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LEGISLATIVE HEARING TO EXAMINE PIPELINE

SAFETY REAUTHORIZATION

TUESDAY, MARCH 1, 2016

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2123 Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Members present: Representatives Whitfield, Olson, Shimkus, Latta, Harper, McKinley, Griffith, Johnson, Long, Mullin, Hudson, Upton (ex officio), Rush, McNerney, Tonko, Capps, Doyle, Yarmuth, Loeb sack, and Pallone (ex officio).

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Staff present: Gary Andres, Staff Director; Will Batson, Legislative Clerk, E&P, E&E; Leighton Brown, Deputy Press Secretary; Allison Busbee, Policy Coordinator, Energy & Power; Tom Hassenboehler, Chief Counsel, Energy & Power; A.T. Johnston, Senior Policy Advisor; Brandon Mooney, Prof. Staff Member, E&P; Annelise Rickert, Legislative Associate; Chris Sarley, Policy Coordinator, Environment & Economy; Dan Schneider, Press Secretary; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; John Marshall, Minority Policy Coordinator; Alexander Ratner, Minority Policy Analyst; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; and Tuley Wright, Minority Energy and Environment Policy Advisor.

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Mr. Whitfield. Good morning and I would like to call our hearing to order this morning. And I would recognize myself for a 5 minute opening statement.

First of all, I want to thank all of our witnesses today. We have two panels of witnesses and I certainly want to thank Administrator Dominguez for her constructive comments and her commitment to work with our committee.

This morning we are going to be examining a discussion draft of a bill that reauthorizes the Pipeline and Hazardous Materials Safety Administration pipeline safety program. This discussion draft contains targeted mandates for PHMSA to increase transparency and accountability, complete overview regulations, and improve safety.

I might say that working with the Transportation and Infrastructure Committee, the House successfully ushered through the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 on a bipartisan basis. Now it is time to update that law. With today's changing energy landscape and the need to modernize infrastructure greater than ever, we are looking forward to a productive discussion on our draft bill with a goal of reporting to the full House the legislation by this spring for its consideration.

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Our Senate colleagues, I might say, on the Commerce, Science and Transportation Committee reported S.2276 the SAFE PIPES Act on December 9, 2015 and we believe that a strong, bipartisan, bicameral effort will yield a public law we can all be proud of.

I might say that I want to point out the unfinished business from the last reauthorization. The 2011 pipeline safety law included 42 mandates on PHMSA and 16 of them remain incomplete, well beyond the statutorily-imposed deadlines. So our discussion draft will require the Administrator to prioritize overdue regulations ahead of new rulemakings and keep us updated on that progress.

So I really look forward to our discussion this morning. And at this point, I would like to yield the balance of my time to the gentleman from Texas, Mr. Olson.

Mr. Olson. Thank you, Mr. Chairman. I will be very brief. Pipeline safety is bipartisan. I am a pro-energy, pro-growth congressman from the pro-growth, pro-energy City of Houston, Texas. But growth only happens if the people trust us, if we get safety right.

Industry does its best but government must do its part, too. Sensible rules need to be written and effectively enforced. Mistakes cost lives. Inaction costs lives. And that is why I

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would like to thank my friend and chairman for holding this hearing on a draft bill to reauthorize the Pipeline Safety Act. It is an important step forward. This bill includes some critical language on having safety inspectors that my good friend and fellow Texan, Gene Green, and I wrote with another Texas, Brian Babin and Janice Hahan, a Californian, who went to college in Amarillo and Abilene, Texas.

This process for having inspectors at the federal level is slow and difficult. Let us cut the red tape, put inspectors on the ground. Let us get safety right. I yield back.

Mr. Whitfield. The gentleman yields back. This time I recognize the gentleman from Illinois, Mr. Rush, for his 5 minute opening statement.

Mr. Rush. I want to thank you, Mr. Chairman, for holding this important and timely hearing today on pipeline safety reauthorization. I want to also welcome Administrator Dominguez to the subcommittee and thank her for being here.

Unfortunately, Mr. Chairman, it seems that every time we have a hearing on pipeline safety, we do so with a backdrop of either an ongoing spill or in the immediate aftermath of one. Of course, the most recent high-profile incident involved in 2015 the Aliso Canyon natural gas storage field in Los Angeles where it is

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estimated that over 90,000 metric tons of methane escaped into the atmosphere and thousands of families have been impacted.

Other high-profile leaks include the May 2015 crude oil spill from a pipeline operated by Plains All American Pipeline, along the Santa Barbara County coastline. Before that, there was a July 2010 Enbridge spill near Marshall, Michigan. And later, that same year in September, there was also the Pacific Gas and Electric Company natural gas explosion in San Bruno in the suburbs of San Francisco just to name a few.

Mr. Chairman, we all know that pipelines are necessary and we must continue to build them to meet the energy needs of our nation. However, Mr. Chairman, we also know that many of the current pipelines are aging and they must be replaced which may lead to additional problems if we keep kicking the proverbial can down the road.

Mr. Chairman, we must ensure the American public that this subcommittee on jurisdiction is on everything within our authority to ensure that more current and future pipelines are as safe as possible.

In the past, the issue of pipeline safety has been one that we are working on in a bipartisan manner. And it is my hope and my expectation that we will continue to do so in the same tradition

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as we address this important issue in this current Congress.

So again, Mr. Chairman, I applaud you and with that I yield the balance of my time to my wonderful colleague from great State of California, Ms. Capps.

Ms. Capps. Thank you. I thank my ranking member for yielding and thank you Chairman Whitfield and Ranking Member Rush for holding this hearing, Chairman Upton and Ranking Member Pallone, for ensuring we consider pipeline safety in this committee.

Welcome, Administrator Dominguez. Thank you for visiting my district recently.

On May 19th, the Plains Pipeline 901 ruptured in my district, dumping over 120,000 gallons of crude oil along California's Gaviota Coast and into the ocean. This incident not only affected public health and the environment, but also our local economy that is strongly reliant on tourism, as well as the fishing and shrimping industry. While the May spill happened in my community, nearly all of us have miles, hundreds of miles of pipeline running through our districts, allowing for the transport of natural gas and hazardous liquids, like crude oil, across our country.

So today's topic, pipeline safety, is incredibly important

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to each of us. That is why it is critical that our committee come together as it historically has to produce a strong bipartisan pipeline safety bill that builds on the lessons learned and the Plains spill, as well as incidents that have occurred across the country. I am hopeful we can again make this a strong bipartisan effort.

Unfortunately, the draft language as currently written is inadequate in providing the much-needed updates to pipeline safety legislation to ensure the protection of our public health and the environment.

Whether we are discussing the pipeline rupture in my district last May or the Aliso Canyon natural gas storage leak just to the south of my district, these incidents occur all too frequently. And each time a failure occurs, as it recently did in Chairman Upton's and Ranking Member Pallone's and my district, the need to act becomes even more clear. It is critical that we take the steps and the lessons from these incidents and use them to strengthen our pipeline safety infrastructure. For example, the spill in my district highlighted the inadequacies of the in-line inspection process currently used by PHMSA. Even with the shortened inspection interval, the Plains pipeline failed spilling crude across the landscape into the ocean.

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So we have many results of this survey and PHMSA has the authority and the resources to require an appropriate time line for inspections for every single pipeline in our country. We must ensure that the results from these surveys are made available to PHMSA and the public in a timely manner. We must strengthen the high consequence areas designation, something this draft falls short on. And there is room to strengthen these provisions in the draft before us. We must.

We have this opportunity to improve the existing legislative requirements for pipeline safety. I ask that the chairman work closely with all of us to improve this bill. Thank you. And I yield back.

Mr. Whitfield. The gentlelady's time has expired. At this time, I recognize the chairman of the full committee, Mr. Upton, for 5 minutes.

The. Chairman. Thank you, Mr. Chairman. And let me just respond to my friend, Ms. Capps. I look forward to working with you and your staffs and we are continuing to do that.

Pipeline safety is something that I take very seriously. And it has long been a priority for me as well as this committee. Spills, as we know, can be very disastrous and it is imperative that our laws stay up to date and work to minimize potential damage

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as well as try to prevent them from happening in the first place.

In the wake of the serious oil spill that affected the Kalamazoo River, just outside of my district, I worked on a strong bipartisan basis with my friend, John Dingell, in conjunction with our friends on the Transportation Infrastructure Committee to enact the Pipeline Safety Regulatory Certainty and Job Creation Act of 2011. While the legislation's name might be hard to remember, its positive effects are not. This bipartisan bill, law, helps prevent pipeline failures, strengthens safety standards, and holds those responsible for pipeline accidents accountable. We cannot achieve the intended objectives of the Pipeline Safety Act until it has been fully implemented.

The hearing last July revealed that PHMSA has failed to implement many of the mandates required by the law under the Pipeline Safety Act of 2011. Today, over 4 years later after enactment, at least 16 important safety regulations remain overdue. Rulemakings related to leak detection and emergency shutoff valves, public education and awareness, accident and incident notification are among some of the mandates PHMSA has failed to implement which would greatly improve pipeline safety.

The discussion draft before us today, Pipeline Safety Act of 2016, is a starting point in reauthorizing the 2011 law. The

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draft seeks to increase regulatory transparency, speed the completion of overdue safety regs, tighten standards for underground natural gas storage facilities and underwater oil pipelines and reauthorizes PHMSA's pipeline safety programs. Taken together, I believe that the provisions included within the draft will go a long way towards improving pipeline safety, increasing the public confidence in our nation's energy infrastructure.

And as we learned when examining the Kalamazoo spill, we needed to do a lot better job to improve pipeline safety. I think that we have made some progress with this draft and the draft bill is certainly an important step forward.

One of the things that I initiated is a new provision requiring annual inspections that are fully transparent for some deep water crossings of existing pipelines. That is, in fact, Section 12 of the discussion draft would require annual inspections for deep underwater pipelines. A change in the law would mean that lines that cross under the Straits of Mackinac between the Upper and Lower Peninsula of Michigan would be required to be inspected every year, rather than every 5 years and those results made public.

Though I may not be able to stay for the entire hearing this

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morning, I would appreciate your comments, maybe even in your opening statement, as to the support, hopeful support, of that provision as part of this bill.

Feedback provided by our witnesses today will place us on a path towards enacting a bipartisan and meaningful reauthorization bill. I look forward to continuing with working with our colleagues on the Transportation and Infrastructure Committee, as well as our colleagues in the Senate, to get this bill done. And I yield back the balance of my time.

Mr. Whitfield. The gentleman yields back. At this time, I will recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Chairman Whitfield and Ranking Member Rush for holding this hearing on pipeline safety reauthorization and the discussion draft released by the committee last Friday. While I believe the draft could and should be much stronger, it is a good start and includes some important provisions on underground gas storage, pipeline safety, Technical Assistance Grants, and mandamus. The vast network of transmission pipelines in this country are essentially out of sight, out of mind for most Americans. But when something goes wrong, these facilities can make themselves known in devastating

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and sometimes deadly ways. Over the last year, we have witnessed both 100,000 gallon crude oil spill into pristine coastline in Representative Capps' district in California and a massive gas storage facility leak in Los Angeles. The leak forced thousands of people from their homes for long periods of time and released 96,000 metric tons of methane into the atmosphere, the climate-damaging equivalent of burning 900 million gallons of gasoline.

My own district experienced the devastation of a pipeline failure in 1994 when a pipeline exploded in Edison, New Jersey, destroying about 300 homes. Yet, two decades and four reauthorizations later, the Department of Transportation's Pipeline and Hazardous Materials Safety Administration, or PHMSA, has made little progress in my opinion in securing the safety of our nation's pipeline infrastructure.

I hope that will soon change and I welcome the new Administrator Dominguez who I believe understands these concerns. It appears you and Secretary Fox are determined to bring positive change to this agency and I sincerely hope you succeed in your efforts to ensure the safety of our pipeline system. We look forward to helping you in any way that we can.

The discussion draft before us is a modest, but balanced

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starting point for that effort. The draft contains language to address regulation of underground gas storage facilities like Aliso Canyon in California that leaked methane for 5 months until just a week ago. However, I don't believe that it goes far enough and I hope the committee will consider adopting the stronger language of H.R. 4578, authored by Representative Brad Sherman, who represents the residents around this facility and lives in the neighborhood that experienced the most direct adverse effects of the leak.

I am encouraged that this draft includes language authored by Mr. Green that will allow us to finally begin a conversation about the need for PHMSA to have a direct power of authority. It is also critical that we provide the necessary tools including funding so the agency can attract the best and brightest inspectors and safety experts in order to carry out its responsibilities.

We should also give the agency carefully crafted emergency order authority to ensure that PHMSA can address situations and facilities that pose a threat to life, property, and the environment. And we should remove barriers to PHMSA's success, such as the multiple layers of overly prescriptive risk assessment and cost benefit analysis that have hampered the agency's efforts

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to improve safety.

Finally, I am pleased that the draft contains a provision restoring the ability of the public to compel PHMSA to perform its nondiscretionary obligations. This provision is necessary to address an incorrect reading of the 2002 reauthorization by the Ninth Circuit. While I have great respect for the courts, it is clear to me that the Ninth Circuit's reading of the Pipeline Safety Act with regard to mandamus was just plain wrong. The law always contemplated mandamus-type suits to ensure PHMSA does its job. The mandamus language added to the statute in 2002, as part of the whistleblower protection provision, was always intended to be in addition to what was already in the statute not in lieu of the existing language as the court incorrectly stated.

At our hearing last year, we all voiced frustration at PHMSA's inaction on a number of fronts. While I know Administrator Dominguez is trying to change this situation, it is still important for the public to have the ability to access the courts to ensure PHMSA is keeping our pipeline system safe.

And while I believe the discussion draft could be stronger, it is important to know that the last three pipeline safety and reauthorizations were truly bipartisan efforts that moved our nation forward on safety. Our committee has always produced the

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best and strongest pipeline safety legislation and I look forward to continuing to work with Chairman Upton, Chairman Whitfield, Ranking Member Rush, Representative Capps, and colleagues on both sides of the aisle to produce truly meaningful legislation that protects lives, property, and the environment while providing more certainty and reducing unnecessary burdens on industry.

So thank you again, Mr. Chairman. I yield back the balance of my time.

Mr. Whitfield. Mr. Pallone yields back the balance of his time, so that concludes the opening statements.

And I would like to introduce our only witness on Panel 1 this morning and that the Honorable Marie Dominguez, who is the Administrator for the Pipeline and Hazardous Material Safety Administration at the U.S. Department of Transportation. She has had an illustrious career. She was the Assistant Secretary for Civil Works over at the Army Corps of Engineers, as well as other positions. We are delighted that you are here. We look forward to your testimony and the opportunity to ask questions. So you are recognized for 5 minutes, Madam Administrator. And be sure to turn the microphone on, too.

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

Ms. Dominguez. Thank you, sir. Good morning. Chairmen Upton, Whitfield, Ranking Members Pallone and Rush, and members of the subcommittee, thank you for inviting me to testify today on the reauthorization of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's pipeline safety program.

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

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

Addressing the mandates in the Pipeline Safety Act of 2011

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is a priority of PHMSA. The Act included 42 new congressional mandates to advance PHMSA's safety mission and we have completed 26 of those mandates today.

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

We are currently and actually, I just got news this morning, that OMB has completed its review and we are planning on publishing within the next couple of weeks gas transmission, the gas transmission rule which has been outstanding.

Congress has made investments in PHMSA, providing 100 new positions for the pipeline safety program in the last year. And we have filled over 91 percent of these positions.

Moving forward, we must continue to utilize the investments Congress has provided wisely. Over the past 6 months, I have worked to better understand PHMSA's strengths, capability gaps, and areas for improvement. We have undertaken an organizational assessment that evaluated the agency's structure and processes.

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This assessment provided PHMSA's leadership team deeper insight into an organization where safety is a personal value for all of our talented and dedicated employees. And it also highlighted critical investment areas.

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

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

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

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that powers our economy, cultivates innovation, and prioritizes safety.

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

[The prepared statement of Ms. Dominguez follows:]

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Mr. Whitfield. Well, thank you, Administrator Dominguez, and I recognize myself for 5 minutes of questions.

In your opening statement you made reference to the gas transmission regulation. Is that proposed at this point? You all are not getting ready to finalize that.

Ms. Dominguez. It is a Notice of Proposed Rulemaking.

Mr. Whitfield. Okay. And that was one of the --

Ms. Dominguez. That is one of the outstanding mandates.

Mr. Whitfield. And how many outstanding mandates are there right now?

Ms. Dominguez. Right now, there are 16. If we address the gas transmission rule that addresses several different sections of the Pipeline Act of 2011. And as I said, that will be addressed in the coming weeks.

Mr. Whitfield. Right. Well we appreciate that. You came to PHMSA, you had not been involved in PHMSA before. You were appointed to this position, I guess. You took over was it in August?

Ms. Dominguez. I was confirmed in August of last year.

Mr. Whitfield. Yes. If you were speaking to the Rotary Club in rural Kentucky, for example, and you were talking about safety of our national pipelines, how would you characterize it

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to a layman today, our system here in the U.S.?

Ms. Dominguez. Well, having worked at PHMSA, I can tell you that first and foremost the employees of PHMSA are incredibly dedicated to our safety mission. And the safety mission encompasses hazardous materials and pipelines. And I can tell you that that level of dedication extends across the board to every aspect of our rulemaking, our inspection process, and our enforcement regime that we undertake as an agency.

Pipelines is one aspect of that. It is a mode of transportation for hazardous materials that we regulate. We take our mission very seriously and look to make sure that we are continuously working to improve that framework for safety.

Mr. Whitfield. Now I think the pipeline industry safety record is generally improving, but concerns have been expressed about a series of accidents. You think overall we are doing better, right? Or are you concerned about overall -- some of these pipelines are pretty old. Some of the improvements that need to be made have been delayed because of the uncertainty about regulations and so forth. Do you think that the fact that these mandates have not been completed yet, is that contributing in a significant way to increased safety issues in your view or not?

Ms. Dominguez. I think we have opportunity, given the 2011

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requirements to continue to enhance safety. I think in particular the two rules that we have been working on most aggressively in the last 6 months certainly that I have personally engaged on are first the hazardous liquid rule, and second, this gas transmission rule. Both of those were requirements from the 2011 act and are very significant to actually improving the safety of both gas and liquid transmission. And they expand some of the requirements that will certainly enhance safety and we believe lead to greater protections across the board for people and the environment.

Mr. Whitfield. You know, Section 15 of our discussion draft is in parentheses, and it would allow a private individual to file a lawsuit against PHMSA for failure to perform a non-discretionary duty. Have you or has PHMSA taken a position on that particular part of this draft?

Ms. Dominguez. We have had a chance to review the language that was published by the committee. I would be happy to work with the committee moving forward on how to best frame that provision, that particular provision. But obviously, there are provisions for citizens to have the right to sue, whether it is the Federal Government or private entities.

Mr. Whitfield. They can sue you already as a matter of fact.

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Ms. Dominguez. Yes.

Mr. Whitfield. Okay. I will yield back the balance of my time. Thank you very much. I recognize Mr. Rush for 5 minutes.

Mr. Rush. I want to thank you, Mr. Chairman.

Administrator Dominguez, last week we had a very informative and inspirational meeting in my office. We briefly discussed the process for hiring talent for PHMSA. The challenges that PHMSA faced when competing against the private sector, and I think that some of your insights need to be shared with the members of this subcommittee regarding some of the challenges and some of the possible remedies to help the agency attract top candidates to help you accomplish and achieve your mission.

And in your comments, would you include your thoughts about Mr. Green's proposed -- his proposal and whether or not this speaks towards the issue? Give us some insight into your challenges?

Ms. Dominguez. Thank you, sir. I believe you are referring to the ability for PHMSA to do direct hire. And the committee is certainly taking that up in their draft legislation. And I very much appreciate it.

The Congress has been incredibly generous in providing funds to PHMSA. Over the last year alone we were provided 122 new positions to the agency. One hundred nine of those positions went

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directly to the pipeline safety program. And we have been working diligently to try and fill those as quickly as possible. We are at about a 91 percent fill rate right now. But I will tell you that it is difficult to compete against the private sector in particular. Everyone is going after great talent in this country and the provision that has been provided on direct hire authority would greatly assist us regardless of what the market is in making sure that we can bring on folks in a timely way. And the federal process is such that direct hire authority would definitely assist us in making sure that we are able to access the folks with the talent and skills to work in these critical jobs.

Mr. Rush. And so let me move on to another matter. What role should Congress play in helping to address the issue of replacing the nation's aging pipeline infrastructure? As you know, at one point during the negotiations of the larger energy bill last year, this subcommittee discussed the idea of creating a grant program to help mitigate the cost of replacing these aging pipelines for low-income families. Unfortunately, that program was scrapped.

What do you believe is the proper role that Congress should play in this debate? Should the role of Congress be one of providing for national support, offering guidance, lessening

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minimal safety standards or something else entirely?

Ms. Dominguez. I believe that the role of the Congress is to make sure that we provide the most stringent opportunity for safety in the pipeline area. And so the TAG grants that you are referring to, the Technical Assistance Grants that the states have offered are truly valuable investments to local communities. And they have helped educate communities on safety pipeline issues. They have helped emergency responders across the board. And PHMSA, I believe, has employed some very good internal controls on how we actually use those programs we have reviewed and our processes are such that how we award them and how they are actually administered is a good way forward. So we appreciated the provisions that were provided and they have clearly done good work in communities.

Mr. Rush. I want to thank you, Mr. Chairman. I yield back.

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes the chairman, Mr. Upton -- oh, where is Mr. Upton?

Mr. Olson, you are recognized for 5 minutes.

Mr. Olson. I thank the chair. Welcome, Administrator Dominguez. I would like to talk about staff at PHMSA, where are we now, where you would like to go, and how can DHA help? A lot

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of questions from Ranking Member Rush.

In your testimony, you mentioned that direct hire authority would cut hiring time from 100 days to 30 days, a 70 percent reduction by the math. As I mentioned in my opening statement, Gene Green and I have a bipartisan bill to give PHMSA, you, DHA authority for a few years as you work through the new regulations.

Obviously, hiring only matters if you get those inspectors in the field. Would you please talk about how PHMSA is improving training for inspectors?

Ms. Dominguez. Thank you for the question. We have, as I noted, we have been aggressively hiring and the opportunity right now, we have been able to fill about 91 percent of our positions. That said, as we bring people on board, we have a very rigorous training program that we have rehabbed and literally put in place. It is a boot camp of sorts, not only just for our new inspectors, but the states are also doing a lot of hiring as well. And the state inspectors are also participating in this training. It is being conducted at our Training and Qualifications Center in Oklahoma City, Oklahoma. We just hired a new director over the course of the last 6 months. He comes with a great deal of experience in this field. And as inspectors are deployed, they will have some of the latest and greatest tools at their dispense

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to use.

Mr. Olson. Thank you, ma'am. About Section 2 and Section 3 of the discussion draft. They require PHMSA to keep Congress and the public informed of the status of overdue rules and tackle them before beginning new rulemakings. Do you agree that this is a sensible and achievable requirement and any concerns about pressure points where you might feel some pressure to comply with these ideas, these new policies?

Ms. Dominguez. As I noted in my opening statement, the prioritization of the 2011 mandates is a very serious -- it is something we take extremely seriously at PHMSA and completing those mandates is truly a priority. That said, there is always emerging risk that needs to be addressed. And so I appreciate the opportunity to work with the Congress to complete the mandates, but we also need to be in a position to address any emerging risk as it does appear.

Mr. Olson. So it sounds like the 2011 mandates are pressure points. Any other pressure points you are concerned about going forward with keeping Congress and the public informed, more personnel, just whatever? I mean how can we make sure you do your job and the people back home know that this is safe?

Ms. Dominguez. Well, I thank you for the investment that

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has been made by the Congress thus far. We are going to continue to make sure that we are using those resources wisely. Part of what we are doing is making sure that we are structuring the agency for that level of success as well. And some of the investment is to actually make sure that we are creating opportunities inside the agency to be more forward looking, proactive, data-driven, and improve our economic analysis and data analysis so that our rulemaking is as strong as it possibly can be and meet the requirements.

Mr. Olson. And one final question. This is on Section 6 of the discussion draft that requires PHMSA to conduct timely post-inspection briefings with operators of pipelines. If there is a safety hazard, the operator needs to know so they can fix it immediately. Would PHMSA have an issue complying with this section going forward to any issues with PHMSA?

Ms. Dominguez. I am terribly sorry, sir. Can you repeat the question, please?

Mr. Olson. Yes, ma'am. Section 6 of the discussion draft requires PHMSA to conduct timely post-inspection briefings of the operators of pipelines. If there is a safety hazard that the operator needs to know so they can fix it immediately, how does that knowledge get to the operator? That is what I am saying.

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Can you take that mandate? Can you roll with that or do you need more help or something because these people need to have that information if they don't have it.

Ms. Dominguez. So we take our inspection process very seriously. And one of the things that is presently part of our requirement for all inspectors is to make sure that they conduct an exit interview in a timely way. Right now, it is a 30-day window for inspectors to complete their exit interview process. Moving forward, oftentimes it does take more time to develop any sort of enforcement requirements, whether that be a notice of proposed violation or other compliance measures that might be needed. So it is a very thoughtful process taking in all the data, assessing it, making sure. But I do appreciate the need to communicate with the operator and we continue to do that.

So I will say that meeting that 30-day window of our initial findings is something that we are looking to do more consistently across the board, but it is a requirement right now within PHMSA. And then moving forward, as we develop those recommendations and any kind of violation orders anything else, we do take those very seriously and they are a very thoughtful process.

Mr. Olson. Thank you very much. I am out of time. I yield back.

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Mr. Whitfield. The gentleman yields back. At this time, I recognize the gentleman from -- I was going to say New Jersey, but I will say California, Mr. McNerney, for 5 minutes.

Mr. McNerney. I thank the chairman. We are a long way from New Jersey. But we have had three high-profile failures in California over the last several years, so my first question, Administrator Dominguez, is do you feel that the states should have the option of requiring measures like shut-off valves, pressure monitors, testing of down-hole devices, if the federal regulators fail to do so?

Ms. Dominguez. Thank you for the question. The way the process works right now and what Congress has mandated is that the Pipeline and Hazardous Materials Safety Administration, PHMSA, sets the minimum federal requirements across the board for all the states. The states are then allowed to go above and beyond those requirements and any given state can choose to do so regardless of what the requirement is.

Mr. McNerney. So your requirements should be seen as floors, not ceilings?

Ms. Dominguez. Correct.

Mr. McNerney. Thank you. Will the draft legislation help PHMSA prevent these and other failures, so the legislation that

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we are talking about, or are there holes in the legislation that you think need to be filled in?

Ms. Dominguez. Our requirements look to create what we believe to be the safety measure that needs to be put in place. And again, if states choose to do more and put in place more stringent requirements they are able to do so.

Mr. McNerney. Well, I mean the current legislation we are talking about today --

Ms. Dominguez. Yes.

Mr. McNerney. Are there things that you think should be added or subtracted from that that you would like to discuss?

Ms. Dominguez. We have put forward a series of principles that I think address any additional requirements. We are looking in particular at other ways that we can enhance our enforcement capabilities.

Mr. McNerney. So you don't want to advise us here today?

Ms. Dominguez. The one thing that will say that is in my testimony is to look for additional opportunities to level emergency order authority, an ability that other federal agencies have and actually our hazardous material program has which is also under PHMSA's authority.

Mr. McNerney. Thank you. Let us talk about smart pigs



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versus direct assessment. My understanding is that if smart pigs could have been used in one of the high-profile failures in California, it would have prevented that, but they weren't able to be used because the pipelines were so old. Is that a common problem that smart pigs can't be used throughout the country because of aging pipelines?

Ms. Dominguez. We do have an aging infrastructure system in this country and one of the things that we have looked to address across the board is really encouraging. We have done a call to action over the course of the last 5 years in encouraging states. About 37 states have actually addressed this by looking to incent and providing opportunities to replace aging pipes around the country. That said, there is still more work to be done and how to pay for that is a difficult proposition.

We are working directly with states and the industry to continue to encourage that replacement of pipe and as you look at different opportunities on the inspection process, regardless of the tool that you use, you need to make sure that you use the right tool to address the pipe that you are actually trying to assess so that it not only protects the integrity of the pipe, but you actually get the analysis that you are looking for.

Mr. McNerney. Is there any technology on the horizon that

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will improve that capability?

Ms. Dominguez. We are constantly looking to invest in research and development. It is a big part of our program, R&D, to look to identify emerging technologies. The research that PHMSA has done today is to identify 26 new technologies including sonar-related pigging capabilities. So it is a good investment.

Mr. McNerney. Well, let us talk about substandard steel. Is this is an on-going problem or has that been resolved and new pipelines that go into use are up to standard steel?

Ms. Dominguez. I believe that PHMSA has addressed substandard steel in a variety of advisory bulletins and other things for the operators that have substandard steel to replace it.

Mr. McNerney. Do you believe that the industry consensus standards often reflect the best practices or do they reflect something a little less capable than the best practices?

Ms. Dominguez. Consensus standards are a very good way to actually identify opportunities to work together both with states, the Federal Government, and the operators, to develop a set of requirements that the industry can then apply, both by executive order and by congressional action. Adoption of consensus standards is a way forward in lieu of rulemaking. That

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said, rulemaking in and of itself provides a very strong basis for actually implementing the safety measures.

Mr. McNerney. Thank you, Mr. Chairman. I have other questions, but I have run out of time.

Mr. Whitfield. Yes, you have. Thank you. At this time, I will recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. Latta. Thank you, Mr. Chairman, and Administrator. thanks very much for being here today.

The recently proposed rulemaking addresses hazardous liquid pipeline shows some incremental progress to address safety. However, there are overdue regulations and I think you said that of the 42 you have addressed 26 and we have 16 to go. But when you are looking at some of these overdue regulations relating to leak detection and emergency shutoff valves, integrity management of natural gas pipelines, public education and awareness efforts, and accident and incident notification, do you know when we can expect some of these rules to be published?

Ms. Dominguez. Well, thank you for the question. We have addressed two major rulemakings, well, four in the last 6 months. But we are looking at -- we published a Notice of Proposed Rulemaking for hazardous liquids last October. It was a Notice of Proposed Rulemaking that went out. We are working to finalize

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that rule right now. We collected comments. Our advisory committee met and we are working to finalize that rule. We hope to have it out this year.

As I noted, we have received confirmation that the Office of Management and Budget has completed its review of our gas transmission line as of this morning and we will be looking to publish that as a Notice of Proposed Rulemaking over the course of the next couple of weeks. That will be available publicly and then we will work to complete that rule as well.

Mr. Latta. Okay, so that time line you say is going to be in the next, what, 3 weeks on the last one you said?

Ms. Dominguez. On gas transmission?

Mr. Latta. Right.

Ms. Dominguez. As soon as we are able to, we will publish it, so hopefully some time, no later than the next 2 weeks.

Mr. Latta. So just in the meantime though will PHMSA also commit to sharing a time line or the schedule for that completion then? So you are going to have that out? Is that correct?

Ms. Dominguez. Is that a question for the --

Mr. Latta. I beg your pardon?

Ms. Dominguez. I am sorry, can you repeat the question?

Mr. Latta. That you will commit to sharing that time line,

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if it is 3 weeks for the one, but for the others, will you commit to a time line in getting that out?

Ms. Dominguez. Yes. And actually, we do publish on our website the status of all of the requirements that are available and we update it regularly.

Mr. Latta. Thank you. And what, if anything, has PHMSA done since creating the 811 Dial Before You Dig program to incorporate new technologies or best practices to improve communication between the stakeholders for receipt of an excavation notification until the successful completion of the excavation as recommended by PHMSA's nine elements of effective damage prevention programs?

Ms. Dominguez. Damage prevention is one of the leading causes of serious death and injury related to -- it is one of the leading causes of pipeline incidents. And so we have invested an enormous amount of time and energy and resources to making sure that we are not only partnering with the states and the operators, but we are also working with common ground alliance to make sure that there is awareness across the board of these risks and making sure there are one-call centers available in states.

There are some states that have not adopted one-call provisions. We are working with them right now. 811, it is

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proven the metrics are there, that if you actually call before you dig the risk is almost eliminated of excavation damage. So there is huge value in making sure that those excavation rules are abided by and adopted.

Mr. Latta. Thank you. And finally, with my last minute here, how do pipeline operators use the in-line inspection or so-called smart pig technology to find problems in their pipelines?

And then also, how accurate is the smart pig technology of finding cracks and other potential issues with the pipeline?

Ms. Dominguez. So as part of our requirements, we look to make sure that the integrity of any particular pipeline is assessed and we put that onus on the operators to actually assess their own pipelines. And we set the requirements for what they need to look at, how they need to look at it, etcetera, and interpret that data. And then we go and inspect to make sure that they are actually complying with the requirements that we put forward.

The in-line inspection tools that are available are constantly advancing. And as we look to advance that technology, we will have more data that is available to actually understand the exact operation of any given pipeline, assess it, and make

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sure that the operator is actually doing what they need to do to improve and enhance safety.

Mr. Latta. Thank you. And Mr. Chairman, it looks like my time has expired. I yield back.

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes the gentlelady from California, Ms. Capps, for 5 minutes.

Ms. Capps. Thank you, Mr. Chairman. And thank you again, Administrator Dominguez, and your team for visiting the Gaviota Coast in my district and for appearing here today.

As you may know, I sent a letter to your office yesterday with many of the questions that continue to arise in the aftermath of the Plains oil spill and I ask unanimous consent to enter that letter into the records here which I have done.

[The information follows:]

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Ms. Capps. But today, I will try to narrow my questioning to a few of the still-pressing issues as the central coast of California recovers from the Plains spill with the goal that the answers will help make the legislation before us today as strong as possible

As I said, the safety of our nation's pipeline infrastructure is critically important to protect public health and the environment and our local economies. I have several questions for you and so the briefer you can be in replying today, but longer answers could be submitted if you wish.

You mentioned in your testimony, Administrator, that PHMSA is working to tailor inspection requirements to the risk profile of the pipeline operator. In the preliminary findings regarding the Plains spill last May, past in-line inspection surveys used to assess the condition of the pipeline showed an increasing number of anomalies between surveys. All the while, Plains opted to decrease the inspection intervals between surveys voluntarily. Does PHMSA currently have the authority to mandate increased frequency of inspections for individual pipelines?

And other than the prescribed frequency for pipelines within the high-consequence areas, are there any established triggers that impact required frequency? For example, would a history of

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increasing anomalies discovered during sequential inspections, as was the case with this pipeline, would this automatically trigger a requirement for more frequent inspections? I am sorry, that is a mouthful.

Ms. Dominguez. We do have the authority necessary to look at the requirements for frequency of assessing any pipeline. And that is what we do. What we need to look at in particular with the Plains accident is to understand and we are looking at this as part of our final investigative report. As you know, first and foremost, thank you again for the opportunity to be in Santa Barbara with you and release our preliminary factual report --

Ms. Capps. Right.

Ms. Dominguez. -- which identified a number of these issues and the facts surrounding the Plains case. That said, we are still conducting the investigation. As a result of that, if there is additional corrective actions that need to be taken, including anything having to do with an inspection capability, we will certainly look at that as part of our recommendation.

Ms. Capps. Okay, I hope this will be something that the proposed emergency order that you described would be used for, but I am going to turn now to the second question that I have.

The draft legislation would mandate that all response plans

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include procedures and a list of resources for responding to worst-case scenarios. Here is my question. How frequently are pipeline operators required to update response plans? Are operators required to provide interim confirmation that a plan is up to date between reviews? And how does PHMSA ensure that plans are up to date? Again, that is a lot to ask.

Ms. Dominguez. Thank you for the question. We review facility response plans for completeness and accuracy. If anything changes, the operator needs to send it back to us. We look at it again. We want to make sure that the operator has actually considered all the risks and resources that are available in accordance with our federal regulations. If they are not complete, we send them back to the operator and they must update them. And that is the procedure that we presently use with Facility Response Plans.

Ms. Capps. Thank you. I have one final question which again I am running short of time, but given the tremendous damage that can be done to coastal areas, wherever they are, Great Lakes, the East Coast, West Coast, are these coastal areas that act as the transition from the land to the ocean which is what happened on our Gaviota coastline, the pipeline ran along the inland and found a culvert and ended up despoiling the ocean beneath it.

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Would it make sense to also increase the frequency of inspections to include these high-consequence areas?

Can you tell me how many pipelines or is there a way to get that on the record? How many pipelines actually exist in these coastal areas?

Ms. Dominguez. I would have to get back to you for the record on the mileage with regard to pipelines along a coastal area. But I will tell you that our rulemaking is such that for hazardous liquids, we look to make sure that any area that we are providing the safest requirements possible for hazardous liquids and our gas transmission rule that we are looking at right now, we are looking to expand the definition of a high-consequence area. So we will also expand that coverage as part of the gas transmission rule.

Ms. Capps. I yield back.

Mr. Whitfield. The gentlelady yields back. At this time I recognize the gentleman from West Virginia, Mr. McKinley for 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman.

Ms. Dominguez, since the law was passed in 2011, 5 years ago, everything I have read has indicated that the rate of accidents, ruptures, leaks, explosions, has not decreased. Do you have

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something to the contrary over the last 5 years of whether we are making progress?

Ms. Dominguez. I believe that safety is a process of continuous --

Mr. McKinley. Can you speak a little closer? I am very hard of hearing.

Ms. Dominguez. Sure. I believe that safety is a process of continuous improvement. So as we have transitioned in this country to a very robust energy environment, it has been a very dynamic energy environment certainly the last decade, we are looking to make sure that all of our safety requirements are as --

Mr. McKinley. I know that. I understand. It is why you got this job, apparently. You didn't have a lot of background in hazardous material, but you did have a good background in communicative and political skills. So I am just trying to ask a direct question.

Everything I have read is that the rate of accidents are not decreasing and in many respects actually increasing since pipeline safety went into effect. So I know your mission. You want to achieve that, but from what we have read -- that is why

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I was asking you. Do you have evidence that ever since the pipeline safety that it has been an effective tool that you have actually been able to reduce it? Because coming from where we are in eastern Ohio, western Pennsylvania and all of West Virginia, we have a rush of pipelines, and as I said last year to your predecessor, virtually every month there is an accident, a flame, some rupture, some leak, something happening that we weren't experiencing before. So I am trying to find a way to get some sense of confidence for the American public that our pipeline program is worth the investment and the time to do that.

So again, let me try it again with you. Do you have evidence that our pipeline accident rates are decreasing or stay status quo?

Ms. Dominguez. I would say that you should have every confidence that not only is PHMSA robustly addressing our mission on pipeline safety, that we have a level of dedication to make sure that that actually takes place and that the accidents that we are looking at we are learning from and making sure that we have -- whether it is Santa Barbara --

Mr. McKinley. You don't have -- can you get back to me then? I am sorry if I am putting you on the spot. You are trying to play politics. I don't want to play. I just wanted some facts. Are

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we increasing or decreasing? I would appreciate that.

The other is the lack of not having completed -- I think last year we had 16 or 17 weren't completed and then your statement you said 16 aren't completed. I am missing something. Why aren't they finished? If there was a law passed, is this part of the administration to say we are just not going to do it? We are not going to enforce the law?

Ms. Dominguez. So in the last 6 months, we have moved forward on four and now five of the requirements from the 2011 Act. So we are moving as aggressively as we possibly can. It has been a priority for the agency to address these 2011 mandates and I can tell you that our focus is very laser like on making sure that these requirements are met.

That said, the rulemaking process is one that is intended to be thoughtful and methodical and it takes time. So I am not using that as --

Mr. McKinley. Well, you had 5 years to do that. I would think if you were industry, I think you probably would have been fined by now. If you were an industry and violated the law. So I will be curious to see what the consequences are in finishing. I think your answer earlier was you were going to get back to us with some of the answers or what the deadline might be, your time

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line in getting those. I would sure like to see that as well.

But the bottom line here is we have so much pipeline being constructed in West Virginia for the Marcellus and the Utica, that if we took a poll right now I am afraid a lot of the residents would turn on the pipeline because they see so many problems associated with it. So I am trying to get the confidence. If we are going to be energy independent and we are going to be able to tap into this for our energy sources in the future, they have got to have confidence that -- with that farmer, if there is going to be a 42-inch pipeline across his field, that he doesn't have to worry about it. And right now, I don't think the American public has confidence in government now as giving us that assurance. So I really hope that you can finish your work that you were charged to do 5 years ago and get this thing at a point we can see a marked decrease in the amount of accidents across this country.

Ms. Dominguez. Thank you. And I will tell you that not only are we working diligently to complete the mandate that Congress has provided, but we are also looking to enhance our safety performance by employing safety management systems which will raise the bar not only for PHMSA, but more importantly for the industries that we regulate to make sure that we are identifying

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and addressing all of the emerging risk, analyzing data, and truly informing that risk model moving forward. So safety management systems are really that next level of improvement on safety. And that is something that I am personally committed to, the agency is personally committed to, and I know we are working aggressively with all involved to get there.

Mr. McKinley. My time has expired.

Mr. Whitfield. The gentleman's time has expired. At this time I will recognize the gentleman from Pennsylvania, Mr. Doyle, for 5 minutes.

Mr. Doyle. Thank you, Mr. Chairman, and I would like to thank you for holding this hearing today and to thank our witnesses for testifying.

I am glad we are considering this important reauthorization legislation and I think the discussion draft under consideration represents a good first step in the process.

Administrator Dominguez, I am concerned that PHMSA is still far from completing mandates instituted under the Pipeline Safety Act of 2011. Overdue regulations include those related to leak detection and emergency shutoff valves, as well as public education and awareness efforts.

What are the biggest challenges facing you right now in



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getting these completed?

Ms. Dominguez. We have been working through a very diligent and thoughtful rulemaking process and we have completed two, I think, of the most significant although they are all significant requirements in the last 6 months alone. The first one was on the hazardous liquid rule which was published in October of last year.

The one that I was addressing today which OMB has announced that they have completed their review and will be looking, we, PHMSA, will be looking to publish that over the course of the next 2 weeks is on gas transmission. It is a very comprehensive rule addressing a number of areas with regard to integrity management of gas transmission and really looking at strengthening both hazardous liquid and gas transmission rules.

Mr. Doyle. So what assistance can our committee provide to ensure that this is done as quickly and responsibly as possible? How can we be of assistance to you in that regard?

Ms. Dominguez. Well, I appreciate that Congress has invested in PHMSA. We have received, as I mentioned, 109 new positions. Most of those positions have gone to the field. Those are inspectors. We are training them and getting them up to speed as quickly as possible. And we are also using the

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remaining funds to strengthen our capabilities. As I mentioned, one of the things that we are engaged in is organizing the agency itself to be more data driven, more innovative, more predictive. And one of the things we are doing is looking at enhancing our data and analytics capabilities which will, in turn, help us in our rulemaking by collecting data and informing our regulations in a more productive way moving forward.

Mr. Doyle. I want to also ask you about emergency order authority and authority other administrators enjoy. Can you describe in greater detail potential events that could justify the use of such authority and how having such an authority would be beneficial in those circumstances?

Ms. Dominguez. Thank you for the question. You are correct. Even within PHMSA's own program, we are responsible for both hazardous materials and pipeline operation, pipeline safety. And emergency order authority, we have it on our hazardous materials program side. We are seeking it on the pipeline safety side.

An example of where we might use it would be -- there was -- there have been in the past defective fittings for pipelines that have been found. If we were able to have emergency order authority we would be able to ask that directly that operators

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address those defective fittings. Pre-1970s pipe and anything that was low-grade seal that needed to be addressed, that has in the past been found to be a problem. That is the type of work that we would do, something that would need to be addressed on a national basis. That would be the circumstance for an emergency authority.

Mr. Doyle. Thank you. I am also interested in LNG exports and certainly share your support for strong safety standards in this area. Are there particular areas within this subject that you think require additional direction from our committee or the administration?

Ms. Dominguez. We have been working to actually look to see. The LNG market has really transformed in this country over the course of the last 10 years alone. As you know, the United States has gone from importing LNG to now being a major exporter. I was just down in Louisiana a few weeks ago at the Cheniere facility which is now online and exporting LNG on a global basis.

So as we move forward, we have got a very changing energy market and a very changing dynamic. And we have the authority to actually establish and enforce the safety standards for onshore LNG facilities, so while we look at other methods of transporting LNG, that is something that PHMSA is aggressively looking at right

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now, making sure that we are keeping pace with innovation and technology for other forms of transportation of LNG.

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

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. Johnson. Well, thank you very much, Mr. Chairman. And thank you, Administrator Dominguez, for joining us today.

Section 11 requires that PHMSA issue new regulations for underground natural gas storage facilities. And the recent incident at an underground natural gas storage facility in California certainly highlights the importance of this requirement. So does PHMSA support this provision in Section 11?

Ms. Dominguez. I don't have the exact language in front of me. But I believe that --

Mr. Johnson. But you know that it requires you guys to issue regulations. So do you support that?

Ms. Dominguez. I will tell you that we have the authority right now to regulate the underground storage of natural gas. And we are working on -- we do not presently have in place regulations that would address anything below the surface. So that would be something that we would work on.

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Mr. Johnson. Do you think it is important for states to retain a cooperative role in overseeing these facilities?

Ms. Dominguez. We have been working cooperatively with the states for many years.

Mr. Johnson. No, but do you think it is important that they retain that, that cooperative relationship?

Ms. Dominguez. Absolutely. I think that what we need to do is work cooperatively across the board. While PHMSA sets the minimum federal standards, the states are always able to exceed those standards and should they want to put in place more additional requirements, they would be able to do so.

Mr. Johnson. Section 16 of the discussion draft would reauthorize PHMSA's pipeline safety and grant programs and later today, we will hear from the states who would like to see an increase in state grants. The states do the bulk of the inspection work and the pipeline statute allows them to be reimbursed up to 80 percent by the Federal Government. Did the states receive the full 80 percent reimbursement in 2014?

Ms. Dominguez. PHMSA, I will first and foremost tell you that we very much value our partnership with the states. And as you have stated, part of the money, a good portion of the monies that Congress provides us, we in turn grant to the states for their

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work --

Mr. Johnson. We know. That is what I just said. So my question to you is did they receive the full 80 percent reimbursement in 2014?

Ms. Dominguez. The way that the process is done is --

Mr. Johnson. Did they receive it? That is a simple question. Did they receive it?

Ms. Dominguez. The auditing is that so long as they provide the records, we reimburse them for the requirement --

Mr. Johnson. That is history. That is part of your records. Did they receive the full 80 percent?

Ms. Dominguez. I will have to go back to look and check the actual --

Mr. Johnson. Well, I can tell you the answer, but would you get it and get it back to this committee, please?

Ms. Dominguez. I would be happy to.

Mr. Johnson. The answer is no, they did not. It was only 75 percent and can you give us any idea why they did not?

Ms. Dominguez. Again, as part of our process what we look for is confirmation of -- we sent out a series of requirements for the states. They have to then provide their expenditures and then we reimburse them.

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Mr. Johnson. Would PHMSA support a relative increase in funds for state grants? You have acknowledged that the states do the bulk of the work, would you support an increase, a relative increase in those funds for state grants?

Ms. Dominguez. I think the balance that we have right now, we are always looking to enhance safety, if that was a measure. The balance that we have now between the state and federal relationship is a good balance and if there were more funds available for PHMSA to help execute its state grant program, we would be happy to consider that.

Mr. Johnson. I would think that balance would be improved if the states got the full reimbursement for their 80 percent though. Would you agree with that?

Ms. Dominguez. Again, I want to be clear. Because part of the measure here is that there is transparency in the expenditures and so while it may be 80 percent or 75 percent reimbursement, I will check and get back to you for the record. That is something that is actually reviewed very seriously as we reimburse states for their expenditures.

Mr. Johnson. Okay, all right. Very quickly, PHMSA, as you know, I believe, should encourage performance based risk management regulations whenever possible because this data-drive

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approach to safety offers the greatest flexibility allowing pipeline operators to adapt their programs and plans to provide an adequate margin of safety.

So it has been reported that some rules under consideration by PHMSA are unable to pass the cost benefit analysis. If this is the case, why is PHMSA having difficulty incorporating cost into a risk-based regulation?

Ms. Dominguez. PHMSA's pipeline safety program, in order to regulate, we have a requirement that Congress provided that we actually -- our benefits have to exceed our costs. So our rulemakings contain that requirement across the board.

Mr. Johnson. Okay, Mr. Chairman. I yield back.

Mr. Whitfield. The chair now recognizes Mr. Loeb sack of Iowa for 5 minutes.

Mr. Loeb sack. Thank you, Mr. Chair. Thank you for being here, Administrator Dominguez, and taking the time to testify. This has been a pretty enlightening hearing for me. We have 99 counties in Iowa and we have got pipelines everywhere just like everyone up here and safety, obviously, is the biggest concern.

As I read your testimony and as I hear your responses and what folks are saying here as well, and again, I am just sort of trying to learn what you folks do exactly, what your oversight

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role is and all the rest.

Correct me if I am wrong, but it seems that a lot of what you do is kind of after the fact, after pipelines have been put in the ground, after they have been built. Is that the case?

Ms. Dominguez. Actually, we have a great deal of responsibility on the front end.

Mr. Loeb sack. Can you talk about that a little bit?

Ms. Dominguez. Sure.

Mr. Loeb sack. Because that is really what I am more interested in than anything.

Ms. Dominguez. So part of our requirements for pipeline safety include requirements around new construction for pipeline. So our requirements look at making sure that operators fully evaluate any newly-constructed pipelines that go in to check on any issues that could affect a pipe's ability to operate safely once it is actually in operation. So our inspectors go out. They look at welding. They look at any kind of coating. And especially for new construction, I can tell you that we have applied about 20 to 25 percent of our resources in inspections to actually go out and look at new pipe that is being --

Mr. Loeb sack. If I can ask, I mean again, that is kind of after the fact, right? That is once the pipes are already there.

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What about, for example, when states are considering new pipelines? What kind of a role do you folks play in that whole process? A utilities board, for example, is looking at putting the possibility of putting a new pipeline in, might run across the state, might be part of the state. What role do you play at that point in that process, if any?

Ms. Dominguez. PHMSA is not directly responsible for any of the siting issues that occur, so if it is an intrastate pipeline, the state would take that. If it is an interstate gas pipeline, FERC would take that responsibility. That said, we always work in close coordination and we have been working with the State of Iowa, as you have looked to educate, talk about the safety issues around pipelines. We have tried to work very cooperatively. I think we have done some good work with the State of Iowa as you look to expand your pipeline network.

Mr. Loeb sack. Who determines what the -- sort of the integrity of these pipelines before a utilities board, for example, actually makes a decision as to whether the pipeline is going to be cited or not? Are those federal guidelines? Are those state guidelines? What are those guidelines, for example?

Ms. Dominguez. The actual integrity of the pipeline and its operations is something that PHMSA takes on directly.

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Mr. Loeb sack. And so the State of Iowa, for example, would know what those specifics are when that pipeline before it goes into the ground, what those specifics ought to be. Is that correct?

Ms. Dominguez. The requirements for an operation of a pipeline and new construction criteria are standards that PHMSA sets.

Mr. Loeb sack. Right, and the integrity of the pipeline itself, if you will. Ms. Dominguez. Yes, we monitor the integrity of the pipeline itself. We put the onus of that operation through our integrity assessment requirements and integrity management practices that we have. We put that burden directly on the pipeline operator. The pipeline operator then has to collect data and we go about inspecting that and then if there is any anomalies or anything that we find, we take enforcement action against that.

Mr. Loeb sack. But all that information is known to a utilities board prior to their making a decision as to whether they are going to site a pipeline or not?

Ms. Dominguez. We provide a lot of educational material to NARUC and a number of the public utilities commissions around the country.

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Mr. Loeb sack. Will the proposed legislation here have any effect whatsoever on that -- on those particulars and on that process?

Ms. Dominguez. I would have to look at the legislation and respond back to you. I am not familiar with the particular section of the proposed legislation.

Mr. Loeb sack. I just want to make sure that not only the utilities board in any particular state, but the public who are involved in the process have all that information as well because there are public hearings, as you know, whenever there is a siting.

Ms. Dominguez. We have a great deal of material. PHMSA has a great deal of material on our website that talks about all of the many aspects that we actually cover with regard to new construction of pipeline, assessment, and enforcement actions.

Mr. Loeb sack. Thank you. Thank you very much. Thank you, Mr. Chair. I yield back.

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes the gentleman from Oklahoma, Mr. Mullin, for 5 minutes.

Mr. Mullin. Thank you, Mr. Chairman, and thank you for holding this meeting.

Ma'am, we do appreciate you being here. I know you are

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fairly new and you are trying to get your head wrapped around it. And I commend you for what you are trying to do. Unfortunately, what we have seen as PHMSA has got a lot of concerns from Congress right now and the way that you are spending money and the grant programs that they are going to. And so that is one of the questions I have.

To the Technical Assistance Grants program run by your agency, it seems to be a tremendous help providing additional training and education on training pipeline safety issues. Unfortunately, I am increasingly concerned that some of these taxpayer dollars are being awarded to groups that publicly oppose new pipeline infrastructure which was not the intent of Congress. With Congress looking to reauthorize the program, can you assure us that you will provide the oversight necessary to ensure these grants are being executed as Congress intended?

Ms. Dominguez. The Technical Assistance Grants that we have provided to states, I believe are valuable programs for education for emergency responders as well as the communities around the country. PHMSA indeed has very strong internal controls, to answer your question, about how these grant applications are not only reviewed, but also how they are awarded and administered. And so that would continue moving forward.

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Mr. Mullin. Specifically, directing though the issue, how are these grants getting into the hands of people that are opposing it? If it is supposed to go for training, how is it going to people that oppose the pipelines? That has nothing to do with training. That has to do with people that are environmentalists, that they don't want the infrastructure built to begin with and they are spending money to oppose the pipelines to begin with. It has already been happening, so how can you assure us it is not going to continue to happen? The oversight, what steps has your agency taken since you have been at the helm since August?

Ms. Dominguez. So as move forward on Technical Assistance Grants, we would look to make sure that indeed all of those requirements, whether it is review --

Mr. Mullin. What are those requirements?

Ms. Dominguez. There is a series of requirements that each applicant has to meet before --

Mr. Mullin. Specifically, do you know what those requirements are?

Ms. Dominguez. I don't have them with me, but I would be happy to provide them to you.

Mr. Mullin. Are those the same ones that have been in place? Or have they been changed since you been there?

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Ms. Dominguez. They are the same that have been in place  
--

Mr. Mullin. So no changes have been made to assure these programs can be made. What we are trying to here, ma'am, is we want to make sure that the tax dollars are being used for their intended purpose. And if there has been no changes made, we already know that these technical grants that went to organizations that don't support pipelines period, they oppose them. These are for training to provide safety for those that are installing the pipelines and maintaining the pipelines, not for opposition groups. So if you haven't made any changes to it, then you can't assure us that it is not going to continue to be spent in the wrong way.

Ms. Dominguez. I would be happy to look and do an assessment of the recipients of the Technical Assistance Grants to see where some of the actual recipients, what they have done with the money, but I can tell you that we do that as part of an annual process and review of our grants in general.

Mr. Mullin. But even by saying that you did it annually, there has been no changes. So does that happen annually then? Have you not done it since you have been there?

Ms. Dominguez. Not since I have been there, but we are

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coming up on a review of the programs right now, so I will certainly take a look at it.

Mr. Mullin. Could you please do me a favor? When you do look at it, could you get back to either this committee or to my office and let us know what changes are going to be made? Because I can tell you that if it is going to continue the way that it is going, then there is no way I am going to be able to support reauthorization.

Our number one goal is to have the intent of what Congress had for it to be -- for the tax dollars to be spent that way. And when we have opposing groups that are provided with grants that are supposed to be for safety and technical training and they are using it to oppose the projects to begin with, it seems like that is a waste of taxpayer dollars. Would you agree?

Ms. Dominguez. I am not aware of a direct instance where a group has come into those dollars, federal dollars, but I will certainly look --

Mr. Mullin. We will be happy to provide you with a list of those that have received those grants.

Now to switch real quick to my last question, I want to talk about states. What is the relationship between the states and PHMSA right now as far as with pipeline safety and training and

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working with the states and not against the states?

Ms. Dominguez. I think we have a very good working relationship with the states across the board. PHMSA is the federal regulator. The states often across the board have authority and through a certification process with PHMSA to conduct inspections within their respective states. We work cooperatively on that entire process. It is one where we are constantly exchanging information.

One of the things that we are looking to do in this reauthorization is make sure that the inspection data that the states are collecting is something that we can collect at a federal level as well, to make sure that the data analysis is as robust as it can be in identify risk and that is through our information sharing system.

Mr. Mullin. Thank you and I went over my time. Thank you, Mr. Chairman, for yielding more time to me. Thank you.

Mr. Whitfield. The gentleman yields back his time. The chair recognizes the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. Tonko. Thank you, Mr. Chair. And Administrator Dominguez, welcome. Thank you for your leadership.

As you may know, my district which is in the Capital District

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region in Upstate New York, has become a hub for energy transportation in recent years, seeing a tremendous boom in crude by rail shipments.

Can you provide an update on the crude by rail spill response plan rulemaking?

Ms. Dominguez. Thank you for the question, sir. We are moving that rulemaking very quickly. As you know, the Congress passed the FAST Act. It made some changes to some of the provisions. We have updated the rulemaking to reflect those changes that the Congress passed in the FAST Act and we have moved that forward through the Department, the rulemaking, and are working with our colleagues at OMB for a review of that rule right now.

Mr. Tonko. Thank you. And I know you cannot comment on the specifics of that package, but can you explain just what was under consideration, what is under consideration?

Ms. Dominguez. For the oil spill response?

Mr. Tonko. Yes.

Ms. Dominguez. We are looking at the provisions that were outlined by the Congress and some of the requirements under the FAST Act to make sure that all of those provisions are addressed.

Mr. Tonko. Right. And you mentioned the FAST Act and the

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fact that you had to incorporate that into your actions. Are there new requirements or time lines that you need to take under consideration, other time lines?

Ms. Dominguez. There are. There are new requirements for retrofit schedules and other things with regard to tank car top fittings and other aspects of the redesign that we have now taken into account based on the FAST Act.

Mr. Tonko. Let me just state that I believe that it is critical for the public and the emergency responders' safety that they have all the information, the resources, and equipment in place to respond to an incident quickly and effectively. And spill plans are an important part of that effort.

I am encouraged that you are moving forward. I hope that it is done expeditiously so that we can finish the rule and provide those elements to the individuals and groups that I just mentioned.

But to bring this back to pipeline safety, the National Academy of Sciences had a recent study that raised issues with PHMSA's review of spill response plans. Does PHMSA review, do their review plans based on completeness? Do they base it on completeness or is the adequacy of those plans also taken under consideration?

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Ms. Dominguez. PHMSA actually looks very directly at facility response plans for completeness and accuracy to ensure that the operators considered all of the risk and the resources in accordance with our federal regulations.

Mr. Tonko. Does PHMSA make recommendations about those plans that it feels are inadequate?

Ms. Dominguez. Yes, we do. We comment directly on them. We send them back to the operators if they are not complete and require them to address any inconsistencies or any failings that we find in the response plan. They are obligated to then update them and resubmit them for review before we approve them.

Mr. Tonko. And just how does that work in a functional way? Do they respond to those concerns about inadequacy?

Ms. Dominguez. They do. It is an iterative process.

Mr. Tonko. I didn't hear what you said.

Ms. Dominguez. It is an iterative process.

Mr. Tonko. Okay.

Ms. Dominguez. Where they are constantly being updated.

Mr. Tonko. Thank you very much. And is PHMSA's decision not to regularly conduct two-stage reviews, one for completeness, one for adequacy for spill plans an issue of lack of agency resources or is it a lack of legal authority?

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Ms. Dominguez. As I stated, we do look for both completeness and accuracy for facility response plans.

Mr. Tonko. Okay, and has PHMSA made any progress in instituting the NTSB's recommendations on this issue?

Ms. Dominguez. We have been working -- I believe that our requirements now meet the NTSB requirements, but I will check and make sure and respond directly to you.

Mr. Tonko. Okay. And with an issue of resources, is there an adequate amount of resources to provide for an expeditious response to these efforts that come before the PHMSA group or are there areas of resource activity that could be strengthening your response?

Ms. Dominguez. We worked very diligently over the course of the last couple of years to make sure that all of the facility response plans that PHMSA reviews are up to date and complete. And we have put an enormous amount of resources in that process to make sure that that has occurred. Moving forward, if there are additional areas for investment, we will be sure to circle back with you. Thank you.

Mr. Tonko. I would appreciate that. And with that, Mr. Chair, I yield back.

Mr. Whitfield. The gentleman yields back. This time the

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chair recognizes the gentleman from North Carolina, Mr. Hudson, for 5 minutes.

Mr. Hudson. Thank you, Mr. Chairman. And thank you for being here with us today. I want to follow up on the line of questioning from my colleague, Mr. Mullin, talking about -- and I was pleased to hear you talk about the importance of the cooperation with states, but my question is if states are so vital to PHMSA's pipeline safety program, why did PHMSA announce that it intended to rescind existing state-interstate agreements and disallow additional states to become interstate agents?

Ms. Dominguez. So I appreciate your question. One of the things that we have continued to work on is exactly how we would continue to make sure that not only are we working as cooperatively as possible, I had a chance, actually, one of the meetings that I did was go and meet with the National Association of State Pipeline Representatives. These are the folks in every single state that represents the state inspection process and are our partners across the board. And that group is a very dedicated group of professionals looking to undertake pipeline safety at a very, very local level and we greatly appreciate our partnership with them.

That said, we want to make sure that everything that we look

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at, that we use the money that Congress has given us to make sure that if there is a state that has been in trouble, that we are using the dollars to make sure that we are investing in that state to help rehabilitate them. The last thing we want to do is look to decertify a state for their state program.

So any monies that are given to us for investment in a state would literally be used to help rehabilitate a state and make sure that we are not in a position of revoking their authority. That would be the last measure that we would look to take. Rather, we would look to invest in them and help them strengthen their program first and foremost.

Mr. Hudson. So this announcement of the intention of rescinding existing state-interstate agreements is only focused on states where there is a problem? Is that what you are saying?

Ms. Dominguez. I am not aware of an announcement that PHMSA has made with regard to decertifying states. We would, again, our first action would be to work directly with the states and look to make sure that we enhance their capability to perform their program.

Mr. Hudson. Okay, well, let me switch gears and talk about gathering lines for a second. Section 21 of the 2011 law directed PHMSA to review and report to Congress on existing federal and

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state regulations for all gathering lines. With this report which was submitted for than a year late, PHMSA stated that it is considering the need to propose additional regulations to ensure the safety of natural gas and hazardous liquid gathering lines.

Is PHMSA reviewing the need to propose changes to existing exemptions from federal regulation for gathering lines? If so, when will this review conclude?

Ms. Dominguez. We are in the process of looking at that right now. Part of the work that we have done with our gas transmission rule includes gathering lines. And so as we look to publish the requirements in a Notice of Proposed Rulemaking for our gas transmission rule, it will include gathering lines.

Mr. Hudson. Okay. And when do you expect that to conclude?

Ms. Dominguez. We received noticed this morning that OMB is concluding their review and we hope to publish the Notice of Proposed Rulemaking for gas transmission sometime in the next 2 weeks.

Mr. Hudson. Thank you. Switching gears one more time here before I run out of time, the issue of Maximum Allowable Operating Pressure. Section 23 of the 2011 law directed PHMSA to require each pipeline owner or operator to verify that the records

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accurately reflect the physical and operational characteristics of the pipeline and to confirm the established Maximum Allowable Operating Pressure of the pipelines. Inadequate records for older pipelines have been a long-standing concern. The statutory deadline was July 3, 2013. When can we expect PHMSA to finalize the regulation addressing this issue?

Ms. Dominguez. For Maximum Allowable Operating Pressure, a good portion of that is covered in the two regulations that I mentioned earlier, hazardous liquid rule and our gas transmission rule. So the hazardous liquid rule is covered, a portion of that. But the gas transmission rule also covers how we would best address that for gas.

Mr. Hudson. So that addresses the issue with the older pipelines where we had insufficient records?

Ms. Dominguez. Correct.

Mr. Hudson. Okay. Thank you for that. I am about out of time, Mr. Chairman. I yield back.

Mr. Whitfield. The gentleman yields back. This time the chair recognizes the gentleman from Missouri, Mr. Long, for 5 minutes.

Mr. Long. Thank you, Mr. Chairman. Mr. Doyle kind of hit on this question earlier, but your agency still needs to fulfill

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16 of the 42 mandates from the 2011 Pipeline Safety Act. And in your testimony you mentioned that ten mandates will be addressed as part of the current rulemaking activities, but the remaining six are tied to reports and information collections. Why are several of these still in the early information collection phase?

Ms. Dominguez. We are working through those. Right now, we have literally -- several of these reports are tied to some of the rulemakings that we are doing. So as we publish the rules, we will be publishing some of the reports. Moving forward, we are still doing some information collection. Technology is advancing and we still have opportunity to collect some more data to inform our reports moving forward and that is what we are focused on.

Mr. Long. So tell me again the technology is advancing and that is slowing down the -- I mean technology is advancing all the time.

Ms. Dominguez. It is. So we are still working on information collection on several of those. I am happy to give you the details about exactly the specifics that you are looking at, but I think that the two remaining information collection opportunities we have under way and I can give you a report. It is also on our website. But I will be happy to give you a direct

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update on it.

Mr. Long. Okay, because what I am kind of looking for is how we can speed up that process and get the information.

So production of liquefied -- excuse me, I didn't know I had a frog in my throat before I started this. Production of liquefied natural gas has increased significantly, as you know, in the last few years. How has your agency kept up with the LNG boom and have you been able to effectively update codes and design standards to keep up with this boom?

Ms. Dominguez. So we have been looking very directly at LNG. It is something that, as you noted, has really changed the landscape of the United States. And one of the things that we are looking at is how would update our regulations to make sure that we are keeping pace with the technology as it moves forward.

We are updating our regs right now to provide for certainty in the design in the construction and the operation of small scale liquefaction facilities moving forward.

Mr. Long. How effectively do you work with FERC as a coordinating agency for sitting and reviewing LNG facilities?

Ms. Dominguez. We have a good working relationship with FERC and they are directly responsible for a number of the siting requirements, in particular, for large scale LNG facilities.

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Mr. Long. In your testimony, you mention the important role states play in inspecting and enforcing both federal and state regulations. How closely do you work with these states in developing those regulations?

Ms. Dominguez. We work very closely with the states. The Pipeline and Hazardous Materials Safety Administration is directly responsible for setting the federal standards and in turn, states then adopt those standards and are able to go above and beyond our requirements. And as the states directly carry out through a certification process with PHMSA, some of the inspection requirements, we work hand-in-glove with them, not only to make sure that their state inspectors come to our training facility, can take advantage of our -- and we help provide funds to make sure that they are able to come and get trained on the requirements. But then we also work very directly with them in the execution of their state programs.

Mr. Long. Of the what?

Ms. Dominguez. Their state programs.

Mr. Long. Okay, so setting safety standards, things of that nature?

Ms. Dominguez. Correct.

Mr. Long. Okay, thank you. Mr. Chairman, I yield back.

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Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes Mr. Griffith of Virginia for 5 minutes.

Mr. Griffith. Thank you very much, Mr. Chairman. I do appreciate you being here today. I apologize. We had a meeting related to the coal industry and black lung. We had a round table with Chairman Bobby Scott and another committee was hosting and I have a district that has produced a lot of coal over the years, and so that was an important issue as well.

Now along those lines, we have a lot of pipelines being built now because of what I would see as the EPA's war on coal and the shutdown of like half of the industry in the last couple of years. The EPA is moving to regulate emissions of methane in the oil and gas industry by requiring oil and gas processing and transmission facilities to find and repair methane leaks. This was part of a speech given last week by the EPA director, administrator.

PHMSA has already proposed a leak detection rule and has worked with the industry to reduce leaks. In fact, I think overall, methane emissions are down about 13 percent in the last couple of years through various things that you all are doing. I have concerns about the EPA imposing new regulations on pipeline operations that PHMSA already regulates.

Has PHMSA provided any advice or guidance to the EPA in the

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development of their strategies and their proposals? Has EPA solicited any advice from you all? And does PHMSA foresee working with the EPA in the development of yet new regulations in this arena?

Because time is short, if you could answer all of that quick, I would appreciate it.

Ms. Dominguez. I think that one of the issues that we need to continuously look at in this country is the issuing of aging infrastructure writ large. And one of the by-products of aging infrastructure is leaks, particularly in natural gas pipelines.

So as we look to invest in replacement of old pipe, that helps reduce methane emissions, but also across the board helps with that larger goal. We always look to partner with our federal --

Mr. Griffith. Yes, ma'am.

Ms. Dominguez. Across the board, so would be happy to continue to do that.

Mr. Griffith. Well, it appears that you all have been doing a fairly good job, so I hope they don't come in and start changing a lot of things. I would also have to note that according to Ms. McCarthy, the administrator of the EPA, methane is upwards to 25 times more potent than carbon dioxide, so I am a little concerned about that because they have been working so hard to eliminate

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coal, the fossil fuel that is used in this country of which we have an abundant supply. I wonder if this is just the opening salvo in a new war on natural gas?

That being said though, we do have a lot of natural gas pipelines being built. The Mountain Valley Pipeline is coming through my district. I am very pleased to see that you all participated in the scoping hearings related to the Mountain Valley Pipeline. And so I guess I have to ask what role do you all play in advising or assisting either the pipeline companies or FERC prior to FERC approval of a new gas pipeline?

Ms. Dominguez. Thank you for the question. We are truly in an advisory and a support role, both to the states and to FERC during the siting process. So if there are questions about safety, we often partner with FERC or the states to make sure that if citizens have questions during public meetings, etcetera, we talk through what our requirements are for design, construction, etcetera, of new pipeline.

Mr. Griffith. I appreciate that. In mountainous crossings and my district has got a lot of mountains in it, what are PHMSA's top concerns and where do you see the greatest difficulty ensuring the long-term structural safety of pipelines when they are crossing over and through mountains?

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Ms. Dominguez. I would tell you that our requirements are fairly robust in the new construction criteria. And so regardless of terrain, there are requirements that look at the geology of any particular area and that those requirements are met as new pipe is constructed.

Mr. Griffith. And are there other areas that you believe that PHMSA and FERC could collaborate to a greater extent to ensure the safety concerns that a lot of my constituents are raising and can you get in early in that process as well?

Ms. Dominguez. We, I believe, have been working. I had a chance to meet with the chairman of FERC, Norman Bay, and we have been working very collaboratively at a very local level to make sure that we are addressing citizens' concerns. And PHMSA's role in all of that is to again articulate what our safety mission is and how the actual operation of a pipeline would work once it is in the ground.

Mr. Griffith. Thank you so much. Appreciate it. And Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back and that concludes the questions, except I have one other question before I let you go. Frequently, we see charts of reportable incidents on pipeline safety and it seems to be going up. What is the actual

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definition of an incident or a significant incident at PHMSA?

Ms. Dominguez. I don't have the actual definition, if it is published, ready at hand, but I will tell you that any time there is an impact on people or the environment that impacts the work that we do as a result of the operation of a pipeline. So

--

Mr. Whitfield. I mean so if a pipeline leaks any amount, is that an incident that must be reported?

Ms. Dominguez. I will be happy to clarify for the record exactly what the requirement is for reporting on an actual incident.

Mr. Whitfield. Okay. I would appreciate that because I think that is important for us to know.

Madam Administrator, thank you very much for taking the time to be with us today. We appreciate your testimony and look forward to working with you as we move forward and that concludes the questions for you.

So at this time I would like to call up the second panel of witnesses. On the second panel of witnesses we have five panelists. And rather than introduce all of them right now, I am just going to introduce them one time and that is when I recognize them for their testimony.

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Our first witness this morning is Mr. Norman Saari who is the Commissioner for the Michigan Public Service Commission. And he is testifying on behalf of the National Association of Regulatory Commissioners. So Mr. Saari, thanks very much for joining us and you are recognized for 5 minutes.

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STATEMENTS OF NORMAN J. SAARI, COMMISSIONER, MICHIGAN PUBLIC SERVICE COMMISSION (ON BEHALF OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS); RON BRADLEY, VICE PRESIDENT OF GAS OPERATIONS, PECO ENERGY (ON BEHALF OF THE AMERICAN GAS ASSOCIATION); ANDREW BLACK, PRESIDENT AND CEO, ASSOCIATION OF OIL PIPE LINES; DONALD SANTA, PRESIDENT AND CEO, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; AND CARL WEIMER, EXECUTIVE DIRECTOR, PIPELINE SAFETY TRUST

STATEMENT OF NORMAN J. SAARI

Mr. Saari. Chairman, ranking member, committee members, thank you for the opportunity to appear today. I want to personally thank you for the invitation to share some thoughts and the commitment from a state regulator's perspective of the importance of safe and efficient --

Mr. Whitfield. Be sure to just turn that microphone on.

Mr. Saari. I beg your pardon, sir. I want to thank you for the opportunity to be here today. When Henry Ford rolled his first car off the assembly line in 1913, it may have traveled on roadway that already had natural gas pipeline buried beneath it. That Ford Model T is likely now in a museum, but there may be some of the city's original gas pipeline still intact and still in use.

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That car was probably taken out of service because of its reliability and safety. We have a responsibility to make sure that the pipeline meets up-to-date reliability in current safety standards or it, too, must be taken out of service or replaced.

The Michigan Public Service Commission joins with regulators nationwide to work on programs that ensure safe operations of the existing natural gas infrastructure on new projects with a top priority of protecting public health and safety in an environmentally-conscious manner. We join and collaborate with the Pipeline and Hazardous Materials Safety Administration, PHMSA, the U.S. Department of Transportation, FERC, and other federal agencies to coordinate these programs between federal interstate pipeline jurisdiction and state intrastate regulation.

As I have highlighted in my submitted testimony, states rely upon a working partnership with PHMSA to develop and coordinate pipeline safety programs. This mutual effort requires sufficient federal funding needed to achieve the excellence we seek to administer one-call programs, complete timely inspections of new and existing natural gas lines, monitor and regulate gas storage facilities, and promote public education and awareness.

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The Michigan Commission works with its local companies to regulate programs for gas main construction and replacement and gas storage field operations and safety upgrades, while finding the proper balance of what its rate payers can afford to pay.

Meeting the completion targets of replacement over 7,000 miles in Michigan of natural gas mains will require expenditures over the next decade in the hundreds of millions of dollars. Other states have similar financial challenges. Staying on track and on target to meet these goals will require increased financial support from PHMSA to the states.

Current law says that the states may be reimbursed up to 80 percent by the Federal Government. During the 4 years prior to 2014, states averaged only 73 percent reimbursement and needed to request suspensions to merely achieve that level of reimbursement. In 2014, the latest year money was reimbursed to the states, the base grant was about \$42.2 million for gas and hazardous liquids. The state spent about \$56.4 million on these pipeline safety programs. This meant states as a whole were reimbursed approximately 75 percent of what they spent.

In order to keep state programs where they currently are, we would respectfully request an authorization for appropriation and appropriation for the fiscal year 2016 of no less than \$49.5

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million for state base grants increasing by no less than 4 percent each fiscal year thereafter. We need to be fully authorized and funded to carry out our mission.

We all benefit from a sharing of information on best work practices, best regulatory approach, and best use of resources to meet these goals.

Thank you for the opportunity to tell you that Michigan joins with NARUC and all other state regulators to work collaboratively with government and various stakeholder groups to achieve a world class pipeline safety program. Thank you, sir.

[The prepared statement of Mr. Saari follows:]

\*\*\*\*\*INSERT\*\*\*\*\*

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Mr. Whitfield. Mr. Saari, thank you very much.

Our next witness is Mr. Ron Bradley who is vice president of Gas Operations at PECO Energy. And you are testifying on behalf of the American Gas Association. Welcome, and you are recognized for 5 minutes, Mr. Bradley.

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STATEMENT OF RON BRADLEY

Mr. Bradley. Good morning, Chairman Whitfield and members of the committee. My name is Ron Bradley, and I serve as vice president of Gas Operations at PECO, which safely provides reliable electric and natural gas service to approximately two million customers in southeastern Pennsylvania.

PECO is part of the Exelon family of companies. Exelon is the nation's largest competitive energy provider serving more than eight million electric and natural gas customers in Illinois, Maryland, and Pennsylvania. Today, I am testifying on behalf of the American Gas Association which represents more than 200 local distribution companies, also known as LDCs.

AGA members' companies operate 2.5 million miles of underground pipeline safely delivering clean, affordable natural gas to more than 71 million customers. LDCs provide the last critical link in the energy delivery chain connecting interstate pipelines directly to homes and businesses. Our focus every day is ensuring that we keep the gas flowing safely and reliably.

As part of an agreement with the Federal Government, most states assume primary responsibility for the safety and regulation of LDCs, as well as intrastate transmission pipelines.

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Many states adopt standards that exceed federal requirements. Additionally, our companies are in close contact with state pipeline safety inspectors which permit a greater number of inspections to occur than is required by federal law.

In addition to a culture of compliance, LDCs embrace the culture of proactive, collaborative engagement. Each company employs trained safety professionals, provides safety training, conducts rigorous system inspections, testing, maintenance and repair, and replacement programs, and educates the public on natural gas safety. AGA's commitment to enhancing safety adopted in 2011 provides a summary of these commitments beyond federal regulation.

The commitment to enhancing safety has been modified several times to address new issues that have been identified and was recently modified to include actions to improve the safety of underground storage operations. The AGA 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 spent approximately \$22 billion on safety. Approximately half of that on our voluntary actions. This number continues to escalate as work commences on newly

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approved accelerated pipeline replacement programs.

Now turning to a review of the legislation. The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 and the Pipeline Safety, Regulatory Creation and Job Creation Act of 2011 created new programs to improve the safety of the industry. AGA member companies have implemented aspects of these programs either voluntarily or through DOT regulation. However, many of these programs are in their infancy in terms of implementation, and we encourage Congress to allow these programs to develop and mature in order to realize their full impact.

In the case of the unanimously passed 2011 Act, several regulations have yet to be promulgated or finalized. The progress that is being made is very important that the focus be on finishing the outstanding work. We commend the committee for emphasizing this in its initial draft. Layering new laws and regulation on to companies before existing regulations have been finalized and provided time to succeed creates uncertainty that undermines our shared safety goals.

While we appreciate the committee's efforts to put forward a bipartisan bill, we are supportive of most of the text. We are very concerned that Section 15 of the draft bill would allow a person to bring a civil action in a District Court of the United

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States for injunction against PHMSA for failure to perform any nondiscretionary duty, even if PHMSA was engaged in enforcing its mandatory obligations under the law. This would have a deleterious effect of undermining and thus weakening the federal regulatory oversight this committee seeks to enhance and could cause market uncertainty.

Moreover, to the extent that PHMSA would have to dedicate resources and time to litigation or complying with a court order, it could significantly diminish the agency's ability to work on other congressional priorities, thus negatively impacting pipeline safety.

The creation of such a legal remedy could be used by individuals, however well intentioned, in a way that would be counter to the best interests of the nation, individual states, industry, and ultimately consumers while not necessarily enhancing safety. Thus, we respectfully urge the removal of Section 15 of the bill. The industry is already experiencing significant uncertainty regarding PHMSA's implementation of outstanding mandates in the 2011 bill.

Regarding replacement of cast iron mains, a focus of the 2011 pipeline safety reauthorization. The quantity of these mains continues to steadily decline. As of today, overall cast iron

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mains makes up less than two percent of total mileage. Natural gas utilities are working with legislators and regulators to accelerate the replacement of these pipelines. To date, 39 states and the District of Columbia have adopted specific rate mechanisms that facilitate accelerated replacement of pipelines that are primary candidates for system enhancement.

In addition to what I have highlighted, 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 that you have.

[The prepared statement of Mr. Bradley follows:]

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Mr. Whitfield. Thank you, Mr. Bradley. Our next witness is Mr. Andrew Black. I am delighted to have you back at the Energy and Commerce Committee, Andy. He is president and CEO of the Association of Oil Pipelines and also, my understanding, testifying on behalf of API. So you are recognized for 5 minutes.

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STATEMENT OF ANDREW BLACK

Mr. Black. Thank you, chairman, ranking member. The Association of Oil Pipelines who deliver crude oil, refined products like gasoline, diesel fuel, and jet fuel and natural gas liquids such as propane. As the chairman indicated, I am also testifying on behalf of the American Petroleum Institute.

Our U.S. pipelines safely deliver more than 16.2 billion barrels of crude oil and energy products a year. Pipelines play a critical role in delivering energy to American workers and families. Americans use the energy our pipelines deliver in their cars and trucks to commute to work or drive on the job, provide rural heating and crop drying and support good paying manufacturing jobs. The average barrel of crude oil or petroleum products reaches its destination safely, by pipeline, greater than 99.999 percent of the time.

Addressing Mr. McKinley's question earlier, according to PHMSA data, significant liquids pipeline incidents that could affect high-consequence areas are down 8 percent over the last 5 years. Significant incidents per mile that are over 50 barrels in size are down 19 percent over the last 5 years. But even with these positive pipeline safety performance numbers, the member

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companies of AOPL and API are constantly working to improve pipeline safety further.

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

This year, we turn to implementation of these safety recommendations industry wide. A prime example is our effort to encourage and assist implementation of API Recommended Practice 1173 for pipeline safety management systems. Recommended by the NTSB and developed in conjunction with PHMSA and state pipeline regulators, this tool is helping pipeline operators comprehensively manage all the safety efforts underway across the company. The aviation, nuclear power, and chemical manufacturing industries have benefitted from safety management systems. Now more pipeline operators are benefitting, too.

This year, pipeline operators will also complete expansion of industry wide recommended practice on river crossings, develop a new one for construction quality management, and update industry-wide recommendations for pipeline integrity program management. This last safety improvement action brings us to

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last summer's pipeline release near Refugio, California. We echoed Transportation Secretary Foxx calling the preliminary instant report from PHMSA "an important step forward that will help us learn what went wrong so that everyone involved can take action and ensure that it does not happen again.@ Our members are committed doing just that.

PHMSA's preliminary factual findings could be described as the what of the incident. We expect PHMSA's final report later this year will contain root cause analysis and recommendations describing the still unknown how and why this incident occurred. At a minimum, we know there is opportunity for further industry-wide discussion and perhaps guidance for those operators that use the specific type of pipe involved in that incident, insulated pipe transporting heated crude. As part of our update of this industry wide integrity management guidance, we will ensure learnings from industry-wide review and PHMSA incident report recommendations are reviewed and incorporated where appropriate. The effort should be finished later this year, far more expeditiously than could occur through an agency notice and comment rulemaking process.

Turning to the next reauthorization, there is still much left for PHMSA to do from the 2011 law. PHMSA is working to finalize

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a broad liquids pipeline rulemaking as the administrator said, and may propose a rulemaking on valves soon.

We commend Congress for its recent oversight in PHMSA which has resulted in the administration issuing several rulemaking proposals and promising additional proposals and we encourage your on-going oversight. Pipeline operators have not stood by and instead have advanced safety initiatives on inspection technology, cracking, data integration, safety management, leak detection, and emergency response. With the numerous recent industry initiatives addressing current pipeline safety topics, and additional PHMSA regulatory actions still to come, we encourage Congress to reauthorize the pipeline safety program soon without adding significant new provisions.

Upon a brief review of the committee's discussion draft, AOPL and API would find it difficult to support the draft with the inclusion of Section 15. Private mandamus civil actions to compel agencies to perform certain duties have earned the moniker "sue and settle" because of their abuse at agencies such as EPA. A Chamber of Commerce report identified 60 cases of "sue and settle" lawsuits from 2009 to 2012 resulting in 100 new EPA regulations costing from tens of millions to billions of dollars each. "Sue and settle" circumvents public participation,

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dilutes congressional oversight, bypasses standard administration review and analysis, and it limits agency transparency.

In January, the House expressed its concern with "sue and settle" abuse by passing H.R. 712, reforming these processes in legislation that sadly appears unlikely to become public law. We urge that Section 15 be removed from the draft.

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

[The prepared statement of Mr. Black follows:]

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Mr. Whitfield. Thank you, Mr. Black. Our next witness is Mr. Donald Santa who is president and CEO of the Interstate Natural Gas Association of America.

Welcome back, Mr. Santa, and you are recognized for 5 minutes.

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STATEMENT OF DONALD SANTA

Mr. Santa. Good morning and thank you, Chairman Whitfield, Ranking Member Rush, and members of the subcommittee. My name is Donald Santa, and I am president and CEO of the Interstate Natural Gas Association of America, or INGAA. INGAA represents interstate natural gas transmission pipeline operators in the U.S. and Canada. The pipeline systems operated by INGAA's 24 member companies are analogous to the interstate highway system, transporting natural gas across state and regional boundaries.

INGAA testified before this subcommittee last July regarding pipeline safety and reauthorization of the Pipeline Safety Act. In that testimony, I outlined INGAA's safety commitments, undertaken in 2011, and the most recent amendments to the law that specifically affect natural gas transmission safety programs. I direct my testimony today to the specifics of the draft reauthorization bill now before the subcommittee.

INGAA has consistently advocated three goals in connection with the pending reauthorization of the Pipeline Safety Act. These goals are first, establish authorized funding levels for the pipeline safety programs at PHMSA for the next 4 fiscal years; second, continue to focus PHMSA rulemaking resources on the

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completion of the remaining mandates from the 2011 reauthorization, with one exception below; and third, that exception, create federal minimum safety standards and regulations for underground natural gas storage facilities.

The discussion draft meets these three goals. There is also very similar to the bill, S.2276, approved last December by the Senate Committee on Commerce, Science and Transportation. That legislation is now pending before the full Senate and may be approved as early as this week. We appreciate that this subcommittee's discussion draft parallels the Senate bill in most respects because this will make it far easier to conference the two bills.

A few quick points. First, the fiscal years covered by this authorization. The Senate legislation covers fiscal years 2016 through 2019. This technically would be a 4-year authorization. As a practical matter, fiscal year 2016 has already been appropriated, and by the time this legislation is enacted, the current fiscal year will be close to an end. For this truly to be a 4-year authorization, INGAA suggests beginning with the fiscal year 2017 authorization or in the alternative, making the authorization effective through fiscal year 2020.

Second, we agree with the manner in which the underground

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natural gas storage section was drafted and especially the clarification that PHMSA may delegate to a state the authority to regulate intrastate storage facilities. This provision has our support.

Discussion draft, however, differs from the Senate bill in one important respect. Namely, the draft includes a provision that would allow an individual petition a federal district court to enjoin PHMSA in connection with that agency's alleged failure to act. As explained further in my written testimony, INGAA believes that this provision is ill-advised. It would allow the priorities of individual parties and the judgment of a federal district court judge to supplant the pipeline safety priorities and the allocation of agency resources established by PHMSA pursuant to the guidance provided by Congress. INGAA would seriously consider opposing the Pipeline Safety Bill if this provision were included.

My written testimony includes comments on several other provisions in the draft bill which in the interest of time I will omit for my oral statement.

Mr. Chairman, thank you for the opportunity to provide INGAA's views on the discussion draft. I would be happy to answer your questions at the appropriate time.

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[The prepared statement of Mr. Santa follows:]

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Mr. Whitfield. Thank you, Mr. Santa, and our next witness is Mr. Carl Weimer.

Welcome back, Mr. Weimer, and he is testifying on behalf of the Pipeline Safety Trust where he is the executive director, and you are recognized for 5 minutes.

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STATEMENT OF CARL WEIMER

Mr. Weimer. Thank you. Good afternoon, Chairman Whitfield, Ranking Member Rush, and members of the committee. Thank you for inviting me to speak today on the important subject of pipeline safety.

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

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

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

The need for studies on the health effects of exposure to oil spills has long been a void in our national pipeline safety system and was recently again called for by a National Academy of Sciences panel. Often in these hearings the focus is on how PHMSA has failed to implement various mandates and moved too slowly on regulatory initiatives. While we agree that those things are all important and fair game at such hearings, today we would like to focus our testimony on how the pipeline safety system that Congress has created also has much to do with PHMSA's inability to get things done.

PHMSA can only implement rules that Congress authorizes them to enact and there are many things in the statutes that could be changed to remove unnecessary barriers to more effective and efficient pipeline safety. The pipeline safety statutes are the responsibility of Congress and today we will speak to issues where

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Congress needs to act if there is a real desire to improve pipeline safety

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

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

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

As I mentioned earlier, the National Academy of Sciences recently completed a congressionally-mandated study that showed there were a number of serious issues with the way that PHMSA

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oversees spill response planning and the contents of those plans. We hope you will rapidly move to ensure that PHMSA is reviewing these plans not only for completeness, but also for efficacy as other agencies do and require companies to provide clear information so first responders know what they are up against.

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

Finally, we have a few concerns with the language included in various reauthorization bills and hope you can address these concerns in your own bill. In particular, we think the wording in the statutory preference section of your draft bill may slow needed rules. We also think the language regarding underground gas storage needs to be clarified to ensure an open rulemaking process happens as soon as possible and that whatever is passed allows states to set stricter standards for facilities within their borders.

And finally, we think the language in the Senate bill regarding small LNG facilities pushes PHMSA too much to rely on industry-developed standards and hard to enforce risk based

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systems.

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

[The prepared statement of Mr. Weimer follows:]

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Mr. Whitfield. Mr. Weimer, thank you, and thank all of you for your testimony. And at this time I will recognize Mr. Olson of Texas for 5 minutes of questions.

Mr. Olson. I thank the chair for his courtesies. And welcome to our witnesses. A special welcome to Mr. Black and Mr. Santa.

As we all know, the first exports of American crude oil left Corpus Christi a few weeks ago and this week the first exports of American liquefied natural gas left Texas and Louisiana this week as well. Thank you, thank you, thank you. That is American liquid freedom going to Latin America and going to Europe. You guys are rock stars back home because of that.

But let us talk about corrosion. In the investigation of the 2015 pipeline spill at Refugio Beach in California, they found corrosion in the pipeline. That fact should be no surprise. Obsolete gas pipelines and liquid pipes operate in tough environments. Soil corrodes. The product within the pipeline corrodes. And these aren't always brand-new pipes. As I saw in our Navy, corrosion starts from day one. In fact, they attack it every day with what is called a paint and chip detail. The young sailors have a scraper, a bucket of paint, and a brush and go all over the ship trying to curtail corrosion. It is a

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big challenge.

So can you both, please, with you Mr. Black and Mr. Santa, discuss how you plan to control corrosion in your pipelines? Feel free. Big question, I know.

Mr. Black. Corrosion may have been the biggest target of the modern integrity management regulations and it has been a success. Internal and external corrosion is down by greater than 50 percent. I think there is a 70 percent over 10 years and I am happy to get that fact for you.

Mr. Olson. Thank you.

Mr. Black. External corrosion has been reduced greatly by the practice of cathodic protection in pressing the current on to the pipeline and turning the pipeline into a cathode and anode, suffers the corrosion consequences. Internal corrosion has been worked on by cleaning pigs and then of course, the in-line inspection.

Mr. Olson. A smart pig is right across the hall, I think, actually. A smart pig is there right now.

Mr. Black. Yes, exactly. They are supposed to gather that information. Like you, we are concerned by what we heard in the PHMSA initial incident report and we are eager, as an industry to get the final results on that so that we can develop our

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industry-wide recommendations to operators to address corrosion.

We have already committed to updating API Recommended Practice 1160, Pipeline Integrity Program Management, to address the properties related to the special type of pipe, heated, insulated pipe, transporting heated crude.

Mr. Olson. Mr. Santa, natural gas people, your pipelines, any concerns about corrosion, but what is your biggest -- what is your plan to deal with corrosion to control it?

Mr. Santa. First, as Mr. Black said, I think we have a success story here. As a result of the Integrity Management Programs that were prescribed by Congress, and then PHMSA acting pursuant to that, corrosion incidents on interstate pipelines are down dramatically, as a result of the Integrity Management Program.

As you noted in setting up your question, that corrosion has a lot more to do with the environment in which the pipeline exists and not necessarily the age of the pipeline, the important point here is a pipe, regardless of its age, to ensure that it is fit for service.

As a result of fulfilling the mandates in the regulations on integrity management, in fact, interstate pipelines have tested far greater mileage than that which is mandated just

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because of the nature of where these devices are inserted and removed from the pipelines.

As part of INGAA's voluntary commitments that were made in 2011, INGAA's members committed to expanding the scope of integrity management practices and we also expect to see the expansion of integrity management addressed as part of the upcoming PHMSA rulemaking on natural gas transmission pipelines.

Mr. Olson. So still the safest way to transport liquids is with pipelines pure and simple.

Mr. Santa. Yes.

Mr. Olson. Another question for you, Mr. Black. PHMSA is looking to require remotely operated automatic shutoff valves in pipelines in the future. GAO has done a report on that and found that there are some safety concerns in some cases where they are used on liquid pipelines. What are your thoughts on automatic shutoff valves and what issues do they pose for liquid lines?

Mr. Black. Well, I would like to distinguish automatic acting from automated valves, a practice in liquid pipelines construction today is to use remote controlled automated valves to safely shutdown a pipeline in the event that the pipeline needs to be shut down. Self-operating, self-actuating automatic shutoff valves cause safety concerns. GAO found that there can

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be a pressure build up with an automatic valve closing quickly and that can damage the pipeline.

We reviewed and found nine incidents caused by conditions similar to an automatic shutoff valve closing abruptly, one of which had more than 400 barrels put along the right of way. So remote controlled automated shutoff valves are important to be used in liquids pipelines and are.

Mr. Olson. I yield back the balance of my time. Thank you.

Mr. Whitfield. The gentleman's time has expired. At this time I recognize the gentleman from Illinois, Mr. Rush for 5 minutes.

Mr. Rush. Thank you, Mr. Chairman. Mr. Weimer, in your testimony you state that reauthorization should include directing PHMSA to conduct a study with the National Academy of Sciences to better understand the potential long term health benefits from pipeline failures and provide recommendations for threshold levels in order to better inform the evacuation decisions and the equipment necessary to measure such thresholds as part of the spill response plan.

How did you come to this conclusion and why do you think this issue is so important that Congress should address it in the upcoming reauthorization bill?

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Mr. Weimer. Yes, thank you for the question. We came to that conclusion from a number of sources. The recent National Academy of Sciences study mentioned the need for greater studies on both human and environmental impacts of crude oil spills. But we have seen it over and over again after incidents that have happened in the last few years. The first one that I became aware of was the one I mentioned in my testimony in Salt Lake City. A number of people and their children got quite ill after a spill when they weren't evacuated. There was general confusion at that spill of who was in charge, whether it was the local health department, whether they had equipment to measure the vapors and what people were breathing and when evacuation should occur. We saw similar things in Michigan after the big spill into the Kalamazoo River. And then in Mayflower, Arkansas when crude oil ran through a neighborhood there, we saw the types of illnesses.

Each state seems to have different thresholds for when they might evacuate people. There seems to be confusion who is in charge in those on-going incidents of those spills and those same health effects. Regardless of the type of crude oil has led us to the desire, along with the National Academy of Sciences that such a study be done to clarify what equipment needs to be on scene, how quickly and what those thresholds should be measured at.

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Mr. Rush. That is pretty alarming, and it seems as though we are -- I mean that is a real nightmare of a thought that you have a pipeline rupture and not have any idea about its effect on your family's health. I mean that is pretty alarming.

Are communities around this nation, are they generally well informed and educated about pipeline projects and the number of pipelines and the capacity of things and what really is being transmitted through those pipelines? Are they aware about the benefits of these pipelines and potential costs of these pipelines and if they are not, then what are some of the tools that we can use to help spread awareness among the American people regarding these pipelines?

Mr. Weimer. Yes, thank you again for that question. I think communities are becoming more aware. Unfortunately, the communities that seem to pay attention are the ones where there has been an incident, so it is after the fact.

PHMSA has done a very good job, actually, putting a lot of information available on their website in trying to push out information, but it still hasn't sunk in. A lot of it falls on the industry. There is a lot of emphasis from the industry to work with the local communities to make sure emergency response and emergency plans are in place. But we need the communities

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to pay attention to that.

There is a lot of lack of information. I am an elected official in the country where I am from and I have been on the Emergency Planning Committee. When I ask these questions about do we have MSDS sheets like the National Academy of Sciences asked for or do we have monitoring equipment that will be put in place quickly if there is an incident, most of the emergency planners in my community and other places we have checked with, just don't have that information. So there needs to be more proactive efforts by all of us involved to make sure local governments are paying attention.

Mr. Rush. Well, thank you, Mr. Chairman. I have run out of time.

Mr. Whitfield. The gentleman's time has expired. I will recognize myself for 5 minutes of questions. I had asked Administrator Dominguez as she was leaving what is a reportable incident? And I would ask those of you on the panel when are you required to report an incident to PHMSA? Do you know, Mr. Weimer?

Mr. Weimer. It is funny that you ask that question because Mr. Black and I were joking about that because we are both on a committee with PHMSA working on indicators and there is a number of different reporting requirements depending -- there are

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serious incidents. That is when somebody gets killed or hospitalized. Those number of incidents have actually been declining so that is a good trend. There are significant incidents. That is when you do \$50,000 worth of damage, property damage, you kill or injure somebody or you spill a certain amount. I think it is like 50 barrels for liquid pipeline.

Mr. Whitfield. Fifty barrels?

Mr. Weimer. Fifty barrels, a couple thousand gallons. That would be considered a significant incident or if there is an explosion or fire.

Mr. Whitfield. Okay.

Mr. Weimer. And then there are reportable incidents and I think that is as low as five barrels or maybe even five gallons for hazardous liquid pipeline.

Mr. Whitfield. Okay, so there is like three or four different levels, okay.

Mr. Bradley. Those thresholds apply to natural gas as well. They rack up to the dollar amount.

Mr. Whitfield. Okay.

Mr. Santa. Let me add to Mr. Bradley's point there that in some ways sometimes that leads to nonsensical results because if you think about the variability of natural gas or oil commodity

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prices, not natural gas prices.

Mr. Whitfield. Yes.

Mr. Santa. And if in reporting the damage you are reporting the dollar value of the gas that was emitted, well, that is going to be a far greater value when the price of gas is a dollar versus when it may be four dollars. So probably something there to ensure greater consistency to really measure what are the tangible dangers or effects rather than something that depends upon the commodity price that makes sense.

Mr. Whitfield. And Mr. Black, how many miles of oil pipeline do we have in the U.S.?

Mr. Black. One hundred ninety-nine thousand of liquids, oil, refined products, natural gas liquids, and CO<sub>2</sub>, yes, sir.

Mr. Whitfield. And natural gas?

Mr. Santa. Natural gas transmission pipelines, it is over 300,000 miles, about 220,000 interstate.

Mr. Whitfield. And how much of the crude oil that has been transported through pipelines is heated?

Mr. Black. Very little.

Mr. Whitfield. Very little?

Mr. Black. Only if it is necessary.

Mr. Whitfield. Okay. One comment I want to make because

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as you notice, the Section 15 of our draft in parentheses they have got this private action of suit. And I noticed after the San Bruno incident, I think maybe I read this in your testimony, Mr. Weimer, where the City of San Francisco sued in federal court asking that the federal court require PHMSA to reject the State of California certification that the pipeline system met the federal standards.

And I had a little bit of a problem with that myself because that is the mission of PHMSA to make sure that -- so here you have the City of San Francisco suing the State of California basically, as well as the Federal Government, asking a federal judge to mandate that they not accept a certification from the state.

So I have a real problem with Section 15 myself and the "sue and settle" for example at EPA has really been a major headache because what we see, third parties file the suit. They enter into a settlement with EPA and its lawyers or Justice and the states affected by those suits are not able to even participate in the settlements which I find unacceptable.

And so I agree with the three of you that this is a real issue and having said that, I mean I am going to try to not include this, but having said that I have got 50 seconds left and I know Mr. Weimer disagrees, so I will turn it over to you to make your

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argument.

Mr. Weimer. All right, thank you for that. Yes, we saw that after the California, the San Bruno incident you mentioned. I think the City of San Francisco and others --

Mr. Whitfield. Is your microphone on?

Mr. Weimer. Yes. Were pretty aghast at the way that the California Public Utility Commission had overseen the law over the past few years. There is still, I think, even criminal investigations going because the connections between the California Public Utility Commission and the industry out there. And that led San Francisco to file that.

We are agnostic on the arguments that San Francisco made, but when we saw the federal court step in and try to throw out the idea that the citizens or local governments could go to court to try to force PHMSA to do what their jobs requires them to do that is when we thought it was important.

Mr. Whitfield. Thank you. My time has expired. At this time, I recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. McNerney. Well, I thank the chairman. I thank the panelists for coming in here today.

I am going to start with you, Mr. Weimer. Do you believe

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that there is adequate representation across all interested parties on the advisory committees at PHMSA?

Mr. McNerney. Yes. The advisory committees are made up of the three groups, regulators, the public, and the industry. And I think the way it is designed it is pretty well, the slots don't always get filled in a timely manner. Like at our last Technical Committee meeting when we were talking about the liquids rule, there were still two public slots that were open, so it would be nice before major rules are considered if all the slots are filled.

Mr. McNerney. How about the actual staff of PHMSA? Is there adequate staffing or is there an urgent need to fill more positions?

Mr. Weimer. I think Congress has given them a huge budget increase that allowed them to add several hundred new -- or over a hundred new inspectors. That was good. And they are also working on some program enhancements. So I think time will tell over the next couple of years whether they can fill those slots and whether that is an adequate number.

Mr. McNerney. Well, in your testimony you mentioned something about cost benefit analysis. Could you expand on that discussion a little bit, please?

Mr. Weimer. Sure. I think it was back in the '90s. It

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might have been the 1996 Act. Congress put in a cost benefit requirement in the pipeline statute. As far as we can determine, this is the only administration that has kind of this double cost benefit, both in the statute and also then when the rules go to OMB. Talking with a number of people that do those things, they really think that can kind of slow down the process and as everybody on this committee has mentioned you know, PHMSA has been kind of slow to meet some of these. So since all of the rules that go to OMB have to go through a cost benefit, this double cost benefit analysis early on and then when it goes to OMB may be slowing down rules unnecessarily.

Mr. McNerney. Would industry object if the cost benefit requirements were eased?

Mr. Weimer. You would probably have to ask them.

Mr. McNerney. Mr. Santa?

Mr. Santa. Yes, Mr. McNerney. I would suggest that before the committee amend the law or propose to amend the law to address that that it examine whether there, in fact, have been any instances in which the statutory cost benefit analysis has added to the time and the burden. I would agree that the amount of time that it takes to get a rule through OMB is very troublesome and that that ought to be addressed and that that often seems to

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reflect the priorities of a particular administration that is in office where some rules go through very, very quickly and others get terribly bogged down.

Mr. McNerney. Mr. Black, you said that you felt Congress should pass the law pretty much as it is now in the discussion draft form, at least that is what I understood.

Mr. Black. Without adding significant new mandates to PHMSA, yes, sir.

Mr. McNerney. So mandates. Because I was going to say Administrator Dominguez, her one recommendation to me was that they should have additional authority to react to critical situations. Would you agree with that or not?

Mr. Black. Well, if PHMSA is aware of some safety information like the defective fittings she mentioned, we encourage them to get that word out as soon as possible. They have got that process right now through the advisory bulletin process and I can tell you I have seen first-hand how important those advisory bulletins are to the industry. I am not aware of any incidents that would have been avoided in the past if emergency order authority was in place. We are ready to look at a proposal, but we would think it should have a high standard. It should address emergency conditions that pose imminent threats or

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widespread harm, should be narrow in scope, should be subject to expedited review. Happy to look.

Mr. McNerney. There is no doubt in my mind that you all and industry want to prevent incidents. There is no doubt in my mind about it and that you will take steps to do that, but I have a feeling that if it is left to industry, it will tend to be optimistic and you need a little oversight to make sure the optimism doesn't cause problems.

Mr. Black. If PHMSA is aware of information like a defect, we want to hear about it as soon as possible. Their quickest way to get that information out is the advisory bulletin process.

Mr. McNerney. And not only that, creating rules that -- high standards that cause industry to have safety standards that prevent incidents.

What is the typical industry response to an advisory bulletin by PHMSA, Mr. Black?

Mr. Black. Read very carefully. We have industry groups, employees working on pipeline safety issues focusing on improvement and they are dissecting those very closely. We have got instances of advisory bulletins in the last couple of years that have led to operators getting that aha moment and taking that back to their companies.

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

Mr. Whitfield. The gentleman yields back. At this time I recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. Latta. Thanks, Mr. Chairman. And thanks very much to the panel for being here today.

Mr. Santa, if I could start with a few questions for you. Can you comment on how your members use the 811 Dial Before You Dig program and do you believe that it would be helpful to incorporate new technologies or best practices to improve the communication between the stakeholders from receipt of excavation notification until successful completion of the excavation?

Mr. Santa. Mr. Latta, INGAA's members strongly support 811. One of the significant clauses of pipeline incidents is excavation damage and so we very strongly support 811 and strong programs to ensure that all excavators are subject to such programs.

If there are specific proposals on how via using technology, the effectiveness of those programs can be improved, I think we would be very interested in hearing that.

Mr. Latta. Let me follow up with that. How can the Federal Government help advance the adoption of developing those technologies? Are there technologies out there that we should be doing, the Federal Government should be helping to advance?

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Mr. Santa. Well, I mean PHMSA has dollars in its budget that it can use at its own discretion for research and development. Also, there is the ability to do cost shared research and development with the industry since we all share the goal of improved pipeline safety and developing technologies that can prove that.

Mr. Latta. Thank you. Mr. Black, how do pipeline operators use in-line inspection, the so-called smart pig technology to find problems in their pipelines?

Mr. Black. Well, you put this cylinder-shape robot inside the pipeline and push it through with the force of the liquid and it collects information about the properties of the pipeline, terabytes of information. That information is then taken out of the smart pig and it is analyzed by a third party vendor working with the pipeline operator to determine what features need to be investigated. They follow industry practices and PHMSA regulations about which features need to be uncovered and inspected in person by a pipeline to determine whether there needs to be a repair or whether it is just an issue that hasn't become a problem yet. The results of this which cost more than \$2.2 billion in 2014, has been a dramatic decrease in corrosion-related incidents and in all types of incidents since modern integrity

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management practices were put into place.

Mr. Latta. So you are saying that the technology we have today has really increased the ability to find those cracks that are out there in the pipeline?

Mr. Black. Yes. It is finding more. That is more for pipeline operators and these third-party vendors to look at. Now the challenge is taking all of this information, finding out what are those true positives that need to be addressed and finding those issues and repairing them before they become a problem.

Mr. Latta. Let me ask this also. In the draft bill that we have here today, there is a provision for the use of the smart pigs not less than once every 12 months for certain deep water pipelines. Is that a reasonable interval for that?

Mr. Black. It would address pipeline water crossings of greater than 150. We would not support that being applied to a greater set of pipelines and I will explain why. Right now, pipeline operators are required to assess the condition of their pipelines and to prioritize areas based on risk. Determining a 1 year inspection schedule is not really supported by the conditions of that pipeline. It is not reported by what has been found. It is arbitrary. If that is to be expanded, we would find that it is diverting safety dollars from areas of greater risk.

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One year in pipeline integrity management for inspections is probably too soon. Any time that pipeline operator does that smart pig and gets that result, some features that they find require analysis within a year. Some are immediate. But to run a smart pig every year, you may not learn that much new from year to year.

Mr. Latta. Okay. Well, thank you very much, Mr. Chairman. I yield back the balance of my time.

Mr. Whitfield. The gentleman yields back. At this time, the chair recognizes the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman. I wanted to ask a couple of questions of Mr. Weimer. In Ms. Dominguez' testimony, she requested that Congress give PHMSA emergency order authority. And PHMSA already has corrective action authority that allows it to direct a single operator to take action to protect life, property, and the environment. But as I understand it, emergency order authority would allow the secretary to take such action on an industry-wide basis. Seems like a common-sense tool for the agency to have. I am kind of shocked that they don't have it already.

Could you just please talk more about this request and

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specifically what would the benefits of emergency order authority be for communities to which pipelines are routed? For instance, between 2007 and '09, pipe was being produced for market that did meet industry standards. In your opinion, would this have been a situation in which emergency order authority would have been helpful, just as an example?

Mr. Weimer. Yes. Thank you for the question. I think you hit the point right on the nose, that there is a number of issues that come up that are found because of an incident on a specific pipeline. And PHMSA has the authority to order that specific pipeline to change their ways, but currently they don't have the authority to change, order the whole industry, nationwide, to change things. Whether it is pipeline that wasn't made to specs, that I think you were mentioning that came to light a few years ago, the fittings that Ms. Dominguez mentioned or other serious things that become obvious that it is a nationwide problem, at this point they have to go through a rulemaking that can take years as we have seen. They do have the ability to put out advisory bulletins like Mr. Black mentioned, but the industry is a broad spectrum of different people and while we think most of the industry pays attention to the advisory bulletins, there may be some within the industry that don't.

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Mr. Pallone. All right, thank you. And then a second topic deals with the TAG grants. The Pipeline Safety Information Technical Assistant Grants are very important to me and a number of members. I think you know that the grants came into being as a compromise in 2002 after this committee reached an impasse on right-to-know language for pipeline inspection data. And I, for one, think we still need a strong right-to-know provision in law. If we have that, I think it would be appropriate to discuss changes to the TAG grant program. The fact is that we don't have the right to know in the statute, so we need these grants in order for communities to have access to the technical expertise and info they need to truly understand pipeline risks in their area.

A few minutes ago, my colleague, Mr. Mullin, raised some concerns about the TAG grants and I would like to give you a chance to respond to those concerns. First, does the Pipeline Safety Act allow TAG grants to be used for lobbying?

Mr. Weimer. Well, I think specific to the statute, there are two things that are precluded from use of the money. One is lobbying. You are not allowed to use any of the TAG grant money for lobbying and you are not allowed to use it for any type of lawsuit against a pipeline company.

Mr. Pallone. So the answer is no, it can't be used for

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lobbying. It can't be used for litigation.

Mr. Weimer. Correct.

Mr. Pallone. Is there any evidence of a widespread abuse of TAG grants or do the majority of such grants go for useful, lawful purposes?

Mr. Weimer. Well, there has been over 160 TAG grants that have been let out over the course of the program. I am certainly not knowledgeable of all of those, but I don't know of any specific grants that have gone toward lobbying or lawsuits. Most of them have been used by local governments, local communities, looking at improving safety through GIS works, emergency response, looking at specific issues and not for lobbying or lawsuits.

Mr. Pallone. My final question is by allowing communities to hire experts to obtain independent pipeline safety assessments, doesn't that help everyone, industry included, by ensuring that there is real, credible data out there on a pipeline? I mean that is what these TAG grants are all about, right?

Mr. Weimer. Yes, absolutely. And we certainly have seen evidence of that. We were involved with a TAG grant from a group that got a TAG grant in California this past year and they had a concern about a hazardous liquid pipeline that ran through their community. Once we looked at the incidents from that pipeline

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and went and met with that community, we kind of assured them that that pipeline wasn't as big a deal as perhaps working with the local governments in that community to ensure that they are dealing with emergency response correctly. Their concerns for that particular pipeline were kind of overblown once we shared the correct information with them.

Mr. Pallone. All right. Thanks a lot. Thank you, Mr. Chairman.

Mr. Whitfield. The gentleman yields back. This time I recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Ms. Capps. Thank you, Mr. Chairman. And thank you to all of our witnesses for your testimonies today. Throughout the course of this hearing, we have heard over and over about the need to maximize the safety of natural gas and hazardous liquid infrastructure. The truth is that far too many of us have had direct experience with a devastating pipeline or storage facility incident that has led to significant harm to public health, the environment, or the local economy. And in every case, just as it did in my district in response to the Plains spill this last May, these incidents highlight inadequacy in an existing management requirement. As we learn from these tragedies, it is

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critical that we apply this knowledge to make all of our communities safer.

Mr. Weimer, you mentioned -- my questions are addressed to you, Mr. Weimer. You mentioned in your testimony that the number of pipeline incidents has been steadily increasing over the past 10 years. Can you elaborate on a few? And I have several questions, so you can make it just one or two, that are leading to the increase -- what are the causes leading to this increased number that we are experiencing? Does the abundance of aging and outdated infrastructure have anything to do with the uptick in incidents?

Mr. Weimer. Yes, thank you for the question. And there was a graph in my written testimony.

Ms. Capps. Right.

Mr. Weimer. That showed that the significant incidents on liquid pipelines has been increasing. It is again one of those measurement things about what are the things that make up incidents, but there certainly has been a rash of big incidents like the one that happened in your own district, the Marshall, Michigan spill; the one in Mayflower, Arkansas that kind of brought this to a head.

The major causes, when you look at the PHMSA data are things

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within pipeline operators' control, things like use and operation of the pipeline, corrosion and bad equipment.

Ms. Capps. In other words, they are preventable. As a follow-up, can you elaborate on how emergency order authorizations could help ensure that systemic issues in pipeline infrastructure could be responded to in a more timely manner? As you know, there was quite a significant time lag between the start of this bill and a response, even though by chance, emergency responders were very nearby.

Mr. Weimer. Yes, clearly, you know, if PHMSA had emergency order authority it could help in situations where they learn something. Like the pipeline that failed in your own district, there is evidence coming out now and it is not for sure yet, that because that was an insulated pipeline that may have affected that pipeline differently.

Ms. Capps. Yes.

Mr. Weimer. If it turns out that is the truth, an emergency order would allow PHMSA to correct that problem nationally.

Ms. Capps. Exactly. Well, you have led to a topic that we should be addressing here in our committee.

Now I want to turn to the need for improved response planning to quickly and adequately react to spills when they do occur.

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Without up to date and appropriate response plans in place is it possible to respond to incidents such as pipeline failures and spills? In your view, what must all response plans include and when should these plans be updated, for example, in response to changing conditions or new knowledge to ensure that they are both adequate and current? That is a big question. I am sorry, but you can answer quickly and then respond in writing for the record, if you would.

Mr. Weimer. Sure. There is a number of things. You know, the National Academy of Sciences pointed out that PHMSA mainly looks at these response plans for completeness, not for effectiveness.

Ms. Capps. Right.

Mr. Weimer. They need to change that. They need to ensure more testing.

Ms. Capps. Thank you. And finally, you touched on a lack of stringent criminal penalties with regard to violations in pipeline safety. Are the current criminal and civil penalties regarding pipeline safety adequate to dissuade violators -- operators, rather -- especially the bad actors from committing violations? Can you elaborate on the need to expand upon existing penalties? I hope you can.

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Mr. Weimer. Sure. The language currently in the pipeline safety statute is different than what it is on the hazmat side for PHMSA where they include recklessness as one of the things that can be prosecuted. We think it should be harmonized with what they have on the hazmat side and with what a lot of other safety agencies also have.

Ms. Capps. And again, Mr. Chairman, I hope we can follow up with discussion of some of these topics.

I appreciate your answers to my questions. It is clear there are many avenues for improving upon existing pipeline regulations. It is also clear to me that we must ensure that PHMSA has the necessary tools to make these changes, including those that have yet to be implemented from the last reauthorization to minimize risks associated with natural gas and hazardous liquid infrastructure.

Once again, I would like to reiterate that I look forward to continuing to work with the chairman and ranking member to continue to improve upon the draft that we have so that we can ensure that we are crafting legislation that will minimize the frequency and impact of all future spills and protect our communities. Thank you and I yield back 3 seconds.

Mr. Whitfield. Thank you for yielding back 3 seconds. I

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want to thank all of you for joining us today. We look forward to continuing dialogue as we move forward on this legislation.

And Mr. Saari, we didn't have a lot of questions for you, but we did pay attention to your testimony and do appreciate your bringing to the forefront the state grant issue and the adequate compensation to the states. And particularly in Michigan, I guess you all have more underground storage of natural gas than any state in the country is my understanding.

But anyway, that will conclude today's hearing. We will keep the record open for 10 days. And I would like to enter into the record a statement from American Public Gas Association, as well as letters from Representative Capps to PHMSA, dated February 29, 2016, regarding the Plains pipeline accident in California. Without objection, it is entered into the record.

And thank you all again, and that concludes today's hearing.

[Whereupon, at 12:48 p.m., the subcommittee was adjourned.]

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