



**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

**WRITTEN STATEMENT OF
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U.S. DEPARTMENT OF TRANSPORTATION
A REVIEW OF THE PIPELINE SAFETY, REGULATORY CERTAINTY,
AND JOB CREATION ACT OF 2011**

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.

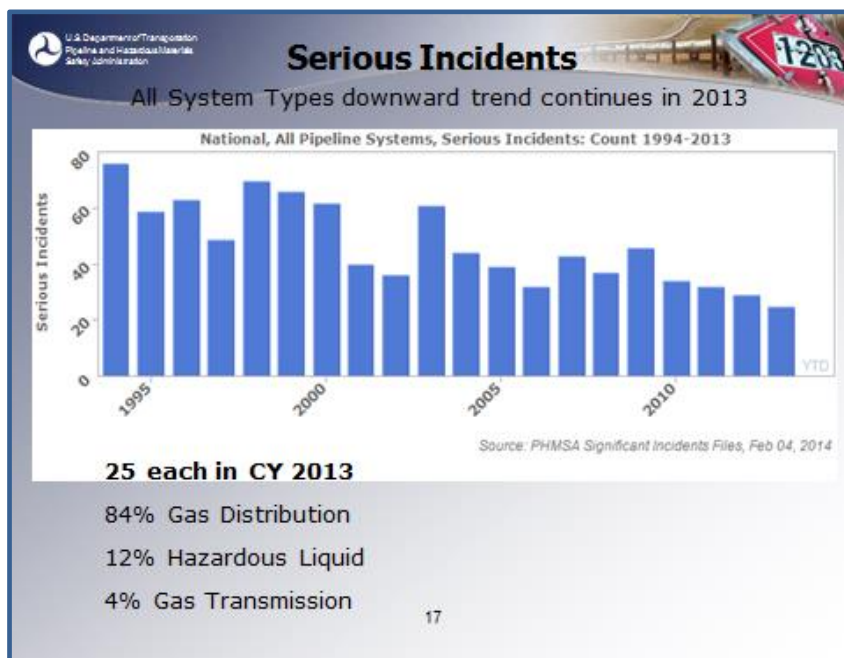
PHMSA is continuing to implement its multi-year Pipeline Safety Reform (PSR) initiative to complete the Act's mandates and enhance our ability to reduce the risk of future pipeline failures. Last month, as part of the President's FY 2015 budget request, we announced that we are seeking additional resources 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 anticipates proposing rules to comprehensively update the natural gas and hazardous liquid transmission pipeline regulations, including our integrity management requirements. 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.

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 an NPRM in the Federal Register 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.

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.

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" seeking information about this subject 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 is expecting to address this mandate in its NPRM for the safety of on-shore hazardous liquid pipelines which 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).

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).

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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