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A REVIEW OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011

(113–70)

HEARING

BEFORE THE

SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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

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Christopher P. Bertram, Staff Director	May 16, 2014	James H. Zoia, Democrat Staff Director

SUMMARY OF SUBJECT MATTER

To:	Members, Subcommittee on Railroads, Pipelines, and Hazardous Materials
From:	Staff, Subcommittee on Railroads, Pipelines, and Hazardous Materials
Subject:	Subcommittee Hearing on "A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011"

PURPOSE

The Subcommittee on Railroads, Pipelines, and Hazardous Materials is scheduled to meet on Wednesday, May 20, 2014 at 2:00 p.m. in 2167 Rayburn House Office Building to receive testimony related to the pipeline safety program of the Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA's pipeline safety program is currently authorized by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011(P.L. 112-90), which will expire on September 30, 2015. The Subcommittee will receive testimony from PHMSA, the Association of Oil Pipelines (AOPL), the Interstate Natural Gas Association of America (INGAA), the American Gas Association (AGA), and the Pipeline Safety Trust on PHMSA's progress in implementing the 2011 Act.

BACKGROUND

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 made a number of reforms to how pipeline transportation is regulated by the Secretary of the Department of Transportation (DOT). PHMSA is the agency within DOT responsible for implementing interstate pipeline law to provide safety and environmental protection in the transportation of natural gas and hazardous liquids, including petroleum products, by pipeline. PHMSA is also charged with securing the safe movement of hazardous materials by all modes of transportation.

Specifically, PHMSA develops and implements pipeline safety regulations at the federal level and shares regulatory responsibility with the states. States may impose additional standards for intrastate pipelines and facilities as long as they are compatible with the minimum federal standards. PHMSA provides oversight to more than two and a half million miles of natural gas

and hazardous liquids pipelines,[1] which account for the transportation of almost 100 percent of the natural gas[2] and 71 percent of the crude oil and petroleum[3] consumed in the United States. The agency also has authority to regulate the design, construction, testing, operation, and maintenance of facilities used in the transportation of natural gas and hazardous liquids by pipeline.

PHMSA promulgates and enforces its jurisdiction in the Transportation of Hazardous Liquids by Pipeline regulations (49 C.F.R. part 195) and the Transportation of Natural and Other Gas by Pipeline regulations (49 C.F.R. part 192) among others. By these regulations, PHMSA administers minimum pipeline safety standards for operations, construction, maintenance, and materials; annual, accident, and safety-related condition reporting procedures; maximum allowable pressure standards; determination of high consequence areas; integrity management for owners and operators; data collection and monitoring; leak detection; and emergency response plans.

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 made several reforms and established new requirements for pipeline transportation. The law included 42 congressional mandates of PHMSA, of which, 21 are complete, 13 are on schedule and in progress, and eight have been extended beyond their deadline. As of April 23, 2014, PHMSA had issued 10 advisory bulletins, completed five reports, updated two parts of the Code of Federal Regulations, and issued one final rule. The Committee will explore PHMSA's progress in implementing the reforms, requirements, and programs established under the law, which are described below.

Maximum Allowable Operating Pressure: Section 23 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 directs the Secretary to require each pipeline owner or operator to verify its records for all interstate or intrastate gas transmission pipelines that are in high consequence areas (areas in which a pipeline release could affect high-population areas or the environment) or within close proximity of homes, buildings, or an area that is frequently occupied. The intent is to verify the physical and operational standards of the pipelines and to confirm the maximum allowable operating pressure (MAOP) on each pipeline. PHMSA completed its verification process for both MAOP and record collection before the statutory deadlines and has issued public advisory bulletins.

The Secretary is also required to issue regulations for the testing of material strength for previously untested gas transmission pipelines in high consequence areas. The Secretary is to consider various safety testing methodologies that include pressure testing and in-line inspections. These regulations are still being considered.

Additionally, section 23 requires pipeline owners and operators to report any exceedance of MAOP in gas transmission lines to the Secretary within five days of the incident. PHMSA has

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[1] http://www.phmsa.dot.gov/portal/site/PHMSA/AnnualReportMileageSummaryStatistics.

[2] Pipelines and Hazardous Materials Safety Administration, United States Department of Transportation, The State of the National Pipeline Infrastructure 1 (2011).

[3] Id.

submitted a public advisory bulletin notifying owners and operators to comply with the statute before regulations are issued.

Integrity Management: Section 60109 of title 49 of the United States Code establishes the pipeline safety requirements for high consequence areas, high-density population areas, and environmentally sensitive areas. Section 60109 requires owners or operators of a gas pipeline facility in those sensitive areas to adopt and implement an integrity management program to reduce risk. The Secretary has issued regulations on proper standards for risk analysis and implementation of integrity management programs. Integrity management programs are written assessments of operator facilities that include assessment of internal pipeline inspection devices, pressure testing devices, and the operation of those devices.

Section 5 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 also requires the Secretary to evaluate (1) whether gas and hazardous liquid pipeline integrity management programs should be expanded beyond high consequence areas (high population and environmentally sensitive areas); and (2) with respect to gas transmission pipeline facilities, whether applying integrity management program requirements to additional areas would mitigate the need for class location requirements.

The Secretary is to report its findings of the evaluation to Congress. The report is currently in progress. Based on the Secretary's findings in the report, the Secretary is to issue regulations expanding the integrity management program, if appropriate.

Leak Detection: Section 8 requires the Secretary to conduct a study and submit a report to Congress on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines. In conducting the study, the Secretary must analyze the technical limitations of current leak detection systems that detect ruptures and small leaks. The analysis must consider the practicability of requiring technical, operational, and economically feasible leak detection standards for operators.

After Congress is given necessary time to review the Secretary's leak detection report, PHMSA is required to issue a rule to establish a minimum leak detection system for hazardous liquid operators if the Secretary deems it feasible in the report. The Secretary submitted the report to Congress in December of 2012.

Auto and Remote-Controlled Shut Off Valves: Section 4 requires the Government Accountability Office to conduct a study on implementing automatic and remote-controlled shut-off valves for all newly constructed or replaced transmission pipelines in high-consequence areas, and to also analyze operators' current ability to respond to hazardous liquid and gas releases in such areas. The study is to analyze the speed of current leak detection and shutdown times. The costs, risks, and benefits of installing the shut-off valves must be taken into account and considered by the Secretary when determining if a rule is appropriate. The study is complete and rulemaking is under consideration.

Gathering Lines: Gathering lines are pipelines that transport hazardous liquids or natural gas from a production facility, or wellhead, to a processing facility or main line. Gathering lines

typically operate at low pressure and are smaller in diameter than transmission lines. Historically, gathering lines were only federally regulated when they passed through cities, towns, or designated areas and not regulated in areas classified as rural.

In 2006, PHMSA revised its regulations to more clearly define which portions of gathering lines should be regulated. PHMSA established criteria that determined when a gathering pipeline was close enough to impact a number of homes or areas or buildings where people congregate. When a gathering line fit these criteria, it was subject to all requirements under part 192 of the Code of Federal Regulations.

In 2008, PHMSA revised its regulations. Under the 2008 revision, gathering lines that passed through towns and cities remained regulated as before and gathering lines in rural areas became subject to regulation if they were within a quarter mile of an unusually sensitive area. An unusually sensitive area is defined as an area that includes a drinking water source or geological resource area that is unusually sensitive to environmental damage.

In section 21, Congress requires the Secretary to review and report to Congress on existing federal and state regulations of gathering lines. The report is to include the economic impacts, technical practicability, and challenges of applying existing federal regulations to gathering lines that are not currently subject to federal regulations. The report is to also include a risked based assessment of the need to modify or revoke existing exemptions from federal regulations. The report is still in progress.

Diluted Bitumen: Diluted bitumen is a dense and viscous form of petroleum that will only flow in unheated pipelines when it is diluted with lighter oils. The density and chemical properties of diluted bitumen has raised concern that it may be more corrosive than other crude oils, causing more internal damage to transmission pipelines. Diluted bitumen is being transported from the oil sands region of Alberta, Canada and has been for 30 years. As imports of Canadian crude oil have increased, additional pipelines from the region have been constructed. Due to the increased volume of diluted bitumen transporting through domestic pipelines, section 16 directs PHMSA to study whether shipments of diluted bitumen differ sufficiently from shipments of other crude oils. The study is to focus on whether diluted bitumen increases the likelihood of releases due to its chemical or physical properties.

PHMSA hired the National Research Council to form an expert committee and conduct the study. The National Research Council has completed its study with the following findings:

> The committee does not find any causes of pipeline failure unique to the transportation of diluted bitumen. Furthermore, the committee does not find evidence of chemical or physical properties of diluted bitumen that are outside the range of other crude oils or any other aspects of its transportation by transmission pipeline that would make diluted bitumen more likely than other crude oils to cause releases.[4]

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[4] Committee for a Study of Pipeline Transportation of Diluted Bitumen, National Research Council, Effects of Diluted Bitumen on Crude Oil Transmission Pipelines 2 (2013).

In the absence of a finding of increased likelihood of releases, an additional review of pipeline safety regulations for diluted bitumen was not permitted.

Accident and Incident Notification: Section 9 requires the Secretary to revise parts 191.5 and 195.52 of title 49 of the Code of Federal Regulations to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities. The revised regulations must require notification at the earliest practical moment following confirmed discovery of an accident or incident no later than one hour following the time of a confirmed discovery. PHMSA has submitted an advisory bulletin notifying owners and operators that a proposed rule with specific time limits will be submitted.

Section 9 also requires the review of owner and operator notification of all relevant states and requires them to provide their emergency response plans to local emergency response officials. PHMSA has issued an advisory bulletin reminding owners and operators to provide their emergency response plans to local emergency response officials and notifying them that PHMSA will evaluate their compliance in future inspections. Additionally, owners and operators are to notify federal, state, and local officials with an estimate of the amount of product released, an estimate of the number of fatalities and injuries, and any other appropriate information within 48 hours of the accident.

WITNESS LIST

The Honorable Cynthia L. Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration

Don Santa
President and CEO
Interstate Natural Gas Association of America

Craig O. Pierson
President
Marathon Pipe Line LLC
On Behalf of the Association of Oil Pipe Lines

Ronald A. Bradley
Vice President, Gas Operations
PECO Energy, An Exelon Company
On Behalf of the American Gas Association

Carl Weimer
Executive Director
Pipeline Safety Trust

A REVIEW OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011

TUESDAY, MAY 20, 2014

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

The subcommittee met, pursuant to call, at 2:12 p.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 afternoon. Welcome to the Subcommittee on Railroads, Pipelines, and Hazardous Materials.

Our hearing today will focus on the implementation of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. This act is administered by the Pipeline and Hazardous Materials Safety Administration, PHMSA, and it expires at the end of 2015.

The United States has the largest network of energy pipelines of any nation in the world, and pipelines are energy lifelines that power nearly all of our daily activities. Pipelines are the safest and most cost-effective means to transport the extraordinary volumes of natural gas and hazardous liquid products that fuel our economy.

Since 1986, the volume of energy products transported through pipelines has increased by one-third, yet the number of reportable incidents has decreased by 28 percent.

Pipeline safety is carried out in a partnership between PHMSA, State regulators and the private sector. Both Government and industry have taken numerous steps to improve pipeline safety over the last 10 years.

While the data shows that Federal pipeline safety programs have been on the right track, Congress enacted the 2011 pipeline safety bill to strengthen our efforts, as stakeholders understood there was room for improvement.

The law included 42 congressional mandates of PHMSA, of which 21 are complete, 13 are on schedule and in progress, and 8 have been extended beyond their deadline.

As of April 23rd, 2014, PHMSA had issued 10 advisory bulletins, completed 5 reports, updated 2 parts of the Code of Federal Regulations and issued 1 final rule. We look forward to hearing from our witnesses today on those mandates and PHMSA's progress at implementing the 2011 law.

We believe in a risk-based, data-driven approach to pipeline safety that focuses private investment in pipeline safety on those areas of higher risk.

As PHMSA develops rules to implement the mandates contained in the 2011 act, it is critically important that we must provide regulatory certainty necessary for pipeline owners and operators to plan infrastructure investments and do so with input from the safety community and industry.

Doing so means maintaining a risk-based approach that applies cost-benefit principles to the development of rules and regulations. It also means doing the due diligence to ensure rules do not go beyond congressional intent, thereby creating uncertainty for the regulated community which ultimately does not enhance safety.

We will hear today that industry is also being proactive in its own safety initiatives to ensure best practices exist for things like inspections, detecting leaks and safety training.

We will indeed hear from folks on both the hazardous liquids and the natural gas sides of the community that developing a culture of safety is important to these industries and the communities at large. I am looking forward to hearing about these initiatives.

In closing, I look forward to hearing from our witnesses regarding these issues concerning pipeline safety. Shortly we will hear from the ranking member, Corrine Brown, for 5 minutes for any opening statement she may have.

Again I would like to thank our witnesses.

TESTIMONY OF HON. CYNTHIA L. QUARTERMAN, ADMINISTRATOR, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION; DONALD F. SANTA, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; CRAIG O. PIERSON, PRESIDENT, MARATHON PIPE LINE LLC, ON BEHALF OF THE ASSOCIATION OF OIL PIPE LINES; RONALD A. BRADLEY, VICE PRESIDENT, GAS OPERATIONS, PECO, AN EXELON COMPANY, ON BEHALF OF THE AMERICAN GAS ASSOCIATION; AND CARL WEIMER, EXECUTIVE DIRECTOR, PIPELINE SAFETY TRUST

Mr. DENHAM. And we will proceed with the Honorable Ms. Quarterman this afternoon.

Thank you for joining us.

Ms. QUARTERMAN. Good afternoon, Chairman Denham, Ranking Member Brown and members of the subcommittee.

Thank you for your leadership on pipeline safety issues, and thank you for the opportunity to appear today to discuss the Pipeline and Hazardous Materials Safety Administration's oversight of America's vast network of energy pipelines and the progress we have made in implementing the mandates of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

Before I begin, I would like to acknowledge former Transportation and Infrastructure Committee Chairman Jim Oberstar and pass along my condolences to his family and his former colleagues. I know many of you worked with him, knew him and were friends with him. Former Chairman Oberstar was incredibly smart and dedicated to making America's transportation network the best and the safest in the world, and he will be greatly missed.

PHMSA is a little agency with a big mission. Over 2.6 million miles of pipeline cross our Nation. These pipelines are a way to transport hazardous products that are essential to our way of life, our mobility and our Nation's economic well-being.

Now more than ever Americans are relying on pipelines for energy transportation and they are expecting the companies who operate those pipelines to do so safely. Safety is the top priority of Secretary Foxx, myself and all of the employees at PHMSA.

Prior to 2010, the Nation's pipeline safety record was improving significantly. We implemented all but one of the mandates of the 2006 PIPES Act and closed almost all then-pending NTSB recommendations.

In 2010 and 2011, a string of significant pipeline incidents brought an intense focus to pipeline safety. PHMSA received 42 congressional mandates through the Pipeline Safety Act, 27 NTSB recommendations, 16 OIG and 6 GAO recommendations following those incidents.

We have taken a comprehensive approach to addressing these mandates and recommendations. In doing so, we are refining our policies and procedures, issuing advisory bulletins, reminding stakeholders of our expectations and their responsibilities, developing performance measures to drive safety, and strengthening our regulatory framework with the development of new regulations.

As of right now, as the chairman mentioned, PHMSA has completed 50 percent of the statutory mandates and made significant progress towards the remaining mandates with the intent of completing them all.

Our hard work is driving the industry to operate pipelines more safely, and I would like to highlight a few of our recent successes.

We increased our penalty authority and for the first time can enforce oil spill preparedness regulations. We drafted proposed rules that will comprehensively update natural gas and hazardous liquid transmission pipeline transportation, including our integrity management requirements.

Implementation of several key pipeline safety mandates and NTSB recommendations are contained in those rules. Also included is a comprehensive integrity verification process to satisfy multiple mandates from the Congress and recommendations that came from the tragic incident in San Bruno, California.

Serious incidents, ones involving death or injury, continue their downward trend and reached a low of 25 in 2013. That is the lowest amount in 30 years. Further, fatalities were driven to a 5-year low and injuries reached a 7-year low in 2013.

We have reduced the time it takes to close an enforcement case by 65 percent since 2009, and we issued record proposed fines in 2013.

We continue to engage the States and the Department's Call to Action for modernizing high-risk pipeline infrastructure, and many of our research and development efforts are addressing the complex challenges posed by aging pipeline infrastructure.

We also focused our inspection program to better utilize data and revise protocols to target the greatest risks for individual operators, whether they be compliance issues or integrity issues.

Our new state-of-the-art training qualifications center will ensure we are providing and supporting our State and Federal inspectors and preparing them for successful inspections.

While the Nation's infrastructure needs and the landscape surrounding energy products have changed dramatically since the Pipeline Safety Act was enacted, our focus on safety and the need for effective standards and recommendations remains the same.

Thank you for the opportunity to testify here today, and I look forward to your questions.

Mr. DENHAM. Thank you, Ms. Quarterman.

Don Santa, president and CEO, Interstate Natural Gas Association of America, you may proceed.

Mr. SANTA. Thank you, Chairman Denham.

Good afternoon, Chairman Denham, Ranking Member Brown, members of the subcommittee.

My name is Donald Santa, and I am the 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 26 member companies are analogous to the Interstate Highway System, transporting natural gas across State and regional boundaries.

In the wake of the natural gas pipeline accident in San Bruno, INGAA's board of directors committed the association and its member pipeline 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, a pursuit of excellence.

INGAA's overarching goal of zero incidents is supported by four core principles. These are, one, a commitment to a safety culture as a critical dimension of continuous improvement; two, a relentless pursuit of improving by learning; three, a commitment to apply integrity management principles on a systemwide basis; and, four, a commitment to engage with stakeholders at all levels. Together, these principles came to be known as the INGAA integrity management continuous improvement, or IMCI, initiative.

INGAA supported the most recent reauthorization of the Pipeline Safety Act in 2011 as part of its commitment to improve pipeline safety. We also support implementation of the new law through regulations.

While progress towards INGAA's goal of zero incidents must continue whether new regulations are issued or not, it is important and desirable that there be consistency between the voluntary commitments in the INGAA action plan and the regulations that will implement the 2011 act.

INGAA has engaged in active dialogue with PHMSA and other stakeholders over the past 3 years to achieve this goal. This has been constructive, and we have every reason to believe that the omnibus rule proposed by PHMSA later this year will reflect INGAA's input. Still, these proposed regulations are behind the schedule that Congress prescribed in the 2011 act.

INGAA acknowledges that regulations should be thoughtfully considered and include an analysis of cost and benefits. The practical consequence of this delay, however, is to erode the confidence of some pipeline companies that proceeding with the dedication of

resources needed to implement pipeline safety commitments will be consistent with the final rules adopted by PHMSA.

This hesitancy is rooted in the perceived risk that the rules ultimately might compel repeating steps in the pipeline safety action plan. This is not insignificant.

For example, testing pipelines for material strength is both costly and disruptive because pipelines need to be removed from operation to complete the testing.

This do-over risk creates a financial risk for pipeline operators and their customers as well as the risk of more extensive operational disruptions than would be needed. This do-over risk should not be permitted to hold us back when we, as an industry, and our regulators should be moving forward.

Our purpose here is to work collaboratively with PHMSA. Because the regulatory process indeed goes far beyond what PHMSA can control, INGAA wishes to make the point that it is critical that these natural gas pipeline safety regulations be completed in a workable and timely manner.

It is worth recalling that the title of the most recent law reauthorizing the Pipeline Safety Act makes the point. It is the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Regulatory certainty is necessary to move forward. INGAA pledges to play a constructive role in completing these efforts.

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

Mr. DENHAM. Thank you, Mr. Santa.

The next witness is Craig Pierson, president, Marathon Pipe Line LLC, on behalf of the Association of Oil Pipe Lines.

Mr. Pierson, you may proceed.

Mr. PIERSON. Good afternoon.

I am Craig Pierson, president of Marathon Pipe Line LLC.

Marathon Pipe Line, headquartered in Findlay, Ohio, operates approximately 6,000 miles of pipeline in 14 States, mainly from Texas and Louisiana to and throughout the Midwest.

Marathon transports crude oil and petroleum products to and from terminals, refineries and other pipelines. The company safely delivers by pipeline an average of 120 million gallons of crude oil and petroleum products daily.

Today I am here in my capacity as vice chairman of American Petroleum Institute's Pipeline Subcommittee, speaking on behalf of the pipeline members of API and the Association of Oil Pipe Lines.

I am also a member of the joint API and AOPL Pipeline Safety Excellence Steering Committee, comprised of liquid pipeline executives who help lead industry to improved pipeline safety.

AOPL and API Pipeline members are engaged in numerous industrywide pipeline safety efforts, which I will discuss in a moment. And I have been pleased to serve on PHMSA's technical advisory committee for about 7 years.

Liquid pipeline infrastructure across the United States benefits American consumers and workers. In 2012, liquid pipelines transported 14.1 billion barrels of crude oil refined products and natural gas liquids across more than 185,000 miles of pipeline.

While pipelines provide good jobs to those who build and operate this critical infrastructure, all Americans benefit from liquid pipe-

lines to heat their homes, to fuel their vehicles, harvest their crops or power jobs with the energy and raw materials needed to manufacture most consumer goods.

Pipelines are safe, reliable and cost-effective for transporting energy liquids. In 2012, more than 99.999 percent of crude oil petroleum products and natural gas liquids transported by pipelines reached their destination safely.

The safety records of pipelines is an understandable outcome of the major financial investments that pipeline operators make in pipeline safety each year.

In 2012, pipeline operators spent more than $1.6 billion evaluating, inspecting and maintaining the integrity of their pipeline systems.

Efforts like those have been underway for more than a decade. The result is that, over the last 10 years, the number of liquid pipeline incidents were reduced by over 60 percent and the volumes released by over 45 percent.

While pipelines are a safe mode of energy transportation, liquid pipeline operators remain focused on continuous improvement with the ultimate goal of zero incidents.

Earlier this year pipeline members of AOPL and API launched the Pipeline Safety Excellence initiative. This effort reflects the shared values and commitment of our members to work together to build and safely operate pipelines.

The Pipeline Safety Excellence initiative is driven by the shared principle of zero incidents, continuous improvement and learning from other operators' experiences. The goal of zero is rooted in the belief that, if we pursue perfection, we can achieve excellence.

Through the continuous industrywide pipeline safety efforts of numerous API and AOPL safety workgroups, we decide on our priorities, we pool our resources, we share our learnings so that other incidents do not recur. Collaboration, cooperation and sharing is occurring on a daily basis as we drive on our goal to zero.

Pipeline operators have also begun the annual pipeline performance reporting to the public. We have also implemented an annual pipeline strategic planning process which is designed to make sure that we are today working on tomorrow's priorities.

This process has resulted in the following industry standards or guidelines: first, a recommended practice to manage, analyze and respond to cracks; second, a guideline to integrate data from all threats; third, a recommended practice for leak detection; fourth, a recommended practice for emergency response; and perhaps most importantly, a recommended practice for pipeline safety management systems.

We are also accelerating research and development for improving in-line inspection technology. We are promoting safety culture through industrywide sharings of learnings. And we are also improving training and communication with our emergency responders.

I look forward to discussing these industrywide safety improvement efforts today and, going forward, we welcome the opportunity to work with this committee, PHMSA and other interested parties on reauthorization of the pipeline safety bill.

Mr. DENHAM. Thank you, Mr. Pierson.

Mr. Ron Bradley, vice president, gas operations for PECO Energy, on behalf of the American Gas Association.

You may proceed.

Mr. BRADLEY. Good afternoon, Chairman Denham, Ranking Member Brown and members of the committee.

My name is Ron Bradley, and I serve as vice president of gas operations at PECO, which provides natural gas distribution service to 500,000 natural gas customers in southeastern Pennsylvania.

I appreciate the opportunity to testify today to discuss the natural gas distribution industry with particular focus on the high priority that the industry places on safety.

At PECO, we have six core values: safety, integrity, diversity, respect, accountability and continuous improvement. Safety is our first and foremost of these. My commitment and the commitment of our leadership at PECO and our parent company, Exelon, is that everyone goes home safe. This includes not only our employees, but, also, our customers, our contractors and everyone in the communities we serve. PECO's safety performance is ranked as one of the best in the Nation, and we are proud to have been recognized by national and State organizations for this.

Today I am testifying on behalf of the American Gas Association, AGA, which represents more than 200 local distribution companies, also known as LDCs, which serve more than 71 million customers. AGA's member companies operate 2.4 million miles of underground pipelines, safely delivering clean, affordable natural gas to residential, commercial and industrial customers. New technologies are tapping into new domestic energy reserves, and natural gas is increasingly becoming the fuel of choice for American 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.

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 standards.

Additionally, our companies are in close contact with State pipeline safety inspectors working in a collaborative manner that provides for 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 these commitments. 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 that share best practices and lessons learned throughout the industry.

Each year LDCs spend approximately $19 million on safety, half of that 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 that help continue to improve the safety of the industry.

AGA member companies have implemented aspects of these programs either through DOT regulations or voluntarily. Many of these programs are in their infancy in terms of implementation, and we encourage Congress to allow these programs to develop and to mature. Good progress is being made toward implementation of the 2011 law, and AGA member companies ask you to stay the course.

Layering new laws and regulations on to companies before existing regulations have been finalized and given a reasonable amount of time to work is likely to create uncertainty that undermines our shared safety goals. Work completed to date by PHMSA, the industry, NARUC and State regulators and State legislators has combined to produce significant improvement over the last several years. We should build on that record.

In terms of specific issues, the Call Before You Dig Damage Prevention Program, or 811, has been a great success. The PIPES Act also required the establishment of distribution integrity management programs. Rules were finalized in February 2010, and the industry commends the DOT on the effective manner in which the DIMP rules advance safety while taking into consideration wide differences among gas operators.

The industry applauds DOT's work with public and emergency responders and is eager to work to develop metrics to assess the effectiveness of these programs.

The industry is experiencing significant uncertainty regarding PHMSA's implementation of maximum allowable operating pressure and the integrity verification programs.

We are prepared to act, but regulatory certainty provided by implementation of regulations would be beneficial to the industry and customers alike.

Finally, with regard to the replacement of cast iron mains, the quantity of these mains continues to steadily decline, now making up less than 3 percent of total mileage. There is 33,619 miles of cast iron mains still in use, and the industry estimates that it will cost nearly $83 billion to complete this replacement. Gas utilities are working with our legislators and regulators to accelerate this process, and the 38 States that have adopted innovative rate mechanisms are providing an important tool to support this.

At PECO, we spend $20 million annually on our accelerated gas infrastructure maintenance program and $34 million on pipeline replacement overall.

In addition to what I have highlighted today, my written testimony provides updates on the industry's efforts with regard to incident notification, data collection and information sharing and research and development.

I am pleased to answer questions on these topics or any other topics you may have.

Mr. DENHAM. Thank you, Mr. Bradley.

Carl Weimer, executive director, Pipeline Safety Trust.

Mr. Weimer, you may proceed.

Mr. WEIMER. Good afternoon, Chairman Denham, Ranking Member Brown and members of the subcommittee. 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 15 years ago next month. 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 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 a watchdog organization over both the industry and the regulators. We have been trying to fulfill that vision ever since.

Reviewing the implementation of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 is somewhat difficult because so many of the required reports and changes to the regulations have yet to be produced.

The slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action from the administration. While many are frustrated by the slow progress, it is difficult to know exactly where to lay the blame.

PHMSA is certainly partially to blame, since they have been slow to produce the required reports and regulations, but they have also been clear with Congress for a number of years now that they lack the resources needed to complete their mission in a timely manner.

We also have noted that many times regulation in the reports gets significantly delayed by the Secretary's office itself or by the White House Office of Information and Regulatory Affairs. It would appear there is plenty of blame to be shared for the slowness in implementing many important pipeline safety initiatives.

Even with this slowness and delay, over the past few years, progress has been made, as evidenced by the reduction in the number of incidents that involve injuries or death to all-time low levels.

The pipeline industry, regulators, the public interest groups, have come together with a publicly stated common goal of zero incidents, a goal that will continually drive all involved to do even better.

So while today I may criticize the implementation of some sections of the 2011 act, none of us should lose sight of the progress that has been made over the past few years.

PHMSA has in play a number of significant rulemakings that may very well address many of the key issues they were told to address in the 2011 act and are also concerns raised in NTSB recommendations, things like expansion of integrity management, leak detection, automated shutoff valves, gas-gathering lines, excess flow valves, depth of burial in stream crossings and verification of operating pressures.

We say these issues may be addressed because at this point we really don't know. While PHMSA has started the rulemaking process for many of these issues, for most of these items, no actual rule or proposed rule has been produced. Some of these efforts started well over 3 years ago, and the exact nature of the holdup is unclear.

We ask that you request specific information from PHMSA, the Secretary's office and the White House Office of Information and

Regulatory Affairs to determine where the holdup lies and what is being done to correct it.

Concerned citizens and the pipeline industry alike are in a state of limbo regarding these regulatory issues because of the length of these delays.

Congress also asked for nonrulemaking studies and actions in the 2011 act which are yet to be accomplished. The areas we are most concerned with include the availability of facility response plans, maps of high-consequence areas, a study of the transport of diluted bitumen, a report on excavation damage and a report on gathering lines.

The gathering line issue is of particular importance to us, since we see thousands of new miles of gathering lines going into the ground each year with the majority of them being completely unregulated.

With the large increase of new pipeline infrastructure in some parts of the country, the aging infrastructure in need of replacement in other areas and the increased complexity of risk-based regulations, we believe a significant increase in personnel to ensure the safety of the Nation's pipelines are justified.

PHMSA's 2013 budget requested funding for an additional 150 positions it said were needed to carry out its pipeline safety mission.

PHMSA requested an additional $20.8 million to help provide additional funding to State programs where the majority of the pipeline safety inspectors are employed. We believe such increases in resources are needed and hope you will support them.

In conclusion, as we move closer to the next reauthorization of the National Pipeline Safety Program, we would support a straight reauthorization of the current program with additional funding in the near term to allow PHMSA the time to finally produce all the rules and reports previously requested and address the long list of recommendations from the National Transportation Safety Board.

Thank you again for inviting us to testify today, and I would be glad to answer any questions.

Mr. DENHAM. Thank you, Mr. Weimer.

I ask unanimous consent that our witnesses' full statements be included in the record. Without objection, so ordered.

At this time I would like to recognize Ranking Member Corrine Brown for any opening statement she might have.

Ms. BROWN. Thank you, Mr. Chairman.

And I think I am just going to go right to the questions.

Ms. Quarterman, at the last meeting, I asked a question during the HAZMAT hearing, but did not get a good response from DOT.

So I ask again: What inspections and enforced resources do you need for hazardous and separate pipelines?

Ms. QUARTERMAN. For hazardous materials or for pipelines or for both?

Ms. BROWN. Separate.

Ms. QUARTERMAN. OK. Separate.

The President's budget for 2015 adds additional resources for the pipeline safety program, which includes an additional 60 FTE.

For the hazardous material program, we have an additional three FTE, but there is also a separate line item, which is a $40

million fund to fund energy projects. It includes all agencies within the department that address transportation of crude oil.

Ms. BROWN. Many groups have voiced concern about the length of time it takes for DOT to finalize two major rulemakings. One is for liquid pipelines, and one is for the gas pipelines.

What is the status of the rulemaking? And why have there been so many delays?

And Mr. Bradley and Mr. Pierson may want to answer that, and Mr. Weimer too. But I want to start with you, Ms. Quarterman.

Ms. QUARTERMAN. These are very complicated and complex rulemakings. As you know, when we put out an advance notice of proposed rulemaking with respect to hazardous liquids and we put out a separate one with respect to gas transmission and gas gathering, they were basically across the board, asking about everything that deals with those items.

I am happy to report that we have a draft of both of those rules, one of which is at the office of the OMB for review. The gas transmission rule is in circulation for comment and, hopefully, we will be able to move that forward very quickly as well.

Ms. BROWN. We have heard a number of concerns about the condition of two pipelines under the Great Lakes called Line 5. These pipelines are nearly 60 years old.

What does DOT know about the condition of Line 5? And what has DOT done to ensure that they are safe?

And I would like Mr. Weimer, my person, to comment on that, also.

Ms. Quarterman, you first, though.

Ms. QUARTERMAN. OK. Thank you.

With respect to Line 5 of the Lakehead System, if you will recall, there was a series of incidents associated with Enbridge over the past few years and, as a result of those incidents, the Department put the first and one-of-a-kind, I think, consent decree with the company that included the entire Lakehead pipeline system.

I have been having meetings twice a month with respect to our work on that pipeline system in which we get updates on everything that is happening. It is a comprehensive review of every aspect of that program. We have spent about 300 man-years so far overseeing the program.

With respect to Line 5 in specific, when we first saw in media accounts there were concerns with respect to that pipeline, we immediately contacted Enbridge and asked them what were their plans, what were they planning to do with that line, and we began to look back at past testing information to see what we could learn about it.

So I have responded very recently to a series of congressional inquiries about that. I am happy to share a copy of that response with you to give you a sense of all the testing that has been performed on those lines.

Suffice it to say that the plan that Enbridge has with respect to Line 5 is to increase throughput on that line, but it is beneath the existing maximum operating pressure of that line.

Ms. BROWN. Would you like to respond to that?

Mr. WEIMER. Sure. Thank you for the question.

Due to the spill of nearly 1 million gallons of crude oil into the Kalamazoo River in 2010, there is a heightened awareness of pipeline issues in the Great Lakes States.

Citizens in that area are particularly concerned with one of the lines, Line 5, that goes under the Great Lakes. It is one of the few pipelines that goes under a waterway for that distance, crossing at the Straits of Mackinac.

I think the main issue is that the company and PHMSA have not been particularly transparent with the people that have been asking the questions about what shape that pipeline is in, how it has been tested, what those test results showed.

We have no information to help elucidate whether that pipeline is safe or not, but we hope that the company has that information. It would be nice if they would share it with the citizens of Michigan.

Ms. BROWN. Thank you.

And thank you, Mr. Chairman.

Mr. DENHAM. Thank you.

Ms. Quarterman, is PHMSA considering taking a number of the pending regulations and putting them into a mega-rule?

Ms. QUARTERMAN. We are not. We have many regulations that are pending. We have a rule for gas transmission which covers a number of issues, if that is what you are referring to.

Mr. DENHAM. We have heard that, with the large backlog of pending regulations, that the agency was looking at combining a number of those rules into a mega-rule.

Ms. QUARTERMAN. No. That is not the case.

Mr. DENHAM. That is not the case. OK.

Mr. Santa, what are some of the biggest concerns with PHMSA's rulemaking progress to date with the 2011 Pipeline Safety Act?

Mr. SANTA. Chairman Denham, as I noted in my testimony, I think that our concern really has to do with the risks created by moving forward with our voluntary pipeline safety commitments and the possibility that, due to delay in the rule, our member pipelines may face some do-over risks. In other words, they do the right thing, but the rule then requires them to do more, which would create financial risk and, also, operational interference, which could affect both the pipelines and their customers.

Mr. DENHAM. Mr. Pierson?

Mr. PIERSON. With regard to the notice of proposed rulemaking for hazardous liquids, we support it moving forward.

We perform integrity management on about twice as many miles of pipeline as we need to beyond HCAs, and we think that the new rule—although we have not seen it, we think the new rule will recognize that.

Mr. DENHAM. Mr. Bradley?

Mr. BRADLEY. Yes. As I mentioned in my testimony, Chairman, I believe that there is a risk of uncertainty of regulation.

The good news is that, at AGA, in 2011, we crafted with the approval of the AGA board the AGA commitment to safety, which had us commit to doing a number of activities that were over and above the regulations. So that hedged the risk a little, but uncertainty still lies out there.

Mr. DENHAM. Thank you.

Ms. Quarterman, the 2011 Pipeline Safety Act required PHMSA to conduct a study about the sufficiency of pipeline regulations for the transportation of diluted bitumen. The study was completed by the National Research Council.

Can you summaries what the major findings of the report were.

Ms. QUARTERMAN. The report concluded that diluted bitumen was not substantially different from any of the other crudes that were moving on the pipeline system.

That report, I think, has been shared with Congress. It came out last June, I believe. We are still working on putting a formal letter to you, a reporting to you, on the results of that report. But we will hopefully get it to you soon.

Mr. DENHAM. Based on that study, does PHMSA feel that the current regulations are sufficient for pipelines transporting the diluted Bitumen?

Ms. QUARTERMAN. Well, we have a pending rulemaking that is coming forward with respect to a hazardous liquids pipeline. And to the extent that we thought there was any need to do anything more, it would within the context of that rulemaking.

In addition, as a part of our 2014 budget, there was a requirement that we do a further study to evaluate whether dilbit spills are more risky than spills of other crudes moved in the United States. We are in the process of finalizing a contract with the National Academy of Sciences to do that study as well.

Mr. DENHAM. Thank you.

I recognize Mr. Michaud.

Mr. MICHAUD. Thank you very much, Mr. Chairman.

Mr. Weimer, since World War II, a pipeline in Maine and Vermont and New Hampshire has shipped crude oil north to Canada. Recently, speculation that the pipeline flow will be reversed to ship tar sands down from Canada has raised a lot of concern among my constituents.

Center to the concerns is the fact that—around the adequacy of spill response plans, the structural integrity of an aging pipeline and its ability to hold up the shipping of new material in the opposite direction.

Many congressional Representatives from the region, including myself, have called for a new EIF and Presidential permit before such a pipeline operation can move forward.

My question is: As an independent watchdog of the industry and regulator, are there other precautions or requirements you believe that would be necessary in order to maintain the pipeline's current safety operation?

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

I am aware of that pipeline. That pipeline actually has a very good safety record up to this point, but I think the concerns of reversing that pipeline and running a different type of crude oil through it are justified.

I think the issues you laid are some of the main ones that need to be looked at. I know the State of New Hampshire recently took on spill prevention on their own because they were concerned that the Federal Government under PHMSA was not doing an adequate job of spill prevention, especially for oil sands types of crude where

they may sink if they get out of the pipeline, which I think is the major concern up in that part of the country.

So I think the things you laid out—looking at the hydraulic changes, the different constituency of that pipeline, what that might do to particularly stress on the pipeline, an aging pipeline, and then spill response if that material should get out—are the key things people should be looking at. And the States do have some authority on spill response planning.

Mr. MICHAUD. Thank you very much.

This question is for Mr. Bradley, Mr. Pierson and Mr. Santa.

The current natural gas bottleneck in New England is crippling Maine's manufacturing base because we are at the end of the pipeline.

Without increased natural gas capacity and getting industrial end users connected to the pipeline, Maine will continue to lose manufacturing jobs. A recent regional agreement between New England Governors is a good start, but more still needs to be done.

My question is: As representatives of the private sector, what more can be done at the Federal, State or local level to increase natural gas supplied to Maine?

We will start with Mr. Santa.

Mr. SANTA. Thank you for that question, Mr. Michaud.

We are well aware of the capacity bottlenecks in New England and the effect that that is having on the region's consumers and industry.

INGAA's members have proposed new pipeline capacity into that region. One of those projects is going ahead, the Algonquin Incremental Market Project. Others are in their open seasons.

We applaud the region's Governors for their leadership through NESCOE in proposing that the cost of additional capacity, especially the capacity to serve electric generators, be defrayed by including those costs in ISO New England's transmission tariff.

We also applaud some of the region's electric distribution companies—National Grid, United Illuminating, Northeast Utilities—for stepping up to be the anchor shippers on that pipeline capacity.

So we are very hopeful that the region has reached a breakthrough and INGAA's members are very committed to getting more pipeline into that market.

Mr. PIERSON. From the hazardous liquids perspective, we have a bit different process to establish a new pipeline. As you know, pipelines connect supply with demand and, as demand changing, supply changes.

We have got shippers that, when they have a strong need to make a move in a particular movement, they will make commitments that enable the capital to expand the pipeline.

Mr. BRADLEY. Thank you for the question.

As an LDC and the last link in the line, we are downstream of New England. One of the things we want to make sure we do is to ensure that our customers that are on an interruptible rate do interrupt when they should so we don't pull more gas off the line than we should and our customers don't pull more gas off the line.

We also want to make sure that our peak day demand is well appropriated and we have contracts in place successively and demand contracts in place to move gas along the pipe.

Mr. MICHAUD. Great. Thank you again.

Administrator Quarterman, I want to thank you for your testimony today. And I recognize that your agency is still working to develop the new regulations required by the 2011 act.

And I would like to urge you to promulgate those rules as quickly as possible so that the private sector has the certainty that it needs to invest and expand capacity, you know, in regions like the State of Maine.

So I want to thank all the panelists once again for your testimony this afternoon. Thank you.

I yield back.

Mr. DENHAM. Thank you, Mr. Michaud.

Mr. Meehan.

Mr. MEEHAN. I thank you, Mr. Chairman.

And I thank the panel for their discussion on this very, very issue.

Mr. Santa, talk to me a little bit about the flow of gas right now in the United States. We have had a remarkable opportunity created by the discovery of shale gas, particularly in Pennsylvania and other kinds of places, my colleague from Maine discussing simultaneously.

And I know upstate New York and others went through a very difficult winter in which we had the recognition that we have got trapped gas assets in the ground, but an inability to get them to the market as quickly as we would like to.

Obviously, I think we have implications globally to the extent we are able to. And my own observation sort of indicates that some of this is dictated by the inability to have the transmission lines for the gas sufficient to be able to move it.

What is your observations on that? What are the opportunities here? And what are the impediments to being able to more quickly access this shale gas?

Mr. SANTA. Thank you for the question, Mr. Meehan.

You are right. The changes that we have seen have been nothing short of revolutionary in terms of domestic natural gas production and, also, oil production due to the shale resources.

This also has had a significant effect upon pipelines because in many cases, this gas is located in places where gas historically was not produced. And so we are seeing changes in flows on the pipelines and some dislocations caused by that.

The good part is that the industry and the market are responding. When you see those capacity constraints that are signaled by the high prices we saw, for example, this past winter with the polar vortex, it sends a very powerful price signal that new capacity is needed and creates the incentive for shippers to step up and pay for that pipeline capacity.

So I do believe overall that the market is going to solve this situation. And you are right. With the Marcellus shale, there is a remarkable amount of supply sitting literally on the doorstep of New England but for the pipeline capacity to get it there.

Mr. MEEHAN. Is there an impediment to being able to get it there or is it simply a market-based situation?

Mr. SANTA. There are a couple of things that could be done that I think could help expedite the situation. The Federal Energy Reg-

ulatory Commission overall does a good job with pipeline siting. However, often a lot of the other permits that are needed get delayed.

Mr. MEEHAN. Local permits or Federal permits?

Mr. SANTA. Primarily, Federal permits, although, in some instances, because authority has been delegated, it is the States. The House passed H.R. 1900 last year, which was a bill that was intended to assist that situation.

Also, as I discussed with Mr. Michaud, getting the situation in New England, aligning the demand created by the electric generation market with somebody who has got the wherewithal and the creditworthiness to pay for pipeline capacity is a big part of answering the question there.

Mr. MEEHAN. I think you also pointed. And I think it is not just moving those minerals for the purpose of heat and otherwise, but it also could be a real asset with manufacturing and other kinds of capacity, that we could complete globally much—you know, and this is something—each and every day that goes by is an opportunity we are losing to complete globally.

Mr. SANTA. It has been a tremendous boon to the U.S. petrochemical industry and other industries. As a matter of fact, some of that Marcellus gas and some of the pipes that previously had brought gas from the gulf coast and Midcontinent to the Northeast are getting reversed to take that gas to the gulf coast to feed those petrochemical complexes.

Mr. MEEHAN. Mr. Bradley, you are in the gas business.

Do you have any thoughts on this?

Mr. BRADLEY. Once again, as the last guy on the line of using natural gas, I tend to think that, as Mr. Santa said, the flow—you do see the flow moving.

You do see the natural gas from the gulf starting to make a reverse, and you do see more flow especially at PECO. We have more Marcellus flow into our territories.

Mr. MEEHAN. Yes. But we are moving gas a long way to go down to the gulf to turn it around to bring it back.

Mr. BRADLEY. Right.

Mr. MEEHAN. That is what doesn't make sense to me when we have gas sitting right in Pennsylvania, right next to New England, New York and everything else.

Mr. BRADLEY. That is right.

And, in Pennsylvania, the actual amount of gas that is being produced is switching quickly. We have gone from 90 percent from the gulf 4 or 5 years ago and 10 percent Marcellus. Last year we were 40 percent Marcellus.

So the market is starting to shift and more Marcellus is flowing into Pennsylvania, especially when we have it as a source there.

So I see the market fundamentals changing quickly, and I think over the coming years it will continue to have an impact on the area.

Mr. MEEHAN. Just one closing question.

Ms. Quarterman, where are we these days on the question of the—a lot of the older urban areas? And I represent an older urban area we have seen within the cast iron pipe and urban areas.

Where do we sit with that in terms of how that will be transformed into the modern pipe that would be safer?

Ms. QUARTERMAN. A few years ago the Department, along with many of our industry partners, got together for a Call to Action to try to replace some of this old high-risk infrastructure like cast iron pipe, and we put up on our Web site sort of a report card of where we are and where we are going.

We have been working very hard with AGA and with the National Association of Regulatory Utility Commissioners to say this is an opportunity.

The production—the amount of production of gas means that the price is going down. Now is the time to invest in new infrastructure and removing the old infrastructure.

As a result of those efforts, we have now 38 States that have put into their format—their regulatory format the ability to have companies recover the costs for that kind of replacement.

So we are continuing to drive it, but it is not happening fast enough. Hopefully, we will see a continued movement to remove that pipe.

Mr. MEEHAN. Thank you, Mr. Chairman. I yield back.

Mr. DENHAM. Thank you, Mr. Meehan.

Mr. Walz?

Mr. WALZ. Thank you, Mr. Chairman.

And thank you all for being here. I appreciate it.

Administrator Quarterman, I want to thank you for the kind words you had about our colleague and my friend, Jim Oberstar. I am very appreciative of that, and I think all of us here certainly miss him already.

For each of you, I appreciate the work you do. I appreciate and I think there is a lot of lessons learned in this about continuing to move forward.

I also, like many of my colleagues—we have a wonderful opportunity for American energy. The market is changing fairly dramatically in front of our eyes. I think is it is incumbent upon us to move ahead of that or at least with it, if you will.

And I have just kind of a side note question because there is a lot of expertise here. With the safety record and with the things that deal with pipelines, one of the things—and, again, the Administrator has been on top of this issue with us.

In my part of the world, Minnesota, we have now an unprecedented amount of oil moving above the ground on moving pipelines and trains from the Bakken oil fields.

And my question kind of focuses on as we are looking at different things out there, dealing with this or whatever, is the spill response plans and the idea of the industry taking on this that doesn't apply on the railroads.

Maybe, if I could—and I know this is fairly broad, but it would help me understand—is a mandatory spill response plan—is it helpful? Can it be of use? Is it something that could apply on that side of the House as it does on pipelines?

And I don't know who wants to take a stab at this.

Mr. Pierson?

Mr. PIERSON. Your question speaks to the rail industry; is that correct?

Mr. WALZ. Yes, that is correct. But I think the lessons learned, I want to know how you have that, because they don't have that, if I am not mistaken. We talked about that, mandatory spill response. It is not that they don't have a plan. They do. It is just different from what is asked of you.

Mr. PIERSON. We do support the mandatory spill response plans, and they need to evolve as the commodity we transport evolves. And we have currently an improvement initiative underway to develop a recommended practice for operators on how to implement their emergency response plans better. So are they essential to our industry? Yes, they are.

Mr. WALZ. Is it a partnership—do you view it that way, it is a partnership between you and the regulators and the different people involved with the industry? Because I think there is no doubt whatsoever both rail and the pipelines, our interests are the same, to move commodities safely and as efficiently as possible. We have that same. Is it helpful when you have input in that, or does it feel like the mandatory part of it is asking you to conform to that, or does it run both ways? I guess my question is trying to get the very best response plan for my first responders as well as the experts that are moving this material.

Mr. PIERSON. The response plan is collaborative. We submit response plans. Our regulator has a chance to comment on them, and from that perspective, if they have got comments, it is collaborative.

With regard to first responders, that relationship is one that is vital to us, and trying to establish a relationship with first responders throughout the breadth of our operations is very much a challenge. But quite often they will be there first or early, and they are an essential component. We are working with them to try to improve the training—improve their training, improve the communication that we have got with them.

Mr. WALZ. That is the very same issue—that is what I thought, the very same issue you are hearing from them. It is the communication piece, the long-term training, the commitment, because it is very difficult, especially smaller communities, how you keep them trained and how you get them out there. I appreciate that, and with that I yield back, Mr. Chairman. Thank you, all.

Mr. DENHAM. Thank you, Mr. Walz.

Mr. Hanna.

Mr. HANNA. Thank you, Mr. Chairman.

Thanks for being here today. I just want to ask a simple question. First of all, Btu gallon-for-gallon, barrel-for-barrel, is there a safer way to move product than underground?

Mr. SANTA. Mr. Hanna, I think the record demonstrates that pipelines, and energy pipelines in particular, are the safest mode of transportation.

Mr. HANNA. Right. So something like the Keystone pipeline might make sense considering the rail accidents we see.

There is a theme that I started to go into, but regulatory uncertainty—and I have talked to manufacturers of pipe and manufacturers of new products, liners for things like cast iron, which I know you are familiar with, I am familiar with. The lack of regulatory certainty—and I respect the fact that Ms. Quarterman is

here and you have other constraints—but 8 out of the 42 mandates implemented in 2011 are past their deadline, and we have a group of people here that uniformly—particularly Mr. Bradley spoke to it—find this to be an impediment to the work they are trying to do, the progress they are trying to make. In spite of the fact that the safety record has improved so much, et cetera, and fines are apparently up, I am not sure if that is it a good thing or a bad thing, but, you know, it is kind of blaming the victim, too, when these people are waiting for rules and regulations, willing to comply, anxious to find out what it is that they need to operate under, and yet they are at a loss for that.

Do you think that you are keeping up with the industry and its demands, or would you—I mean, I would just like a response, because you have got four men who are here who generally are upset that—I don't want to put words in anybody's mouths—but feel constrained by the lack of product by your Department. And I say that respectfully. I know you have a lot on your plate.

Ms. QUARTERMAN. Well, let me say we did get 42 mandates with the new act; however, we got no new dollars. So the fact that we have done 50 percent without those additional resources, I think, has been great work on our part.

The things that are far behind, or behind, are not so far behind that I think these gentlemen have to worry. When we talk about regulatory certainty, one of the things, there was a provision in the act that required us to do something within 18 months. We said at the time the act came out there is absolutely no way that we will be able to get to a final rule in 18 months. And, in fact, during that 18-month period, we were only able to get through the information collection to get enough information in order to go forward with a further rulemaking, because you need that information in order to be able to support the costs associated with the rule.

So instead of going forward with the rulemaking, we did a notice to the public that said this is what we are thinking of doing. This is the verification process that we think we will have when we do a final rule, and we welcome your comments on this before we could get to the step of the making the rule. And we got comments on those, and we made adoptions.

So there is knowledge about where we are headed. It is just not in a rulemaking——

Mr. HANNA. You are fully aware that you have a number of men and companies, big corporations—I live in—I represent the Binghamton area, Marcellus shale, all of that—that are cooperative. They are begging for support, begging for help, begging for direction and certainty. And you can go a long way towards that. And I don't hear a single person that isn't willing to fully cooperate.

Mr. Bradley?

Mr. BRADLEY. If I may, as I mentioned in my comments, I think PHMSA has been working diligently. The good news is that it is not hard to have a conversation with PHMSA. We are doing some things, and we look forward and continually look forward to working with them as we close out on this. I don't want to be overly partial.

Mr. HANNA. Mr. Pierson?

Mr. PIERSON. I would agree with Mr. Bradley's comments. One of the things that we are working closely with PHMSA on is our pipeline safety management system. I made reference to that. And it was the recommendation that came from NTSB that came to industry. But we are working quite closely with PHMSA on some industry practice that can move the safety needle. So absent rulemaking, PHMSA is making some progress on moving forward.

Mr. HANNA. Thank you. My time has expired. Thank you, Chairman.

Mrs. CAPITO [presiding]. Thank you.

I would like to recognize the gentlewoman from California Ms. Hahn.

Ms. HAHN. Thank you. And I did want to thank Chairman Denham for holding this hearing. I was one of those who asked for this hearing. I wanted to have it in Los Angeles, but because of budget constraints, we are having it here, but I still welcome this. I appreciate Administrator Quarterman being here as well as all of the witnesses. I appreciate your testimony.

I represent the Ports of Los Angeles, and part of Long Beach, and all the oil and gas pipelines connecting the ports with refineries in the area, and pipeline safety is very, very important to me, particularly for the communities surrounding those ports, mostly underserved communities, mostly working class, poor communities. And if there ever was environmental injustice, it is with those communities. The burdens that they have to bear because of living in proximity to our Nation's economic engines is unfortunate.

One of the communities, Wilmington, I have represented almost 15 years, once when I was on the city council in Los Angeles and now here in Congress. Wilmington sits on one of the largest oil fields in the Nation; has a ton of pipelines running underneath residences, schools, near soccer fields.

Unfortunately in March a so-called idle pipeline burst, causing thousands of gallons of crude oil to spill into a residential street, which wreaked havoc on this community not just when the spill occurred, but the enormous amount of cleanup that has to take place afterwards. Heavy equipment, jackhammering, really huge inconvenience, and that is like at the best saying we are inconvenienced. At the worst, people had health issues. A couple of members went to the hospital. People were overcome with nausea, headaches. I went out on the site myself, and the smell of crude oil absolutely made me and my aide sick to our stomachs.

So I have a big issue. I am proud of Congress for passing this act in 2011, and I am proud of PHMSA for doing the best you can to actually implement some of these mandates, but I feel like there is a couple of loopholes. This law expires in 2015, and if we are going to reauthorize it, I hope we look at some of the loopholes that I think still exist.

I appreciate all of you talking about all the work that our pipeline owners and operators are doing, many of them on a voluntary basis, and thinking about pipeline safety every single day. The problem is I had an incident where the pipeline operator didn't think about pipeline safety every day; in fact, hadn't thought about it for 15 years.

This company purchased a pipeline from another company and assumed it was idle and never inspected it. The State of California, the fire marshals obviously never held them accountable. You know, what happened was it leaked and caused great injury to this community.

So part of what I have learned—and correct me if I am wrong—is that there is really no such thing as an idle pipeline. It is either active or abandoned. And if it is active, it has to be inspected, and we have some verification of that. If it is abandoned, it has to be sealed up and filled with some material. So the fact that they even classified this as idle, and the California fire marshals allowed them to classify this as idle, brings up a huge issue to me that there is some misinterpretation of our Federal regulations.

So I guess I would ask you, Ms. Quarterman, how do you communicate with States or other regulatory agencies on how Federal laws should be interpreted? And what kind of evaluations take place within PHMSA to evaluate how our States are following the law? This was a huge loophole, really unnecessary, and resulted in a tragedy mainly because we have this honor system of how we allow operators and owners of pipelines to exist.

Ms. QUARTERMAN. We have partnerships with 53 different Federal and State agencies. Every one, except for Alaska and Hawaii, all of the other States have adopted. And what they are required to do is take the Federal laws that are in existence and create a State law that has at a minimum exactly what are in the Federal laws. If they want to add on top of that additional requirements based on their State conditions, they may do so.

Ms. HAHN. But they were interpreting this wrong.

Ms. QUARTERMAN. I agree with you on that. I don't know if the California Office of the State Fire Marshal interpreted it wrong; I understand the operator interpreted it wrong. Because you are absolutely correct. There are active pipelines, and there are abandoned pipelines. The term "idle pipeline" does not exist in the pipeline safety law. So if you have a pipeline that is active, but idle, you still have to meet the requirements of the law.

Ms. HAHN. This one was not inspected for over 15 years.

I will take a second round.

Mrs. CAPITO. The gentlewoman's time has expired.

Mr. Massie from Kentucky.

Mr. MASSIE. Thank you, Madam Chairman.

Mr. Santa and Mr. Pierson or Mr. Bradley, I am an engineer, and so I am interested in some of the technical details here. Can you describe any of the technologies that your companies or member companies have adopted voluntarily over the years, the new technologies that allow you to inspect pipelines? Because just because we don't see somebody come out and look at the pipeline, I think, doesn't mean it is not being inspected.

Mr. Pierson, just generally could you describe some of those technologies?

Mr. PIERSON. I will speak to in-line inspection technologies. There are about six different technologies now. It is evolving. It is probably moving more towards seven or eight. And if you think about a medical issue where you use an X-ray to look for some issues, you use an MRI, there are different technologies to look for

different issues, there are two main technologies. One is ultrasonic, and the other is magnetic, and they orient the signals to find certain flaws.

So there is a lot of work going on. We are accelerating our research and development in the pipeline industry to help find cracks in weld seams that we can't find today. And there is a lot of work going on, and it is highly technical work.

Mr. MASSIE. Probably beyond our ability in Congress to comprehend it.

So how would you, for instance, monitor corrosion in a pipe without actually going to that location physically?

Mr. PIERSON. Using in-line technology. There is about three different tools that we would use, depending upon the type of corrosion you are looking for. So there is different types of corrosion which need different technologies to find them.

Mr. MASSIE. All right. Mr. Santa?

Mr. SANTA. Very much the same as Mr. Pierson said. The improvements in the ILI, or in-line inspection technology, are remarkable. These are also referred to by the term "smart pig," referring to the cylindrical devices that are put into the pipeline, and then the ability to attach the diagnostic tools to them.

A lot of the focus following the 2002 reauthorization and implementation of the first integrity management program for the gas transmission pipelines was on corrosion. Now we are expanding to develop devices that can be used for other purposes. For example, it is hoped that we can develop in-line inspection technology that can test the material strength and therefore be applied to a lot of the testing that is likely to be required pursuant to the PHMSA's new regulations. If we could do that, it would probably be more effective and also save us from both the cost and disruption of doing hydrostatic testing of pipelines.

Mr. MASSIE. Thank you.

Mr. Bradley.

Mr. BRADLEY. Thank you, sir, just a few ideas. I know someone mentioned earlier cast iron pipe lining. That is another way to extend the life, although predominantly what we are doing in the industry is retiring cast iron and replacing it with more modern materials. We expanded the use of excess flow values on the distribution side so that we can go from single-family units up to multifamily units or small commercial properties.

And as we put more plastic in the ground in the residential and commercial areas, we have gone to newer technologies to make sure that we can find it using GIS, tracker systems, marker balls, different things that are out there that help us so that we can help reduce underground damages as we go forward.

Mr. MASSIE. So, in the time I have remaining, I want to go from the technical side to the people side. How important is it to do public education in communities where the pipelines are located, Mr. Pierson?

Mr. PIERSON. One of the most dangerous failures that we can suffer is one caused by third-party damage where someone doesn't call 811. And typically when there is excavation near a pipeline, that means that people are nearby, and the pipeline can be perforated, and then you have got a real safety issue.

So we very, very much support getting the word out on 811. We also support the notice of proposed rulemaking that PHMSA is working on to improve damage enforcement in the States. The States have this authority, and PHMSA is moving them to use the authority to make sure people call 811.

Mr. MASSIE. I just want to say in my neighborhood the pipeline is a very good member of the community. It is unseen. But, for instance, every year they show up, and it is not what we would call a high-risk community. It is rural. They give a ball cap to everybody that lives anywhere near it and a refrigerator magnet, and nobody has any excuses for not knowing to call about digging, before they dig. So it has been a good experience in our community. Thank you.

Mrs. CAPITO. Mr. DeFazio from Oregon.

Mr. DEFAZIO. Thank you, Madam Chair.

Madam Administrator, I know it is not the direct subject of today's hearing, but I would like to turn to railcars yet again. We have had a couple of discussions of this issue this year, and there is a rumor that a rule has been forwarded from your agency which includes both railcar specifications and integrity issues and, secondly, operating issues, which, of course, are not the domain of your agency, in which you have no particular expertise.

First, is there such a rule that combines both; and secondly, if you did the combine both, were you in full consultation with the FRA on the operational aspects?

Ms. QUARTERMAN. I am happy to report that the rumors are true, that we have, in fact, completed a draft rulemaking in consultation with FRA. I think I mentioned it the last hearing that we were sort of—our folks were sequestered together for a long time, and they turned around a rule in a couple of months. That rule does include a comprehensive approach to rail safety. It includes—I can't tell you the details of it, but it does address tank car issues and operational and safety issues.

As to jurisdictional oversight, PHMSA is responsible for the movement of hazardous materials by all modes, which is not just packages, but also all the operational considerations that go with those movements as well.

Mr. DEFAZIO. Right, but rail movement is an incredibly complicated issue, and I just want—but in any case, you were in full consultation with the FRA, and whatever it is that has been forwarded, they deem to be practicable and they are in agreement with?

Ms. QUARTERMAN. Absolutely. Joe Szabo and I have been like this.

Mr. DEFAZIO. OK. So where—can you tell me where this rulemaking is now residing and when the public might see it?

Ms. QUARTERMAN. It is in the Office of Management and Budget, the OIRA office. They have, pursuant, I think, to an Executive order, a 90-day period during which they review the rule. I don't know what day we are on now in that review process. Of course, they can take longer or shorter. We are encouraging them to move as quickly as possible.

Mr. DEFAZIO. I don't want to get in trouble here, but what does OMB—other than I know they have to do cost-benefit analyses, but

what other expertise can they bring to bear if they are sitting around—if they are actively considering the rule?

Ms. QUARTERMAN. Well, they have many questions about the rule, the practical effects, the economic effects.

Mr. DEFAZIO. So they are forwarding questions back to you and asking——

Ms. QUARTERMAN. We have been meeting on not a daily basis, but I would say we have been meeting with them on a weekly basis with respect to this rule.

Mr. DEFAZIO. So at this point if I wanted to express the urgency of getting a rule out, I should direct my attention to the OMB? OK. Thank you.

One other question. I have sat on the committee for a number of years, and we have been through two reauthorizations since I have been here. And one particular concern in a number of incidents was distant capability of shutting off—automated capability of shutting off pipelines without having to dispatch someone to the site and having the time that elapses. We don't have a rule there. Is this just such a problematic technology, or are we making progress on this? Why aren't we there yet?

Ms. QUARTERMAN. We are making progress on this. It was one of the items within the Pipeline Safety Act.

Mr. DEFAZIO. Uh-huh.

Ms. QUARTERMAN. We did two separate advance notices, one on hazardous liquid and one on gas transmission. Included in both of those were questions related to both leak detection and automated shut-off valves.

There was a requirement with respect to both of those. We had to do an independent study. We have done that study, and we are in the process of drafting a rule to address those issues.

Mr. DEFAZIO. OK. Thank you.

Thank you, Madam Chairman. My time has about expired.

Mrs. CAPITO. Mr. Williams from Texas.

Mr. WILLIAMS. Thank you, and thank all of you for being here today. We appreciate it very much.

First of all, with full disclosure, I am from Texas, and we have—pipelines are important to us in Texas. They are important to us in my district, which has the Barnett shale and Comanche Peak Nuclear Power Plant. And I am a big private-sector guy, and I believe we have got too many Government regulations in our life.

My first question is to you, Mr. Santa. I was hoping you could speak about how important regulatory certainty is for expanded demand in oil and gas needs between now and 2035.

Mr. SANTA. Thank you for the question, Mr. Williams.

There is going to be a significant need for new midstream pipeline infrastructure in the United States between now and 2035. As a matter of fact, the research arm of the INGAA Foundation recently released an update of its report on this, addressing the natural gas side of the equation. That report indicates the need for some 339,000 miles of midstream pipeline between 2014 and 2035.

Admittedly, the bulk of that is going to be smaller diameter pipe primarily in connecting all of this new gas supply. There is also going to need to be almost 13 million horsepower of natural gas

compression added during that period. And the total cost for this is going to be approximately $200 billion.

While the report covers about 20 years, the bulk of this is going to be needed over the next 5 to 10 years. The report also covers both crude oil and natural gas liquid infrastructure, where there also is going to be a significant demand for new midstream pipelines.

So, yes, regulatory certainty will be important for us to move forward with that, although I would add to what my colleague said earlier. We do recognize the actions by Administrator Quarterman and her colleagues at PHMSA in terms of outreach with us working on things like the integrity verification process. So we appreciate their efforts.

Mr. WILLIAMS. Another question to you. Are there any roadblocks that are keeping you from meeting the needs that you have? And can Congress do anything to help you?

Mr. SANTA. Overall the market works well. This is very much market driven. Also, on the interstate natural gas pipeline side, the Federal Energy Regulatory Commission does a very good job.

There are some issues associated with the host of permits that one must get in addition to a FERC certificate. These are often pursuant to other Federal laws and other Federal agencies and sometimes delegated to State agencies. Mr. Pompeo's bill, H.R. 1900, which was passed by the House late last year, if that were to be enacted into law, we think it would be a step in the right direction in terms of giving FERC some effective enforcement authority over those other agencies.

Mr. WILLIAMS. Thank you.

Mr. Weimer, a couple of quick questions for you. What I am going to ask you today are focused on the review approval and siting of new oil pipelines. And I know this topic is largely a State function and may be a little beyond this committee's jurisdiction. I would like to hear what you have to say about these questions.

First of all, what is the Pipeline Safety Trust's view on the review, approval, and siting of new oil pipelines?

Mr. WEIMER. Well, I think to sum it up, it is kind of a mess in this country right now, because unlike natural gas pipelines where you have a FERC process for interstate natural gas pipelines, there is not one place that either the public, local governments, or the industry can go to to figure out how to put a liquid pipeline in the ground.

If it crosses an international boundary, you get into the State Department, like we have with Keystone. If it doesn't do that, then it falls on State by State. Some States have siting authorities; some don't. If they don't, then it falls county to county or municipality to municipality. So it is a real patchwork of trying to put a new liquid pipeline in the ground.

Mr. WILLIAMS. So I guess I would ask, does your organization support the current law letting States have jurisdiction over siting and review of new oil pipelines?

Mr. WEIMER. Yeah, we certainly do support that. In Washington State, where I am from, we have an energy facility siting evaluation committee that works very well for siting of those types of things.

Mr. WILLIAMS. And would you also separate the process of new oil pipelines versus interstate natural gas transmission pipelines?

Mr. WEIMER. Well, I think there needs to be a new process, whether it falls under something like FERC for interstate natural gas, or whether it falls State by State or some other agency is looking at siting of oil pipelines. We just need a better process than what there is now.

Mr. WILLIAMS. Do you believe there are benefits to the FERC approach?

Mr. WEIMER. I think there are. I think everybody knows upfront what they are doing. FERC has worked hard to make it a very upfront program where the public understands the process. That doesn't happen with liquid pipelines at this point. Often people are angry because they don't find out until too late in the process what is going on.

Mr. WILLIAMS. Thank you. I yield back.

Mrs. CAPITO. The gentleman yields back.

We have had a request to open up for another quick round of second questions, particularly Ms. Hahn, who requested the hearing. I would just like to make a quick comment since I haven't really spoken yet.

I am from West Virginia, and we had the pipeline explosion that went across our interstate there, and then I think it destroyed several properties. By the grace of God, there was nobody in those properties or nobody close by. It was a relatively—I don't want—it wasn't a new pipeline, but it wasn't exceedingly old either at the same time.

And so going along the vein of Mr. Williams, we have Marcellus shale development in our State, and we are having massive pipeline construction, and we welcome it. It is a job creator, no doubt about it, and we want that.

But, you know, I will say the investigation was very thorough in terms of what happened in West Virginia, and I hope we take lessons learned there. The shut-off valve was one of the issues that came up during the discussion and also the deterioration of the materials that were used at the time.

So where you think it can't happen or won't happen, and this was just sort of a random place, it can happen any time at any place, I guess, without the great precautions. So I appreciate everything everybody here is doing to try to prevent that from happening anywhere else and to make sure that the lessons that we learn from unfortunate incidences like this we can use to perform, and be better, and be safer.

And so with that, I will first go to the ranking member. She had one more question, so we will go to her first, and then we will go to you, Ms. Hahn.

Ms. BROWN. Thank you, Madam Chair.

I did not get a chance to do my opening statement, and I guess I do want to say that the Department of Transportation says that natural gas—pipelines is—the safest way to transport natural gas is through the pipelines. But in 2011 alone pipeline incidents caused 14 fatalities. This compared to more than 32,000 on the highways, 557 on rail, 485 in aviation, and 106 in transit. With that said, the difference between pipelines and other transportation

modes is that one single pipeline incident can cause all kinds of damages to the environment and property.

We have seen several of these in recent times from the gulf coast to Michigan, California, New York, Montana and my home State of Florida. Many of these incidents formed the basis for the 2014 act, including requiring increased civil penalties, installing automatic shut-off valves and leak-defection systems in certain pipelines, inspection and repair requirements, increasing communication between pipeline operators and State and local emergency responders.

With that said, in 2011, I fought to include a provision in the law that required the Secretary to make all document references and regulation available to the public free of charge. What is the status of this requirement, and has it been fully implemented, Ms. Quarterman?

Ms. QUARTERMAN. Yes. I am happy to report that the requirement that the documents that have been incorporated by reference, we have been able to put—we have reached an agreement with all except one of the standards agencies to put those items on the Internet for free. Subsequent to that legislation, there was an amendment of the legislation that expanded the deadline on that, I think. But we are making for that one standard body—we are ensuring that those standards are available here in Washington, DC, in our offices and elsewhere for folks to be able to come and look at them. But we have made great progress. Thank you.

Ms. BROWN. I am confused. You said they can come to Washington, DC, and take a look at them?

Ms. QUARTERMAN. Anyplace that we have an office and have the standards available, they can see them for this one particular association.

Ms. BROWN. But the others—well, who is this one that hasn't met this agreement?

Ms. QUARTERMAN. I don't remember off the top of my head, and I don't want to say the wrong name here. I will get back to you on that.

[The information follows from Hon. Cynthia Quarterman, Administrator, Pipeline and Hazardous Materials Safety Administration:]

American Society of Mechanical Engineers.

Ms. BROWN. I would like to know that name of that one group that has not agreed to it, because basically the local respondents need to know and be able to—they can't afford—each little community can't afford to purchase the regulations, and that is what we discussed, and it is a part of the law, and I really would like to know when the entire provision has been implemented.

Also, I understand that there are more than 200,000 miles of U.S. lines that is unregulated. Can you explain why this is a major concern, and what is your recommendations what we need to do about it?

Ms. QUARTERMAN. I assume you are referring to gathering lines? There was a requirement in the act that we do a study on gathering lines, which we have drafted. It is in circulation, and we hope to get it to the committee very, very soon. We also have that in consideration in the pending rulemakings, how to deal with gathering.

Ms. BROWN. Would anyone else like to respond to that?

Yes, sir?

Mr. WEIMER. Yes. The gathering line issue is one of our major issues. For instance, just a couple of years ago, there was 10,000 new miles of pipelines that went into the State of Pennsylvania; 9,200 of those miles were totally unregulated rural gathering lines that run past people's homes. While the Marcellus shale has been a great economic opportunity, it is also putting people at risk, and the regulations haven't kept up with that.

Ms. BROWN. So what is your recommendation?

Mr. WEIMER. Well, we feel that gathering lines that are the same size, diameter and same risk as the gas transmission lines ought to be regulated the same as gas transmission lines, and we are hoping that is what PHMSA is recommending as they come forward with the rulemaking.

Ms. BROWN. Thank you.

Mrs. CAPITO. Ms. Hahn.

Ms. HAHN. Thank you.

I am still upset about what happened in my community of Wilmington, and while I appreciate my colleague who—the oil company in his community is handing out ball caps and refrigerator magnets, my community, the jackhammering afterwards to reach the pipeline and cap it caused driveways to be cracked, refrigerators to be ruined, grass to die. The whole neighborhood is ruined because of this company who failed to inspect their own pipeline and didn't even know that it was full of oil, or they were bypassing the process of abandoning it, and, again, it caused huge havoc in this community.

I am going to introduce legislation that I think would help to close these loopholes and accomplish two goals. One, the first legislation would ensure that a company purchasing a pipeline actually does its due diligence, and it would be Federal law to know what the status is within 180 days of purchasing the pipeline and have that information available to the public.

And the second, it would require that for a pipeline to be designated as abandoned, either PHMSA or the State authority would need to be present at the time of the inspection.

And I am just going to ask you, Ms. Quarterman, what kind of resources would PHMSA need to accomplish these two goals?

Ms. QUARTERMAN. Well, the first half of that I don't think is a PHMSA resource question. The second half, in addition to the inspectors that PHMSA has, there are another 300 inspectors, approximately, that are funded by States. I would have to go back and probably do an estimate of how many——

Ms. HAHN. About how many pipelines are determined abandoned every year?

Ms. QUARTERMAN. I don't know the answer to that. We would have to do a calculation based on the number that are abandoned, unless one of the gentleman here could address that issue, and an estimate of how much time it would take us to do that.

Ms. HAHN. Again, I am all for emergency response and awareness in the community, but I would like to prevent the ones that happened in Wilmington from ever happening.

What kind of penalties or fines would this company be liable for in this recent incident?

Ms. QUARTERMAN. Each State adopts their civil penalty amounts. Ours are high. Not every State has the same level of civil penalties. One of our initiatives is to ensure that all States are increasing their civil penalties. I know California, at least on the gas pipeline side, has very high civil penalty authority. I am not sure what they have on the State side, though, in their law.

Ms. HAHN. Would you be levying the fine, or is this just the State would be doing this?

Ms. QUARTERMAN. In this instance it was under the State's jurisdiction, so it would be the State levying the fine.

Ms. HAHN. OK. Thank you.

Would any of the rest of you like to comment on my proposed legislation?

Mr. SANTA. Ms. Hahn, for interstate natural gas pipelines, abandonment is required by the Federal Energy Regulatory Commission. That is in part because when the pipe is put into service, it requires FERC approval; to take it out of service or convert it to another use, it requires FERC approval. There is a public record there. There is a public proceeding with notice. And also there are, as has been noted, PHMSA requirements on the gas side as well that apply to taking the pipeline out of service. So I think on the interstate gas pipeline side, I think we have got a pretty transparent and effective regime already.

Mr. PIERSON. In the hazardous liquids industry, a pipeline, if it is not flowing, is still regulated. And so if it is full and not flowing, it is still regulated and falls under the same regulatory regime.

Ms. HAHN. But if it is not—if this company claimed it was empty and idle?

Mr. PIERSON. As Ms. Quarterman mentioned, there isn't necessarily a term of "idled."

Ms. HAHN. Right.

Mr. PIERSON. And we would—if there is language or movement on that, we would be interested in seeing what PHMSA would propose on how to make——

Ms. HAHN. When a company purchases a pipeline, would you be opposed to this idea that within 180 days, the information about what is in that pipeline ought to be available? This was a full pipeline.

Mr. PIERSON. Yes. I am not familiar with all the details of the incident that you are talking about, but if there were language out there and an area for improvement, we would listen and talk about it.

Ms. HAHN. Thank you.

Mr. Bradley?

Mr. BRADLEY. Absolutely. On the distribution side we have a number of rules, distribution and transmission, for retiring pipeline, when we tie in brand-new pipeline and purge and clear out. If we hold natural gas pressure in that pipeline, we still treat it as requiring preventive maintenance inspections, if it is steel cathodic protection, et cetera. I don't see there being an issue with the rule that you are proposing.

Ms. HAHN. I just want this sort of third-party verification for our communities. The honor system is great, but it failed us.

Thank you. I yield back.

Mrs. CAPITO. Thank you. The gentlelady yields back. Thank you.

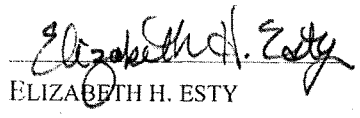
If there are no further questions, I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional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

Without objection, so ordered.

I would really like to thank our witnesses today, again, for your testimony.

If no other Members have anything to add, the subcommittee stands adjourned.

[Whereupon, at 3:40 p.m., the subcommittee was adjourned.]



ELIZABETH H. ESTY

Statement for the Record
Subcommittee on Railroads, Pipelines, and Hazardous Materials
of the
Committee on Transportation & Infrastructure Hearing
"Implementation of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011"
May 20, 2014

Thank you, Chairman Denham and Ranking Member Brown, for holding today's hearing on pipeline safety. This is an important matter for the people of Connecticut, and I appreciate the Chairman's willingness to work to improve pipeline safety.

Concern for pipeline safety has heightened since the recent pipeline failures that resulted in dangerous oil spills in residential and industrial neighborhoods. I am committed to promoting a comprehensive energy policy that boosts our economy. But for our energy policy to be effective, it must be accompanied by appropriate safeguards and effective regulatory oversight.

I am concerned that PHMSA has been slow to produce congressionally required reports and regulations. The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 established clear mandates that have yet to be realized. This sluggish rulemaking is in stark contrast to the public necessity for strong and timely regulatory oversight.

UNITED STATES DEPARTMENT OF TRANSPORTATION
Pipeline and Hazardous Materials Safety Administration

Hearing on
A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

Before the
U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials

Written Statement of
Cynthia Quarterman, Administrator

May 20, 2014

Chairman Denham, Ranking Member Brown, and members of the Subcommittee, thank you for the opportunity to appear today to discuss the Pipeline and Hazardous Materials Safety Administration's (PHMSA) oversight of America's vast network of energy pipelines and the progress we have made in implementing the mandates of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act) (Public Law 112-90).

America's domestic energy production has risen dramatically and because of this, we've seen major changes as the Nation's energy infrastructure shifts to accommodate it. Not only are new pipelines going into the ground, the configurations of existing pipelines are changing, and other pipelines are being converted to carry different products and move new-found energy resources to market. The products these pipelines carry are essential to our way of life, our mobility, and our Nation's economic well-being. Our new domestic energy reality is also helping to bring manufacturing jobs back to the country. Now, more than ever, Americans are relying on pipelines for energy transportation, and they're relying on the companies that operate those pipelines to do so safely.

America is on the cusp of becoming the world's largest energy producer. Our vast reserves also give us the enormous potential for growth. However, it is not enough to be a world leader in producing energy—we must also remain a world leader in safely transporting that energy.

Safety is the top priority of Secretary Foxx, myself, and all of the employees at PHMSA. Our mission is to ensure that pipeline companies aggressively protect the American people and the environment from harm during the transportation of hazardous materials, and we have been working very hard to achieve that mission through stricter regulatory requirements, rigorous enforcement, strong safety partnerships, and educational efforts.

There are 2.6 million miles of pipelines that crisscross our Nation. To ensure that pipeline companies are operating the network safely, and that the communities crossed by pipelines are protected, PHMSA works together with a wide variety of stakeholders, including other Federal agencies, State and local officials, emergency responders, environmental groups, the public, as well as the pipeline industry.

PHMSA is continuing to implement its multi-year Pipeline Safety Reform (PSR) initiative to complete the Act's mandates and enhance our ability to reduce the risk of future pipeline failures. Last month, as part of the President's FY 2015 budget request, we announced that we are seeking additional resources for PSR. The request included an increase of $23.5 million that will allow us to add additional inspection and enforcement staff, with the right mix of talent, and station them strategically throughout our inspection and investigation field corps in cooperation with partner agencies in the States.

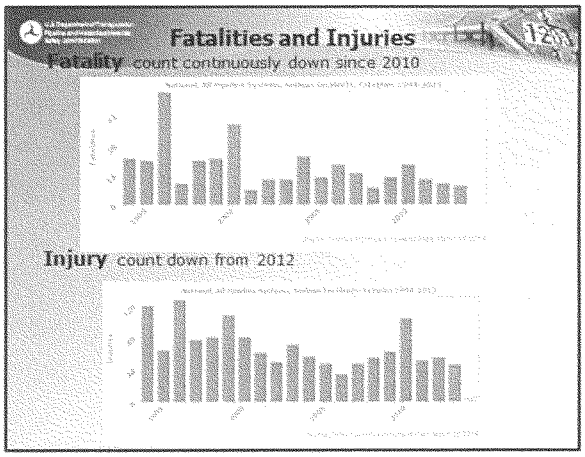
Federal oversight agencies like the National Transportation Safety Board (NTSB), the Office of Inspector General (OIG), and the Government Accountability Office (GAO) share our

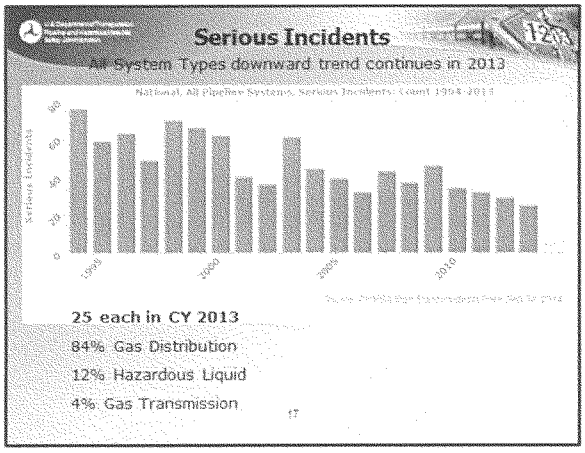
mission in ensuring the safe and reliable operation of the Nation's pipeline infrastructure. For years, we have worked aggressively to respond to their recommendations and further protect the public. In addition to the mandates of the Pipeline Safety Act, we are currently working on addressing 26 open NTSB recommendations, 10 open recommendations from the OIG, and 6 recommendations from the GAO. Some of these recommendations are newly issued (one NTSB recommendation from the Sissonville incident and seven OIG recommendations for State Programs), and many are intertwined with fulfilling the requirements of the Pipeline Safety Act, which suggests that there is a shared understanding of some of the challenges for the Nation's pipeline system. To implement each recommendation, we are refining our policies, processes, and procedures; issuing Advisory Bulletins to remind stakeholders of our expectations and their responsibilities; developing performance measures to drive safety; and ensuring an effective regulatory framework through review of existing regulations and development of new regulations. For example, and most recently, we issued two Advisory Bulletins, titled "Improvements in Preparing Oil Spill Facility Response Plans" (January 28, 2014; 79 Fed. Reg 4532) and "Lessons Learned from the Release at Marshall, Michigan" (May 6, 2014; 79 Fed. Reg 25990), which address NTSB recommendations P-12-10 and P-12-6, respectively. We also have several rulemaking efforts underway, which I will discuss in more detail later along with our other actions.

My testimony today will provide an overview of the Nation's pipeline safety program, including our most recent successes, and of our progress in implementing the Pipeline Safety Act mandates.

I. OVERVIEW OF PHMSA'S PIPELINE SAFETY PROGRAM

Overall, the pipeline industry's safety record continues to improve. Serious incidents (ones involving fatality or injury), continued their downward trend in 2012 and 2013, reaching the lowest levels since 1984. By nearly all accounts, 2013 was a banner year for pipeline safety—fatalities were driven to a 5-year low, and injuries reached a 7-year low.





As PHMSA's longest-serving Administrator, I've seen the good progress we are making towards accomplishing our pipeline safety goals, and I would like to outline some of the progress we've made recently in helping to drive these trends.

Under my watch, the Office of Pipeline Safety's enforcement record has drastically improved. Since 2009, we issued $33 million in proposed civil penalties and 544 orders, and we reduced by 65 percent the time it takes to close out an enforcement case once it's initiated. More

specifically, just last year, we issued 85 orders to pipeline operators, initiated 266 enforcement cases, closed out 263 enforcement cases, and issued a record $9,775,400 in proposed civil penalties.

We have also ramped up our research and development (R&D) efforts to help drive new solutions to pipeline safety concerns. The R&D efforts are helping us address complex technological challenges posed by aging pipeline infrastructure. We invested $35.7 million since 2002, into 96 research projects and have produced nine technology improvements that are now on the commercial market. We are reaching out to universities through our Competitive Academic Agreement Program, which we created in 2013 to expose graduate students to pipeline safety challenges and tap their potential to deliver innovative new solutions and technologies. We are also holding an R&D Forum this summer that we expect to generate research topics to help us address critical safety issues such as leak detection, corrosion, and several other pipeline threats.

As to regulatory matters, we promulgated new penalty provisions – new authority that for the first time allows us to enforce our regulations for oil spill preparedness, separation of functions, and the prohibition of ex parte communication. PHMSA's proposed rules to comprehensively update the natural gas and hazardous liquid transmission pipeline regulations, including our integrity management requirements, are currently in clearance. Implementation of many of the Pipeline Safety Act mandates and NTSB recommendations will occur once those rules are finalized. We also developed and proposed an Integrity Verification Process, which will help improve natural gas pipeline integrity as well as satisfy multiple Pipeline Safety Act requirements and NTSB recommendations stemming from the tragic incidents at San Bruno, California.

However, pipeline safety is much more than rulemaking and regulation—pipeline safety is about people. As an agency, we've devoted over 300 person-days of resources towards ensuring the continued safe operation of the 1,900-mile-long Enbridge Lakehead pipeline system alone. Our inspectors are out there in the field actively inspecting new pipeline construction; communicating with our stakeholders; working on internal teams to improve inspection methodologies, business processes, and regulations; and responding to incidents when they occur. In short, we can't complete our mission without them.

To support Federal and State inspectors, PHMSA relocated its Training and Qualification Center to a new, 30,000 square-foot state-of-the-art facility that will ensure inspectors get the training they need to achieve our collective goal of making America's pipelines safer. The new location provides four classrooms and offers Federal and State inspectors supervisory control and data acquisition (SCADA) simulators, welding and corrosion labs, and fully integrated audiovisual systems throughout the training areas. We are installing a new corrosion field, which will further enhance our ability to train Federal and State inspectors.

We have also focused our inspection program to better utilize data and revised protocols to target the greatest risks of individual operators. In FY2014, we have so far completed 26 courses and 14 seminars with 53 courses and 27 seminars scheduled moving forward.

Pipeline safety is also about public outreach. That's why PHMSA has expanded its public outreach efforts through public education and awareness by maintaining a strong, transparent Internet presence, reaching out frequently through social media, and holding public awareness activities including legal forums, workshops, and training.

Excavation damage prevention continues to be one of our top priorities, and our support and engagement with the Common Ground Alliance throughout the years, as well as our targeted outreach during National Safe Digging Month each April, and "811 Day" each August, are paying dividends. We also promote Pipeline and Informed Planning Alliance recommended practices to help key stakeholders make risk-informed land use and development planning decisions to protect our communities and existing pipeline infrastructure. PHMSA has also undertaken a variety of outreach initiatives to educate the emergency response community and build partnerships with pipeline emergency response stakeholders to institutionalize pipeline awareness within the emergency response community.

PHMSA continues to engage the States with the "Call to Action" to modernize high-risk pipeline infrastructure. According to data from the American Gas Association, the National Association of Regulatory Utility Commissioners has been driving replacement of 30,000 miles of pipe per year for the last decade. Since we issued that call, 38 States have implemented measures for accelerated infrastructure cost recovery and replacement of aging pipe.

Additionally, PHMSA has modernized the Facility Response Plan and streamlined its Oil Response Plan review process, which to date has resulted in the review and approval of 276 of the 376 plans submitted. We are posting redacted versions of these plans on our public website to comply with Section 6 of the Pipeline Safety Act for public education and awareness.

II. PHMSA'S STATE PARTNERS AND STATE PROGRAMS

Since 1971, when a national, uniform standard of pipeline safety regulations was implemented, States have had the authority, through PHMSA, to regulate the safety of intrastate pipelines. Sections 60105 and 60106 of the Pipeline Safety Act continue to allow States to assume safety authority through PHMSA for the inspection and enforcement of intrastate pipelines. PHMSA sets the minimum Federal guidelines for pipeline safety, which the participating States then adopt into their State code and enforce. States are allowed, under Section 60104(c) of the Pipeline Safety Act, to adopt more stringent safety standards than the minimum standards PHMSA sets. This allows States to codify and enforce regulations that deal with specific, regional (or local) risks that might not be feasible or cost-beneficial to regulate on

the Federal level. Many States have established safety regulations that are more stringent than the Federal regulations.

We partner with 52 State pipeline safety programs, containing approximately 300 full-time inspectors, through certification and agreements for the inspection of the Nation's intrastate gas and hazardous liquid pipelines. PHMSA also has interstate agent agreements with nine States to perform interstate pipeline inspections. With the exception of Alaska and Hawaii, which do not participate in the State pipeline safety program, State pipeline safety agencies are the first line of defense in protecting much of the American public from pipeline risks on lines that exist primarily where people live and work. State pipeline safety agencies have authority over approximately 80 percent of the total pipeline infrastructure under PHMSA's oversight and have always been a critical component of a sound pipeline oversight program. In fact, with PHMSA's oversight, State pipeline safety programs have reduced the rate of serious pipeline incidents for gas distribution pipelines by approximately two-thirds over the last 30 years while the mileage of gas distribution pipelines has increased by over 50 percent.

We recognize that improvement of State oversight and support is a continuous effort. After the tragic September 9, 2010, Pacific Gas and Electric incident in San Bruno, California, PHMSA initiated an improvement plan for State pipeline safety programs. The improvement plan has resulted in the accelerated reduction of high risk pipeline infrastructure (e.g. cast iron pipe), encouraged increased State available penalty levels for violations of the pipeline safety regulations, and increased focus during PHMSA evaluations of State pipeline safety programs regarding State enforcement actions. The program has resulted in improvements to our grant program and increased State program transparency by encouraging inspection and enforcement data to be posted on State Web sites.

Further, thanks to provisions in the Pipeline Safety Act, we are currently able to annually cover 73 percent, or approximately $46 million, of the program costs that States incur. This funding covers personnel and equipment needs, public outreach programs, and other activities that allow the States to inspect and regulate intrastate pipelines. For FY2015, PHMSA requested six additional positions in the budget request to help support more in-depth evaluations of State pipeline safety programs. This request would effectively double PHMSA's capacity for conducting thorough and effective program evaluations.

III. IMPLEMENTING THE PIPELINE SAFETY ACT

Prior to 2010 and the Pipeline Safety Act, the pipeline industry's safety record was improving. PHMSA had implemented all but one of the mandates from the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act; Public Law 109-468) and acceptably closed all of its NTSB recommendations except for six, which remained classified by NTSB as "open acceptable."

In a period of 12 months, this all changed dramatically. The April 2010 Deepwater Horizon well blowout, while not pipeline-related, preceded a string of tragic pipeline accidents at Marshall, MI; San Bruno, CA; Allentown, PA; and Billings, MT.

Following these incidents, on January 3, 2012, the Pipeline Safety Act was enacted and showed there was a common agreement about the importance of a safe and reliable pipeline system for the welfare of the Nation. Pursuant to the Pipeline Safety Act, PHMSA received 42 new congressional requirements. Since 2011, PHMSA was also issued 27 new NTSB recommendations, 16 new OIG recommendations, and 6 new GAO recommendations.

PHMSA has tackled these requirements through a comprehensive approach. While there is still much work to be done in protecting people and the environment of this Nation from the risks involved in transporting hazardous materials, we have made good progress in completing those mandates and fulfilling the intent of the Pipeline Safety Act.

PHMSA has completed 21 of the 42 mandates and has completed significant work towards the remaining mandates. The following is a brief description of PHMSA's work on the Pipeline Safety Act requirements:

Section 2—Civil Penalties:

The Pipeline Safety Act authorized PHMSA to increase the maximum civil penalty for pipeline safety violations from $100,000 to $200,000 per violation per day and from $1,000,000 to $2,000,000 for a related series of violations.

On September 25, 2013, PHMSA published a final rule titled "Administrative Procedures; Updates and Technical Corrections" (RIN: 2137-AE92), which implemented this mandate by updating Part 190 of title 49 of the Code of Federal Regulations.

Section 3—Pipeline Damage Prevention:

The Pipeline Safety Act required PHMSA to incorporate new standards for State one-call programs into the State Damage Prevention (SDP) grant program criteria, including no State and local exemptions. PHMSA discussed these exemptions with members of the National Association of Pipeline Safety Representatives, the Common Ground Alliance, the pipeline industry, and many others, and incorporated revised requirements in the SDP grant program criteria. PHMSA then determined which States would be impacted by SDP grant funding limitations and sent letters that provided damage prevention and grant eligibility information to the governors of affected States on March 25, 2013. Communication with the affected States continued throughout the year, including a large, Public Exemptions Workshop that PHMSA held on March 14, 2013. PHMSA posted the 2014 SDP solicitation, which included language

regarding the new standards, on November 25, 2013. On January 7, 2014, PHMSA notified the States of their eligibility status for the 2014 SDP grants.

The Pipeline Safety Act also requires PHMSA to conduct a study on the impact of excavation damage on pipeline safety, including exemptions, frequency, severity, and type of damage, and report the results to Congress. PHMSA subsequently performed significant data analysis regarding damage prevention. This analysis was incorporated into PHMSA's report, which has been drafted and is under review.

Section 4—Automatic and Remote-Controlled Shut-Off Valve Use:

The Pipeline Safety Act requires PHMSA to issue regulations requiring the use of automatic or remote-control shut-off valves on transmission pipelines constructed or entirely replaced after the date of the rule, if appropriate.

PHMSA began to collect information on the use of automatic shut-off valves (ASVs) and remote-controlled shut-off valves (RCVs) on hazardous liquid and gas transmission pipelines prior to the enactment of the Pipeline Safety Act through issuance of two Advance Notices of Proposed Rulemakings (ANPRMs) titled "Safety of On-Shore Hazardous Liquid Pipelines" (RIN: 2137-AE66) and "Safety of Gas Transmission Pipelines" (RIN: 2137-AE72). For hazardous liquid transmission pipelines, an ANPRM issued on October 18, 2010, requested public comments on the use of RCVs. For gas transmission pipelines, an ANPRM issued on October 25, 2011, requested public comments on requiring the use of ASV and RCV installation.

PHMSA is taking public comments on the ANPRM and from other sources, including a large, public leak detection and valve workshop held on March 28, 2012, and an independent valve study conducted by Oak Ridge National Laboratory titled "Studies for the Requirements of Automatic and Remotely Controlled Shutoff Valves on Hazardous Liquid and Natural Gas Pipelines with Respect to Public and Environmental Safety" (submitted to Congress on December 27, 2012), into consideration as it drafts an NPRM related to ASV and RCV installation and leak detection. Our NPRM will address both Sections 4 and 8 of the Pipeline Safety Act as well as related GAO recommendation 13-168 and NTSB recommendation P-11-11.

Section 5—Integrity Management:

The Pipeline Safety Act required PHMSA to conduct an evaluation on whether integrity management programs (IMPs) should be expanded beyond high-consequence areas (HCAs) and whether gas IMPs should replace the class location system. This section also asks PHMSA to consider issuing regulations expanding IMP requirements and/or replacing class locations.

On August 25, 2011, PHMSA published an ANPRM titled "Safety of Gas Transmission Pipelines," (RIN: 2137-AE72), which asked all stakeholders whether PHMSA should modify the definition of an HCA and develop additional safety measures, including integrity management measures. PHMSA published a 60-day Federal Register notice on August 1, 2013, to ask for comments on HCA expansion and, with respect to gas transmission, whether applying IMP requirements to additional areas mitigates the need for class location requirements. PHMSA also held a "Class Location Methodology Workshop" (79 Fed. Reg 16421) on April 16, 2014. Based on the comments from the ANPRM, the Federal Register notice, and the workshop, PHMSA has started drafting a report to Congress on this issue.

This section of the statute also suggests that 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, and that PHMSA should publish guidance on what constitutes sufficient justification. PHMSA is currently considering this issue in the context of a gas transmission NPRM, which is a follow on from the ANPRM titled "Safety of Gas Transmission Pipelines" previously mentioned.

Section 6—Public Education and Awareness:

This section contained several requirements. One mandate requires that PHMSA maintain a map of all gas HCAs as a part of the National Pipeline Mapping System (NPMS), and another mandate requires PHMSA to update the NPMS biennially. PHMSA has already begun to implement this provision using information currently available, and we continue to work on expanding the information available. As defined in the NPMS, HCAs are comprised of populated areas, ecologically sensitive areas, drinking water sole-source areas, commercially navigable waterways, and Class 3 and 4 locations for gas operators. PHMSA updates the NPMS' populated areas based on U.S. Census updates, which were last made public in fall 2013. Populated areas were updated last year based on this data. Similarly, commercially navigable waterways are updated when new data is released by the Department's Bureau of Transportation Statistics which last occurred in 2011. The NPMS Public Viewer is restricted to show only populated areas and commercially navigable waterway HCA data. Drinking Water and Ecological Unusually Sensitive Areas are not visible to the public or redistributed to anyone other than pipeline operators to support integrity management. The Drinking Water and Ecological Unusually Sensitive Areas are currently being updated by a private team and will likely be offered as a data subscription service. PHMSA is acting as an advisor to this project and we are considering a pilot this fall to help us assess cost and feasibility.

Additionally, PHMSA was required to promote greater awareness of the NPMS to state and local emergency responders and other parties. To address this requirement, PHMSA is incorporating NPMS outreach into other programs that relate to State and local officials,

including emergency management and emergency responder officials. PHMSA hosted a meeting of Public Safety and Emergency Response officials to discuss pipeline emergency preparedness and response on December 9, 2011. Additionally, PHMSA continues to communicate with various emergency responder groups through its Emergency Responder (ER) Outreach program and the Community Assistance and Technical Services (CATS) program. PHMSA is also publishing articles regarding its public resources, including the NPMS, in ER publications. A brochure, designed for widespread distribution in the ER community, was also created that described available resources.

PHMSA was also required to issue guidance to operators to provide system-specific information about their pipelines to emergency responders after consulting with those responders. This requirement aligns closely with NTSB recommendation P-11-8, which recommended sharing pipe diameter, operating pressure, product transported, potential impact radius and other information.

On November 3, 2010, and prior to the passage of the Act, PHMSA issued Advisory Bulletin ADB-10-08, "Emergency Preparedness Communications" (75 Fed. Reg 67807), which reminded operators of gas and hazardous liquid pipeline facilities that they must make their pipeline emergency response plans available to local emergency response officials. PHMSA recommends that operators provide their emergency response plans to officials through their required liaison and public awareness activities. PHMSA is evaluating the extent to which operators have provided their emergency plans to local emergency officials when performing inspections for compliance with liaison and public awareness code requirements.

Following that bulletin, PHMSA issued another Advisory Bulletin on October 11, 2012, titled "Communication During Emergency Situations" (ADB-12-09; 77 Fed. Reg 61826), which reminds operators of gas, hazardous liquid, and liquefied natural gas pipeline facilities that operators should immediately and directly notify the Public Safety Access Point that serves the communities and jurisdictions in which those pipelines are located when there are indications of a pipeline facility emergency.

Further, PHMSA plans to convene a Public Awareness (PA) Working Group that will leverage the results of PHMSA's ER outreach efforts and issue findings on gaps in the requirements for pipeline operators to communicate with local emergency response agencies. The initial findings of the PA Working Group will be made available to the public this year. PHMSA will also make the findings available to the American Petroleum Institute (API) as input on public awareness for revision to API Recommended Practice 1162. PHMSA will review the PA Working Group's findings to determine if additional changes need to be made to Federal regulations regarding communications and information sharing between pipeline operators and local emergency response agencies.

The final mandate from this section required PHMSA to maintain the most recent oil facility response plans (FRPs), which are currently collected from operators, and provide copies of those FRPs to any requester through the Freedom of Information Act (FOIA) process. These plans, often spanning hundreds of pages, include sensitive information that must be redacted prior to public release. PHMSA has implemented this mandate and continues to improve the FRP program by accelerating the plan review process. As a part of our new review program, PHMSA has already posted 62 redacted plans on its FOIA online reading room for public viewing.

Section 7—Cast Iron Gas Pipelines:

The Pipeline Safety Act required PHMSA to follow up on the industry's progress in replacing cast iron gas pipelines. PHMSA has collected updates and has published the responses on its public Web site. This inventory was developed and posted before the deadline of December 31, 2012. We also update this data and trend reduction in cast iron pipe on an annual basis.

Section 8—Leak Detection:

The Pipeline Safety Act requires PHMSA to submit a report to Congress on leak detection systems used by operators of hazardous liquid pipeline facilities and transportation-related flow lines. This report was submitted to Congress prior to the deadline of January 3, 2013, and is available on PHMSA's public website.

This section also requires PHMSA to, if appropriate, issue regulations requiring leak detection on hazardous liquid pipelines and establishing leak detection standards (though not during the congressional review period unless there is a risk to public safety). As mentioned above for Section 4, PHMSA hosted a major workshop on leak detection and ASVs/RCVs in 2012 and has incorporated important findings from it in an NPRM that is currently under development. Among other things, this NPRM will propose new leak detection and valve usage regulations that will address both Section 4 and 8 of the Act as well as GAO recommendation 13-168 and NTSB recommendation P-11-11.

Section 9—Accident and Investigation Notification:

PHMSA was required by the Act to revise regulations to require telephonic reporting of incidents or accidents not later than one hour following a "confirmed discovery" and to require revising the initial telephonic report after 48 hours if practicable. PHMSA issued an Advisory Bulletin ("Accident and Incident Notification Time Limit;" ADB-2013-01; 78 Fed. Reg 6402) in

2012 advising owners and operators of gas and hazardous liquid pipeline systems and liquefied natural gas facilities that they should contact the National Response Center (NRC) within one hour of discovery of a pipeline incident and should also file additional telephonic reports if there are significant changes in the number of fatalities or injuries, product release estimates, or the extent of damages. An NPRM titled "Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes" proposing revisions to this subject, and more clearly defining "confirmed discovery," is currently being drafted.

The Act also requires PHMSA to review and revise, as necessary, procedures for operators and the NRC to notify emergency responders, including local public safety answering points or 911 centers. PHMSA published Advisory Bulletins ADB-12-09, "Communication During Emergency Situations" (77 Fed. Reg 61826), and ADB-10-08, "Emergency Preparedness Communications" (75 Fed. Reg 67807), which issued guidance to operators on these procedures.

Section 10—Transportation-Related Onshore Facility Response Plan Compliance:

Administrative Enforcement and Civil Penalties:

While there was no specific mandate with this item, the section did suggest that PHMSA should update 49 C.F.R. Part 190 to be consistent with the new authority to enforce 49 C.F.R. Part 194 regulations. This item was addressed when PHMSA published its final rule titled "Administrative Procedures; Updates and Technical Corrections" (RIN: 2137-AE92) on September 25, 2013.

Section 11—Pipeline Infrastructure Data Collection:

PHMSA is considering collecting other geospatial and technical data for the NPMS.

Section 12—Transportation-Related Oil Flow Lines:

PHMSA is considering collecting geospatial and other data on transportation-related oil flow lines as mentioned in Section 11 above and as defined in the Act.

Section 13—Cost Recovery for Design Reviews:

PHMSA was required to issue guidance on the meaning of the term "new technologies." This guidance was completed and was posted on PHMSA's external website prior to the deadline of January 3, 2013. PHMSA was also required 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." PHMSA is considering

whether to propose these changes in an NPRM covering operator qualification, cost recovery, accident and incident notification, and other pipeline safety issues. The proposed rule is currently being drafted.

Section 14—Biofuel Pipelines:

PHMSA's NPRM for the safety of on-shore hazardous liquid pipelines is currently being drafted.

Section 15—Carbon Dioxide Pipelines:

The Act requires that PHMSA issue regulations for transporting by pipeline carbon dioxide while in a gaseous state. PHMSA is currently exploring options for this item and continues to consider ways forward.

Section 16—Study of Transportation of Diluted Bitumen:

PHMSA was required to review and report to Congress on whether current regulations are sufficient to regulate pipelines transporting diluted bitumen. We engaged the National Academy of Sciences (NAS) and Transportation Research Board (TRB) to study this important issue. The NAS/TRB committee briefed PHMSA's senior management and the Department's Deputy Secretary on June 21, 2013. The NAS/TRB committee briefed Congress on June 24, 2013, and held a public press conference on the release of the report on June 25, 2013. The report is available publically from the NAS/TRB website at http://www.nap.edu/openbook.php?record_id=18381.

Section 17—Study of Nonpetroleum Hazardous Liquids Transported by Pipeline:

This section allows PHMSA to analyze the extent to which pipelines transporting non-petroleum hazardous liquids, such as chlorine, are unregulated, and whether the pipelines' being unregulated presents risks to the public. The results of any analysis must be made available to Congress as directed by the Act. PHMSA continues to review this issue.

Section 19—Maintenance of Effort:

PHMSA was required to grant waivers of the maintenance of effort clause in FY 2012 and FY13 to States that demonstrate an inability to maintain funding to their pipeline safety

program due to economic hardship. This action has been completed for FY 2012 and FY 2013, and we are ready to address this mandate for FY 2014.

Section 20—Administrative Enforcement Process:

This section requires PHMSA to issue regulations for enforcement hearings that require a presiding official, implement a separation of functions, prohibit ex parte communications and provide other due process provisions. This item was addressed in the final rule titled "Administrative Procedures; Updates and Technical Corrections" (RIN: 2137-AE92), which was published on September 25, 2013.

Section 21—Gas and Hazardous Liquid Gathering Lines:

The Act requires PHMSA to 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. PHMSA must also consider issuing regulations that would subject offshore liquid gathering lines to the same standards as other liquid gathering lines. PHMSA researched this issue and is finalizing the report.

Section 22—Excess Flow Valves:

The Act requires PHMSA to consider issuing regulations requiring the use of excess flow valves on new or entirely replaced distribution branch services, multi-family facilities, and small commercial facilities. PHMSA issued an ANPRM titled "Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other Than Single-Family Residences" (RIN: 2137-AE71) on November 25, 2011, and analyzed the public comments received.

Using the comments we received, PHMSA drafted an NPRM under the same title in 2013. The NPRM is currently in review.

Section 23—Maximum Allowable Operating Pressure:

PHMSA was required to issue an Advisory Bulletin regarding the existing requirements to verify records confirming maximum allowable operating pressure (MAOP) in Classes 3 and 4 and in HCAs. An Advisory Bulletin on "Verification of Records" (ADB-12-06; 77 Fed. Reg 26822) was issued for this item on May 7, 2012.

PHMSA was also to require operators report, by July 3, 2013, any pipelines without sufficient records to confirm MAOP. To address this mandate, PHMSA revised its gas transmission annual reporting form to collect this information. PHMSA also issued two

Advisory Bulletins, ADB-12-06, "Verification of Records," and ADB-11-01, "Establishing Maximum Allowable Operating Pressure or Maximum Operating Pressure Using Record Evidence, and Integrity Management Risk Identification, Assessment, Prevention, and Mitigation" (76 Fed. Reg 1504) that addressed this mandate.

PHMSA also developed an Integrity Verification Process (IVP), with the goal of addressing closely interrelated provisions of the Act as well as related recommendations of the NTSB, such as the grandfather clause, manufacturing and construction defect stability, verification of MAOP where records to establish MAOP are not available or are inadequate, verification and documentation of pipeline material for certain onshore steel gas transmission pipelines, and required tests to confirm the material strength of previously untested gas transmission pipelines in HCAs. PHMSA held a public workshop on the IVP on August 7, 2013 (78 Fed. Reg 32010) and met numerous times with all affected stakeholders – including rate-setting agencies. Our revised IVP will be proposed in the context of the "Safety of Gas Transmission Pipelines" NPRM, which is currently in clearance.

The Act also required PHMSA to issue regulations that require operators to report any exceedance of MAOP within 5 days, and to ensure the safety of pipelines without records to confirm MAOP. PHMSA published an advisory bulletin in the Federal Register on December 21, 2012, titled "Reporting the Exceedances of Maximum Allowable Operating Pressure" (ADB-2012-11; 77 Fed. Reg 75699), and this issue is also being considered in the "Safety of Gas Transmission Pipelines" NPRM.

Section 24—Limitation of Incorporation of Documents by Reference:

The passage of H.R. 2576 (P.L 113-30) amended the requirement for PHMSA to stop incorporating by reference into its regulations or guidance materials any industry standard unless it is publicly available free of charge on the Internet by extending the compliance date by 2 years.

PHMSA continues to work with Congress, the Office of Management and Budget, and the affected standard development organizations (SDO) to make sure standards that are incorporated into the Federal regulations are as accessible to the public as much as possible. These standards are available, for free, at PHMSA's headquarters, the Office of the Federal Register, and through the various SDO links on PHMSA's public website.

Section 28—Cover Over Buried Pipelines:

PHMSA was required to conduct a study and report to Congress on hazardous liquid pipeline accidents at water crossings to determine if depth of cover was a factor. This study was completed and was transmitted to Congress before the deadline of January 3, 2013.

If the study shows depth of cover was a factor, PHMSA was required to review the sufficiency of existing depth of cover regulations and consider possible regulatory changes and/or legislative recommendations. PHMSA, via letters transmitted to Congress on November 19, 2013, concluded that its existing legislative authority is adequate to address the risks of hazardous liquid pipeline failures at major river crossings. PHMSA believes that no new legislative authority is needed. However, PHMSA will continue to look for ways to enhance its regulations, as appropriate, moving forward.

Section 29—Seismicity:

There was no specific mandate within this section, but it was suggested that PHMSA should issue regulations to be consistent with the requirement in statute that operators consider seismicity in identifying and evaluating all potential threats to each pipeline pursuant to Parts 192 and 195. PHMSA has conducted research on this issue and has proposed seismicity considerations in its NPRM titled "Safety of Gas Transmission and Gathering Pipelines" (RIN: 2137-AE72) and in its NRPM titled "Pipeline Safety: Safety of On-Shore Hazardous Liquid Pipelines" (RIN: 2137-AE66).

Section 30—Tribal Consultation for Pipeline Projects:

The Act requires PHMSA to 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. PHMSA posted this protocol on its website prior to the deadline of January 3, 2013.

Section 31—Pipeline Inspection and Enforcement Needs:

PHMSA was required to report to Congress on the total number of full-time equivalents (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 taken to fill the FTEs, and any additional resources needed. PHMSA completed this action and submitted a report to Congress on December 20, 2012. PHMSA continues an aggressive hiring plan to replace vacancies as soon as they occur. As part of a succession planning process, PHMSA is bringing in new talent while managing retention of needed skill sets through staged early retirement offers. It is a difficult balance managing the loss of experienced staff and preparing for a strong and stable future workforce.

Section 32—Authorization of Appropriations:

This section of the Act required PHMSA to ensure that at least 30 percent of the costs of program-wide R&D activities are carried out using non-Federal sources. These efforts are currently ongoing and are on-track.

Further, this section of the Act required the Secretary, after the initial 5-year R&D program plan has been carried out by the participating agencies and in coordination with the Director of the National Institute of Standards and Technology, as appropriate, to prepare an R&D program plan every 5 years thereafter. PHMSA must also transmit a report to Congress on the status and results-to-date of implementation of the R&D program every 2 years. The R&D program is designed to identify gaps in needed pipeline technology and map a path forward to assure there is no duplicative research and that resources are leveraged appropriately.

PHMSA transmitted its latest 5-year R&D program plan to Congress on July 29, 2013. PHMSA is also finalizing a draft of its biennial R&D update report.

IV. CONCLUSION

While the Nation's energy landscape and infrastructure needs have changed dramatically since the passage of the Pipeline Safety Act, our focus on safety and the need for effective standards and regulations remain the same. I visited the Bakken and Marcellus regions and saw an incredible flurry of activity from our domestic energy industry. I have also seen, first-hand, the devastation in communities that have suffered consequences when energy transportation goes wrong. We must do all we can to prepare for new and shifting infrastructure demands, provide a reliable supply of energy products, and keep America's people and environment safe. The oversight provided by PHMSA and our partners will continue to be critically important and I believe that our work, and with all pipeline safety stakeholders in implementing the Pipeline Safety Act, will provide safety dividends in the future.

We look forward to working with Congress in addressing pipeline safety issues and strengthening PHMSA's pipeline safety program. Everyone at PHMSA is dedicated and committed to fulfilling the remaining mandates and accomplishing our pipeline safety mission, and I am honored to work with them in serving the American public. Thank you again for the opportunity today to report on our progress. I would be pleased to answer any questions you may have.

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

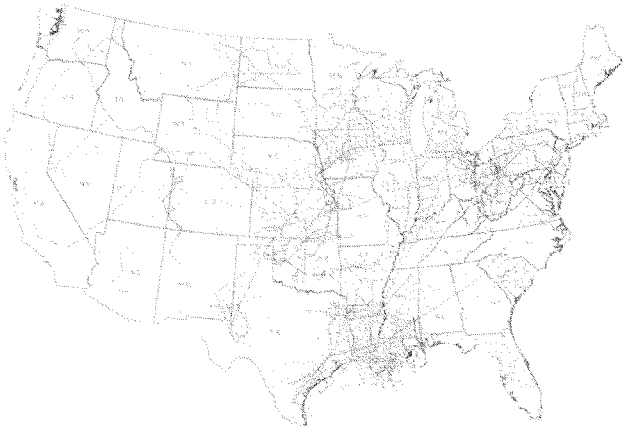
BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

REGARDING
A REVIEW OF THE PIPELINE SAFETY, REGULATORY CERTAINTY AND JOB CREATION ACT OF 2011

MAY 20, 2014

Good afternoon Chairman Denham, Ranking Member Brown 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 26 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. Natural Gas Transmission Pipelines: A Robust Infrastructure



INGAA and its members' core mission is the safe and reliable transportation of natural gas. Through a variety of efforts – including best practices and standards development, regulatory compliance and damage-prevention efforts – our association has been committed to the continuous improvement of pipeline safety since its inception in 1944. INGAA supported the most recent reauthorization of the Pipeline Safety Act, enacted in 2011, as a part of that ongoing effort. We also support implementation of the new law through regulations. To date, however, the bulk of the regulatory mandates from the 2011 pipeline safety law have yet to be implemented in the form of new rules. INGAA is willing to do whatever it can to help get these regulations completed before the next reauthorization process begins in the fall of 2015.

INGAA Safety Commitments

As mentioned, INGAA has a long history of engagement on pipeline safety improvements. This began with the development of construction and operating standards during the early years of the natural gas pipeline industry. In 1968, Congress enacted the Natural Gas Pipeline Safety Act, formalizing the standards and making them enforceable. In the decades since, Congress has added new requirements as technology has advanced and as the ability to monitor safety criteria 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 compared with other modes of transportation, the number of fatalities and injuries from pipeline accidents is very low. Still, the tragedy 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 a part of the industry's social license to operate. It is therefore critical that we get it right.

In the wake of the accident in San Bruno, 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 that had pursued such a "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 supported by four core principles. These are: commitment to a safety culture as a critical dimension of continuous improvement; a relentless pursuit of improving by learning; a commitment to apply

integrity management principles on a system-wide basis; and a commitment to engage with stakeholders at all levels. Together, these principles came to be known as the INGAA integrity management continuous improvement (or IMCI) initiative.

INGAA's overarching principles provided the basis for a nine-point pipeline safety action plan that the INGAA board endorsed in early 2011. This action plan addresses all of the major issues raised by the recommendations of the National Transportation Safety Board in relevant reports 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) the expansion of integrity management beyond High Consequence Areas, and (2) demonstrating that pre-regulation pipelines remain fit for service.

Recent Pipeline Safety Legislation

A new, risk-based approach to safety for natural gas transmission pipelines was first incorporated in federal pipeline safety law by the Pipeline Safety Improvement Act of 2002. The 2002 reauthorization law directed the Secretary of Transportation to develop a regulation on "integrity management" for those 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"; (2) conduct baseline inspection on such segments within 10 years; and (3) re-assess those segments every seven years thereafter.

The emphasis of this integrity management directive was on reducing risks in populated areas, thereby achieving the greatest enhancement to public safety. For interstate natural gas transmission pipelines, only about six percent of total pipeline mileage is located in a defined high consequence area. Still, because the majority of these segments were inspected using in-line inspection tools ("smart pigs"), over 60 percent of total interstate natural gas transmission mileage has been inspected in order to capture that six percent.

As part of its pipeline safety action plan, INGAA is committed to the phased expansion of integrity management beyond high consequence areas. INGAA's plan is to 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 of some pipeline segments will present major challenges due to the operational consequences of removing such

pipe from service for inspection and the possible repair and replacement that might be necessary.

The 2011 Act directs the Pipeline and Hazardous Materials Safety Administration (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. We anticipate that PHMSA will propose an omnibus rule later this year that will address many of the mandates in 2011 Act, including the expansion of integrity management.

The other key issue is 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. The standard industry practice at the time was 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. The new federal regulations made such testing and records retention a legal requirement for pipe installed after 1970. The accident in San Bruno highlighted the need for pipeline operators to ensure that they have an adequate basis for confirming that material strength testing occurred before a pipe entered service. 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. While these regulations have not been issued, PHMSA has engaged in a robust pre-rulemaking dialogue with pipeline safety stakeholders, including INGAA and its members, to develop a process for implementing this requirement. We anticipate that this will be included as part of the omnibus rulemaking proposal that will be released later this year.

Natural Gas Safety Regulations – Importance of Certainty

The 2011 action plan for improving pipeline safety continues to be an imperative for INGAA's member pipeline companies. 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.

Still, it is important and desirable that there be consistency between the voluntary commitments in the INGAA action plan and the regulations that will implement the

2011 Act. INGAA has engaged in an active dialogue with PHMSA (and other stakeholders) over the past three years to achieve this goal. This has been constructive, and we have every reason to believe that the omnibus rule proposed later this year will reflect INGAA's input.

Still, these proposed regulations are behind the schedule that Congress prescribed in the 2011 Act. INGAA acknowledges that regulations should be thoughtfully considered 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 proceeding with the dedication of resources needed to implement pipeline safety commitments will be consistent with the final rules adopted by PHMSA. This hesitancy is rooted in the perceived risk that the rules ultimately might compel repeating certain steps in the pipeline safety action plan. This is not insignificant. For example, testing pipelines for material strength is both costly and disruptive because pipelines need to be removed from operation to complete the testing. Pipeline operators are being held back by this "do-over" risk when we, as an industry and regulators, should be moving forward.

Our purpose here is to work collaboratively with PHMSA. Because the regulatory process indeed goes far beyond what PHMSA can control, INGAA wishes to make the point that it is critical that these natural gas pipeline safety regulations be completed in a workable and timely manner. The title of the most recent law reauthorizing the Pipeline Safety Act makes the point. It is "The Pipeline Safety, *Regulatory Certainty* and Job Creation Act of 2011" (emphasis added). Regulatory certainty is necessary to move forward. As I said at the outset, INGAA pledges to play a constructive role in completing these efforts.

The current authorization of the Pipeline Safety Act expires at the end of September 2015. Consequently, Congress will likely initiate the reauthorization process early next year. That process will be most productive if Congress and all stakeholders have the benefit of PHMSA's rules implementing the 2011 Act. We are hopeful that PHMSA can complete its regulatory efforts before the law is authorized again.

Mr. Chairman, thank you for the opportunity to share our views.

Testimony of Craig Pierson, President, Marathon Pipe Line LLC
For Delivery Before the Subcommittee on Railroads, Pipelines & Hazardous Materials
Committee on Transportation & Infrastructure
"A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011"
May 20, 2014

Good afternoon, I am Craig Pierson, President of Marathon Pipe Line LLC. Marathon Pipe Line, headquartered in Findlay, Ohio, operates approximately 6,000 miles of underground pipeline in 14 states mainly from Texas and Louisiana to and throughout the Midwest. Marathon transports crude oil and petroleum products to and from terminals, refineries and other pipelines. The company safely delivers by pipeline an average of 120 million gallons of crude oil and petroleum products daily.

Today, I am here in my capacity as vice chairman of the American Petroleum Institute's Pipeline Subcommittee speaking on behalf of the pipeline members of API and the Association of Oil Pipe Lines. I am also a member of the joint API and AOPL Pipeline Safety Excellence Steering Committee, comprised of liquid pipeline executives who help lead industry efforts to improve pipeline safety. AOPL and API pipeline members are engaged in numerous industry-wide pipeline safety efforts, which I will discuss in a moment.

Liquid pipeline infrastructure across the United States benefits American consumers and workers. In 2012, liquids pipelines transported 14.1 billion barrels of crude oil, refined products and natural gas liquids across more than 185,000 miles of pipeline. While pipelines provide good jobs to those who build and operate this critical infrastructure, all Americans benefit from liquids pipelines to heat their homes, fuel their vehicles, harvest their crops, or power jobs with the energy and raw materials needed to manufacture most consumer goods.

Pipelines are safe, reliable and cost-effective for transporting energy liquids. In 2012, more than 99.999% of the crude oil, petroleum products, and natural gas liquids transported by pipeline reached their destinations safely. The safety record of pipelines is an understandable outcome of the major financial investment pipeline operators make in pipeline safety each year. In 2012, pipeline operators spent more than $1.6 billion evaluating, inspecting and maintaining the integrity of their pipeline systems. Efforts like these have been underway for more than a decade. The result is that over the last 10 years, the number of liquid pipeline incidents were reduced by over 60 percent and volumes released by over 45 percent.

While pipelines are a safe mode of energy transportation, liquid pipeline operators remain focused on continuous improvement with the ultimate goal of zero incidents. Earlier this year, pipeline members of AOPL and API launched the *Pipeline Safety Excellence*™ initiative. This effort reflects the shared values and commitment of our members to work together to safely build and operate pipelines.

The *Pipeline Safety Excellence*™ initiative is driven by shared pipeline safety principles such as zero incidents, continuous improvement and learning from operators' experiences. The goal of zero is rooted in the belief that if we pursue perfection, we can achieve safety excellence. Through the continuous industry-wide pipeline safety efforts of numerous API and AOPL safety work groups, we decide on our priorities, pool our resources and share our learnings from the incidents that do occur. Collaboration, cooperation and sharing is occurring on a daily basis as we drive to our goal of zero.

Pipeline operators have also begun annual pipeline safety performance reporting to the public. We also have implemented an annual pipeline safety strategic planning process, which is designed to make sure we are today working on tomorrow's safety priorities.

The result is seven strategic initiatives to:

- accelerate research and development to detect and diagnose cracks for in line inspection
- develop an industry-wide recommended practice to analyze and respond to cracks
- develop industry-wide guidance to integrate data from all threats
- develop a pipeline safety management system that all operators can implement
- foster a safety culture through industry-wide sharing of learnings
- develop an industry-wide recommended practice for leak detection program management
- deploy a nation-wide emergency response training and outreach program, including an industry-wide recommended practice for emergency response

I look forward to discussing these industry-wide safety improvement efforts during the hearing today.

Pipeline operators also look forward to reauthorization of our nation's pipeline safety laws. We were proud to be a part of the process that through leadership of this Subcommittee and others resulted in overwhelming, bipartisan support for the 2011 pipeline safety law. We respect the job of the Pipeline and Hazardous Materials Safety Administration and we have many areas of agreement to achieve our shared goals of continuous improvement in pipeline safety. Liquid pipeline operators welcome review of that legislation and we stand ready to further improve on the trends that we built together over the last decade. We look forward to today's discussion of how best to move us toward our shared pipeline safety goals in the next reauthorization. Thank you.

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Written Testimony of

Craig Pierson, President
Marathon Pipe Line LLC

Before the
Subcommittee on Railroads, Pipelines & Hazardous Materials
Committee on Transportation & Infrastructure
U.S. House of Representatives

"A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011"
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Liquid Pipelines Benefits American Consumers and Workers

Liquids pipelines transport the crude oil, refined products, and natural gas liquids that American consumers and workers use every day to lead their lives and fuel their jobs. In 2012, liquid pipeline operators delivered more than 14.1 billion barrels of crude oil and petroleum products across more than 185,000 miles of pipeline in the U.S.

Liquids pipelines transport crude oil from production areas across the U.S. and Canada to storage hubs and refineries. Separate liquids pipelines transport refined petroleum products (such as gasoline, diesel fuel, jet fuel, and home heating oil) from refineries to local distribution terminals. Still other liquids pipelines deliver natural gas liquids products (such as ethane, propane, and butane) from production areas, to and from fractionation facilities, and on to U.S. consumers, farmers and industrial users.

Americans benefit from liquids pipelines to heat their homes, fuel their vehicles, dry their clothes, harvest and dry their crops, supply raw materials to manufacture consumer goods, and more. Nearly every gallon of gasoline American consumers put into their vehicles travels at some point through a liquids pipeline. Liquids pipelines allow American consumers to benefit from U.S. crude production in Texas, Oklahoma, North Dakota, Pennsylvania, California and other states. Liquids pipelines are transporting growing supplies of natural gas liquids from new production areas in Pennsylvania, Ohio, and Texas to chemical and plastics manufacturing facilities in the U.S. and creating new, good-paying jobs for American industrial workers.

Pipelines Are Safe and Cost-Effective

Pipelines are affordable, reliable, and safe for transporting large volumes of energy liquids over long distances over land. In 2012, more than 99.999% of the crude oil, petroleum products, and natural gas liquids transported by pipeline reached their destinations safely.

The safety record of pipelines is an understandable outcome of the major financial investment pipeline operators make in pipeline safety each year. In 2012, liquid pipeline operators spent at least $1.6 billion on pipeline integrity management evaluating, inspecting and maintaining their pipelines. The result is that over the last decade, the number of liquid pipeline incidents were reduced by over 60 percent and volumes released by over 45 percent.

***Pipeline Safety Excellence*™ Initiative**

While pipeline infrastructure is a safe mode of energy transportation, liquids pipeline operators remain focused on continuous improvement with the ultimate goal of zero incidents. Earlier this year, pipeline members of AOPL and API launched the *Pipeline Safety Excellence*™ initiative. This effort is driven by the shared values and commitment of pipeline operators to safely build and operate pipelines.

At its foundation, our *Pipeline Safety Excellence*™ initiative rests on a number of pipeline safety values jointly embraced by AOPL and API members. First and foremost is the goal of zero incidents. This is an extremely aggressive goal, but we know that only by striving toward zero incidents will we achieve excellence. Our shared pipeline safety principles also include the values of

continuous improvement, learning from experience, emphasizing safety culture and organization-wide commitment to safety, employing safety management systems, use of technology and communicating with stakeholders.

The second component of our *Pipeline Safety Excellence*™ initiative is the continuous industry-wide pipeline safety efforts underway throughout the year. Pipeline operator safety and operations managers and staff engage each other on a variety of industry-wide teams and groups to improve pipeline safety performance. Taking action on industry-wide pipeline safety performance improvements are a number of joint API and AOPL teams and workgroups including:

- Pipeline Safety Excellence Steering Committee – pipeline operator executives guiding and ensuring safety achievement
- Performance Excellence Team – pipeline operator senior managers sharing safety improvement techniques and advancing data management, safety culture and damage prevention initiatives
- Pipeline Integrity Working Group – pipeline integrity managers sharing safety experiences and developing industry-wide recommended pipeline integrity practices
- Operations and Technical Group – pipeline operations managers developing and maintaining twenty-eight current industry-wide standards and recommended practices. API maintains a total of more than 85 standards, recommended practices, specifications and technical documents applicable to liquid pipelines.
- Cybernetics Group – pipeline managers sharing advances and lessons learned on leak detection technology and pipeline monitoring and control systems
- Public Awareness Group – pipeline community outreach managers improving programs to raise public awareness of local pipelines and "call before you dig" programs
- Leadership Teams – pipeline managers and personnel pursuing initiatives to improve industry safety priorities such as emergency response capabilities

These teams and workgroups provide forums for operators to share experiences, discuss improvements, and develop, where needed, industry-wide safety guidance, such as API Standards or Recommended Practices. The people that work on these teams share a deep passion for industry improvement that goes far beyond the normal workday. It's their commitment that fuels the drive to zero.

Third, in January of 2014, API and AOPL released the first *Annual Liquid Pipeline Safety Performance Report*. Industry has collected performance data on its incidents for quite some time, as has the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA). However, that data in its raw and technical form is not as approachable as it could be for an easy dialogue with our public partners. With the addition of communicating with stakeholders as a shared pipeline principle, pipeline operators will now emphasize publicly sharing industry-wide pipeline safety data annually.

In many cases, pipeline safety performance results are positive: incidents and amounts released industry-wide have been reduced by double digits. As mentioned above, over the last approximately 10 years the overall number of pipeline releases is down 62% and the number of barrels released is down 47%. Developing and releasing the data also shows where we are doing well and where we need further improvement. For example, again over the last 10 years, pipeline incidents caused by corrosion are down 79% and incidents caused by third-party damage are down 78%. That said, incidents caused by material defects, seam problems or weld failures are down 31%. That is good, but not as high as the other areas, indicating an area we need to emphasize for additional improvements.

Finally, the *Pipeline Safety Excellence*™ initiative builds upon performance reporting and provides direction to its ongoing safety improvement efforts through annual pipeline safety strategic planning. This year's *Annual Liquid Pipeline Safety Performance Report* also include our

2014 Strategic Plan. It reflects the four goals and seven strategic initiatives liquid pipeline operators are undertaking jointly to improve pipeline safety. Our industry-wide goals for improving pipeline safety include: 1) improve inspection technologies, 2) enhance threat identification and response, 3) expand safety culture and management practices, and 4) boost response capabilities.

To make progress toward our pipeline safety improvement goals, pipeline operators are undertaking seven specific pipeline safety strategic initiatives including:

- accelerate research and development to detect and diagnose cracks for in line inspection
- develop an industry-wide recommended practice to analyze and respond to cracks
- develop industry-wide guidance to integrate data from all threats
- develop a pipeline safety management system that all operators can implement
- foster a safety culture through industry wide-sharing of learnings
- develop an industry-wide recommended practice for leak detection program management
- deploy a nation-wide emergency response training and outreach program, including an industry-wide recommended practice for emergency response

As you can tell, this is an aggressive and far-ranging safety improvement agenda. We developed these strategic initiatives in our annual strategic planning process. To determine our priorities, we meet with and listen to our stakeholders, drill down and examine our performance data, incorporate the recommendations of regulators and safety investigators, translate the lessons of past pipeline incidents into learnings, and decide on what is needed to take our industry to the next level of pipeline safety performance.

One specific effort I would like to highlight is our work developing a Pipeline Safety Management System. Safety management systems are management tools organizations use to track

and improve performance in complicated manufacturing or industrial settings. Other industries such as nuclear power, chemical, refining and medical care have used safety management systems to improve their safety performance. The U.S. National Transportation Safety Board recommended API develop a safety management system standard specific to the pipeline industry.

In December 2012, API convened a group of liquid and gas pipeline operators, federal and state regulators including PHMSA, and public safety experts to develop the Pipeline Safety Management System (PSMS). The group has met nearly monthly and discussions, at times, have been spirited. The group has listened to the needs of the public, small operators, state regulators, gas and liquid operators, and federal regulators, all bringing their different concerns and needs to the table. We have worked through these issues, and recently the group released a draft PSMS on which it has collected public comment. We expect the PSMS to be finalized after an industry & ANSI balloting process later this year. This is shaping up to be a real success story of how industry, regulators and the public stakeholders can come together to advance pipeline safety. By creating this framework for managing safety, pipeline operators will have a scalable tool to drive improvement in their operations, whether that operator is big or small. We very much look forward to completing the process to develop the standard. We are not waiting for it to be finalized before thinking about implementation. We plan to hit the ground running when it is approved.

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

The pipeline industry was proud to be part of the bi-partisan effort that resulted in the unanimous passage of the 2011 Pipeline Safety, Regulatory Certainty, and Job Creation Act. Under the leadership of this subcommittee, the full committee, and many others on both sides of the aisle and both sides of the Capitol, we came together in support of improving pipeline safety. PHMSA is in the

midst of implementing many of the mandates Congress provided in the 2011 bill. We may not agree with every choice PHMSA has made or will make in upcoming regulatory proposals, but we share their goal of improving pipeline safety.

PHMSA's final rule to improve its administrative enforcement process is a step in the right direction. PHMSA's findings in its depth-of-cover study provided an objective analysis of the data behind that issue, and the PHMSA-commissioned conclusions of the National Academy of Sciences study of diluted bitumen correctly found no threat to pipelines from oil sands-derived crude.

With all of those points of agreement, we do note that pipeline operators registered their concern with PHMSA over its leak detection technology study, which was performed by contractors and provided little insight into what is practical, affordable, or feasible. Similarly, operators urged caution in any one-size-fits-all requirements that might result from PHMSA's automatic and remote-controlled shut off valve study when pipelines operate in such different conditions, environments, or rural or urban situations. Likewise, operators disagreed with PHMSA's proposal to exceed greatly the scope of its authority as established by Congress in verifying the integrity of gas pipeline operating pressures.

The administration also indicates that the White House Office of Management and Budget has begun its review of PHMSA's proposal for onshore hazardous liquids pipeline rulemaking. Pipeline operators provided their thoughts to PHMSA in 2010 when the agency first gave notice of its intent to pursue this rulemaking. While the contents of this proposal are not yet known to the public, and so we cannot know if we will agree with all of PHMSA's proposals, we do support PHMSA moving forward with this rulemaking.

An area where pipeline operators especially support aggressive PHMSA action is the prevention of damage from third parties. Damage to pipelines from third parties, such as a cable company or road construction crew accidentally digging into a pipeline, is the most frequent cause of personal injury from pipeline incidents. Pipeline operators want the public to stay safe, and the public can help by calling 811 before digging in the ground. The national 811 "call before you dig" program requires any pipelines in the area to mark their pipeline routes free of charge to landowners and within a time-certain that is usually around two to four days. AOPL and API support efforts to improve the success of one-call underground infrastructure damage prevention programs.

Pipeline operators are working together with excavators, one-call centers, and underground utility locators to improve damage prevention activities. States should improve excavation damage prevention programs when laws are weak or incomplete, or are not adequately enforced. States with more one-call exemptions have a higher share of pipeline incidents caused by excavation damage. PHMSA should issue and enforce damage prevention regulations as directed by Congress in the 2006 amendments to the pipeline safety laws. When determining the adequacy of state damage prevention programs as directed by Congress, PHMSA should set a high bar in order to protect the public. When PHMSA deems a state program inadequate, it should enforce a violation of the federal one-call laws as authorized by Congress.

With regard to reauthorization, Congress has consistently taken strong action to protect the public from excavation damage to pipelines, and should do so again. In 2002, Congress established the national three-digit number for reaching a one-call center. In 2006, Congress gave PHMSA damage prevention responsibility and authority. In 2011, Congress recognized the threat to public safety of one-call exemptions, modified Minimum Standards for State One-Call Programs to disallow several one-call exemptions, and requested a study on others. During the next reauthorization of our

pipeline safety laws, Congress should provide additional direction to PHMSA to reduce the threats caused by unsafe one-call exemptions and uneven one-call enforcement.

With that, I thank the Subcommittee for inviting me to testify here today and look forward to any questions members may have.

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Testimony of
Ron Bradley
Vice President, Gas Operations
PECO, an Exelon Company
On Behalf of the American Gas Association

Subcommittee on Railroads, Pipelines, and Hazardous Materials

"A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011"

Tuesday, May 20, 2014
2167 Rayburn House Office Building

Good morning, Mr. Chairman and members of the Committee. I am pleased to appear before you today. Pipeline safety is a critically important issue, and I thank you for not only holding this Hearing, but for all the work that you and your colleagues have done over the years to help ensure that America has the safest, most reliable pipeline system in the world. My name is Ron Bradley and I am Vice President of Gas Operations at PECO. With a history of more than 100 years of service to the Greater Philadelphia region, PECO has a long-standing commitment to a culture of excellence. Based in Philadelphia, PECO is an electric and natural gas utility subsidiary of Exelon Corporation, the nation's largest competitive energy provider. PECO is the largest electric and natural gas utility in Pennsylvania, serving approximately 1.6 million electric customers and more than 500,000 natural gas customers in southeastern Pennsylvania.

We are a company committed to our customers, our community and the environment. PECO operates under six core values, or guiding principles: Safety, Integrity, Diversity, Respect, Accountability, and Continuous Improvement. These values are part of our daily operations and our commitment to the region. Safety is first and foremost at PECO. We have programs to help ensure the safety of our employees, contractors, customers and the communities we serve. Among utilities, PECO's safety performance is ranked as one of the best in the nation, and the company has been widely recognized for our community service, economic development and operational and environmental efforts. PECO has been recognized as Pennsylvania's safest utility by the state Department of Labor & Industry and has also received awards from the Energy Association of Pennsylvania and the American Gas Association.

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 71 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent - over 68 million customers - receive their gas from AGA members. Today, natural gas meets almost one-fourth of the United States' energy needs. 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, 2.4-million mile underground pipeline system. This includes 2.1 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. The recent development of natural gas shale resources has resulted in abundant supplies of domestic natural gas, which has meant 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, as it is our job to deliver the natural gas to the customer. 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.[1]

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 customers' front doors. To most customers, their local utilities are the "face of the 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 and affordably.

AGA and its members support the development of reasonable regulations to implement new federal legislation as well as the National Transportation Safety Board safety recommendations. Within this testimony are actions that are being, or will be, implemented by AGA or individual operators to help ensure the safe and reliable operation of the nation's 2.4 million miles of pipeline. 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 promise 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 utilities as well as intrastate transmission pipeline companies. State governments are encouraged to adopt as minimum standards 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 ones, and many have done so. LDCs are in close contact with state pipeline safety inspectors. 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]

COMMITMENT TO SAFETY

Our commitment to safety extends beyond government oversight. Indeed, safety is our top priority – a source of pride and a matter of corporate policy for every company. These policies are carried out in specific and unique ways. Each company employs safety professionals, provides on-going employee evaluation and 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 committees of regional and national trade organizations. Examples of these groups include AGA, the American Public Gas Association and the Interstate Natural Gas Association of America.

On October 26, 2011, AGA released its Commitment to Enhancing Safety document, through which, 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]

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[1] See Attachment 1: "*Natural Gas Pipelines across the U.S.*"
[2] See Attachment 2: "*Natural Gas Delivery System*"
[3] See Attachment 3: "*Regulators and Stakeholders*"
[4] See Attachment 4: "*AGA's Commitment to Enhancing Safety*"

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.

- In AGA's Commitment to Enhancing Safety, AGA and its member companies state their dedication to the continued enhancement of pipeline safety through 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 Peer to Peer Reviews and Best Practices. Both allow subject matter experts from AGA member companies to help improve industry practices through reviewing and sharing individual company policies, procedures and practices.

Natural gas utilities spend an estimated $19 billion a year in safety-related activities. Approximately half of this money is spent in complying with 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.[5]

REVIEW OF LEGISLATION AND REGULATION

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

From a regulatory perspective, the past fifteen years have easily included far 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. It takes considerable time for complicated rules to be promulgated, vetted, finalized and then implemented. We are constantly working on ways to better manage the system and improve safety.

With respect to the specifics of the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, we believe significant progress is being made to implement all of its requirements, and would respectively urge that we stay the course in working on those provisions and not begin layering on additional responsibilities that will lead to less regulatory certainty. 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 regulations keep that pace to help ensure that these safety improvements are not negated. The work that the Pipeline and Hazardous Materials Safety Administration (PHMSA) has completed to date, and the important initiatives taken by industry on its own, and the significant actions taken by NARUC, individual public utility commissions and state legislatures around the country have combined to produce significant improvement in pipeline safety over the last several years. It is important to note natural gas distribution companies are eager to move forward but want to ensure they will not be required to repeat actions. If the operators choose to follow the legislation as written, those actions may be

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

nullified by future DOT regulations and thus require further action. Those further actions 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 with certainty rather than with uncertainty, duplicative actions, or additional cost burdens on their customers.

REVIEW OF KEY PROVISIONS OF THE PIPELINE SAFETY, REGULATORY CERTAINTY AND JOB CREATION ACT OF 2011 IMPACTING THE NATURAL GAS DISTRIBUTION SECTOR:

PIPE DAMAGE PREVENTION

Excavation damage represents the single greatest threat to distribution system safety, reliability and integrity. A number of initiatives have helped to prevent excavation damage 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 safety-related incidents. A significant cause for this reduction is the work done by the pipeline industry 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 we will continue to remain vigilant in collaborating with other stakeholders and the public to help ensure the safety of our pipeline systems.

DISTRIBUTION INTEGRITY MANAGEMENT

The 2006 PIPES Act required the U.S. Department of Transportation (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 the DOT's work with the public, emergency responders, and industry to improve the public's awareness of pipelines. The public awareness initiative has been successful and has effectively improved the public's awareness of the 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 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.

CAST IRON PIPELINES
The quantity of cast iron main continues to steadily decline. Overall cast iron makes up less than three percent of the distribution mileage and that number is decreasing annually. Today there are 33,619 miles of cast iron pipelines in use. The approximate cost of removing these pipelines is nearly $83 billion.
The specific costs associated with replacement vary depending on an individual utility's regulatory structure and state. 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. Moreover, today 38 states have some form of an innovative rate mechanism that facilitates more accelerated replacement of pipelines no longer fit for service.[6]

Natural gas utilities continue to be ever vigilant and committed to systematically upgrading this infrastructure based on enhanced risk base integrity management programs. Indeed, there is a growing effort underway to accelerate the replacement of pipelines that may no longer be fit for service. This work is facilitated by regulatory and legislative policies that establish innovative rate mechanisms which allow for accelerated replacement and modernization of natural gas pipeline. NARUC has always considered pipeline safety a leading priority and its current President, Colette Honorable, has raised the bar by prioritizing the issue of accelerating replacement of pipelines no longer fit for service. We commend NARUC for having passed a resolution at its 2013 summer meeting calling on commissions to 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.[7]

MAOP
There is significant uncertainty in the pipeline industry surrounding the method by which PHMSA will implement provisions in the bill pertaining to Maximum Allowable Operating Pressure (MAOP) and the Integrity Verification Programs (IVP). AGA Members are prepared to act upon the Verification of Records as proposed in the legislation, for class 3 and class 4 locations and class 1 and class 2 high consequence areas. However because the regulation has not yet been implemented, operators are uncertain if any actions would 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 on September 26 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.

DATA COLLECTION AND INFORMATION SHARING
Collecting accurate data and data analysis are integral to determining areas for potential pipeline safety improvement. AGA is committed to working with PHMSA, state regulators and the public to create a data quality team made up of representatives from government, industry and the public, similar to the PHMSA technical advisory committees. The team could analyze the data that PHMSA collects and determine opportunities to improve pipeline safety based on the analysis. The team could also identify gaps in the data that are collected by PHMSA and others, identify ways to improve the collected data, and communicate consistent messages about pipeline incident data.

AGA has 14 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 Secretary LaHood, PHMSA and the National Transportation Safety Board. In addition, AGA has three Best Practices Programs (distribution, transmission and supplemental gas) focused on identifying superior

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[6] See Attachment 5: "*States with Accelerated Infrastructure Replacement Programs*"
[7] See Attachment 6: "*NARUC Resolution*"

performing companies and innovative work practices that can be shared with others to improve operations. AGA is also the Secretariat for the National Fuel Gas codes and the Gas Piping Technology Committee.

RESEARCH AND DEVELOPMENT

More industry research is necessary to improve in-line inspection tool quality, operator use of tool data, direct assessment tools, non-destructive testing and leak detection. Many pipeline companies have direct memberships in research consortiums and contribute towards this type of research. These research consortiums include the Pipeline Research Council International (PRCI), NYSEARCH and 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.

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 just been implemented and need time to work before assessing whether additional changes need to be made to enhance safety.

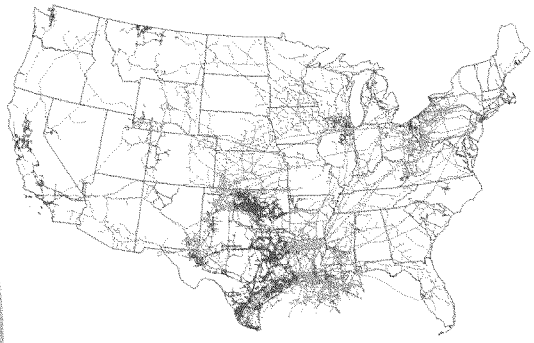
Natural gas is a key to our energy future and America's natural gas utilities are upgrading our delivery system to meet this growing demand. There is a tremendous opportunity for consumers and our nation as a whole through greater use of natural gas, and we see a future where natural gas is the foundation fuel that heats our homes, runs our vehicles, and supports other forms of renewable energy. 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 are an essential part of the nation's infrastructure.
- Natural gas utilities spend more than $19 billion annually to help enhance the safety of natural gas distribution and transmission systems.

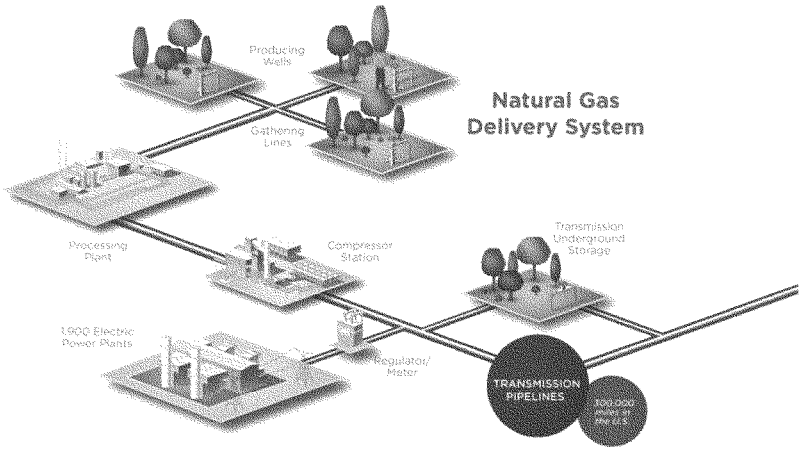


Interstate Pipelines
Intrastate Pipelines

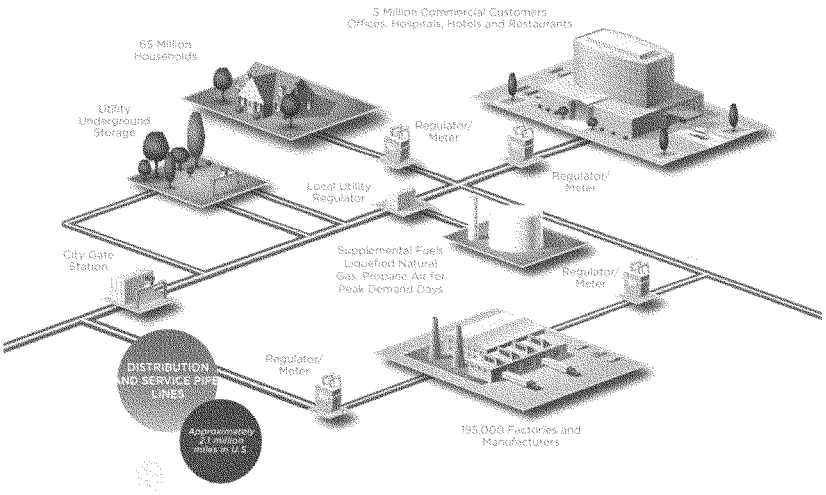
Attachment 2: Natural Gas Delivery System

Natural Gas

Getting It to Homes, Businesses and to Work for America



American Gas Association 51



American Gas Association 52

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

AGA and its members are dedicated to the continued enhancement of pipeline safety. As such, we are committed to proactively collaborating 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 service safely and effectively to 177 million Americans. AGA and its members support the development of reasonable regulations to implement new federal legislation as well as the National Transportation Safety Board safety recommendations.

Below are voluntary actions that are being addressed by AGA or individual operators to help ensure the safe and reliable operation of the nation's 2.4 million miles of pipeline which span all 50 states representing diverse regions and operating conditions. In addressing 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.

It is the consensus of AGA members that the actions listed below enhance safety and gas utility operations when implemented as an integral part of each operator's system specific safety actions. However, both the need to implement and the timing of any implementation of these actions will vary with each operator. Each operator serves a unique and defined geographic area and their system infrastructures vary widely based on a multitude of factors, including facility condition, past engineering practices and materials. Each operator will need to evaluate the actions in light of system variables, the operator's independent integrity assessment, risk analysis and mitigation strategy and what has been deemed reasonable and prudent by their state regulators. It is recognized that not all of these recommendations will be applicable to all operators due to the unique set of circumstances that are attendant to their specific systems.

Building Pipelines for Safety

Construction

- Expand requirements of the Operator Qualification (OQ) rule to include new construction of distribution and transmission pipelines.
- Review established oversight procedures associated with pipeline construction to ensure adequacy and confirm that operator construction practices and procedures are followed.

Emergency Shutoff Valves

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

Operating Pipelines Safely

Integrity Management

- Continue to advance integrity management programs and principles to mitigate system specific risks. This includes operational activities as well as the 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 through state damage prevention laws.
- Improve the level of engagement between the operator and excavators working in the immediate vicinity of the operator's pipelines.

Enhancing Pipeline Safety

Safety Knowledge Sharing

- Review programs currently utilized for the sharing of safety information. Identify and implement models that will enhance safety knowledge exchange among operators, contractors, government and the public.

Stakeholder Engagement and Emergency Response

- Evaluate methods to more effectively communicate with public officials, excavators, consumers, safety advocates and members of the public about the presence of pipelines. Implement tested and proven communication methods to enhance those communications.
- Partner with emergency responders to share appropriate 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. Evaluate and appropriately implement new technological advances.

Gas Utility Industry Actions To Be Implemented	Target Dates *
Confirm the established MAOP of transmission pipelines ***Note:*** Confirmation of established MAOP utilizes the guidance document developed by AGA, *"Industry Guidance on Records Review for Re-affirming Transmission Pipeline MAOPs,"* October 2011.	On an aggregate basis of AGA member companies, complete > 50% of class 3 & 4 locations + class 1&2 HCAs: 7/3/12 Remaining class 3&4 + 1&2 HCAs, based on PHMSA guidance: 7/3/13 Remaining class 1&2 by 7/3/15
Review and revise as necessary established construction procedures to provide for appropriate (risk-based) oversight of contractor installed pipeline facilities.	Trans: 12/31/12 Dist: 12/31/13
Under DIMP, evaluate risk associated with trenchless pipeline techniques and implement initiatives to mitigate risks	12/31/12
Under DIMP, identify distribution assets where increased leak surveys may be appropriate	12/31/12
Integrate applicable provisions of AGA's emergency response white paper and checklist into emergency response procedures	12/31/12
Extend Operator Qualification program to include tasks related to new main & service line construction	6/30/13
Expand EFV installation beyond single family residential homes	6/30/13
Incorporate an Incident Command System (ICS) type of structure into emergency response protocols	6/30/13
Extend transmission integrity management principles outside of HCAs using a risk-based approach	70% of population within PIR by 2020; 1&2 by 2030
Implement applicable portions of AGA's technical guidance documents: 1) Oversight of new construction tasks to ensure quality; 2) Ways to improve engagement between operators & excavators	Within 1 yr of AGA guidance
Begin risk-based evaluation on the use of ASVs, RCVs or equivalent technology on transmission block valves in HCAs	Within 6 months of Comptroller General study
Implement appropriate meter set protection practices identified through the Best Practices Program	Within 6 months of program results

* Target dates are based on an operator's evaluation of these actions in light of system variables, the operator's independent integrity assessment, risk analysis, and mitigation strategy. Target dates also assume state regulatory approval that action is prudent and reasonable and therefore recoverable in rates.

Gas Utility Industry Actions That Exceed 49 CFR Part 192
Incorporate systems and/or processes to reduce human error to enhance pipeline safety
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
Encourage participation in One-Call by all underground operators and excavators
Influence and/or support state legislation to strengthen damage prevention programs
Use industry training facilities and evaluate opportunities to expand outreach and education programs to internal and external stakeholders
Support and enhance damage prevention programs through outreach, education, intervention and enforcement
Use a risk-based approach to improve excavation monitoring
Develop, support, enhance and promote CGA initiatives targeted at damage prevention, including data submission and 811
Support public awareness programs targeted at damage prevention
Continue AGA 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 and supporting AGA's Safety Culture Statement
Explore ways to educate, engage and provide appropriate information to stakeholders to increase pipeline public awareness
Conduct organizational response drills to improve emergency preparedness
Participate in state, regional and national multi-agency emergency response training exercises
Reach out to emergency responder community in order to enhance emergency response capabilities
Verify participation in a mutual assistance program, if appropriate; integrate into emergency response plans
Collaborate with stakeholders near existing transmission lines to increase awareness/adoption of appropriate PIPA recommended best practices
Promote benefits of R&D funding. Support R&D investment, pilot testing and technology implementation
Support technology development and deployment in critical applications
Collaborate on R&D

AGA American Gas Association www.aga.org

***AGA's Commitment to Enhancing Safety:* AGA Actions**

ACTIONS COMPLETED

- ✓ Implement discussion groups to address safety issues including discussion groups for employee technical training, material supply chain issues, DIMP implementation, public awareness, work management and GPS/GIS
- ✓ Participate in 2012 DOT Automatic Shut-off Valve and Remote Control Valve Workshop
- ✓ Develop, with INGAA and API, a public document to explain ratemaking mechanisms used for pipeline infrastructure
- ✓ Create a Safety Information Resources Center for the sharing of safety information
- ✓ Hold regional operations executives' roundtables to discuss safety initiatives
- ✓ Sponsor workshop with INGAA and National Association of State Fire Marshals (NASFM) on emergency response
- ✓ Develop a technical note on industry considerations for emergency response plans
- ✓ Develop Emergency Response Resource center with a streamlined mutual assistance program
- ✓ Develop a task group comprised of AGA staff and members that will work closely with Pipelines and Informed Planning Alliance (PIPA) to ensure AGA member concerns are addressed in joint PIPA initiatives
- ✓ 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
- ✓ Host a roundtable focused on operator experience and lessons learned: 2012 Operations Conference
- ✓ 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.

ONGOING ACTIONS

- ➢ Promote the use of innovative rate mechanisms for faster repair, rehabilitation or replacement.
- ➢ Maintain a clearinghouse on effective cost-recovery mechanisms that states have used to fund infrastructure repair, replacement and rehabilitation projects.
- ➢ Support legislation that strengthens enforcement of damage prevention programs and 811
- ➢ Support the Common Ground Alliance, use of 811 and other programs that address excavation damage
- ➢ 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.
- ➢ Continue the Plastic Pipe Database Committee's work to collect and analyze plastic material failures
- ➢ Promote the AGA Safety Culture Statement and a positive safety culture throughout the natural gas industry
- ➢ Conduct workshops, teleconferences 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
- ➢ Hold an annual executive leadership safety summit.
- ➢ Recognize statistical top safety performers, promote safety performance and encourage knowledge sharing through AGA Safety Awards
- ➢ Support PHMSA and NAPSR workshops and other events
- ➢ Search for new and innovative ways to inform, engage and provide appropriate information to stakeholders, including emergency responders, public officials, excavators, consumers and safety advocates, and members of the public living in the vicinity of pipelines
- ➢ Participate in the Pipeline Safety Trust's annual conference to provide information on distribution and intrastate transmission pipelines, AGA and industry initiatives, and receive input
- ➢ Work with PHMSA to establish time limits for telephonic or electronic notice of reportable incidents to the National Response Center after the time of confirmed discovery by operator that an incident meets PHMSA incident reporting requirements
- ➢ 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
- ➢ Advocate to state commissioners the inclusion of research funding in rate cases in an effort to increase overall funding for R&D
- ➢ Work with PHMSA and other stakeholders on opportunities to increase R&D funding and deployment of technologies
- ➢ Advocate acceptance of technologies that can improve safety

AGA's Commitment to Enhancing Safety: AGA Actions Continued

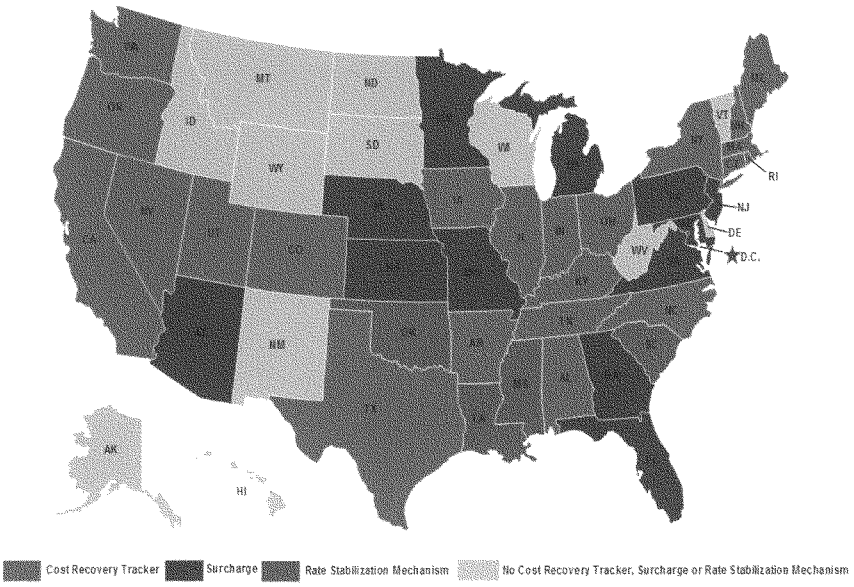
ACTIONS WITH TARGET DATES

- Develop guidance to determine a distribution or transmission pipeline's fitness for service and MAOP, and the critical records needed for that determination. **(5/30/12)**
- 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. **(5/30/12)**
- Develop a more comprehensive technical paper that presents benefits and disadvantages of the installation of ASV/RCV block valves on new, fully replaced and existing transmission pipelines. **(9/30/12)**
- Create technical guidance for oversight of new construction tasks to ensure quality. **(12/31/12)** (Track progress of industry's implementation of guidelines and summarize results annually)
- Utilize DIMP to evaluate the risks associated with trenchless pipeline techniques and implement, where necessary, initiatives to prevent and mitigate those risks. **(12/31/12)**
- Based on the results of the safety management study, identify and begin to implement initiatives that will enhance the appropriate sharing of safety information. **(12/31/12)**
- Include meter protection in 2013 AGA Distribution Best Practices Program with results. **(9/30/13)**

ACTIONS – TARGET DATES NOT APPLICABLE

- Work with PHMSA and distribution operators on ways to address risk to meters from vehicular damage, natural and other outside forces.
- Engage PHMSA and NAPSR in discussions on whether TIMP should be expanded beyond HCAs and the benefits and challenges of applying integrity management principles to additional areas.
- Highlight in DOT workshops, NAPSR meetings and discussions with Government Accountability Office that: 1) Many AGA members are required to manage DIMP and TIMP programs that overlap. The effectiveness, inefficiencies and duplication of multiple integrity management programs must be explored. 2) Low-stress pipelines operating below 30% SMYS should be treated differently.
- Work with industry and regulators to evaluate how the grandfather clause can be modified to reduce and/or effectively eliminate its use for transmission pipelines.
- Work with other stakeholders to develop potential technological solutions that allow for tracking and traceability of new pipeline components (pipe, valves, fittings and other appurtenances attached to the pipe).
- Develop guidelines that provide for an improved level of engagement between operators and excavators.
- Work with other stakeholders to improve pipeline safety data collection and analysis, convert data into meaningful information, determine opportunities to improve safety based on data analysis, identify gaps in the data collected by PHMSA and others, and communicate consistent messages based on the data.
- Develop publications dedicated to improving safety and operations
- Pilot application of PIPA guidelines with select member utilities.

Attachment 5: States with Accelerated Infrastructure Replacement Programs



Attachment 6: NARUC Resolution

NARUC 2013 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

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

IMPLEMENTATION OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011

MAY 20, 2014

Testimony of the Pipeline Safety Trust

Good afternoon Chairman Denham, ranking member Brown, 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, as well as a member of the steering committee for PHMSA's Pipelines and Informed Planning Alliance. 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 fifteen years ago next month - 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 spate of recent disasters makes us sometimes question whether our message is being heard.

Reviewing the implementation of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 is somewhat difficult because so many of the required reports and changes to the regulations have yet to be produced. The slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action from the administration. While this slowness is frustrating to groups such as ours, it is also difficult to know exactly where to lay the blame. While PHMSA is certainly the easiest target since they have been slow to produce the required reports and regulations, they have also been clear with Congress for a number of years now that they lack the financial and personnel resources needed to complete their mission in a timely manner. We also have noted that many times PHMSA or personnel within the Secretary's Office have completed draft regulations and reports, but those efforts seem to get significantly delayed by the Secretary's Office itself or perhaps by the White House Office of Information and Regulatory Affairs. While PHMSA clearly needs to be held accountable, it would appear there is plenty of blame to be shared for the

slowness in implementing many important pipeline safety initiatives.

Even with this slowness and delay, over the past few years progress has been made as evidenced by the reduction in the number of incidents that involve injuries or death to all-time low levels. The pipeline industry, regulators, and public interest groups such as the Pipeline Safety Trust have come together with the publicly stated common goal of zero incidents, a goal that will continually drive all the involved stakeholders to do even better. This goal of zero incidents has also led most of the major industry groups to agree with our call for an expansion of the use of a system similar to the integrity management programs already required in high consequence areas to ensure greater safety for the environment and people living in more rural areas.

So while below we may criticize the implementation of some of the sections of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 none of us should lose sight of the progress that has been made over the past years. We believe such progress can continue, toward the ultimate goal of zero incidents, as long as all stakeholders are adequately included in the process to question each other's assumptions and hold each other accountable. With that in mind we would like to focus our testimony today on the following sections of the 2011 Act.

Sec. 2. Civil penalties

Sec. 3. Pipeline damage prevention

Sec. 4. Automatic and remote-controlled shut-off valves

Sec. 5. Integrity management

Sec. 6. Public education and awareness

Sec. 7. Cast iron gas pipelines

Sec. 8. Leak detection

Sec. 16. Study of transportation of diluted bitumen

Sec. 19. Maintenance of effort

Sec. 21. Gas and hazardous liquid gathering lines

Sec. 22. Excess flow valves

Sec. 23. Maximum allowable operating pressure

Sec. 24. Limitation on incorporation of documents by reference

Sec. 28. Cover over buried pipelines

Sec. 31 & 32. Pipeline inspection and enforcement needs & Authorization of appropriations

Sec. 2. Civil penalties.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress doubled the level of penalties that PHMSA can levy against companies that fail to abide by the laws put in place to keep our communities safe. In the two full years since the passage of that bill PHMSA has used this new authority to significantly increase the monetary amount of proposed penalties. We applaud the increase in this penalty amount and PHMSA's use of these higher penalty limits. We believe that compared to the economic size of many of the companies being regulated that the size of the potential fines is far below the level necessary to cause a change in behavior, so encourage Congress to consider doubling the penalty limits again in future reauthorizations.

The need to change behavior is apparent when you consider that significant pipeline incidents that are well within a pipeline operator's control have been increasing over the past ten years. During that same period the number of civil cases brought against operators for failing to abide by pipeline safety laws has trended slightly downward. As you can see by figure 1 the gap between the number of significant incidents occurring and the number of penalty cases initiated is increasing. In the future we hope to see both of these trends reverse, with pipeline operators doing more to decrease incidents, and PHMSA using their penalty authority more often when operators fail to keep their pipelines safe.

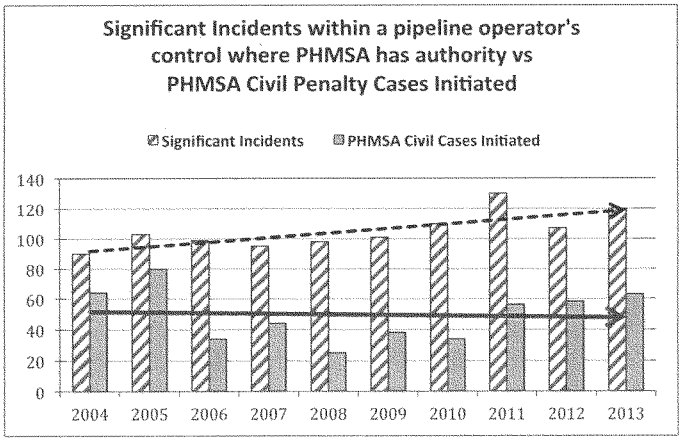

Figure 1

Sec. 3. Pipeline damage prevention.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked PHMSA to produce a report to examine the impact of excavation damage on pipeline safety, including frequency, severity and type of damage, and a survey of state exemptions. This report is sorely needed to help all those involved know where to invest in prevention strategies. While PHMSA has failed to produce this report to date, damage to pipelines by excavation continues to be one of the main causes of significant pipeline incidents as shown in figure 2.

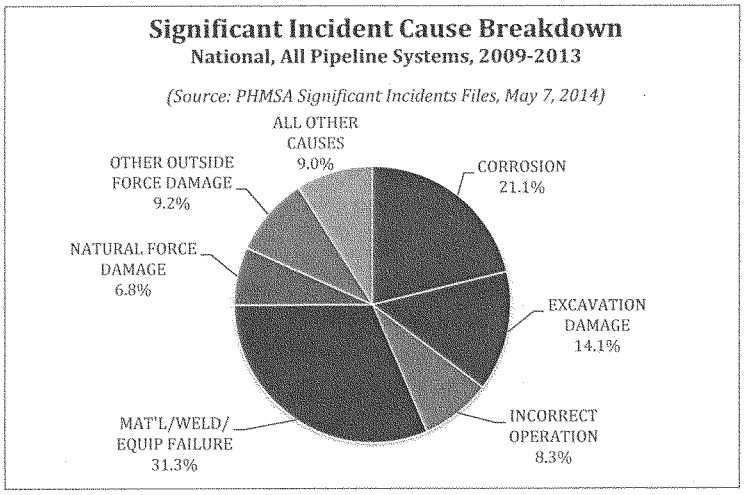

Figure 2

One issue that may be contributing to the delay in the production of such a report is that PHMSA does not collect any data on the vast majority of the incidents caused by excavation damage, and most states also lack such data. For example, because of the limited reporting requirements, the PHMSA incident database only includes 43 total pipeline incidents nationwide in 2012 caused by excavation damage. Yet the Annual Reports submitted each year to PHMSA from the gas distribution operators list 76,739 incidents of excavation damage in 2012. Unfortunately the reporting of excavation damage in the annual reports does not require any description about the incidents, so no real conclusions about these damages can be gleaned. The Common Ground Alliance, which is supported by PHMSA and the industry, has tracked excavation damage incidents for a few years now. Their "DIRT" report provides valuable information, but their reporting mechanism is voluntary, and all

involved admit there are data quality issues and gaps in the reporting.

The industry and PHMSA continue to spend millions of dollars each year on these important damage prevention efforts. Clearly better data is needed to ensure that those expenditures are targeted in the right areas, and are being effective in reducing damage to pipelines.

Sec. 4. Automatic and remote-controlled shut-off valves.

Nineteen years ago Congress was debating a requirement for remote or automatic shutoff valves on natural gas pipelines in the wake of the Edison, NJ accident and the two and a half hours it took to shut off the flow of gas that fed the fireball due to the lack of a remotely controlled shut off valve. After the 2010 San Bruno tragedy where it took the pipeline operator over an hour and a half to drive to and close a manual valve the NTSB recommended that PHMSA ***"Amend Title 49 Code of Federal Regulations 192.935(c) to directly require that automatic shutoff valves or remote control valves in high consequence areas and in class 3 and 4 locations be installed and spaced at intervals that consider the factors listed in that regulation."***

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 Congress asked the Secretary to consider within two years appropriate regulations to require the use of automatic or remote-controlled shut-off valves, or equivalent technology, on new or replaced pipelines. PHMSA did contract with Oak Ridge National Laboratory for a study of such valves. That study[1] concluded that ***"installing ASVs and RCVs in pipelines can be an effective strategy for mitigating potential consequences of unintended releases because decreasing the total volume of the release reduces overall impacts on the public and to the environment."***

In 2010 PHMSA issued an Advanced Notice of Proposed Rulemaking (ANPRM) for hazardous liquid pipelines, and then in 2011 PHMSA issued an ANPRM for gas transmission pipelines. Both ANPRMs made it clear that some change to the requirements for automatic or remote-controlled valves was being considered. Many stakeholder groups invested a significant amount of time responding to these ANPRMs. Unfortunately, years later, information regarding how PHMSA will deal with this issue in a future rulemaking has not been made available. The slowness of the rulemaking process regarding automatic and remote-controlled shut-off valves seems at odds with the public

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1 http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_2C1A725B08C5F72F305689E943053A96232AB200/filename/Final%20Valve_Study.pdf

proclamations of concern and action.

Sec. 5. Integrity management.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Department of Transportation to evaluate and report back within two years whether Integrity Management system requirements should be expanded and whether such an expansion would mitigate the need for class location requirements. After the 2010 San Bruno tragedy the NTSB released recommendations (P-11-004 & P-11-005) asking that the Department of Transportation conduct an audit of the effectiveness and enforcement of PHMSA's performance-based safety programs. While PHMSA did recently hold a workshop on possible Class Location changes, and has issued ANPRMs for both hazardous liquid and gas transmission pipelines, to date the required report, the NTSB requested audit, and any rule changes have not been completed.

We were contacted and interviewed by the Secretary's Office for input on the audit that was requested by the NTSB. We were told over a year ago that the draft of that audit was complete and was just undergoing review by PHMSA. PHMSA is proceeding with major rulemakings that will almost certainly include changes to Integrity Management programs. The Congressionally requested report on integrity management, as well as the NTSB requested audit of the effectiveness of this program should be used to inform the proposed changes that in some cases have already been drafted. We hope Congress will push for the release of these two reviews of the integrity management program.

Sec. 6. Public education and awareness.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required the Secretary to provide a variety of information to help build public awareness regarding important pipeline safety programs. One of those requirements was to maintain on the National Pipeline Mapping System (NPMS) a map of High Consequence Areas. Such a map would allow emergency responders, local government planners, and the public to get a sense of where pipelines pose a higher threat, and also where pipeline regulations are more stringent to counter that increased threat. Unfortunately, PHMSA has not yet implemented this requirement. In 2011 NTSB also recommended (P-11-008) ***"operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to provide system-specific information about their pipeline systems to the emergency response agencies of the communities and jurisdictions in which those pipelines are located. This information should include pipe diameter, operating pressure, product transported,***

and potential impact radius." Then in 2012 the NTSB recommended (recommendation P-12-019) to the International Association of Fire Chiefs and the National Emergency Number Association to ***"urge your members to aggressively and diligently gather from pipeline operators system-specific information about the pipeline systems in their communities and jurisdictions."*** Unfortunately such system-specific information remains difficult or impossible to get from pipeline operators. This type of information could also be made easily available on the NPMS. We hope Congress will push PHMSA to complete these actions soon.

The Oil Pollution Act of 1990 and its implementing regulations in part 194 of PHMSA's regulations require the operators of pipelines carrying petroleum products to submit a spill response plan to PHMSA for review and approval. In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required that PHMSA maintain a copy of each such plan and make them available to the public, while allowing the Secretary to determine if certain kinds of information should be withheld.

Whether PHMSA will ultimately succeed in full implementation of this provision is still uncertain. As far as we know, PHMSA may have collected a copy of each of these plans, but we cannot be certain of that without submitting a FOIA request for all of the plans and waiting a very long time for fulfillment of that request. Four months after the 2011 Act went into effect, we did request copies of a small subset of the plans. Other than acknowledging receipt of our request, we heard nothing from PHMSA for 10 months when the first plan reached us. They continued to trickle in for another full year before PHMSA determined (erroneously, as it turns out) that all responsive plans had been sent to us. We are currently in the middle of a FOIA appeal over this request because we believe many of the redactions made in the plans we received are not lawful under the FOIA exemptions claimed by the agency.

Sec. 7. Cast iron gas pipelines.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to develop a status report that would be updated every two years to portray the mileage of cast iron pipeline in the country, and show the progress companies are doing in replacing that troublesome pipe. PHMSA completed that status report in December of 2012, and now provides an

online status report[2] that shows the mileage of cast iron pipe in the ground by state, and also the progress every individual company has made in replacing that pipe since 2004.

We applaud PHMSA's efforts in this regard to shine a light on how well both the individual companies have worked to replace these cast iron pipelines, but also how well each state is doing, since the states play an important role in designing the rate structures that allow and encourage such important replacement programs.

Sec. 8. Leak detection.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to provide a report within one year on the technical limitations of current leak detection systems, the practicability of developing standards for the capabilities of leak detection systems, and the costs and benefits of requiring pipeline operators to use such systems. PHMSA completed an in-depth study of leak detection systems in December of 2013.[3] That study found that for hazardous liquid pipelines:

- "The pipeline controller/control room identified a release occurred around 17% of the time."
- Emergency responders or a member of the public were currently the most likely means of discovering a pipeline release.
- "There is no technical reason why several different leak detection methods cannot be implemented at the same time. In fact, a basic engineering robustness principle calls for at least two methods that rely on entirely separate physical principles."
- "External sensors have the potential to deliver sensitivity and time to detection far ahead of any internal system."

In 2010 PHMSA issued an ANPRM for hazardous liquid pipelines that asked in part whether PHMSA should "establish and/or adopt standards and procedures for minimum leak detection requirements for all pipelines." Nearly three and a half years after the close of the comment period on that ANPRM the proposed rule has still not been issued. Again, the slowness of the rulemaking process seems at odds with the public proclamations of concern and action.

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[2] https://hip.phmsa.dot.gov/analyticsSOAP/saw.dll?PortalPages

[3] http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_4A77C7A89CAA18E285898295888E3DB9C5924400/filename/Leak%20Detection%20Study.pdf

Sec. 16. Study of transportation of diluted bitumen.

The July 2010 rupture of Enbridge Line 6b near Marshall, Michigan resulted in a release of approximately one million gallons of diluted bitumen ('dilbit'), comprising the largest onshore oil spill in U.S. history. That catastrophic spill polluted much of Talmadge Creek and dozens of miles of the Kalamazoo River.

Dilbit behaves differently in water than traditional crude in that it sinks as the light fractions evaporate, or when it weathers or mixes with sediment. Neither the operator, the local first responders, the local health department and medical providers, nor the state and federal resource agencies were prepared for a spill of this magnitude of this kind of oil. Nearly four years after the spill, cleanup continues to this day. Cleanup has necessitated the development and modification of entirely new cleanup strategies and thus far exceeds one billion dollars in cost. The local communities did not have appropriate air quality monitoring equipment on site at the time of the spill to know the type or concentration of airborne contaminants they were being exposed to, and some residents report continuing health effects from exposure to airborne pollutants in the days and weeks following the spill.

In response to concerns about plans for dramatic increases in pipeline transportation of this oil across the U.S. and the many unknowns about the safety of those plans, Congress enacted section 16 of the 2011 Act, directing the Secretary to "complete a *comprehensive review of hazardous liquid pipeline facility regulations* to determine whether the regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen" within 18 months (emphasis added). The Act further directed that in the course of that review, the Secretary was to conduct "an analysis of whether *any increase in the risk of a release* exists for pipeline facilities transporting diluted bitumen" (emphasis added). Unfortunately, the Secretary, acting through PHMSA, chose to very narrowly construe its mandate under this section, and in our view, ultimately completed only a fraction of its obligations.

First, no "comprehensive review of the hazardous liquid pipeline regulations" has occurred at all. PHMSA chose instead to focus only on a single piece of the second requirement of Section 16 and to contract out a study to the National Academy of Sciences with a very narrow scope: "whether shipments of diluted bitumen differ sufficiently from shipments of other crude oils in such a way as to

increase the likelihood of releases from transmission pipelines."[4] As the report from the NAS itself acknowledged: "[D]etermination of the risk of a pipeline release requires an assessment of *both* the likelihood and the consequences of a release."[5] The scope of work for the contract indicated that if the NAS report indicated (after looking only at existing information) that the differences between shipping dilbit and shipping traditional crude was likely to increase the *probability* of a pipeline spill, then and only then would it be asked to undertake a review of the differences in *consequences* from a dilbit spill, or to undertake the primary directive of Section 16, the comprehensive review of hazardous liquid regulations.[6] Consequently, neither Congress nor PHMSA has acquired any new knowledge about whether the existing regulations are sufficient to protect the public health and safety from a spill of this product.

PHMSA should be directed to complete its work on this task, specifically:

- undertake a comprehensive review of the hazardous liquid regulations; and
- complete an analysis of the potential consequences of future dilbit spills or the probability of dilbit spills from causes not fully considered in the NAS study to determine whether new or additional regulations of these pipelines are necessary to protect the environment and public health and safety.

Sec. 19. Maintenance of effort.

PHMSA did grant waivers under the Maintenance of Effort clause to states in need during the 2012 and 2013 fiscal years. We believe this maintenance of effort was of value during the recent economic downturn to ensure that states had the resources to maintain pipeline safety programs, and to allow time to change funding structures if need be within their states to be able to cover the matching funds required to maintain their own pipeline safety programs. Many states already have implemented user fees on the pipeline operators within their jurisdictions to cover their state costs, and all states have this ability. At some point this waiver should cease so states that have taken responsible actions to find ways to cover their share of costs are not effectively subsidizing states that have not tried to do so.

[4] TRB Special Report 311: Effects of Diluted Bitumen on Crude Oil Transmission Pipelines, (2013) at page 1.
[5] Id. at page 2. (emphasis added).
[6] Id.

Sec. 21. Gas and hazardous liquid gathering lines.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to provide a report "of existing Federal and State regulations for gas and hazardous liquid gathering lines located onshore and offshore in the United States." To date PHMSA has not provided that report.

According to PHMSA's data,[7] 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[8] 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.

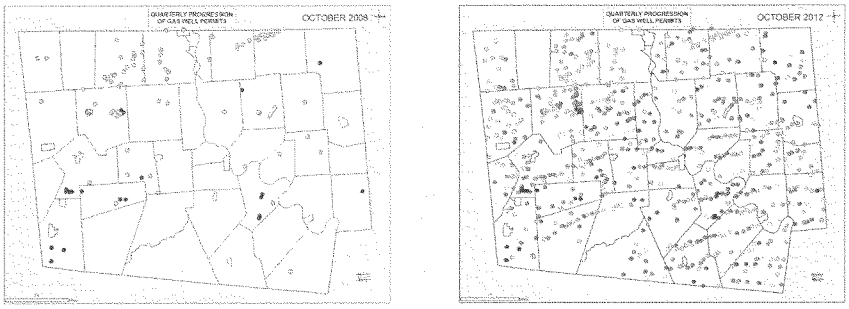

Figure 3[9]

Figure 3 shows the proliferation of wells drilled in just one county in Pennsylvania over a five-year period. All of these wells will eventually be connected with gathering pipelines, and most all of these pipelines will be totally unregulated in regards to safety. We believe it is time to ensure that any gathering pipeline with similar size and pressure characteristics to transmission pipelines fall under the same level of minimum federal regulations, including the integrity management requirements for

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7 http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.6f23687cf7b00b0f22e4c6962d9c8789/?vgnextoid=78e4f5448a359310VgnVCM1000001ecb7898RCRD&vgnextchannel=3b6c03347e4d8210VgnVCM1000001ecb7898RCRD&vgnextfmt=print

8 PHMSA Briefing Paper, Onshore Gas Gathering, Technical Pipeline Safety Standards Committee Meeting, March 2011

9 Bradford County, PA - http://www.bradfordcountypa.org/Natural-Gas.asp?specifTab=2

those in high consequence areas. While PHMSA has hinted that they may include gas gathering lines in the rule that may eventually be proposed on gas transmission lines, that rule, like the required gathering line report, is still nowhere to be found. Again, the slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action.

Sec. 22. Excess flow valves.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary within two years, if appropriate, to "require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities." In late 2011 PHMSA issued an ANPRM to start considering this process. Now, more than two years after the close of comments on the ANPRM there still has been no proposed rule released for review. This is an open recommendation from the NTSB (P-01-002) dating back to 2001.

Sec. 23. Maximum allowable operating pressure.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required that "Not later than 18 months after the date of enactment of this section, the Secretary **shall** issue regulations for conducting tests to confirm the material strength of previously untested natural gas transmission pipelines located in high-consequence areas and operating at a pressure greater than 30 percent of specified minimum yield strength." This requirement stems from one of the key failures that led to the San Bruno, California disaster that killed eight people and destroyed a good portion of an entire neighborhood. The NTSB following their investigation of this tragedy recommended (P-11-014) that PHMSA ***"Amend Title 49 Code of Federal Regulations 192.619 to delete the grandfather clause and require that all gas transmission pipelines constructed before 1970 be subjected to a hydrostatic pressure test that incorporates a spike test."*** The NTSB also recommended (P-11-015) that PHMSA ***"Amend Title 49 Code of Federal Regulations Part 192 of the Federal pipeline safety regulations so that manufacturing- and construction-related defects can only be considered stable if a gas pipeline has been subjected to a post-construction hydrostatic pressure test of at least 1.25 times the maximum allowable operating pressure."*** We agree with these NTSB recommendations.

To date PHMSA has held a public workshop on a draft Integrity Verification process in August of 2013, has held an extended comment period, but has not yet released a proposed rule or even an ANPRM. Perhaps they plan to address this issue as part of the ANPRM they released regarding gas

transmission pipelines in 2011, but that proposed rule also has not yet been released. Again, the slowness of the rulemaking process seems at odds with the public proclamations of concern and action.

Sec. 24. Limitation on incorporation of documents by reference.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required the Secretary to ensure that any documents that were incorporated by reference into federal rules be made easily available to the public. This requirement was based on the common sense belief that the American public should have easy access to, and not have to pay to review, parts of the federal regulations and guidance documents that impact their lives. At the time this requirement was passed by Congress PHMSA estimated that there were 65 standards that were incorporated by reference into the federal pipeline safety regulations. To access those standards from the private standards setting organizations, PHMSA estimated it would cost an individual between $8500-$9500.[10]

In the time since this requirement was passed PHMSA held a workshop on this issue, and has worked with the various standard setting organizations to make their standards that are incorporated into the regulations easily and freely available to the public. While great progress has been made this requirement is not yet complete because one standard setting organization – ASME – has refused to follow the lead of all the others. PHMSA continues to work with ASME to at least meet the letter of the Congressional requirement, if not the complete common sense intent.

Sec. 28. Cover over buried pipelines.

In July 2011, the ExxonMobil Silvertip Pipeline ruptured where it crosses the Yellowstone River near Laurel, Montana. The investigation into the cause of the failure revealed that the pipeline had been undermined by sustained floodwaters scouring the riverbed and exposing the pipeline, resulting in its failure along what had become an unsupported span submerged in the river. The rupture resulted in the release of about 1500 barrels of crude oil into the Yellowstone River, and approximately $135 million dollars in property damage.

In the 2011 reauthorization act, Congress asked the Secretary to study hazardous liquid pipeline incidents at crossings of inland bodies of water with a width of at least 100 feet to determine if the

[10] PHMSA – FAQ on Incorporation by Reference - http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_CE1A83B0F73007F34B19FB80020AF3D9FB5B0100/filename/PHMSA%20IBR%20Meeting_FAQs%207.13.2012.pdf

depth of cover over the buried pipelines was a factor in any accidental release of hazardous liquids. If the Secretary's study found that depth of cover was "a contributing factor," then a review of the existing regulations and development of legislative recommendations was required.

The existing regulations require that newly constructed pipelines that cross inland water bodies with a width of at least 100 feet between high water marks be buried at least 48 inches beneath the riverbed. There is no requirement for maintaining any particular depth of cover. PHMSA concluded after its study that it required no additional legislative authority to address risks of hazardous liquid pipeline failures at major river crossings. We agree. While we feel there were major shortcomings in the study produced by PHMSA, and we believe that significant changes are necessary to the existing regulatory requirements for pipelines crossing water bodies, we concur that PHMSA possesses adequate authority to improve the regulations. Whether such a rulemaking might ever be undertaken, or could make it through the substantial bottleneck that the rulemakings underway since 2010 and 2011 have encountered, are separate questions.

The river crossing study produced by PHMSA did succeed in highlighting several major issues with the existing rule and its implementation:

- PHMSA has no data set, geographic or otherwise, that identifies the 100-foot wide crossings that are subject to the rule at the time of construction, making enforcement of the rule dependent on having a PHMSA inspector on site at the time of construction at every crossing where the rule might apply.
- Rivers are dynamic systems, as the Silvertip failure graphically illustrates. The existing rule only applies at the time of construction, but does not require an operator to maintain four feet of cover over the lifetime of the pipeline.
- Many river systems narrower than 100 feet can dramatically scour their beds, putting perhaps thousands of other pipelines at risk of exposure and failure. The existing rule does not cover those crossings.
- The integrity management (IM) rules and their implementation and enforcement are not a sufficient substitute for an adequate rule prescribing operators' ongoing depth of cover obligations at all crossings. The Silvertip system underwent an IM inspection from PHMSA less than a month before its failure, yet there is no indication that the vulnerability of the line and the inadequacy of the operations plans were identified. Moreover, the IM rules apply to only

42% of liquid lines in the country. There may be many crossings that fall outside the narrow definition of an "unusually sensitive area" where IM rules would apply.

Sec. 31 & 32. Pipeline inspection and enforcement needs & Authorization of appropriations.
In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress gave PHMSA permission to increase its inspection and enforcement staff by ten positions if PHMSA successfully filled the existing 135 authorized inspection and enforcement positions. In the fall of 2012 PHMSA notified Congress that the 135 positions had been filled, but it is unclear to us whether the additional 10 positions have yet been filled. More importantly, in its 2013 fiscal year budget request PHMSA requested an additional $16 million dollars to fund an additional 150 positions it said were needed to carry out its pipeline safety mission. PHMSA requested an additional $20.8 million dollars to help provide additional funding to state programs where the majority of the pipeline safety inspectors in the country are employed.

With the large increase in new pipeline infrastructure in some parts of the country, the aging infrastructure in need of replacement in other areas, and increased complexity of regulations such as the Distribution Integrity Management Program, we believe this significant increase in personnel to ensure the safety of the nation's pipeline is justified. The Inspector General just recently released a report[11] on the effectiveness of PHMSA's oversight of the state pipeline safety programs, which in many areas drove home the point that more personnel were needed. The report noted many significant problems with PHMSA's oversight of the state programs, and that PHMSA has only ***"six evaluators to review and score annual certifications and program evaluations, and oversee State agencies that participate in its State Pipeline Safety Program. Five of these evaluators also perform in-depth triennial grant reviews at State agencies."*** The report pointed out that some states such as Texas ***"lacked sufficient inspector resources to accomplish its integrity management inspections of gas transmission pipeline operators. This problem will become more acute because a PHMSA regulation that went into effect in 2010 requires States to inspect gas distribution integrity management programs as well as gas transmission."***

[11] Office of the Inspector General – Audit Report, PHMSA's State Pipeline Safety Program Lacks Effective Management and Oversight, Report Number AV-2014-042, May 7, 2014

Our frequent interactions with PHMSA personnel have demonstrated how thinly stretched many of them are. We think that Congress should seriously consider providing PHMSA with the staffing levels they have requested, and the money necessary to ensure PHMSA's state partners can also effectively do their jobs. While government funding of any type is tight these days, the vast majority of PHMSA's funding comes from fees charged to the pipeline companies they regulate. Levying these fees to provide for greater safety does not impact the general treasury or the national debt. While we are sure it is true that the pipeline companies will find a way to pass these fees onto consumers at the pump or on our gas bills, when this amount of money is spread out over the approximately 3000 pipeline companies that PHMSA sets regulations for, the cost to a family would be negligible.

The Coming Reauthorization

Thank you again for inviting us to testify today. As we move closer to the next reauthorization of the national pipeline safety program there is still much left to do from the 2011 reauthorization. We believe that Congress has given PHMSA the authority they need to move forward on many important pipeline safety efforts. Perhaps a straight reauthorization of the current program with additional funding in the near term would allow PHMSA to 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 with additional funding, as long as Congress remains actively involved in oversight to ensure the Administration completes the tasks they have been assigned.

WITNESS QUESTIONS
THE HONORABLE CORRINE BROWN
HEARING ON
"A REVIEW OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011"
MAY 20, 2014
TO
CARL WEIMER, EXECUTIVE DIRECTOR, PIPELINE SAFETY TRUST

During the hearing, Congressman Williams (R-TX) asked you about the Pipeline Safety Trust's view on the review, approval, and siting of new oil pipelines. Below are his questions and your responses.

Mr. Williams: "What is the Pipeline Safety Trust's view on the review, approval, and siting of new oil pipelines?

Mr. Weimer: "Well, I think to sum it up, it is kind of a mess in this country right now, because unlike natural gas pipelines where you have a FERC process for interstate natural gas pipelines, there is not one place that either the public, local governments, or the industry can go to figure out how to put a liquid pipeline in the ground. If it crosses an international boundary, you get into the State Department, like we have with Keystone. If it doesn't do that, then it falls on State by State. Some States have siting authorities; some don't. If they don't, then it falls county to county or municipality to municipality. So it is a real patchwork of trying to put new liquid pipeline in the ground.

Mr. Williams: "So I guess I would ask, does your organization support the current law letting States have jurisdiction over siting and review of new oil pipelines?

Mr. Weimer: ""Yeah we certainly do support that. In Washington State, where I am from, we have an energy facility siting evaluation committee that works very well for siting of those types of things.

Mr. Williams: "And would you also separate the process of new oil pipelines versus interstate natural gas transmission pipelines?

Mr. Weimer: "Well, I think there needs to be a new process, whether it falls under something like FERC for interstate natural gas, or whether it falls State by State or some other agency is looking at siting of oil pipelines. We just need a better process than what there is now."

QUESTIONS

There have been several legislative proposals that would, in effect, remove Federal authority over the siting of oil and/or natural gas pipelines (new and old) and place that responsibility with individual states. Your responses above seem to suggest that you would be supportive of such an approach. Is that accurate? Please clarify your above statements.

You mentioned that "there needs to be a new process" for siting and review of pipelines. Do you have suggestions for such a process?

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Answers to Witness Questions submitted by The Honorable Corrine Brown to Carl Weimer, Executive Director of the Pipeline Safety Trust

Thank you for the questions and the opportunity to clarify what I said at the May 20, 2014 hearing on the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

Question #1: There have been several legislative proposals that would, in effect, remove Federal authority over the siting of oil and/or natural gas pipelines (new and old) and place that responsibility with individual states. Your responses above seem to suggest that you would be supportive of such an approach. Is that accurate? Please clarify your above statements.

At the May hearing I was asked if the Pipeline Safety Trust supports letting States have jurisdiction over siting and review of new oil pipelines. I answered that we did support that state authority and then referenced the Washington Energy Facility Site Evaluation Council (http://www.efsec.wa.gov/default.shtm) which is one of the state siting agencies we have enough knowledge about to be able to say they do a good job of implementing this siting authority.

So while we certainly do support state authority for siting hazardous liquid pipelines, my answer was provided based on my understanding of the current system which provides no federal siting authority for the vast majority of interstate or intrastate hazardous liquid pipelines. If there was in place a federal siting agency my answer may have been different since an overarching federal system might allow for more consistency, as well as a better review of the actual public need for such pipelines. When a pipeline (or multiple pipelines) cross many states to deliver oil from point A to point B, but the permitting is broken down state-by-state, it creates a piecemeal siting process that makes if very difficult to consider the overall need for the project or the cumulative impacts the project might create. It also creates the possible situation where a state that does not benefit from any of the product carried by the proposed pipeline may create barriers because of their more limited view of the benefit.

I should also be clear that we only support state siting authority if it is implemented well. Currently less than half the states have any sort of pipeline siting agency to handle this important authority that has fallen on them, and many of those states do not include hazardous liquid pipelines in their efforts at all. Many of those same states also have systems for the siting of such pipelines that we think are not adequate to ensure a safe and fair public process. So while we support states that are doing pipeline siting well, the majority of states are not and allow this authority to trickle down to a patchwork of local governments who for the most part are woefully unprepared, in terms of resources, expertise and experience to deal with such projects. The current system of allowing states to take on siting authority with no requirement that they actually do so, and no standards or resources provided to ensure a well run process, does not lead to very reassuring outcomes.

Question #2: You mentioned that "there needs to be a new process" for siting and review of pipelines. Do you have suggestions for such a process?

There are currently multiple processes for the siting of interstate pipelines depending whether the pipeline crosses an international border (State Department for liquids), or whether the pipeline is for natural gas (FERC) or hazardous liquids (state-by-state). We do not believe any of these processes incorporates everything necessary to provide for an adequate review of safety and need, which is why I said there needs to be a new process.

One of the primary things that is missing in the siting of pipelines in this country is there is no governmental authority that considers our basic strategic national pipeline infrastructure needs. We currently allow each individual pipeline company to make proposals based on their own customer or financial needs, but that type of analysis leads to infrastructure development that may be good for an individual company but may not be good for the general public. Just because a pipeline company can develop customers in a different part of the country, or in a different country altogether, does not mean that such a pipeline benefits our country as a whole, yet that is the current basis for these individual pipeline siting decisions. This system of allowing private companies to decide our infrastructure needs leads to multiple pipeline proposals through the same areas with no combined review, and no thought of sharing rights-of-way or pipeline capacity. This leads to a terrible burden on local landowners where more property might be acquired or condemned than is needed, and on local and state governments trying to respond to multiple proposals for multiple pipelines where perhaps only one larger pipeline could adequately do the job. Multiple pipelines providing service to the same general area also multiply the environmental damage during construction, increase the long-term costs of operation (which is passed on to consumers), and increase the risk to citizens and the environment of pipeline failures. Since most all of these pipelines have the right of eminent domain we need to either ensure that the least amount of property possible is allowed to be taken by these private companies through an independent analysis of long term need, or we need to take eminent domain off the table and allow the free market to set the price for the route the company chooses.

Once a system of strategic pipeline infrastructure need analysis is in place to ensure we are only building the amount of pipeline that is needed, it is much easier for either a state or federal agency to implement a process for the siting of individual pipelines.

To be clear, the current FERC process does not occur within this overall strategic analysis we describe, and as it currently exists, lacks some of the elements we feel are necessary for an adequate siting process. In addition, since FERC considers only applications of pipelines going into service to transport natural gas, it provides no analysis of the risks presented by proposals to convert out-of-use natural gas pipelines to transport hazardous liquid, bringing new and different safety issues to the table that would not necessarily have been considered in the original FERC process for the gas line.

An adequate siting process, whether under state or federal control for both gas and liquid pipelines would be governed by a system-wide pipeline infrastructure analysis, and include:

- Early consultation with landowners and local governments along a proposed route or any potential alternative routes,

- A complete environmental review such as the NEPA process used by federal agencies including an open public process to have concerns reviewed.
- A process to provide communities that may be significantly impacted by the proposal financial resources to ensure their concerns are well developed and submitted for consideration (see the National Energy Board of Canada's Participant Funding Program - http://www.neb-one.gc.ca/clf-nsi/rthnb/pblcprtcptn/prtcpntfndngprgrm/prtcpntfndngprgrm-eng.html)
- A review of the pipeline proposal and company's previous safety record to determine whether any special safety requirements or additional oversight beyond the minimum federal safety standards are warranted.
- A process to compensate landowners so they can consult with an attorney if eminent domain may be granted as part of the pipeline approval.
- An ongoing inspection process during construction to ensure that all environmental and pipeline safety regulations are being followed, and that landowner impacts are adequately resolved.
- A recognition of the need to provide adequate separation between pipeline systems, and occupied structures, critical infrastructure and sensitive environmental areas. In this regard PHMSA should be encouraged to reconvene the Pipelines and Informed Planning Alliance to come up with recommended practices for local government and siting agencies to consider when new pipelines are proposed through already developed communities.

I hope that helps clarify our answers from the May hearing. Feel free to contact me if you have further questions.

Sincerely,

Carl Weimer, Executive Director
Pipeline Safety Trust

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