)(2)(D) and (E); §60102(b)(3), (4), (5) and (6). PHMSA would remain subject to the requirements of the Executive Orders requiring a cost benefit analysis of major rules proposed by any agency, and the requirements for transparency in rulemaking provided by the existing statute and procedures.

A clear example of problems excessive cost benefit analysis can cause can be seen in the lack of regulation of rural natural gas gathering lines. According to a briefing paper from PHMSA[7] they estimate that there are 230,000 miles of such gathering lines in the country, with over 210,000 miles of these gathering lines falling outside of any federal or state pipeline safety regulation. Many of these lines are the same size and pressure as transmission pipelines, so pose the same risk. The regulation of these lines has been one of our top priorities for years now, and it is now one of the state regulator's top priorities also. In 2010 the state regulators passed a resolution[8] that says in part:

> ***WHEREAS: In the newer gas gathering systems, it is not uncommon to find rural gas gathering pipelines up to 30" in diameter and operating at a MAOP of 1480 psi.***

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[7] PHMSA Briefing Paper, Onshore Gas Gathering, Technical Pipeline Safety Standards Committee Meeting, March 2011

[8] http://www.napsr.org/SiteAssets/NAPSR-Resolutions-Open/201002%20Gas%20gathering%20line%20class%201%20Resolution.pdf

NOW THEREFORE BE IT RESOLVED: That NAPSR urge PHMSA to modify 49 CFR Sections 192.8 and 192.9 to establish regulatory requirements for gathering lines in Class 1 areas:

Since these 210,000 miles of pipelines are unregulated no one collects any information about their location, construction, size, pressure, risks, failure incidents, etc. Since no one collects any information it is nearly impossible for PHMSA to pass regulations because how can they quantify the required costs or benefits? Knowing full well that the industry will challenge any such regulation PHMSA finds itself in a no win situation based on cost benefit requirements that effectively make it impossible to move forward on needed rules without first going through years of information collection, (which will also be opposed by industry), to be able to complete a cost benefit analysis.

Actions of Private Persons - Title 49 USC § 60121

After the PG&E pipeline failure and explosion in San Bruno California in 2010, as the systemic issues with PG&E's pipeline system and the questionable regulatory history of the California Public Utility Commission became better known, the City and County of San Francisco became concerned about the safety of the PG&E lines under its own streets. They sought the help of the federal courts to require PHMSA to reject the State of California's certification that its natural gas regulatory system was sufficient under the Pipeline Safety Act to take responsibility for regulating the safety of intrastate natural gas lines. Unfortunately, the courts decided that the statutory language in 49 USC 60121(a)(1) that allows for an individual to seek an injunction against another person, including the United States, did not allow an individual to seek an injunction against the United States *in its role as regulator.* The court instead relied on similar language in the Endangered Species Act previously interpreted by the Supreme Court in holding that the statute did not provide a basis for the City's claim. The court's analogy to the Endangered Species Act and its interpretations failed to give meaning to the Congressional language of the PSA authorizing injunctive relief against the US in the pipeline safety context, *where its only role is that of regulator*, and not an operator or permit applicant. The courts' interpretation rendered that provision of the PSA meaningless. We urge you to adopt language that will restore what we believe to have been Congress' original intent: to make abundantly clear that when the federal regulators fail to fulfill a duty imposed under the PSA, the courts may enforce those duties by issuing injunctions against the United States. Language similar to that used in the whistleblower protection provisions of the PSA 49 § 60129(c) could be used for this purpose. Here is that language:

> **Title 49 USC § 60129(c)**
> c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

No Permit Required to Operate a Pipeline

Under the current statutes there is no requirement that a pipeline company obtain any permit or permission to operate a pipeline in this country. The public finds this hard to understand since we all need a permit to operate our cars, and many of us need permits and government inspections to replace a hot water tank, or build a deck on the back of our homes. How can it be that someone can operate a huge pipeline, carrying tons of potentially explosive materials, across multiple states, and not have to obtain some sort of permit for its operation? The benefit of requiring PHMSA to issue permits to operate

transmission pipelines is that would provide the agency another tool to ensure the safety of those pipelines, and a regular review interval for such permits would force the agency to ensure that the company is still following all necessary rules. Permits could also provide the public, local governments, and academics their only real opportunity to review and comment on the companies' safety operations, which may help provide important local information and new ideas, and should ultimately improve pipeline safety.

Funding Pipeline Safety Information Grants to Communities - 49 USC § 60130

In 2002 Congress established a Community Technical Assistance Grant program to ensure better education and involvement of the communities by helping to provide **"technical assistance to local communities and groups of individuals relating to the safety of pipeline facilities in local communities."** This relatively small grant program has allowed local government to obtain and implement GIS data so their departments better understand where pipelines are, implement programs to better prepare emergency personnel to respond to releases of fuels, and examine ways they can use their planning and zoning authority to increase the safety of people and pipelines. It has allowed small utilities to better train their personnel and utilize new leak detection equipment. It has helped fund the development of important new pipeline protection programs such as the marine pipeline location and education program in Louisiana to ensure better awareness of underwater pipelines by the shipping industry. And it has allowed communities that have experienced pipeline failures and contentious pipeline issues, such as Salt Lake City, Fort Worth, San Bruno and Contra Costa County , CA to bring their citizens together to better understand the pipeline safety system that exists, an accurate view of the risks posed, and ways that citizen can make pipelines even safer.

We were happy to see the commitment to this program in the funding authorization in the bill the Senate has been working on, and we ask you will support this grant program also. For reasons that still have not been explained, in the rush to pass a budget in December the appropriations for this program were lost. We hope you will do all you can to make sure that the program is not only authorized, but also actually funded through necessary appropriations.

Concerns we have with the Senate's **Securing America's Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act**

Section 6005 - Statutory Preference

Under sections 6003 and 6005 of the bill being considered in the Senate, PHMSA is required to report on a regular basis the status of their rulemaking efforts, and to prioritize their efforts on mandated and rules currently in progress over starting new rulemakings. We certainly support the reporting requirements to hold PHMSA accountable and to make clear to the public and Congress the status of various rulemaking efforts. We do have concerns that the prioritization language in Section 6005 may further delay long-identified needed rules, or needed new rules that may be identified through investigations or incidents. The National Transportation Safety Board, the National Academy of Sciences, and PHMSA themselves have identified many needed rules. Even in the current rulemaking on hazardous liquid pipelines PHMSA has identified a number of important initiatives regarding the

identification of High Consequence Areas, leak detection, valve placement, automated valves, and integrity verification that have not been addressed in the current proposed rule, but have been put off to "future" rulemakings. We would hate to see new rules on these issues delayed even further because of such prioritization language, or some mistaken interpretation of the language. We ask that you make it clear that such prioritization language does not further delay long talked about and needed rules from progressing.

Section 6009 - Inspection Report Information

We support the goal of this section, which is to provide some timely feedback and certainty to operators regarding recent inspections. It is unclear to us whether the 30-day requirement is adequate for producing the final inspection report, or whether that needs a slightly longer time period – say 60 or 90 days. Clearly one way this section can be improved would be a requirement that all such final inspection reports be made publicly available on PHMSA's enforcement website. The National Energy Board of Canada and the Washington Utilities and Transportation Commission recently began to post all such inspection reports to their public websites to increase the transparency and public understanding of their efforts. The vast majority of such reports find little or nothing wrong with a pipeline and posting the reports is a great way to help the public better understand the inspection process and gain trust in the inspection system.

Section 6016 - Underground Natural Gas Storage Facilities

The Aliso Canyon natural gas storage disaster has finally made clear the need for minimum standards for the underground storage of gas. Such standards have been requested for decades, and in 2010 the state pipeline regulators through their National Association of Pipeline Safety Representatives passed a resolution to urge PHMSA to:

> ***"Develop regulations and policies to address the assessment of the integrity of existing wellbores used for the purposes of storing natural gas or hazardous liquids; the safe operations and construction of natural gas and hazardous liquid storage wellbores; and the safe operation of the geologic formations used for gas and hazardous liquid storage."***

We are happy to see the Senate and now the House considering ways to ensure that finally such minimum standards get adopted. While the language in the Senate bill is a good first start we think there are ways to improve upon it to ensure we get truly the best regulations after having to wait so long. Here are the steps we hope you will adopt:

- Give PHMSA the authority to adopt emergency temporary standards as soon as possible (as we previously pointed out the need for Emergency Order authority) that include the provisions spelled out in their February Advisory Bulletin ADB-2016-02[9], and the recently created API storage recommended practices, API RP 1170 and API RP 1171, along with other standards determined appropriate by the Secretary.

- Direct PHMSA by a date certain to prescribe regular minimum standards for underground

[9] https://federalregister.gov/a/2016-02228

storage facilities through their typical rulemaking process so as to ensure the possible inclusion of ideas from state regulators, academics and the public along with those of the industry.

• Add in the statute a definition that makes clear that any storage facility that falls wholly within the borders of a single state is considered an **Intra**state facility, and that a state authority may adopt additional or more stringent regulations for such facilities.

If you need good language that includes most everything we believe needs to be included in underground storage regulations we suggest you start with H.R. 4578 recently introduced by California Representative Sherman.

Section 6021 – Small Scale Liquefied Natural Gas Facilities

We support the adoption of minimum safety standards for permanent small scale liquefied natural gas facilities. Such facilities can provide an alternative fuel for the shipping and trucking industries with many benefits including reduced emissions, costs, and noise. While we support the proposed regulations and the growth in this industry the wording in the Senate bill leaves many questions. In particular the definition of Small Scale Liquefied Natural Gas Facility is imprecise and leaves too much up to interpretation. At a minimum the definition needs to be modified to include a phrase such as "is not a facility under the jurisdiction of the Federal Energy Regulatory Commission."

Because of the nature of the product the larger LNG import and export facilities fall under a regulatory system that includes many fairly prescriptive rules meant to ensure the safety of surrounding communities. The language in the Senate bill seems to push a risk-based regulatory system built upon industry-developed standards and best practices. We ask that any authorization for PHMSA to move forward on new rules for these facilities requires the agency to equally weigh the failures that have been caused by operators who do not properly assess the risks to their pipelines, the difficulties in enforcing risk-based systems, and the wisdom of allowing the regulated industry to draft their own regulations.

We make this request for good reason. Two liquid pipeline incidents in the past few years exemplify major failings of the industry-dominated risk-based rulemaking process followed by PHMSA under the existing statutory dictates. In both instances, an operator failed to identify or mitigate for a particular risk or threat to its pipeline, and those risks ultimately manifested in ruptures of their lines - one spilled 1500 barrels of oil into Montana's iconic Yellowstone River, and one spilled 5,000 barrels of dilbit into a Mayflower, Arkansas subdivision, sickening residents and threatening the quality of a large heavily used lake and wildlife refuge. In each case, ExxonMobil argued in PHMSA enforcement proceedings that its integrity management and operational plans were in compliance with PHMSA's risk-based minimum federal pipeline safety regulations, so the fact that there had been a spill could not be held against them.

The horror of this scenario is twofold: First, that the regulations encourage operators to believe that failures of this size do not necessarily mean that an enforceable pipeline safety violation has occurred. The risk-based regulations, often based on industry-developed standards, completely fail to establish a measurable standard for sufficiency of an integrity management plan or its implementation, creating a regulatory environment that is so ambiguous as to be nearly unenforceable. The regulations

don't say "Take all necessary measures" to prevent a pipeline failure, they just say "take measures." It's as if rather than establishing a speed limit of 60 miles per hour, PHMSA's rules merely caution operators to do the best they can to drive safely.

And the second horror, following from the first, is that in certain circumstances, ExxonMobil's belief may be right. Without a rulemaking process that allows the creation of clear standards for integrity management plans through an open non industry-controlled process, and without any regulatory approval process for those plans, the existing system relies upon the discretion of operators to make the right choices, to take *enough* measures to protect public safety and the environment. Recent incident history suggests that reliance is too often misplaced.

Thank you again for this opportunity to provide this testimony. The Pipeline Safety Trust hopes that you will closely consider the concerns we have raised and the requests we have made. If you have any questions now or at anytime in the future, we would be pleased to answer them.

Op-ed: He fought Red Butte spill with all he had, and then he died

Dr. Brian Moench
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http://www.sltrib.com/opinion/3010259-155/op-ed-he-fought-red-butte-spill

Most Salt Lake City residents probably no longer think much about the 2010 oil spill that shockingly filled Liberty Park with oil. I will never be one of them.

I just attended the funeral of a friend and wonderful school teacher who had made a lasting impression on my own children and hundreds of others. As their science and biology teacher, he was a model for his profession. Many years after they had graduated from his classroom, he still remembered my children in detail and asked how they were doing in their higher education, in their careers, and in life. I wish I could say that he died of old age. He didn't. He died a relatively young man, still in the prime of life, of a rare disease which occurs in only about one in 5,000 people — Idiopathic Pulmonary Fibrosis.

IPF is a fancy term for severe scarring of the lungs that usually shortens a person's life, often being fatal within a few years or even months. "Idiopathic" means the cause is unknown. A long list of exposures and conditions can lead to pulmonary fibrosis, or are associated with it. The National Institute of Health and Mayo Clinic state workplace toxins, environmental pollutants, dust, and smoking increase the risk of IPF. Injury to the lungs can lead to the body's overreacting to the injury, eventually leading to scarring. In my friend's case, he was in excellent health, vigorously active in many outdoor activities, with no risk factors for IPF until June 12, 2010 — an event that dominated the last few years of his life.

He lived on Red Butte Creek, and his family was one of the most exposed to the vaporized toxins of the spilled oil. He told me with emotions boiling over how his teenage son was rendered temporarily comatose and blind and taken to the hospital. For weeks, and likely months, benzene and other toxic VOCs filled the air in his house and backyard at levels that were well beyond workplace OSHA standards.

Shortly after the Red Butte spill, an important study was published in one of the most highly respected medical journals, demonstrating that oil spill workers exposed for as little as four hours a day for two weeks, showed evidence of persistent adverse health impacts. Two years after participating in clean-up of the Prestige oil spill off the coast of Spain, exposed fishermen still showed increased rates of respiratory symptoms, and elevated markers of lung damage, suggesting permanent airway injury. They had more chromosomal abnormalities, the kind often examined in environmental studies as an early indicator of increased cancer risk. The authors concluded exposure to oil sediments, even for short periods, can have lasting health consequences.

My friend became perhaps the most motivated, knowledgeable and energetic citizen in working to hold accountable both Chevron and those government officials who brokered an ultimate settlement. Those of us involved in the effort admired his persistence and determination that Chevron not be allowed to continue risking another spill. When the second Chevron spill occurred, his concerns were obviously validated. When we learned that city and state officials allowed Chevron to avoid paying for a health study of the people exposed to the spill, he and I shared dozens of e-mails and conversations venting our frustrations that Chevron had been let off the hook.

In January 2013, he e-mailed me his chest x-rays and the startling news that he had been diagnosed with terminal IPF. The tragic irony began to sink in, that the person who worked the hardest to get appropriate health care and follow up for Red Butte residents may have become its first casualty. Like many of the victims of various types of pollution, cause and effect in individual patients often can't be firmly established. But the only risk factor in his history was inhalation of vaporized oil sediments, and for a longer period of time than what has been demonstrated to result in permanent lung injury in others.

I usually deal in statistics and the abstract in discussing the pollution and public health consequences of dirty energy. Now, for me and hundreds of others, those statistics have forever become engraved with the face of a beloved teacher, Peter Hayes.

Dr. Brian Moench is president of Utah Physicians for a Healthy Environment

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
HEARING ON
"REAUTHORIZATION OF THE DEPARTMENT OF TRANSPORTATION'S PIPELINE SAFETY PROGRAM

Carl Weimer, Executive Director, Pipeline Safety Trust

- **The Government Accountability Office found that only 10% of gathering lines in high-consequence areas are regulated. What should Congress and federal regulators do to address the safety of gathering lines?**

According to PHMSA's data,[1] from reports that regulated pipeline operators have to submit each year, in 2013 there were 17,380 miles of regulated gas gathering lines. Many of these lines are the same size and pressure as transmission pipelines, but they are regulated far less with no requirements that they are ever inspected using the latest technologies. To make matters worse, according to a briefing paper from PHMSA[2] they estimate that there are 230,000 miles of actual gathering lines in the country, with over 210,000 miles of these gathering lines falling outside of **any** federal or state pipeline safety regulation.

Based on Congressional and pipeline industry desires for risk-based regulations, we believe it is time to ensure that any onshore gathering pipeline with a similar risk profile to transmission pipelines based on size, pressure, and location characteristics fall under the same level of minimum federal regulations, including the integrity management requirements for those in high consequence areas. This can be accomplished by removing 49 CFR 192.1 (b) (4) (ii) and 49 CFR 192.8 and 49 CFR 192.9 so gas gathering lines are treated the same as identical gas transmission pipelines.

While we realize that PHMSA Administrator Dominguez recently told the House Energy & Commerce Committee that proposed rules for natural gas pipelines will be release very soon, and those rules will include new requirements for gas gathering lines, those requirements are not yet public. We would guess that those requirements will not include any real safety regulations, but instead focus on data collection to help PHMSA meet cost benefit requirements for some future rulemaking that may impose safety requirements on these gathering lines. That is far too slow of a process, so we urge Congress to mandate that gas gathering lines fall under the same regulations as gas transmission pipelines that are of the same size, pressure, and location attributes.

- **How much pipeline is located within a high-consequence area in the United States? Why should we expand the definition of high-consequence area, and what would be your recommendation for expanding it?**

According to PHMSA's most recent publicly available data[3] here is the mileage of pipelines in High Consequence Areas (HCAs) as of 2014:

	Total Miles	Miles in HCAs	% in HCAs
Hazardous Liquid Pipelines	199,642	84,211	42.2%
Natural Gas Transmission Pipelines	298,966	19,873	6.6%

[1] http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.6f23687cf7b00b0f22e4c6962d9c8789/?vgnextoid=78e4f5448a359310VgnVCM1000001ecb7898RCRD&vgnextchannel=3b6c03347e4d8210VgnVCM1000001ecb7898RCRD&vgnextfmt=print
[2] PHMSA Briefing Paper, Onshore Gas Gathering, Technical Pipeline Safety Standards Committee Meeting, March 2011
[3] http://www.phmsa.dot.gov/pipeline/library/data-stats/performance-measures

The current definitions in the liquid rules are confusing, arbitrary, and leaves considerable numbers of citizens and fragile environments at needless risk. The definitions of "high population area" and "other populated area" are particularly troubling since they are based on fairly arbitrary determinations by the Census Bureau that have no relationship to the potential risk from pipeline failure. On the natural gas side operators are allowed to choose between two different methods to determine their HCAs, And these two methods often have very different outcomes. This allows pipeline operators to choose the method that may be best for their bottom line, but not the most protective of public safety.

Since the boundaries of determined HCAs are kept from the public it is hard for the public or local governments to comments on the adequacy of these parts of the regulations. We suspect that these definitions allow significant numbers of residential developments to go without the added protection that inclusion in an IM Program could provide.

We favor eventually expanding the Integrity Management program to all pipelines, which would preclude the need for expanding HCAs. PHMSA in their recent proposed rule for hazardous liquid pipelines has proposed to require some parts of integrity management on all segments of pipelines whether they are in HCAs or not. While this is a good first step unfortunately the proposal does not include any real identification of threat and risk analysis, and does include a much longer inspection interval. Since recent incidents, like the spill into the ocean near Santa Barbara, show that even the existing inspection interval is not always adequate, we think expanding the definition of HCAs to include critical areas that were missed when the rule was originally implemented over a decade ago is now necessary. We are in favor of including:

- major roadways
- railroad crossings
- "Waters of the United States" as defined in the Clean Water Act
- all populated areas as defined for Class 2 locations under 49 CFR 192.5
- State and Federal Wildlife refuges
- National parks, monuments, and recreation areas
- Cultural, historic, and archeological sites including subsistence areas.

➢ **In the 2010 Enbridge pipeline spill, the pipeline was leaking 17 hours before it was shutdown. In the recent Plains Pipeline incident in Refugio, California, the pipeline ruptured at about 10:55 am but the valve wasn't closed until about 1:49 pm and the incident wasn't reported to the National Response Center until about 2:56 pm. We see all-too-often a lag time for response by pipeline operators and controllers. What specific actions should pipeline operators take to detect leaks and ensure prompt action to shutdown the pipeline?**

There are a number of things that hazardous liquid pipeline operators could do to better detect and minimize leaks and ruptures. The two main things are better leak detection and increased use of automated valves. After over five years of working on expanding the regulations for hazardous liquid pipelines PHMSA has proposed to require all such pipelines have computational leak detection systems, but failed to set performance standards for how well those systems need to operate. While this is a good first step, the Regulatory Impact Analysis of this proposal prepared for PHMSA indicates that this is a proposal with few anticipated costs and benefits, chiefly because most HL pipeline operators already operate SCADA systems to manage their pipelines both within and outside areas that could affect HCAs. Since SCADA systems are nominally able to detect some leaks, those existing SCADA systems would be sufficient to comply with both existing and proposed regulations. We support this proposal only because it provides some basis for enforcement, should PHMSA discover an operator without a functioning SCADA system or other system technically capable of detecting some leaks.

What PHMSA's proposal, which was five years in the making, makes even more obvious is that in spite of clear Congressional and public concern regarding the current state of leak detection requirements and the poor

performance of existing technology in the field, PHMSA has proposed only this current proposal which fails to make improvements over the status quo and apparently intends to do no more. Five years have elapsed since the ANPRM indicated PHMSA would take up the issue, four years since the last reauthorization act directed PHMSA to issue a report on leak detection within one year and follow that report after a year's Congressional review period with new regulations on leak detection. PHMSA says on its website[4] that the required leak detection report was sent to Congress in December of 2012, yet states in this NPRM that it has not yet done so, and suggests that the missing report and congressional review period are the reasons that this proposed rule does not include leak detection performance standards. Although the NPRM refers to taking up the issue in a later rulemaking (after the report and the review period), the title of that future rulemaking refers only to "rupture detection" according to the Secretary's web page, not leak detection, leading us to the conclusion that PHMSA has absolutely no intention of taking up the issue of leak detection systems at any foreseeable time. This, in spite of the agency's apparent knowledge of the harm that even small leaks left undetected can do: two leaks in the Salt Lake City area, cited in the NPRM narrative, caused substantial environmental and health impacts to the area's residents; the West Shore leak in Wisconsin polluted many private wells, risking the health of the area's residents and requiring the expansion of a municipal water supply; the Tioga, North Dakota spill from a Tesoro pipeline has frequently been referred to as a leak, and it resulted in one of the largest inland oil spills in US history.

Leak detection is challenging technically, but that means that PHMSA should be using its regulatory authority to push the technology to improve, not accepting the status quo where up to 95% of pipeline failures are detected by something other than the operator's leak detection system[5]. While PHMSA's new term "rupture" detection may be possible, there are a good deal of new technologies that may have the ability to identify leaks as well, especially if required on new pipelines. Congress should require PHMSA to move forward as soon as possible with both a rupture and a leak detection rule, and both rules should be required to provide clear performance standards so the use of such systems meaningfully achieve greater protection. Many of the same concerns hold true for natural gas transmission pipelines as well

The other main thing operators of both hazardous liquid and natural gas transmission pipelines can do is increase the use of automated valves so if something goes wrong the valves can be shut immediately instead of having to rely on personnel to drive to the valve and close it manually.

In 1992, 1996, 2002, and 2006, Congress required the Office of Pipeline Safety (OPS) to "survey and assess the effectiveness of emergency flow restricting devices...to detect and locate hazardous liquid pipeline ruptures and minimize product releases" with the first such requirement having a deadline in 1994 (21 years ago!). Following this analysis, Congress required OPS to "prescribe regulations on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device."

OPS/PHMSA never issued a formal analysis on emergency flow restricting device (EFRD) effectiveness. Instead, in its hazardous liquid pipeline integrity management rule (over a decade ago), OPS rejected the comments of the NTSB, the U.S. Environmental Protection Agency, the Lower Colorado River Authority, the City of Austin, and Environmental Defense and chose to leave EFRD decisions up to pipeline operators after listing in the rule various criteria for operators to consider. Such an approach to EFRD use does not appear to meet Congressional intent, partly because the approach is essentially unenforceable. PHMSA in its current proposed rule for hazardous liquid pipelines again puts off new rules for such automated valves to some undefined future date.

We ask that Congress again direct PHMSA to move as soon as possible to develop new regulations with clear performance standards requiring automated valves in high consequence areas, and that any such proposed rule should consider the use of systems that include the potentially faster fully automatic valves in particular

[4] http://www.phmsa.dot.gov/pipeline/psa/phmsa-progress-tracker-chart
[5] http://www.bloomberg.com/news/articles/2012-09-19/oil-pipeline-spills-go-undetected-by-much-touted-sensors

sensitive areas, over the use of remotely controlled automated valves that require a control room operator to identify a problem and close the valve.

- **You mentioned that the equipment needed to monitor chemical exposure from spills is often "not available soon enough to make a difference." What should Congress and federal regulators do to address this?**

After many hazardous liquid spills over the past decade, and after the recent Aliso Canyon natural gas leak in California, people living in the area report similar acute health complaints. While many of these health issues appear to be temporary, there is always ongoing concerns by people who have been exposed to a number of different chemicals regarding the long term health implications. The short-term effects and the long term health implications are difficult or impossible to assess without clear monitoring data that shows what chemicals people were exposed to, for how long, and at what levels. Unfortunately monitoring equipment, especially equipment sensitive enough to record very low levels of chemicals, is often not onsite at spills soon enough or at an adequate dispersal of locations to provide local and state health officials information necessary to make evacuation decisions, or to help determine future efforts regarding medical care or testing.

Congress could help solve this problem by requiring PHMSA to contract with an independent organization such as the National Academy of Sciences to investigate and make recommendations for what chemicals should be monitored at different types of spills, what minimum detection standards monitoring equipment should be capable of, how soon such monitoring equipment should be deployed and at what intervals, how such monitoring data should be collected, shared, and archived, and develop some basic evacuation levels to be used as a guide for local and state health officials. The report should also make recommendation for how PHMSA should incorporate this new information into requirements in their emergency planning and spill response plan regulations.

- **The National Academy of Sciences recently issued a report on diluted bitumen which recommended a study on the health effects and environmental consequences of oil spills. No research has been done on the subject. Do you think this is an important recommendation? If so, why?**

Yes, we agree such a study is important and should proceed as soon as possible to help inform needed changes to PHMSA's spill response plan requirements. The spill of nearly a million gallons of diluted bitumen into the Kalamazoo River in Michigan in 2010 provided ample evidence diluted bitumen acts differently when it is allowed to enter the environment. The short and long term consequences of oil that has a greater potential to sink in water and to coat substrate differently than conventional oils needs to be better understood to understand the best remediation strategies. As pointed out in the above question there is also a good deal unknown about the short and long term health effects of human exposure to all types of oil, but because of the many different chemicals added to diluted bitumen to allow it to flow through a pipeline it needs particular attention. We hope this study will be ordered and funded.

- **You mentioned a recent study by the National Academy of Sciences which recommended that oil pipeline operators include Safety Data Sheets in their oil spill response plans. Do you believe this is important? If so, why?**

Yes, we completely agree with the National Academy of Sciences' recommendation regarding the need for Safety Data Sheets (SDSs) to be included in pipeline operator's spill response plans. We also support their recommendation that SDSs be provided for every specific product carried in the pipeline, since it has become very clear that there are many different types of crude oils that contain many different chemicals at many different potencies. We also think that such SDSs should also be required to be shared with local emergency response and planning agencies as part of an operator's emergency planning and public awareness efforts. If

these SDSs were available it would be the best way for emergency responders to know nearly immediately what they are getting involved with to protect themselves and the surrounding public, as well as what types of control strategies to implement.

- **In your testimony, you state that Congress should "make abundantly clear that when the federal regulators fail to fulfill a duty imposed under the Pipeline Safety Act, the courts may enforce those duties by issuing injunctions against the United States." What concerns prompted this recommendation, and how would you recommend Congress address this?**

After the PG&E pipeline failure and explosion in San Bruno California in 2010, as the systemic issues with PG&E's pipeline system and the questionable regulatory history of the California Public Utility Commission became better known, the City and County of San Francisco became concerned about the safety of the PG&E lines under its own streets. They wanted PHMSA to reject the CPUC certification and take over regulation of California's gas lines, and sought help from the courts to accomplish that goal. Unfortunately, the District Court did not ever decide whether San Francisco's claims had merit. The court decided that the statutory language in 49 USC 60121(a)(1) that allows for an individual to seek the court's assistance in enforcing violations of the PSA or its regulations by another person, including the United States, did not allow an individual to seek an injunction against the United States *in its role as regulator,* and the court did not have jurisdiction to hear the City's claims.

Contrary to the parade of horrible consequences brought forward by the industry representatives at the House Energy and Commerce hearing on March 2 in response to the mandamus provision of the discussion draft, there has never been a flood of litigants seeking to "sue and settle" under the existing provision that has been in the statute since 1976. There are prescribed conditions limiting its use: it can not be used when PHMSA, the Department of Justice or a State attorney general is pursuing enforcement of the violation, so there would be no interference with PHMSA investigatory or enforcement authority; and the existing provision requires a 60 day notice of intent to sue, so the agency will not be blind-sided by lawsuits. There are but two cases that we know of that have gone to court, including the San Francisco case (the other was a case challenging PHMSA's failure to complete statutory mandates in a timely manner). There are two other instances we know about where local government claimants filed 60 day notices, but to our knowledge neither of them proceeded to the next stage in filing a lawsuit. The local governments were the City of San Marcos, California, concerned about the same certification by the California Public Utilities Commission when pipelines were discovered in their city for which PG&E had incorrect records more than 2 years following the San Bruno tragedy, and the Central Arkansas Water District, a water utility concerned about the Pegasus line in Arkansas being a potential source of contamination for its customers, as its reservoir's watershed is traversed by the Pegasus line, a line that remains closed pursuant to a Corrective Action Order issued following the spill into a neighborhood in Mayflower, Arkansas in 2013. Indeed, instead of private actions to enforce statutory obligations being an usurpation of priorities established by Congress, they are the exact opposite: an enforcement of obligations established by Congress in the public process of establishing the nation's pipeline safety laws.

We are very happy to see the language in the Energy and Commerce Committee's discussion draft of the Pipeline Safety Act of 2016 that will restore what we believe to have been Congress' original intent in 1976: to make abundantly clear that when the federal regulators violate the PSA by failing to fulfill a duty imposed by Congress, the courts may enforce those duties by issuing injunctions against the United States. We hope you will adopt similar language as the House Energy and Commerce Committee has in their working draft and then work with the Senate to ensure such language is included in the bill that is eventually agreed upon and passed.

- **INGAA wants Congress to eliminate the PHMSA's Class Location regulations, which require gas transmission pipeline operators to determine the appropriate levels of stress on pipelines based on population density. According to PHMSA, Class Location requirements cover**

301,988 miles of gas transmission pipelines, whereas Integrity Management Program requirements cover only 19,534 miles of gas transmission pipelines. Do you have any comments about the INGAA proposal?

We do not support INGAA's call for eliminating class locations at this time. As we have pointed out in previous testimony there are still too many concerns regarding the implementation of Integrity Management to move completely to such a risk-based performance system that gives what we believe is too much control to the pipeline operators and makes enforcement very difficult. Class location determinations are also entwined throughout the regulations so the elimination of Class Locations would be a huge undertaking to get right, and we believe PHMSA has many higher priorities for the foreseeable future.

- **Some maintain that the Technical Assistance Grant (TAG) program is used by grantees to promote an anti-pipeline agenda and therefore should be limited to states and localities. Please discuss the origin of the program, the importance of the TAG grants to non-state/local entities, and what types of projects are funded with the grants.**

The Community Technical Assistance Grant program was first authorized in the 2002 reauthorization of the Pipeline Safety Act, and was first funded in 2009. Since 2009 more than 160 grants have been awarded.

In 2002 Congress established a Community Technical Assistance Grant program to ensure better education and involvement of the communities by helping to provide **"technical assistance to local communities and groups of individuals relating to the safety of pipeline facilities in local communities."** The program was first funded in 2009, and since that time more than 160 grants have been awarded. This relatively small grant program has allowed local government to obtain and implement GIS data so their departments better understand where pipelines are, implement programs to better prepare emergency personnel to respond to releases of fuels, and examine ways they can use their planning and zoning authority to increase the safety of people and pipelines. It has allowed small utilities to better train their personnel and utilize new leak detection equipment. It has helped fund the development of important new pipeline protection programs such as the marine pipeline location and education program in Louisiana to ensure better awareness of underwater pipelines by the shipping industry. It also has allowed communities that have experienced pipeline failures and contentious pipeline issues, such as Salt Lake City, Fort Worth, San Bruno and Contra Costa County , CA to bring their citizens together to better understand the pipeline safety system that exists, get an accurate view of the risks posed, and consider ways that citizen can make pipelines even safer.

Here are just a few examples of some of the 160+ grants that have been awarded under this program:

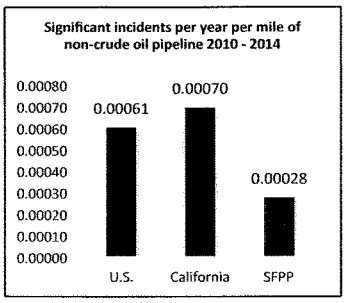
Michigan FY 2014 – Miss Dig System received grant to produce information about the importance of using the One Call System and follow up survey to test effectiveness.

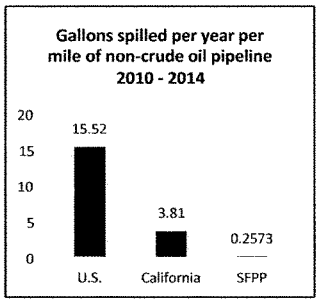
Kentucky FY 2014 – City of Olive Hill received grant to purchase a remote gas leak detector, provide GIS mapping of pipelines, and provide educational outreach to schools and senior centers to increase public safety

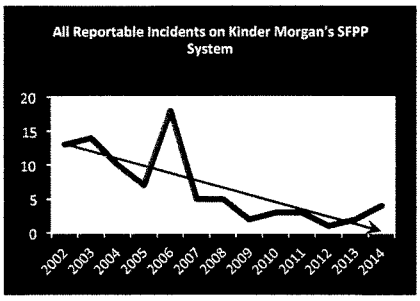
Texas FY 2015 - Permian Basin Regional Planning Commission received grant to address the public safety and economic resiliency challenges associated with rapid economic growth due to oil and gas drilling and a growing pipeline infrastructure

Tennessee FY 2014 – Oak Ridge Utility District received grant to develop a system whereby it can notify its customers of safety related issues via email or mobile devices in case of emergencies.

In 2015 the Pipeline Safety Trust was asked by the Alamo Improvement Association, a homeowners group in the east bay area of California who had been awarded one of these Technical Assistance Grants, to help provide technical assistance to them to explain the risks from a particular pipeline that runs through that area. Through a report and a couple of public forums, where we invited the pipeline operator and the regulator, we were able to provide a better understanding of the real risk from that pipeline, and direct the community's efforts towards things they could easily do to increase safety. Here are some of the graphs we developed from PHMSA data to show that this particular pipeline had a better safety record than the national and state averages.







In the end the Alamo Improvement Association used a good deal of the TAG money to provide specific training to local emergency responders from the National Association of State Fire Marshalls, promote the Call Before You Dig system in their area, and to recommend better preparedness by local school districts and county government.

We certainly do not know what all 160+ grant awardees have done with the money, but we are not aware of any groups using the TAG money to promote an anti-pipeline agenda. PHMSA's application procedures make it clear that lobbying and lawsuits are not allowed under these grants, and we assume their award selection process considers that as well. We were happy to see the commitment to this program in the funding authorization in the bill the Senate has passed, and in the working draft that House Energy and Commerce has been working on, and we ask you to support this grant program also. For reasons that still have not been explained, in the rush to pass a budget in December the appropriations for this program were lost. We hope you will do all you can to make sure that the program is not only authorized, but also actually funded through necessary appropriations.

TESTIMONY OF THE AMERICAN PUBLIC GAS ASSOCIATION

BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE

ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

FEBRUARY 25, 2016

Mr. Chairman and Members of the Committee, the American Public Gas Association (APGA) appreciates this opportunity to submit testimony on behalf of public gas systems to the Committee for this important hearing on reauthorization of the Department of Transportation's Pipeline Safety Program.

APGA is the national association for publicly-owned natural gas distribution systems. There are currently approximately 1,000 public gas systems located in 37 states. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. Public gas systems range in size from the Philadelphia Gas Works which serves approximately 500,000 customers to the city of Freedom, Oklahoma which serves 12 customers.

Public gas systems are an important part of their community. Our members' employees live in the communities they serve and are accountable to local officials (and their friends and neighbors). Public gas systems are generally regulated by their consumer-owners through locally-elected governing boards or appointed officials. However, when it comes to pipeline

safety, nearly all of our members are regulated by their respective state's pipeline safety office. All of our members must comply in the same manner as investor- and privately-owned utilities with pipeline safety regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

While the manner of safety regulation may be the same, one major difference between the average investor-owned utility and the average public gas system is in the number of employees. Approximately half of the 1,000 public gas systems have 5 employees or less. Only a handful have in-house engineering staff. As a result, regulations that impose significant administrative burdens such as paperwork and technical analysis have a significantly greater impact upon a small public gas system than upon a larger system serving hundreds of thousands or millions of customers and utilizing an in-house engineering staff with several hundred or even thousands of employees.

Safety is the number one issue for public gas systems. No other issue rises to the level of safety for the local distribution company (LDC) providing natural gas service to its consumers. Gas utilities are the final step in moving natural gas from the production field to the end user, be it a homeowner or business. As such, our members' commitment to safety is second to none and they remain focused on providing safe and reliable service to their customers. A key part of safety is education and public awareness.

Education and Public Awareness

Even before there were federal pipeline safety regulations, public gas systems conducted public awareness programs. Utilities add odorant to the gas to give it its distinctive smell so that people can smell it at one fifth of its lowest flammable limit. Educating the public so that the public recognizes a gas odor and calls the utility if they smell gas is a critical component of each utility's safety program. Another critical component is educating the public about the existence of buried gas lines in the community and the importance of notifying the one-call center to have lines marked before digging.

A public gas utility's public awareness issues are different from those of interstate liquid or natural gas pipeline operators. Unlike some liquid pipelines, natural gas utilities transport just a single product, natural gas, so our messages about recognizing and reacting to a possible leak are straightforward. In addition, LDC lines bring natural gas directly into the homes and businesses in the communities we serve, so our product is something that many in the public encounter in their daily lives. People may not expect there to be oil pipelines or gas transmission pipelines in their neighborhood, but they do know that there are buried gas lines, especially if they have gas service in their home. In 2015, APGA polled nearly 600,000 randomly selected people in towns and cities served by public gas systems. Over 89 percent were aware they should call before digging. And nearly 96 percent believed that they have adequate information about natural gas safety such as how to recognize a leak and what they should do if they smell gas in the home.

Public gas systems had effective public awareness programs before new regulations were established, they have effective public awareness programs now and APGA believes the current programs are adequate to ensure public awareness of natural gas safety into the future.

Reauthorization

As the Committee considers legislation to reauthorize the Pipeline Safety Act, APGA wants to communicate its support for reasonable regulations to ensure that individuals who operate and maintain the nation's network of distribution pipelines are provided the training and tools necessary to safely operate those systems. In this regard, over the past several years, the industry has had numerous additional requirements placed on it, such as, for example, the Distribution Integrity Management Program (DIMP), excess flow valves (EFVs), control room management, operator qualification, public awareness and more. Many APGA members are in the process of working to comply with the administrative burdens of these additional regulations and it will take time for all of the impacts of these already existing regulations to be fully understood. Given that public gas systems are non-profit systems and in many cases have limited resources, these additional regulations, while important, do impose an additional operational burden upon them. APGA urges the Committee to seriously weigh the benefits versus the burdens of new regulations before imposing any additional regulatory burdens upon LDCs through this reauthorization effort.

Funding via User Fees

As originally established, user fees for funding PHMSA are to be collected by natural gas transmission operators from their downstream customers. This has been the approach used since the inception of PHMSA user fees, and it has worked well since it minimizes the points of contact between the government and those from which it is collecting the user fees. These user fees are treated by the Federal Energy Regulatory Commission as part of the transmission operators' legitimate cost of service and hence are includible in the transmission operators' rates. The thousands of customers of each transmission operator, including local distribution companies (LDCs), reimburse the transmission operators for these user fees through the rates they pay for the transmission service and in the case of LDCs, are passed through to their end-use consumers. This historical approach for assessing and collecting user fees is logical and straight-forward in that the money collected by the relative handful of transmission operators is passed on to PHMSA effectively and efficiently.

The logical question is why anyone would want to change the current streamlined approach to something obviously more complicated and less efficient from the Government's point of view and the customers'. The answer, very simply, is that many pipelines in this country are substantially over-recovering their costs of service, i.e., their rates are no longer just and reasonable.[1] According to a study by the Natural Gas Supply Association which analyzes Form 2 data submitted by pipelines, from 2010-2014 pipelines over-collected $780 million/year or $3.9 billion over five years. Thus, these pipelines do not want to file for pass-through of the PHMSA

[1] NGSA 2010-2014 Pipeline Cost Recovery Report (issued February, 2016).

costs because such a filing would reveal that these pipelines should reduce, not increase, their rates in order to conform with the Natural Gas Act's (NGA) 'just and reasonable" rate standard. Pipelines would prefer to either move the PHMSA user fee downstream or initiate a tracker mechanism whereby they are shielded from a rate review under the NGA just and reasonable standard.

APGA supports the current approach, which has worked well over the years and commends the Committee for not including within the legislation a change in the user-fee structure. APGA is strongly opposed to any changes in the current approach that would either shift the user fees collection point downstream to the LDCs and other pipeline customers or permit the pipelines to bypass the NGA just and reasonable standard through a tracker mechanism. The Federal Energy Regulatory Commission has never turned down a request to include pipeline safety user fees in transportation rates charged by interstate pipelines, so the *only* risk to the pipelines is that, despite being permitted to include the PHMSA user fees as a legitimate operation and maintenance cost, their rates would be reduced because they are otherwise over-recovering their overall just and reasonable cost of service. Such pipelines should not be permitted to "track" costs that simply ensure their continuing over-recovery.

In brief, Congress should not tamper with the existing collection mechanism by cobbling together statutory relief for a non-problem, which relief can only exacerbate pipeline over-recovery and harm consumers by inappropriately raising their rates. Times are tough enough for American consumers without imposing on them extra costs for which there is no rational basis.

Definition of "Transmission"

Section 6 of the SAFE PIPES Act as amended in the Senate would require the Comptroller General of the United States to submit a report to Congress on the effectiveness of the natural gas integrity management program including an analysis or recommendations regarding changes to the current definition of high consequence areas or expanding integrity management beyond high consequence areas. Since the concept of high consequence areas is unique to transmission integrity management programs, this provision is clearly intended to apply to PHMSA's transmission integrity management program. APGA believes that is appropriate. We are concerned, however, that the Comptroller General's report should take care to differentiate between the type of large diameter, high pressure pipelines one normally thinks of as transmission lines and the smaller, lower pressure pipelines operated by public gas utilities that PHMSA also classifies as "transmission." According to PHMSA's transmission annual report data, public gas systems operate just over 2,800 miles of pipeline classified as transmission. Nearly 2,300 miles of these "transmission lines" are 12 inches or less in diameter, and 800 miles are 6 inches or smaller. APGA encourages Congress to ask the comptroller General to include in the report an analysis of the appropriateness of PHMSA's current definition of "transmission" which includes both a risk-based operating stress component and a functional component that results in some small diameter, low stress lines being classified as transmission despite the very low level of risk.

Conclusion

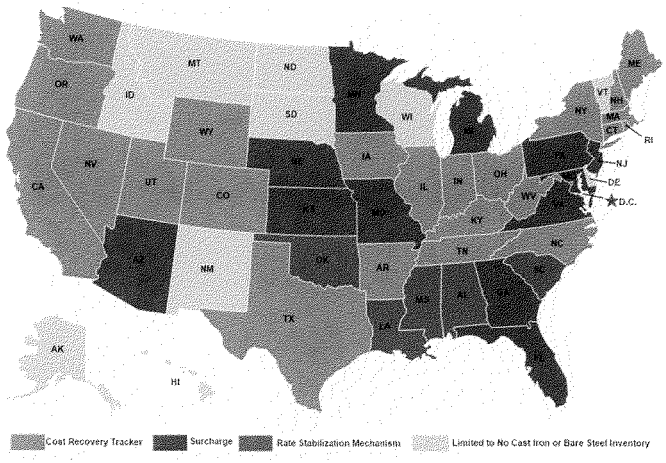
Natural gas is critical to our economy, and millions of consumers depend on natural gas every day to meet their daily needs. It is critical that they receive their natural gas through safe, affordable and reliable delivery by their LDC. Public gas systems are proud of their safety record, and safety has been, and will continue to be, their top priority. We look forward to working with the Committee towards reauthorization of the Pipeline Safety Act.

Response from the American Gas Association to Request for Information from Hon. John L. Mica, a Representative in Congress from the State of Florida

Natural gas utilities continue to be ever vigilant and committed to systematically upgrading infrastructure based on enhanced risk-based integrity management programs, in order to ensure safe and reliable delivery of natural gas. As was mentioned in Cheryl Campbell's testimony (given on behalf of the American Gas Association) during the February 25, 2016, pipeline safety hearing conducted by the House T&I Committee, the natural gas distribution sector has made replacement of pipelines no longer fit for service a top priority. A specific focus of that effort has been the work done to accelerate the replacement of cast-iron pipe, which was a key provision of the 2012 Pipeline Safety law. This work is being facilitated by specific state regulatory and legislative policies that establish innovative rate mechanisms which allow for accelerated replacement and modernization of natural gas pipelines. As a result, as more of these specific replacement programs are being approved, and existing programs are being expanded around the country, the quantity of cast-iron main continues to steadily decline. I am delighted to be able to report that as of today, overall cast iron makes up less than 1.5 percent of the total distribution mileage -- and that number is going to continuing going down.

As of May 2016, PHMSA reported that there were 27,862 miles of cast-iron pipelines in use. That number has been going down since the hearing due to all of the ongoing pipeline replacement activity. The approximate cost of removing all of those pipelines is over $80 billion. The specific costs associated with replacement vary depending on the size of the pipeline, if the pipeline is in a rural or very urban setting, if the pipeline is under pavement or under grass, the depth of the pipeline, and the difficulty of continuing to provide natural gas to the customers served by that pipeline. To be certain, all utilities have an infrastructure replacement program and seek to remove pipelines no longer fit for service as rapidly as they are able and allowed through their regulatory construct. However, since the industry and regulators across the country have stepped forward to respond to the Call to Action set forth by former Secretary of Transportation Ray LaHood back in 2011, we have gone from 18 states that had a specific rate mechanism facilitating accelerated replacement of pipelines no longer fit for service, to now 41 states and the District of Columbia having such mechanisms. In 2013, nine states moved to adopt such programs and three more and the District of Columbia moved to do so in 2014. In 2015, WV also passed legislation to allow for faster pipeline replacement, while IL, MA, MI, MS, NJ, NY and PA each moved to strengthen and expand upon existing replacement programs and efforts. Just this year, WY approved an accelerated replacement mechanism. Of the remaining states without a specific accelerated replacement rate mechanism, AK, ID, ND, VT and WI have all finished replacing their cast iron and bare steel. The cumulative result of all of these important actions is that the industry is replacing cast-iron pipe, as well as bare steel, as quickly as possible in a safe and cost-effective manner.

States with Accelerated Infrastructure Replacement Programs



The overall trend is positive

States address this issue differently

The basis for these decisions is always just and reasonable rates for consumers

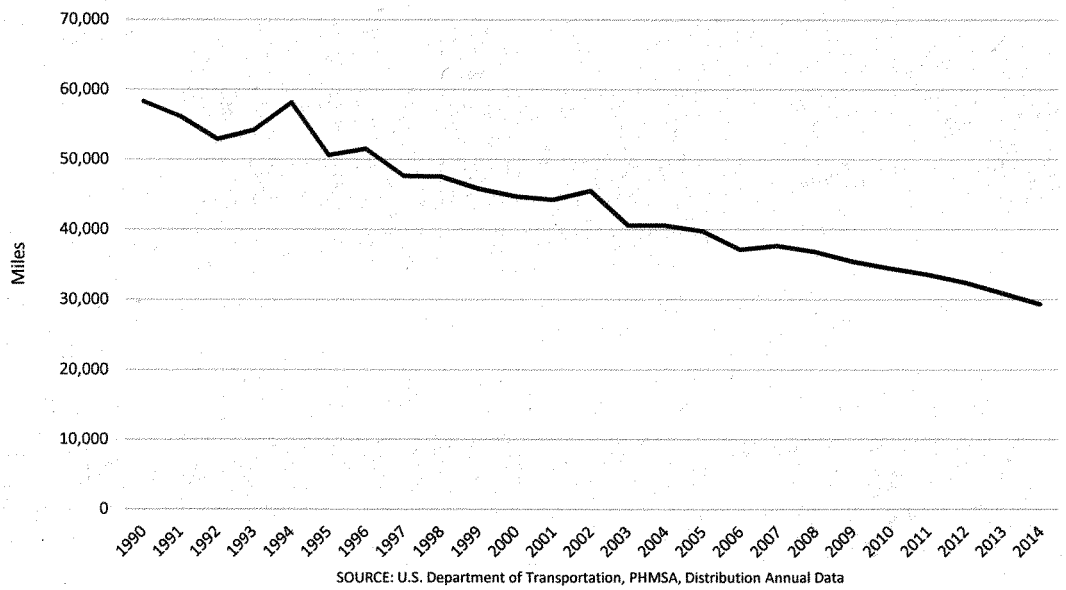
Remaining Materials in States without Mechanisms

State	Main -Steel Unprotected Bare (Miles)	Main - Cast/Wrought Iron (Miles)	Estimated Miles of Services -Steel Unprotected Bare	Estimated Miles of Services - Cast/Wrought Iron
AK	7.5	0	0.00	0.00
DE	6.18	76.3	8.13	0.00
HI	101.8	0	83.27	0.00
ID	0	0	0.00	0.00
MT	3.34	0	0.63	0.00
ND	0	0	0.14	0.00
NM	5	0	0.55	0.0
SD	0.068	0	1.92	0.00
VT	0	0	0.00	0.00
WI	0	0	0.04	0.00
Totals	123.888	76.3	117.19	0

Source: DOT Data

- *Idaho and Vermont have finished replacing their cast iron and bare steel.*
- *Wisconsin has finished replacing its cast iron and bare steel main and has a limited quantity of bare steel services remaining.*
- *Other companies/states on this list are on the verge of completing their cast iron and bare steel replacement.*

Overall Cast Iron Main Makes Up Less than 3% of the Distribution Mileage, and is Decreasing Annually



NATIONAL ASSOCIATION OF STATE FIRE MARSHALS

May 31, 2016

Subject: Hearing on "Reauthorization of DOT's Pipeline Safety Program"
House Subcommittee on Railroads, Pipelines, and Hazardous Materials –
Transportation and Infrastructure Committee

Dear Chairman Denham and Ranking Member Capuano:

On behalf of the National Association of State Fire Marshals (NASFM) and our Board of Directors I respectfully submit this Statement for the Hearing Record on the important issue of Pipeline Emergency Response Training. The principal membership of NASFM comprises the senior fire officials in the United States. The primary mission of the National Association of State Fire Marshals (NASFM) is to protect human life, property and the environment from fire and related hazards – including Pipeline Emergencies.

We feel it is imperative that the issue of Pipeline Emergency Response Training be included in a Pipeline Reauthorization bill. NASFM requests the House to include the Senate passed Committee Report Language regarding Pipeline Emergencies Training in the House Committee Report.

NASFM is the Recognized Leader of National Pipeline Emergency Response Training (PE2)

NASFM is the National Leader on Pipeline Emergency Responder Training. The Pipeline and Hazardous Materials Safety Administration (PHMSA) at the U.S. Department of Transportation has been working with NASFM since 2003 to develop the Pipeline Emergencies (PE) Training Program. PE2 was updated in 2010 and is now administered by NASFM as the best practices training program throughout the country by the Pipeline, Oil and Gas Industry and Emergency Responders.

PE2 is now ready to be updated after review by the Industry, Emergency Responders and Subject Matter Experts. The cost for this update will be $150,000 for the Book, Artwork, and Training Curriculum. To produce the videos and online training there is an additional cost of $250,000.

NASFM oversees the training and mobilization of America's firefighters to coalesce communities in the pursuit of even higher levels of safety and even greater confidence in our vital pipeline system. Overall, the program does not focus on simply doing what is required, but on achieving a level of excellence that far exceeds minimum safety standards. www.pipelineemergencies.com

P.O. Box 671 • Cheyenne, WY 82003 • Tel: (307) 433-8078 • Fax: (307) 547-2260 • www.firemarshals.org

Committee Report Language – Pipeline Emergency Response Training

NASFM has been very pro-active by working with private industry in updating, promoting and providing training around the country. Shell Pipeline LP has been the leader along with many other pipeline companies and stakeholders, in partnering and endorsing the Pipeline Emergency Response Training as the Best of Class Training in the country. Pipeline Emergencies (PE2) is endorsed by the Association of Oil Pipe Lines (AOPL) and the American Petroleum Institute (API) Pipeline Safety Excellence initiative

NASFM, along with our industry partners, request the Senate passed Committee Report Language below be included in the House Committee Report Language so that it will be in the final enactment of the Pipeline Reauthorization.

SECURING AMERICA'S FUTURE ENERGY: PROTECTING OUR INFRASTRUCTURE OF PIPELINES AND ENHANCING SAFETY ACT
REPORT
[To accompany S. 2276]

Section 2. Authorization of appropriations

This section would authorize appropriations for FY 2016 through FY 2019 at levels consistent with current appropriations, with approximately $147 million in FY 2016, and $156 million in FY 2019.

The Committee is concerned that PHMSA has not yet updated emergency response programs with the goal of delivering effective emergency response training to the first responders who must answer the calls when pipeline emergencies occur. The Committee notes that, during the term of the previous authorization, appropriations report language was included to direct funding of updates for these training programs. In each fiscal year, concern was expressed that PHMSA was not taking a pro-active role. The Committee notes that, with the Nation's aging pipeline infrastructure, and its exposure to future emergency incidents, the situation must be aggressively addressed by the PHMSA Administrator.

The Committee believes the Secretary of Transportation should consider upgrading the current pipeline emergencies curriculum as part of its Emergency Response Grants in order to take a more active role in the upgrade and enhancement of emergency training.

NASFM Must Provide "Actual" Training for Pipeline Emergency Responders

NASFM is extremely concerned over the importance of the US pipeline infrastructure and its vulnerability – and the need for PHMSA to take an active role in providing training to those emergency responders, nationwide, through the Pipeline Emergencies Training Program.

There are significant deficiencies in pipeline emergency training in various areas throughout the country. If pipeline safety is, indeed, a 'top priority' at the Department of Transportation, then adequate investment in a robust and active curriculum and its delivery should be a priority at PHMSA, with the resources made available to prepare emergency responders. This is particularly important in the most vulnerable regions of the country.

The U.S. pipeline infrastructure is aging; as such it poses safety and environmental risks. Not to mention potential terrorist activity on our pipeline structures. The individuals who must respond to a pipeline disaster must be the best-trained responders to help ensure a safe response.

Pipeline Reauthorization Should Allow Grant Opportunities for NASFM

To be cost effective, with limited Federal, State and Local funds, there should be grants and funding which allow for the PE2 and PE3 training programs to be available and utilized across the country, instead of spending the money to only train a specific state or community. Currently the grants available in the Senate passed SafePipes bill and the House Pipeline Reauthorization bills do not allow for organizations such as NASFM with their National Pipeline Emergency Response Training Program to apply for these grants.

The EMERGENCY RESPONSE GRANTS—Section 14 60125, is only in the Senate bill, and is available to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance. The COMMUNITY PIPELINE SAFETY INFORMATION GRANTS—Section 60130, or the PHMSA Technical Assistance Grants (TAG) to Communities program, is only available to a community or group of communities that may potentially use the training program. Therefore, NASFM is not eligible for these grant programs from DOT PHMSA who originally worked with NASFM to develop PE and update PE2 which delivers the best practices Pipeline Emergencies Training around the country.

Therefore, there should be funding authorized or grants available to keep the Pipeline Emergencies Training program updated and promote and implement the training around the country. At the very least the DOT PHMSA and their grants should direct interested parties toward the PE2, and soon to be PE3, national program developed by NASFM with DOT PHMSA instead of just saying "provide training" with no guidance of what training is available or may be used.

Thank you very much for allowing NASFM to submit this Statement for the Hearing Record. We feel strongly that our comments address important safety policy. Pipeline Emergency Response Training should be included in Pipeline Reauthorization and is a vital component of Pipeline Emergencies and Safety.

Sincerely,

H. "Butch" Browning
President, National Association of State Fire Marshals
Louisiana State Fire Marshal

National Association of State Fire Marshals – Board of Directors
Edward Paulk – Alabama State Fire Marshal
Julius Halas – Florida State Fire Marshal
Chris Connealy – Texas State Fire Marshal
Brian Geraci – Maryland State Fire Marshal
James Greeson – Indiana State Fire Marshal
Gary West – Tennessee State Fire Marshal

P.O. Box 671 • Cheyenne, WY 82003 • Tel: (307) 433-8078 • Fax: (307) 547-2260 • www.firemarshals.org

PODS™
Pipeline Open Data Standard
www.pods.org

Kathy Mayo, Executive Director, 866-460-PODS, kathy.mayo@pods.org

May 24, 2016

The Honorable Bill Shuster, Chairman
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, D.C. 20515

The Honorable Peter DeFazio, Ranking Member
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, D.C. 20515

RE: For the Record, HR 4937, PIPES Act of 2016

Dear Chairman Shuster and Ranking Member DeFazio,

The PIPES Act promotes better usage of data and technology to improve pipeline safety, and provides regulatory certainty for citizens, the safety community, and the industry. Data sharing (data interchange), using applied and utilized standards is critical for achieving the goals and expected outcomes as expressed in this bill.

PODS (Pipeline Open Data Standards) Association is positioned to assist with the stated directive to "encourage collaborative efforts to improve inspection information feedback and information sharing with the purpose of improving natural gas and hazardous liquid pipeline facility risk assessment and integrity management."

Recommendation, meeting Data Sharing/Data Interchange

PODS Association recommends utilization of STANDARDS as a method of BEST PRACTICE to support and advance information sharing (data interchange).

PODS (Pipeline Open Data Standards) is the recognized standard for pipelines, and develops and advances pipeline data standards to support **efficient data management and reporting** by oil and gas industry through a **process of collaboration**. Utilization provides modern data modeling and management processes with full GIS capabilities. The **objective is to improve safety, risk assessment, and system integrity** in the deployment of a standardized data management structure.

Rationale and Outcome

The United States Congress and the PODS Association share a common objective of achieving and enhancing safety in pipeline transportation as described in this bill:

1. The PODS Association mission is to develop and advance pipeline data standards to support efficient data management and reporting for the pipeline sector. The PODS Association Board of Directors, members and technical working groups steward **standards and best practices to satisfy the following outcomes as defined in the bill**:
    - Improving the safety of pipeline facilities

PODS Kathy Mayo, Executive Director, 866-460-PODS, kathy.mayo@pods.org

- Enhancing pipeline facility safety
- Ensuring oversight of integrity management programs
- Preparing post-inspection briefings
- Improving damage prevention programs through location and mapping practices
- Increasing use of global positioning systems, digital mapping technologies, predictive analytics, public awareness initiatives, mobile devices and other advanced technologies

2. **Pipeline operators using PODS standards are able to quickly**:
    - Populate a national data repository for pipeline excavation accident data
    - Sustain a national regulatory inspection database

Thank you for allowing us to submit this for the record.

Respectfully,

Kathy Mayo, Executive Director
PODS Association

○