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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
STATEMENT BEFORE THE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE  
INFRASTRUCTURE, SAFETY AND SECURITY  
UNITED STATES SENATE  
FIELD HEARING ON PIPELINE SAFETY: STATE AND LOCAL PERSPECTIVES  
BILLINGS, MONTANA  
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**I. Introduction**

PHMSA's reach is vast, but the mission is concise: to protect people and the environment from the risks of hazardous materials transportation in all modes, including the 2.6 million miles of pipeline nationwide. This safety mission is what drives our talented team of experts and professionals, and it is what drives me in my commitment to make PHMSA the premier safety organization in transportation.

The American energy industry is rapidly changing, growing and expanding. As such, PHMSA is at a pivotal juncture; as a regulator, it is critical for PHMSA to keep pace with and anticipate industry trends and make sure that, along with growth, there is a commitment to the highest safety standards—a commitment that the American public can count on.

Thanks to resources provided by Congress, PHMSA is growing by 25 percent. Hiring and training federal and state inspectors is of the utmost importance as PHMSA expands its workforce. As it carries out this hiring surge and looks ahead to reauthorization of the pipeline safety program, PHMSA is committed to strategically using the resources Congress has granted us to stay ahead of industry trends, strengthen state partnerships and ensure the highest safety standards.

The goal is to make PHMSA synonymous with safety, trust and innovation. Safety is PHMSA's mission and is at the core of everything the agency does. To achieve this mission, PHMSA needs a strong foundation of trust with partners in the

states, the regulated industry, and Congress—and, above all, with the American people. And to be an effective regulatory and enforcement agency amid rapid change, it is critical to be innovative and nimble. In recent months, PHMSA has undertaken a number of initiatives to advance its safety mission and culture of trust, and ensure that the agency is structured for the future.

First, PHMSA is undergoing an organizational assessment. Through this assessment, the agency will work to optimize its regulations, enforcement authority and internal processes to ensure that it is structured to be responsive and drive innovation that enhances the safety mission.

In addition, PHMSA is the first USDOT modal administration to develop and begin implementing an Agency Safety Action Plan, or ASAP. ASAP is led by the Secretary of Transportation and is an effort across the Department to proactively identify ways to improve safety. It's asking the question: How can PHMSA better leverage current authorities and capabilities to improve safety?

These efforts will help PHMSA to utilize the resources provided by Congress to create greater efficiency in its structure and program execution, improve data collection and utilization, mitigate risk and advance safety.

The PHMSA team looks forward to working with Congress as the agency leads the way in driving state partners and industry toward a nationwide pipeline network that is known for safety, trust and innovation.

## **II. Pipeline Safety: Toward Zero Incidents**

PHMSA does not accept death, injury, or environmental harm as an inevitable consequence of transporting hazardous materials, and the agency drives toward the goal of zero pipeline incidents. When incidents do occur, PHMSA investigates the root cause of the incident and, if any federal regulations were violated, levies civil penalties. In addition, Corrective Action Orders (CAO) can require the operator to identify and address the root cause of the incident before they are allowed to return the pipeline to service. The requirements outlined in the CAO can take months or years to implement and can require the operator to make system-wide investments that improve safety.

In January 2015, when a pipeline in Glendive, Montana, spilled as much as 1,200 barrels of crude oil into the Yellowstone River, PHMSA launched a comprehensive investigation into the cause of the spill. A team of technically-skilled inspectors deployed to the scene in Glendive and the Bridger Pipeline Company's control room in Casper, Wyoming, to ensure the operator took all necessary steps to prevent any additional damage as a result of the pipeline failure.

In addition to launching an investigation of the Glendive spill, PHMSA immediately issued a CAO to the Bridger Pipeline Company, directing it to take a number of immediate and long-term actions to verify that the pipeline was safe to resume operation. In late April, Bridger tested and, after receiving approval from PHMSA's Western regional office, replaced the faulty pipeline with a new horizontal directional drilled (HDD) pipeline crossing under the Yellowstone River and resumed service. HDD is a method that allows pipes to be installed with minimal environmental impacts and at depths that may help reduce the likelihood of failure due to river scouring.

In 2011, when the ExxonMobil Pipeline Company's Silvertip pipeline in Laurel, Montana released 1,509 barrels of crude oil into the Yellowstone River, PHMSA issued a Corrective Action Order that directed the operator to complete numerous safety improvements, including the replacement of river crossings across three major Montana rivers with a deeper HDD pipeline to reduce exposure from erosion and help ensure long-term safety. ExxonMobil reported spending \$34 million to comply with the CAO—above and beyond the \$1 million civil penalty issued by PHMSA. On June 12<sup>th</sup> of this year, PHMSA denied ExxonMobil Pipeline Company's petition for reconsideration of PHMSA's Final Order and civil penalty.

PHMSA is employing a similar investigative strategy in response to the May 19, 2015, Plains Pipeline, LP oil spill in Santa Barbara, California. Following the spill, PHMSA immediately deployed an investigative team to the scene and an investigator to Plains' Midland, Texas control room to review operational information and data. Plains reported that the failure resulted in the release of 3,400 barrels of crude oil, some of which reached the Pacific Ocean. Investigation by federal and state agencies continues as to the volume of oil spilled, the miles of beaches impacted, and other impacts to the environment. On May 21, PHMSA issued a Corrective Action Order to Plains with a set of instructions and

requirements for mitigating the hazards and restoring safety conditions, operations and culture. The order includes an ongoing metallurgical analysis as well as third-party review of previous internal inspections carried out by the operator. The affected pipeline remains shut down pending completion of an extensive integrity analysis. PHMSA will not allow the line to return to operation until the operator has taken satisfactory actions to mitigate potential risks.

The investigations for both the Glendive and Santa Barbara incidents are still in progress, and PHMSA will pursue additional enforcement actions if it is determined that either operator violated any Federal pipeline safety regulations. These spills highlight the need for continuous improvement and commitment to safety by PHMSA, state partners and operators.

### **III. Leveraging State Partnerships to Mitigate Risk**

The recent oil spills in Montana and California are unacceptable and unfortunate, and they underscore the importance of PHMSA's safety mission and the need to learn from these incidents and work together with state partners to push for improvements that mitigate risk and prevent future incidents. Montana is one example of PHMSA's strong coordination with state partners, which is ever more important as the industry expands.

For example, following the 2011 ExxonMobil spill, PHMSA conducted a joint study with the Montana Governor's Oil Pipeline Safety Review Council. The joint study revealed that many of Montana's pipeline water crossings could be threatened by river flooding and channel migration. PHMSA has been working closely with Montana's Departments of Environmental Quality, Natural Resources and Transportation, as well as Montana pipeline operators, to ensure that necessary steps are taken to safeguard existing crossings. These steps include: in-place safety procedures during flood conditions or increased river flow rates; increased frequency of patrols and depth of cover surveys during and after significant river-flow events; swift remediation measures, if needed; strengthening emergency response preparedness; and replacing trenched crossings with HDD pipelines.

While HDD pipelines are a critical and successful tool, operators must take a comprehensive approach to improving safety. In addition to the HDD pipeline installations, PHMSA has worked with Montana to establish more robust safety

procedures for hazardous liquid pipeline operators in the state. The point of our Integrity Managements regulations is that all operators of pipelines located in environmentally sensitive areas (“High Consequence Areas”) such as river crossings must carefully monitor their systems and take extra precautions to prevent and mitigate the potential impacts of accidents in such areas.

Furthermore, on April 9, 2015, PHMSA issued an advisory bulletin to ensure operators were aware of the inherent risks associated with river crossings and remind them of the need to take extra steps to protect such environmentally sensitive areas.

These efforts are yielding measurable results for Montana. Since the 2011 ExxonMobil spill, 17 pipeline crossings of major rivers (>100 feet wide) in Montana have been replaced with HDD pipelines. Of the 64 major river crossings in Montana, 41 now utilize HDD methods.

This kind of progress shows the need for strong state relationships across the country to stay ahead of industry and pipeline safety trends. States’ input and experience is critical as PHMSA sets public policy, strategically allocates resources, and moves forward with new regulations. Likewise, PHMSA plays an important role in supporting capacity-building and enforcement of high standards nationwide. Through agreements and certifications, states assume authority over more than 80 percent of intrastate gas and hazardous liquid distribution and transmission pipelines by inspecting and enforcing both Federal and state regulations. PHMSA’s efforts to support pipeline safety also include providing grant funding to support state damage prevention programs and technical assistance related to pipeline safety issues.

A key resource available to support states is the State Base Grant program, which can increase the capacity for inspection and compliance. Last year, PHMSA provided Montana with more than \$160,000 in grant funding—amounting to 118 inspection days. Over the past 10 years, PHMSA grants have provided more than \$650,000 to Montana. PHMSA recently announced an estimated \$214,000 to Montana to help cover the costs of its natural gas pipeline safety program for the 2015 calendar year. PHMSA also provides Technical Assistance Grants to Montana—\$49,600 in total funding from PHMSA since 2009.

PHMSA has provided significant support to Nebraska as well. Last year, PHMSA provided \$255,000 in grant funding to Nebraska—amounting to 373 inspection days. Over the past 10 years, PHMSA grant funding to Nebraska totaled more than \$1.6 million. Last week, PHMSA announced an estimated \$347,000 to help cover the costs of Nebraska’s natural gas pipeline safety program for the 2015 calendar year.

As part of the Agency Safety Action Plan, PHMSA is seeking ways to assist with and incentivize high performance among state partners, and looks forward to working with Congress to make its state partners as effective as possible.

#### **IV. PHMSA Hiring Surge: A Workforce to Address Evolving Safety Challenges**

The FY 2015 Omnibus provided PHMSA’s pipeline safety program with 109 new positions, 80 percent of which will be in the inspection and enforcement areas. These additional inspectors will allow PHMSA to increase its pipeline inspection regimen and improve oversight of interstate hazardous liquid and gas pipeline operations in Montana, Nebraska and across the country.

PHMSA has an aggressive strategy underway to recruit, hire and fill these positions as quickly as possible. The majority of these positions will consist of inspectors and enforcement personnel to be located across our five regional offices to oversee operators’ pipeline safety programs, conduct critical inspections and accident investigations, and participate in spill response activities. Twelve of these new positions will be allocated to the Western regional office, which is responsible for the State of Montana.

One challenge is that PHMSA competes directly with industry to fill these positions. The engineers and transportation specialists who are the target candidate pools for these positions are highly sought after by the expanding U.S. oil and gas industries that PHMSA regulates. It is difficult to match not only industry salaries, but also the speed with which industry is able to hire.

To address these challenges, PHMSA is pursuing a comprehensive strategy to encourage talented people to seek careers in public service. PHMSA uses hiring authorities and pay flexibilities such as the Veterans Employment Opportunities Act and the Veterans’ Recruitment Appointment; recruitment, relocation and

retention incentives; and the student loan repayment program. PHMSA is seeking Direct Hire Authority. The agency posts vacancy announcements on social media ([Twitter](#) and [LinkedIn](#)); conducts outreach to professional organizations and veterans groups; and attends career fairs and on-campus hiring events. PHMSA also plans to explore creating new partnerships with colleges and universities with engineering programs.

As the workforce increases, training is critical to achieve the highest possible level of safety. Hiring and training federal and state inspectors is of the utmost importance as PHMSA expands its workforce by 25 percent from increased appropriations. Enhanced training opportunities for both Federal and state inspectors include tailored training for inspectors, finding the right mix between classroom and distance learning to alleviate travel challenges.

## **V. Data-driven Regulation**

PHMSA's priorities and activities are guided by three strategic principles: Safety, Trust and Innovation. It is PHMSA's responsibility to use its regulatory and enforcement authority effectively to assure all Americans that, even as the industrial landscape changes, safety is a constant.

Completing all Congressional mandates is critical to PHMSA's pipeline safety program, allowing the agency to meaningfully strengthen its oversight program. PHMSA has completed 26 of the 42 mandates contained in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

For example, in 2013 PHMSA completed section 28 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which directed the agency to conduct a water crossings study to determine if the depth of cover over buried pipelines was a factor in any accidental release of hazardous liquids.

PHMSA has a plan in place to address the remaining open mandates and is working diligently to do so. Four mandates were addressed this year by reporting to Congress on the potential extension of existing regulations to unregulated gathering lines, submitting the first of two reports to Congress on the Research & Development program, offering maintenance-of-effort waivers to states for FY 14, and implementing continued improvements to the Facility Response Program.

The hard work continues. The damage prevention final rule was published on July 23<sup>rd</sup>; the rule goes into effect on January 1, 2016. With the support of the Office of Management and Budget (OMB), over the summer PHMSA issued two proposed rules on expansion of excess-flow valve requirements, and updated incident notification requirements for pipeline operators and operator qualification. The Operator Qualification, Cost Recovery and Accident Notification proposed rule addresses two mandates from the 2011 Act—the requirement that operators notify the National Response Center of an incident as soon as practicable, but not more than one hour after confirmed discovery, and the authorization for PHMSA to recover costs for pipeline design reviews.

PHMSA is working to publish its proposed natural gas transmission and hazardous liquid rules by the end of this calendar year, and is working diligently within the Department and with OMB to meet this goal. These rules will improve pipeline safety significantly in Montana, Nebraska and nationwide.

The rulemaking process is methodical to ensure that new rules are effective, efficient, and reflect feedback from all stakeholders. In addition to working to advance the gas and liquid rules, PHMSA is working to balance representation on the gas and liquid pipeline technical advisory committees to ensure that their recommendations are borne out of balanced and robust conversations. There are obvious challenges in getting there; membership in the advisory committees changes, due in part to new appointments, retirements and career changes. In the last 24 months, PHMSA has lost 8 members representing the government and public sectors. It is important to rebalance these committees again to benefit and protect the American public from pipeline transportation risks.

To assist with future rulemaking efforts and the broader safety mission, PHMSA has initiated an agency-wide data assessment. The assessment will evaluate PHMSA's data and analytical needs and review the current status of data, technology systems, and skills of the PHMSA workforce. It will then develop a gap analysis and comprehensive strategy to become a predictive, data-driven, risk based regulatory development and enforcement safety agency.

PHMSA continuously works to develop new ways to mitigate risk with one aspirational goal in mind: zero deaths, injuries, environmental and property



damage, and transportation disruptions related to hazmat transportation. Serious pipeline incidents have declined an average of 10 percent every three years since 1988, despite increased energy production, aging infrastructure, and increased pipeline mileage.

To sustain this safety record, PHMSA is positioning to be more predictive, in order to anticipate the risks of the future and drive innovation that enhances the safety mission. Research and development is vital to that effort.

PHMSA conducts R&D in partnership with industry, universities, and other stakeholders, working together to identify gaps in current technology and reach consensus on the sector's most pressing challenges. PHMSA's investments have contributed to new pipeline technologies entering the market, including above-ground, radar-based pipeline mapping and a nondestructive testing method for unpiggable pipelines. In addition to these collaborative R&D efforts, PHMSA conducts R&D in the public interest to enhance our rulemaking efforts and our safety mission.

## **VI. Data-sharing Need**

Of the 2.6 million miles of pipeline within the United States, states monitor 80 percent. Yet the information the states gather through inspections and enforcement activities is not shared between states or with PHMSA. Linking state and federal inspection, enforcement, and geospatial data, and providing a consolidated national view of all pipeline data, is a vital component in identifying current and emerging risks that drive improved safety performance and informed regulations. To that end, PHMSA has consistently requested a nationwide integrated database of pipeline inspection and enforcement data.

This nationwide integrated database will close important gaps in the inspection, enforcement and remediation of unsafe pipelines and their operators with two important elements. First, it will share the safety inspection records by operator and by element of the inspection and communicate those results to all impacted inspectors in states with common operators and common practices. Simply put, a dangerous practice or pipeline element found in one location will be communicated quickly to all inspectors and operators that would have an interest in the condition identified in order to avoid environmental damage and disasters

in and around our communities. Second, this database will plot the results of inspections along the available pipeline mapping systems, giving a better optic of the coverage of inspections, pipelines, and incidents.

The improved data collection and sharing will also help inform PHMSA's future rulemaking activity by allowing PHMSA to capture data from the States on the 80 percent of the Nation's pipelines that they oversee. Through this project, PHMSA and state inspection and enforcement data could be combined with current incident and annual reporting data to provide complete safety records for all pipeline operators and a more complete view of the pipeline landscape to inform future regulation. This would include the identification of pipelines that pose a higher risk of failure as well as a more complete view of overall fitness level information to be assessed when significant determinations such as enforcement actions or the issuance of special permits are being considered.

## **VII. Enhancing Enforcement**

Enforcement authorities are a critical aspect of preventing and deterring accidents. PHMSA is undergoing an assessment of its enforcement capabilities and how it can use them more effectively. Results over the course of the next three to four months will help the agency create better alignment and efficiency in program delivery, and identify opportunities to enhance enforcement of the authorities Congress has granted PHMSA.

One of PHMSA's most effective enforcement tools is the Corrective Action Order (CAO), which directs an operator to take immediate action to prevent or mitigate the risks from a pipeline that poses a threat to life, property, or the environment. However, a CAO only applies to a single operator and cannot address emerging safety issues that affect multiple operators. Advisory bulletins are important tools that provide industry with clear guidance on issues that impact safety. While most pipeline operators will adjust their practices based on information communicated in Advisory Bulletins, the bulletins do not carry the weight of law. As PHMSA works toward a comprehensive understanding of its enforcement capabilities, it is committed to using all enforcement authorities wisely to address the greatest risks and maximize safety.

## **VIII. Promoting a Strong Safety Culture at PHMSA and Industry-Wide**

PHMSA improves safety by using all the tools at our disposal—safety regulations, research and development, education and outreach, inspections, and enforcement tools such as corrective actions, civil penalties and other interventions. A critical part of this safety system is to continually strive for improvement and to find new ways to raise the bar on safety.

With stronger safety partnerships and enhanced coordination with states, PHMSA aims to further enhance a risk-based approach to safety management and a strong safety culture throughout the entire pipeline sector and regulated industries.

### **Leading by Example**

PHMSA is leading by example through the Agency Safety Action Plan and organizational review. The ASAP should serve as a model for the entire pipeline sector to take a close look at where safety improvements can be made and to take concrete steps to drive toward enhanced safety in a methodical and comprehensive way. The ASAP is a PHMSA-wide effort, with the strong support of the Secretary of Transportation.

In the next few weeks, PHMSA will also begin an organizational assessment. With additional positions and funding for both the pipeline and hazmat safety programs, Congress has invested in PHMSA. The organizational assessment, in conjunction with a Human Capital Strategy and Staffing Study, will help determine how to allocate these resources and how to position the organization for efficiency and long-term success. It also will help ensure effective use of resources to support PHMSA's mission, reduce risk and improve safety.

### **Safety Management System Recommended Practice**

In 2010, the National Transportation Safety Board (NTSB) recommended that the American Petroleum Institute (API) facilitate the development of a safety management system standard specific to the pipeline industry, in collaboration with industry, regulators and other stakeholders. PHMSA participated in the development of API Recommended Practice (RP) 1173, the recently published

recommended standard for implanting Safety Management Systems in the pipeline industry.

PHMSA fully supports the implementation of RP 1173 and plans to promote vigorous conformance to this voluntary standard. The recommended practice is a proactive, system-wide approach to reducing risks and provides operators with a comprehensive framework to address risk across the entire life cycle of a pipeline. The standard promotes pipeline safety, while implementing guidelines for continuous improvement.

Moving forward, PHMSA will continue to work with states and other stakeholders to encourage the implementation of RP 1173 across the pipeline industry.

## **IX. Conclusion**

PHMSA employs a talented team of experts and professionals, and is dedicated to maintaining the highest levels of safety in today's and tomorrow's industry. PHMSA has a variety of capabilities at its disposal: enforcement authority, a workforce of world-class technical experts, and safety partnerships. The goal is to work within the organization, with partners and with Congress to implement changes that allow for long-term success and safety in Montana, Nebraska and nationwide.

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