FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

July 13, 2015

To: Subcommittee on Energy and Power Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on "Oversight of Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 and Related Issues"

On Tuesday, July 14, 2015, at 10:15 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Energy and Power will hold a hearing on "Oversight of Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 and Related Issues."

I. BACKGROUND

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act) reauthorized and made a number of reforms to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) pipeline safety program.[1] The current authorization for PHMSA's pipeline safety program will expire on September 30, 2015. PHMSA's authority comes from a series of statutes dating back 50 years, collectively referred to as the "Pipeline Safety Statute."[2]

PHMSA collects data on the nation's pipeline infrastructure in order to develop and implement federal safety regulations. The agency provides oversight of more than 2.6 million miles of natural gas and hazardous liquid pipelines.[3] PHMSA administers the minimum pipeline

---

[1] 49 U.S.C. § 60101.

[2] The most recently enacted additions to the Pipeline Safety Statute are the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006, and the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

[3] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Annual Report Mileage Summary Statistics* (Jul. 1, 2015) (online at

safety standards, accident and safety reporting procedures, pipeline integrity management, data monitoring, leak detection, and emergency response plans.

PHMSA's activities are primarily funded by industry user fees, which make up 74 percent of the fund available to the agency.[4] PHMSA also provides federal funding to support state pipeline safety programs, and requested $48.7 million for this purpose in FY 2016.[5] All told, the President requested $175 million for pipeline safety activities at PHMSA in FY 2016.

PHMSA currently employs 139 inspection and enforcement staff, compared to the over 300 state inspectors who participate in the oversight of the vast network of pipelines in the United States.[6]

The Pipeline Safety Act included 42 Congressional mandates of PHMSA with regard to the federal pipeline safety program.[7] While PHMSA has fulfilled some of these mandates, others remain incomplete.

II. PIPELINE INCIDENTS AND CONCERNS

A series of high-profile pipeline incidents, coupled with an increase in the construction of new crude oil and natural gas pipelines, has revived concerns about the safety of the nation's pipelines.

A. Santa Barbara Plains All American Pipeline

On May 19, 2015 an estimated 101,000 gallons of crude oil spilled into the Pacific Ocean from a pipeline operated by Plains All American Pipeline, L.P. along the Santa Barbara County coastline.[8] The spill occurred after the onshore pipeline designated Line 901 ruptured. Line 901

---

www.phmsa.dot.gov/pipeline/library/data-stats/annual-report-mileage-for-gas-distribution-systems).

[4] 49 U.S.C. 60125; U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Budget Estimates: Fiscal Year 2016*, at 1 (2015) (online at www.transportation.gov/sites/dot.gov/files/docs/FY2016-BudgetEstimate-PHMSA.pdf).

[5] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Budget Estimates: Fiscal Year 2016*, at 14 (2015) (online at www.transportation.gov/sites/dot.gov/files/docs/FY2016-BudgetEstimate-PHMSA.pdf).

[6] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Inspections 101* (Feb. 26, 2015) (online at www.phmsa.dot.gov/pipeline/inspections).

[7] Pub. L. No. 112-90 (2012).

[8] *California: Cleanup of Oil on Beaches Has Cost $69 Million, Company Says*, The New York Times (June 10, 2015) (online at www.nytimes.com/2015/06/11/us/california-cleanup-of-oil-on-beaches-has-cost-69-million-company-says.html?ref=topics).

is a 24-inch, 10.6 mile segment that transports crude oil between Las Flores Canyon and Gaviota, California.[9]

On June 25, 2015, the Committee sent a bipartisan letter to Plains Pipeline requesting documents on the company's maintenance and integrity operations.[10] Mechanical failures on the company's pipeline network have resulted in more than a dozen spills, which have released nearly 2 million gallons of oil and other hazardous liquids in the United States and Canada over the past decade. This figure does not include the recent spill in Santa Barbara.[11]

B. Michigan Enbridge Oil Spill

On July 26, 2010, somewhere between 843,000-1.15 million gallons of oil spilled near Marshall, Michigan, from Enbridge Energy Partners' Lakehead System.[12] Enbridge experienced an abrupt drop in pressure on Line 6B on July 25, but did not discover the leak until the following day, after several emergency calls from members of the public.[13] The spilled oil entered the Talmadge Creek and flowed into the Kalamazoo River, a tributary to Lake Michigan.[14] The oil was carried 30 miles downstream and was ultimately contained approximately 80 river miles from Lake Michigan.

C. San Bruno Pacific Gas and Electric

On September 9, 2010, a natural gas pipeline operated by Pacific Gas and Electric Company (PG&E) exploded in San Bruno, California in the suburbs of San Francisco. The

[9] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *U.S. Department of Transportation Issues Corrective Action Order to Plains Pipeline, LP* (May 22, 2015) (online at www.phmsa.dot.gov/pipeline/us-department-of-transportation-issues-corrective-action-order-to-plains-pipeline-lp).

[10] House Committee on Energy and Commerce, *Letter from Chairman Upton and Ranking Member Pallone to Mr. Greg Armstrong, Chairman and CEO, Plains Pipeline, L.P.* (Jun. 25, 2015).

[11] *Owner of ruptured oil pipeline has history of big spills, fines*, LA Times (Jun. 5, 2015) (online at www.latimes.com/local/california/la-me-oil-spill-plains-20150605-story.html#page=1).

[12] U.S. Environmental Protection Agency, *Dredging Begins on Kalamazoo River* (August, 2013) (online at: http://epa.gov/enbridgespill/pdfs/enbridge_fs_201308.pdf).

[13] *Timeline of the Enbridge Oil Spill*, The Michigan Messenger (Aug. 5, 2010).

[14] U.S. Environmental Protection Agency, *EPA's Response to the Enbridge Oil Spill* (online at www.epa.gov/enbridgespill/).

explosion left a crater 167 feet long and 26 feet wide, and resulted in eight deaths and multiple injuries.[15] The blast and ensuing fire also destroyed 38 homes and damaged 70 homes.[16]

On January 3, 2011, the National Transportation Safety Board released safety recommendations revealing that the ruptured area was not made of seamless API 5L Grade X42, as stated in PG&E records, but rather five sections of pipe including short pieces, called "pups," with various seam welds. The recommendations called upon PG&E to "[a]ggressively and diligently" search for all verifiable pipeline construction and testing records and use them to find valid maximum allowable operating pressure to avoid future incidents.[17]

Additionally, PG&E monitored Line 132 for corrosion through direct assessments, which involve indirect inspection combined with limited direct examination. PG&E did not employ advanced in-line inspection or "smart pig" technology, which involves using an instrument laden device that moves through the interior of the pipeline. A January 2015 NTSB report, raised significant concerns about the overreliance on direct assessment in PHMSA's natural gas pipeline integrity management program and advocated greater use of in-line inspection.[18]

D. Substandard Steel Used in Pipeline Construction

Between 2007 and 2009, a number of pipe mills produced steel pipe for U.S. pipeline companies that failed to comply with the American Petroleum Institute Grade 5L X70 standard.[19] On May 21, 2009, the PHMSA issued Advisory Bulletin ADB-09-01, describing inconsistent chemical and mechanical properties leading to piping with as much as 15 percent lower yield strength than required. The bulletin advised pipeline owners and operators to review pipe specifications, prior test results, and documents to determine if their pipelines might be affected by this problem.[20]

---

[15] California Public Utilities Commission, *Report of the Independent Review Panel, San Bruno Explosion* (June 8, 2011).

[16] *Id.*

[17] National Transportation Safety Board, *Safety Recommendation P-10-2, P-10-3 and P-10-4* (Jan. 3, 2011).

[18] National Transportation Safety Board, *Integrity Management of Gas Transmission Pipelines in High Consequence Areas*. Safety Study NTSB/SS-15/01 (adopted January 27, 2015).

[19] *Use of Substandard Steel by the U.S. Pipeline Industry*, Plains Justice (Jun. 28, 2010) (online at plainsjustice.org/files/SubstandardSteelReport.pdf).

[20] U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration, *Advisory Bulletin ADB-09-01* (May 21, 2009) (online at www.phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=fb74e5b91c761210VgnVCM1000001ecb7898RCRD&vgnextchannel=8590d95c4d037110VgnVCM1000009ed07898RCRD&vgnextfmt=print).

E. Diluted Bitumen Not Covered by Oil Spill Liability Trust

The Oil Spill Liability Trust Fund (OSLTF) provides an immediate source of federal funding to respond to oil spills. Funds from the OSLTF can be used to respond to a range of oil types, including some oil sands-derived crude oils. However, the term crude oil "does not include synthetic petroleum, e.g., shale oil, liquids from coal, tar sands, or biomass, or refined oil."[21] This means that any spill from a pipeline carrying petroleum derived from Canadian tar sands would not be able to rely on funding from the OSLTF for emergency response.

III. IMPLEMENTATION OF THE PIPELINE SAFETY ACT

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, was broadly supported by members of the House and Senate, and signed into law on January 3, 2012. To date, PHMSA has implemented a few key requirements of the law. Among its completed implementations, PHMSA has increased the maximum administrative civil penalties for serious violations to $200,000 per day (and $2 million per related series of violations) and completed a comprehensive review of hazardous liquid pipeline regulations to determine their sufficiency in regulating pipelines used for the transportation of tar sands crude oil.

However, as noted above PHMSA has not fully implemented a number of the 42 mandates of the Pipeline Safety Act.

- Section 4 directs PHMSA to issue regulations requiring the use of remote or automatic shut-off valves in newly-constructed or replaced transmission lines. PHMSA has collected data on the use of both remote and automatic shut-off valves, convened a public leak detection and valve workshop, and commissioned an independent valve study by Oak Ridge National Laboratory.[22]
    - PHMSA has yet to determine if required use of the remote or automatic shut-off valves is appropriate, and has yet to promulgate regulations to implement such a requirement.
- Section 5 requires PHMSA to evaluate whether integrity management system requirements should be expanded beyond high consequence areas and, based on that evaluation, to consider promulgating appropriate regulations. PHMSA is also

[21] Congressional Research Service, *Oil Sands and the Oil Spill Liability Trust Fund: The Definition of "oil" and Related Issues for Congress* (Jan. 22, 2015).

[22] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Improving Pipeline Leak Detection System Effectiveness and Understanding the Application of Automatic/Remote Control Valves* **(**Mar. 27-28, 2012) (online at primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=359); Oak Ridge National Laboratory**,** Oak Ridge National Laboratory, *Studies for the Requirements of Automatic and Remotely Controlled Shutoff Valves on Hazardous Liquids and Natural Gas Pipelines with Respect to Public and Environmental Safety* (Oct. 31, 2012) (ORNL/TM-2012/411).

required to consider replacing the existing class location requirements for gas transmission pipelines, with integrity management requirements.[23]

- On August 1, 2013, PHMSA issued a notice of proposed rulemaking, based on the requirements of section 5.[24] A final rule has yet to be issued.

- Section 8 directs PHMSA to study leak detection systems used by operators of hazardous liquid pipelines, which was completed in December of 2012.[25] Section 8 further directs PHMSA to issue any necessary regulations requiring leak detection on hazardous liquid pipelines and lead detection standards.

  - On January 4, 2011, PHMSA extended the comment period for the "Safety of On-Shore Hazardous Liquid Pipelines" advanced notice of proposed rulemaking; however no final rule has been issued.[26]

- Section 9 requires PHMSA to issue regulations requiring operators to notify the National Response Center (NRC) by telephone, of an incident within one hour of confirmed discovery of an incident, and to revise the initial report after 48 hours if practicable. PHMSA previously required owners and operators of pipelines to report an incident to the NRC at the earliest practicable opportunity, which is typically viewed as one to two hours following an incident.[27]

  - On July 10, 2015, PHMSA issued a notice of proposed rulemaking to add specific time frames for telephonic or electronic notifications of accidents and incidents.[28]

---

[23] Class location requirements protect areas with high population density in a variety of ways, including through the determination of risks and the design, operation, and post-construction testing of pipelines.

[24] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety, Class Location Requirements,* 78 Fed. Reg. 46560 (Aug. 1, 2013) (notice of proposed rulemaking).

[25] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Leak Detection Study* (Dec. 10, 2012) (online at www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_4A77C7A89CAA18E285898295888E3DB9C5924400/filename/Leak%20Detection%20Study.pdf).

[26] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Safety of On-Shore Hazardous Liquid Pipelines*, 76 Fed. Reg. 303 (Jan. 4, 2011) (advanced notice of proposed rulemaking).

[27] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety: Accident and Incident Notification Time Limit: Issuance of Advisory Bulletin* (Jan 30, 2013).

[28] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident*

- Section 22 directs PHMSA to issue regulations requiring the use of excess flow valves in newly-constructed gas distribution branch services, multi-family facilities, and small commercial facilities where feasible.

    - While these regulations were supposed to be finalized by January of 2014, PHMSA issued a notice of proposed rulemaking expanding the use of excess flow valves on July 8, 2015.[29]

- Section 23 requires gas transmission pipeline operators to verify pipeline records to confirm the physical and operational characteristics of the pipelines as well as their established maximum allowable operating pressure (MAOP). Under this section, operators are also required to report any pipelines for which records cannot be verified and reconfirm the MAOP as expeditiously as economically feasible. And operators are required to report any exceedances of MAOP within five working days. Section 23 also requires PHMSA to issue new pressure testing requirements to confirm the material strength of previously untested gas transmission pipelines in high consequence areas.

    - To date, PHMSA has held a workshop on improving the pipeline integrity verification process, and issued and extended an advanced notice of proposed rulemaking on the safety of gas transmission pipelines. [30] PHMSA has not issued a final rule on new testing procedures, as required by section 23.

IV. WITNESSES

The following witnesses have been invited to testify:

Panel One:

Stacey Cummings

Notification, and Other Pipeline Safety Proposed Changes, 80 Fed. Reg. 39915 (Jul. 10, 2015) (notice of proposed rulemaking).

[29] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other Than Single-Family Residences* (Jul. 8, 2015) (notice of proposed rulemaking).

[30] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Integrity Verification Process Workshop* **(**Aug. 7, 2013) (online at primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=552&nocache=9447); U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Pipeline Safety: Safety of Gas Transmission Pipelines, 76 Fed. Reg. 70953 (Nov. 11, 2011) (advance notice of proposed rulemaking).

Interim Executive Director
Pipeline and Hazardous Materials Safety Administration

Panel Two:

Stan Wise
Commissioner
Georgia Public Service Commission
On behalf of the National Association of Regulatory Utility Commissioners

Donald Santa
President and Chief Executive Officer
Interstate Natural Gas Association of America

Ron Bradley
Vice President of Gas Operations
PECO Energy
On behalf of the American Gas Association

Andrew Black
President and Chief Executive Officer
Association of Oil Pipe Lines

Carl Weimer
Executive Director
Pipeline Safety Trust

Dianne Black
Assistant Director of Planning and Development
County of Santa Barbara, California