



**WRITTEN STATEMENT  
OF  
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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
BEFORE THE U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON ENERGY AND COMMERCE  
SUBCOMMITTEE ON ENERGY AND POWER  
WASHINGTON, D.C.**

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

**JULY 14, 2015**

**I. Introduction**

Chairman Whitfield, Ranking Member Rush, and members of the Subcommittee, thank you for inviting me to testify today on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) progress in implementing the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act).

The Nation's 2.6 million mile pipeline networks are a vital part of our country's infrastructure. These pipelines sustain our everyday life by transporting gasoline to our cars, heating and cooking fuel to our homes, and natural gas to many of our power plants. Our future is underpinned by these energy transportation networks. Pipelines have played a crucial role in our Nation's energy renaissance, which has driven down fuel prices and manufacturing costs, while providing more jobs in the energy sector. As we continue to see historic highs in domestic energy production<sup>1</sup>, our Nation's energy infrastructure is shifting to accommodate these changes

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<sup>1</sup>EIA, "Crude Oil Production, [http://www.eia.gov/dnav/pet/pet\\_crd\\_crdpn\\_adc\\_mbbi\\_m.htm](http://www.eia.gov/dnav/pet/pet_crd_crdpn_adc_mbbi_m.htm)  
And EIA, "Gross Withdrawals and Production [of natural gas]  
"[http://www.eia.gov/dnav/ng/ng\\_prod\\_sum\\_dcu\\_NUS\\_m.htm](http://www.eia.gov/dnav/ng/ng_prod_sum_dcu_NUS_m.htm)

and the increased demand associated with it. New pipelines are being constructed, and other pipelines are being converted to carry different products. Our vast energy reserves confer an enormous potential for growth, but it is imperative that our transportation infrastructure remains safe, reliable, and efficient in order to support this growth.

Our agency's top priority is safety, and PHMSA is dedicated to reducing the risks associated with transporting hazardous materials. We are taking a comprehensive approach to keep pace with increasing energy production and the challenges associated with increasing and changing infrastructure. While we hold operators accountable through regulation and strong enforcement – these measures only set minimum expectations for compliance. PHMSA goes beyond regulations and enforcement by providing programs and resources that increase safety. These measures include providing grants to the States with pipeline safety programs, emergency response training, technological innovation through research and development (R&D), public engagement with our community assistance and technical services program, and promoting smart land use development in proximity to pipelines, just to name a few. We are committed to using all of the tools at our disposal to achieve our shared goal of zero pipeline spills or releases.

## **II. Our Results: PHMSA is Making Significant Progress**

Serious pipeline incidents have declined an average of 10 percent every three years since 1988, despite increased energy production, aging infrastructure, and increased pipeline mileage. However, we continue to face many challenges, and unfortunately pipeline accidents still occur. In May, I travelled to Santa Barbara, California, where a 10.6 mile crude oil pipeline ruptured. I saw firsthand the effect that pipeline failures have on communities and the environment and also saw our rapid and comprehensive response. Immediately following notification of this accident, PHMSA personnel were on the scene, where we remain actively involved. Our inspectors are conducting a comprehensive investigation into the cause of this failure, and we continue to support the Unified Command's spill response efforts led by the U.S. Coast Guard and the Environmental Protection Agency.

PHMSA issued a Corrective Action Order (CAO), and the affected pipeline remains shut down under PHMSA's authority. We will ensure the operator identifies the root cause of the

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failure and mitigates any additional risks associated before they will be allowed to restart the pipeline. The CAO is an important enforcement tool that enables us to respond quickly to emergency conditions that pose a hazard to the public or the environment. We are continuing our investigation into the cause of this failure. If we determine that the operator has violated any of our Federal regulations, we will pursue additional enforcement action.

When the Bridger Pipeline spill occurred in Montana earlier this year, PHMSA also responded quickly and comprehensively. PHMSA deployed a team of highly skilled investigators to the scene to ensure that the operator took immediate steps to prevent any further release and to identify the root cause of the pipeline failure. Although the circumstances surrounding these two failures are different, PHMSA's response demonstrates that we are focused on safety. It is imperative that we fully understand the root cause of pipeline failures to ensure that operators take the necessary steps to prevent future accidents. In addition, PHMSA shares lessons learned with other pipeline operators through safety advisories and updated or new rulemakings so that they can take preventative actions.

Pipeline safety is a shared-responsibility. It is incumbent upon operators to build, maintain, and operate their pipeline systems in the safest possible manner. Operators know and understand the operating environment of their systems and are required by regulation to apply the right risk control practices to ensure performance and safety.

PHMSA implements a comprehensive oversight program that involves ongoing inspections, strong enforcement, and the issuance and maintenance of pipeline safety policies and regulations. We also take proactive steps to incorporate lessons learned from accidents into new policies and regulations in order to prevent future occurrences.

### **III. Congressional Support is Imperative**

Responding to a pipeline incident requires the coordination and cooperation of many stakeholders. Achieving our safety goals for the Nation's 2.6 million miles requires a similarly multi-faceted approach. I thank the Congress for its support in increasing our appropriations for this year. The fiscal year 2015 Omnibus included a \$34.5 million increase over fiscal year 2014 for PHMSA, which significantly strengthens our ability to carry out our mission and provide safe, clean, and reliable transportation energy products. This would not be possible without your support.

PHMSA estimates that we can fund 109 new positions – a near doubling in the pipeline safety workforce – with the FY 2015 enacted appropriations. PHMSA employees are passionate about our mission, and their continued hard work is critical to our success. The inspectors and engineers who respond to incidents, and the people who work every day to promote our message, manage our programs, and help us oversee a massive infrastructure system are an integral part of our vision for the future. I'd like to thank all of our employees for their efforts, and I am looking forward to welcoming all our future hires onto such a committed team.

The vast majority – approximately 80 percent – of the new positions are designated for field positions. Most of these hires will conduct safety inspections and accident investigations. We are allocating these regional positions based on a variety of risk factors, including new construction projects, identified safety challenges and current accident investigations. We are aggressively hiring these inspectors and maintaining a rigorous training schedule. We understand that there is a great need for these roles.

The remaining 20 percent of the positions will support regulation development, state program management, inspector training and qualification, enforcement, and external engagement.

While Congress has continued to support additional hiring, it is important that PHMSA also receive funding to allow that implementation in a strategic manner. PHMSA has consistently requested additional funding to support enhancing our risk management, analytical frameworks and mapping capabilities. Through PHMSA grants, state pipeline safety programs are funded up to 80 percent, but PHMSA has limited insight into state data on where interstate pipelines actually exist, their conditions, and the inspection reports performed by our state partners. We would like to work with Congress to further explain our risk reduction proposals. Boots on the ground are helpful to oversee a growing infrastructure, meet our emerging challenges, and maintain strong enforcement and regulation during this critical period in America's energy development. However, we need to strategically place those boots.

#### **IV. Sustained Efforts to Satisfy Mandates**

Since its establishment a little over 10 years ago, PHMSA has been fortunate to receive continued support from Congress for its pipeline safety program through the attainment of a considerable amount of resources, such as the ones previously mentioned. At the same time

Congress has imposed a number of mandates on PHMSA that are critical to our success. Completing these mandates is one of PHMSA's highest priorities, as it allows us the opportunity to strengthen weaknesses in our regulatory and enforcement responsibilities, and implement other necessary programmatic improvements to enhance pipeline safety nationwide.

The Pipeline Safety Act of 2011 included 42 new requirements. PHMSA continues to tackle these requirements through a comprehensive approach and has made considerable progress by completing 26 of the Act's mandates. While we are pleased to report that we have completed more than half of the mandates, we understand that there is still much more work to be done in protecting people and the environment from pipeline hazards and fulfilling the intent of the Pipeline Safety Act. Recent actions to comply with the Act include:

- In June, PHMSA published proposed rules on incident notification requirements for natural gas and hazardous liquid pipeline operators, cost recovery for design reviews, and the expansion of excess flow valve requirements.
- Earlier this year, we completed the mandate in Section 21 a-b to report to Congress on the regulations for gathering lines, including exemptions and the possible application of existing regulations to unregulated lines. We addressed the mandate in Section 32 by submitting the first of two reports to Congress on the status and results-to-date of our R&D program.
- We also addressed the mandate in Section 19 by offering a maintenance of effort waiver to States for fiscal year 2014.
- We implemented continuing improvements to the facility response program to complete the mandate in Section 6 to maintain operators' most recent oil facility response plans and provide a copy to any requester, excluding sensitive information.

To track our progress in implementing each section, please visit the PHMSA website at <http://phmsa.dot.gov>.

Of the remaining mandates and non-mandated actions, more than 10 will be addressed as part of current rulemaking activities while others are tied to reports that are currently under internal review, or future rulemakings or information collections currently under consideration. PHMSA has also taken numerous other actions using its bully pulpit by conducting public workshops, issuing advisory bulletins, and funding R&D.

PHMSA currently has eight rulemakings in progress, 5 of which will help address open mandates related to the Pipeline Safety Act. Consistent with federal requirements, this year, we issued two final rules – including one which establishes criteria for determining the adequacy of State pipeline excavation damage prevention enforcement programs, and a Federal adjudication process for proceedings against excavators in states with inadequate enforcement programs – addressing two open NTSB recommendations<sup>2</sup>. We expect to issue many of our significant rules, including our Notices of Proposed Rulemaking (NPRMs) for gas transmission and hazardous liquid pipelines by the end of the year<sup>3</sup>. These rulemakings are important priorities for the Department and address several important mandates. We are working as hard and as quickly as possible to address all of stakeholder input we are receiving, publish the needed rules, and satisfy the remaining mandates.

We must implement these mandates nationwide, and some of them are a heavy lift. For the mandates that involve the development of new regulatory requirements, our rulemaking process engages the public to identify concerns and potential solutions, through public meetings, workshops, and the public comment process. Our significant rules undergo interagency review at OMB in accordance with Executive Orders 12866 and 13563. It can take a long time to promulgate rules, but our rulemaking process is careful and methodical. Each step exists to make sure that the rules we publish are effective, efficient, and reflect feedback from all stakeholders and stand up to scrutiny.

We fully acknowledge Our Nation's energy supply and transportation pipeline network are rapidly changing and expanding, posing new opportunities for better oversight. Whether it's through smarter data, more inspectors or funding research for better detection technology, PHMSA is committed to weighing and acting on a range of options for implementing innovative pipeline safety solutions. We are committed to quadrupling our efforts so that Americans can be confident that PHMSA is protecting people and the environment. As we look ahead to the next reauthorization, we are look forward to working with the Committee to ensure that PHMSA is well-poised to adapt to a modern and evolving infrastructure.

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<sup>2</sup> Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations, and Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments

<sup>3</sup> DOT Significant Rulemaking Report, June 2015

## **V. Continuing Commitment to Improving Safety**

The rulemaking process is not the only tool we have to improve pipeline safety. Strong regulations go hand in hand with strong inspection and enforcement programs. PHMSA and the pipeline safety program are undergoing significant growth and change. Our inspection and investigation workforce is at the heart of our pipeline safety program and is charged with overseeing the growing demands of old and new infrastructure. We are doing everything in our power to expeditiously hire and train and develop an estimated 109 full time positions in FY 2015.

We are also committed to using our full enforcement authority. Our enforcement actions go beyond assessing fines and play a critical role in improving a pipeline safety. For example, CAOs, like the one we issued in response to the Santa Barbara spill, allow our agency to require an operator to determine the cause of a failure and the condition of the pipeline involved, and mandate the mitigation of all factors that contributed to the release. This provides a level of assurance (or confidence) that another release will not happen in the pipeline system.

Enforcement actions like CAOs lead to significant safety improvements to the pipeline and represent significant financial costs to operators, beyond the cost of any fines PHMSA could impose for a violation of our regulations. For example, following the Marshall, Michigan spill, PHMSA fined Enbridge \$3.7 million, but the company has separately reported that it spent an additional \$2.5 billion in complying with PHMSA's CAO. Following ExxonMobil's Laurel, Montana incident, PHMSA assessed a \$1 million civil penalty, but ExxonMobil reported an additional \$34 million expenditure in complying with PHMSA's CAO. These CAOs improve the safety of a failed pipeline or system and send a strong signal to industry that failures will not be tolerated.

With the additional resources that we have received, we are rethinking the way we do business – including the workforce skillsets for conducting inspections and investigations. For example, we are adding an auditing function to our workforce skill set to work in tandem with our engineers, who provide the technical expertise, and our transportation specialists, who add the field verification element. Broadening the skillset and making this a team effort will be used to enhance our field presence for more robust inspection and enforcement oversight to ensure compliance with Federal safety requirements covering the transportation of the Nation's energy

products. We are also creating a division focused on pipeline accident investigation. This group will broadly share lessons learned with all stakeholders to help improve safety.

We are in the third year of fully implementing a new inspection protocol for “Integrated Inspections,” where inspections are tailored to the risk profile of a pipeline operator. Our new inspection protocols can be customized to focus resources on risks but are flexible enough to reflect new knowledge gained during an inspection. Inspections now cover multiple facilities and more miles of pipeline; they are performed by a team of engineers and can take several months to complete. As a result, our inspection results are more comprehensive, and may result in fewer, but more expansive, enforcement cases.

We continue to make adjustments to our risk-informed integrated inspection approach and our requirement that integrity management programs ensure operators are adequately identifying and addressing the greatest risks. Under integrity management, operators are required to conduct integrity assessments of gas transmission and hazardous liquid pipeline systems in high consequence areas and apply lessons learned across their entire system. Driven by the lessons learned from the first dozen years of integrity management, failure investigation recommendations, and mandates, we have initiated and are actively considering a variety of improvements to our integrity management regulations and other parts of our oversight process.

We are also working to strengthen State pipeline safety programs and improve oversight nationwide. The States are responsible for inspecting and overseeing approximately 80 percent of the existing infrastructure, and the States employ approximately 63 percent of the inspector workforce. PHMSA trains these State inspectors alongside our Federal inspectors, so it is vitally important that we have a consistent national inspection program and cutting edge training that is aligned with PHMSA’s goals and initiatives.

All inspectors, whether State or Federal, must be familiar with our regulations and technical standards. To that end, our training and qualifications (T&Q) office provides training and technical assistance to both PHMSA and State inspectors. Last year, T&Q students completed over 1,300 courses, 5,400 seminars, and 1,800 computer-based training modules.

Getting new inspectors up to speed is important because, as we’ve seen a significant increase in new gas and liquid pipeline constructions projects, PHMSA has strived to dedicate about 25 percent of its inspection resources each year to construction inspections. From 2006 through 2013, construction of gas and hazardous liquid transmission pipelines increased from



approximately 3,000 - 4,000 miles per year to 3,500-7,500 miles per year. Our priority is to identify and correct issues before failures occur, so it is critical that new pipelines are designed and built correctly, prior to being put into service. During these projects, our inspectors examine all processes, including welding, bending, field coating, testing, and other activities to ensure that the construction is in accordance with our Federal safety regulations. Since 2007, our inspectors have identified and acted on hundreds of construction issues, which operators were required to remediate before the pipeline could be put into service. We have followed up our field observations from inspections with safety advisory bulletins, public workshops, and industry meetings focused on quality control practices. We know that our new inspectors will be key as we strive to keep pace with the growing pipeline infrastructure while maintaining high standards of safety.

Strong pipeline infrastructure policy also requires collaboration between stakeholder groups. PHMSA has many partnerships and outreach programs that educate stakeholders and prevent issues from occurring.

One area where our outreach efforts really make a difference is excavation damage prevention. Last year, 28.3 percent of all distribution incidents were caused by excavation damage<sup>4</sup>. These incidents caused over \$25 million in damages, one fatality, and 15 injuries. The most troubling part of these statistics is that almost all of the incidents could have been prevented with a call to 811, our national Call-Before-You-Dig hotline, which prevents damages to pipelines 99 percent of the time.<sup>5</sup>

We are working hard to raise 811 awareness. Since its inception, PHMSA has continuously supported the efforts of the Common Ground Alliance (CGA), and we also implement 811 outreach activities that align with CGA's recommended approaches such as major league baseball campaigns, radio and web messaging, and outreach to children across the country through a national poster contest.

Additionally, we are also working with States to reduce the unnecessary exemptions to one-call laws. The Pipeline Safety Act directed us to study the impact of exemptions, and we submitted a report to Congress last year. One of the key findings was that States with five or more exemptions had over 100 percent more incidents than States with fewer exemptions. Many

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<sup>4</sup> <https://hip.phmsa.dot.gov/analyticsSOAP/saw.dll?Portalpages>

<sup>5</sup> Common Ground Alliance (CGA) Damage Information Reporting Tool annual report

States are already working to improve and strengthen their damage prevention laws, and PHMSA is working with these states to identify gaps, coordinate with stakeholders, track legislative efforts, and build effective enforcement into their state one-call programs. We believe that damage prevention can have clear results through outreach and strong State partnerships.

As our Nation's pipeline infrastructure grows with the energy industry, our country's population is also growing. More people are now living closer to transmission pipelines than ever before, increasing the risks to larger populations. PHMSA convened and led the Pipelines and Informed Planning Alliance (PIPA) which created recommended practices to help growing communities plan land use and development near existing transmission pipelines.

This January, PHMSA released a primer, in coordination with the Federal Emergency Management Agency (FEMA) that provides guidance for incorporating pipeline hazards into community hazard mitigation plans. We encourage communities to use this primer to make pipeline safety an integral part of many communities' planning efforts—from zoning ordinances to risk-based land use and development decision making.

PHMSA's Strategic Plan seeks to reduce the consequences of failures when they occur. With that in mind, we are also working to improve emergency responder training and outreach. We work with numerous emergency response groups, including the North American Fire Training Directors and the International Association of Fire Chiefs, to improve pipeline emergency response training by advocating for institutionalizing pipeline training on a local and State level and working to create sustainable training programs.

We are also committed to investing in our workforce, technology, and infrastructure. Since 2002, PHMSA has coordinated with the industry to collaborate on more than 230 projects and to invest approximately \$89.9 million of PHMSA funding, plus \$84.81 million worth of resource sharing with various stakeholders. This collaboration has resulted in 25 patented technologies that operators can use to improve pipeline safety.

In 2013, PHMSA launched the Competitive Academic Agreement Program (CAAP), which supports university-level pipeline safety research. The CAAP initiative goes beyond seeking practical solutions; it also introduces young researchers and engineers to consider employment in the field of pipeline safety. To date, the program has awarded over \$1.5 million in multi-year research projects and involves 80 students. Projects from this past year have explored improved pipeline coatings, patches and repairs for through-wall defects, and

monitoring early stages of corrosion. This summer, PHMSA will be expanding the program and awarding up to \$2 million in additional research. We are confident that the CAAP initiative will not only result in new and innovative technological solutions, but also future PHMSA safety initiatives.

Finally, we are working with State pipeline regulatory agencies and pipeline operators to continue to invest in our infrastructure. In 2011, the Department issued a Call to Action to encourage accelerated repair, rehabilitation, and replacement of high risk pipeline infrastructure. Since then, 38 states and the District of Columbia have implemented measures for accelerated infrastructure cost recovery and replacement of aging pipe. Sixteen states have completely eliminated cast or wrought iron in their natural gas distribution systems. While this work isn't finished, this is great progress.

## **VI. Closing**

As you can see, PHMSA is heavily involved in efforts and activities to fulfill all of the important mandates that Congress included in the Pipeline Safety Act. PHMSA will continue to work with Congress to prepare for and remain a step ahead of the Nation's forever changing energy landscape and infrastructure needs.

I'd like to thank you again for inviting me to testify and for your continued support of PHMSA's mission; the new positions that we are now filling will help ensure PHMSA's oversight of our Nation's growing pipeline system. Our pipeline system is vast, but it is vital to our way of life and economic security. To that end, we are committed to a strong oversight program that facilitates the growth and maintenance of an efficient, safe and environmentally friendly pipeline transportation network for energy products.

Safety remains our top priority and 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 enhancing the safety of 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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