

**STATEMENT OF
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**BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE
INFRASTRUCTURE, SAFETY AND SECURITY
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE**

**REGARDING
PIPELINE SAFETY: OVERSIGHT OF OUR NATION'S PIPELINE NETWORK**

SEPTEMBER 29, 2015

Good afternoon Chairwoman Fischer, Ranking Member Booker and members of the Subcommittee. My name is Donald F. 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 25 member companies are analogous to the interstate highway system, transporting natural gas across state and regional boundaries. As you can see from the map below, this is an extensive energy infrastructure system.

U.S. Interstate Natural Gas Transmission Pipelines



INGAA and its members' core mission is the safe and reliable transportation of natural gas. Through a variety of initiatives – including best practices and standards development, regulatory compliance and damage-prevention efforts – this

association has been committed to the continuous improvement of pipeline safety since its founding in 1944. As part of this commitment, INGAA supported the most recent reauthorization of the Pipeline Safety Act, enacted in 2011. We also support implementation of the new law through regulations.

To date, however, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has not yet implemented several of the key regulatory mandates from the 2011 Act. INGAA hopes PHMSA will release these proposed regulations for public comment soon, so stakeholders can participate in a process that culminates in final rules within the next year. Another important step for pipeline safety is reauthorization of the Pipeline Safety Act during this Congress. Decisive action by Congress and PHMSA will keep pipeline safety moving in the right direction.

INGAA Safety Commitments

As mentioned, INGAA has a long history of engagement to improve pipeline safety. This began with the development of construction and operating standards during the early years of the natural gas transmission pipeline industry. In 1968, Congress enacted the Natural Gas Pipeline Safety Act, formalizing these standards and making them enforceable. In the decades since, Congress has added new requirements as technology has advanced and the ability to monitor safety performance has improved.

We have long maintained – and regulators agree – that the natural gas pipeline industry operates with a high degree of safety. Accidents are rare, and the number of fatalities and injuries from pipeline accidents is very low. The Department of Transportation states that pipelines are the safest mode of energy transportation.

Still, the pipeline failure in San Bruno, California in 2010 was a wake-up call for our industry. It reinforced for pipeline operators that pipeline safety is not just a matter of regulatory compliance; it is central to the industry's social license to operate. We recognize that safety must be our highest priority.

In the wake of that pipeline failure, INGAA's board of directors committed the association and its member pipeline companies to the goal of zero pipeline safety incidents. INGAA identified the commercial aviation sector as a model of an industry with a similar "zero incident" goal. While this is a tough, and some would say, impossible, goal to meet, the emphasis is in the right place – a pursuit of excellence.

INGAA's overarching goal of zero incidents is anchored by four core principles. These are: (1) commitment to a strong safety culture as a critical dimension of continuous improvement; (2) relentless pursuit of improving by learning; (3) commitment to apply integrity management principles on a system-wide basis; and (4) commitment to engage with stakeholders at all levels.

These core principles provided the basis for a nine-point pipeline safety action plan that the INGAA board endorsed in early 2011. This action plan – known as the INGAA Integrity Management Continuous Improvement (or IMCI) initiative – addresses all of the major issues raised in relevant reports by the National Transportation Safety Board as well as the key natural gas pipeline issues addressed within the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (the 2011 Act). In connection with this, two items deserve specific mention: (1) expanding integrity management beyond High Consequence Areas, and (2) demonstrating that pre-regulation pipelines remain fit for service.

Consistent with our guiding principle of a relentless pursuit of improvement, INGAA’s members worked with our peers in the hazardous liquid and gas distribution industries, as well as federal and state regulators, to develop a standard for pipeline safety management systems, called API 1173. This standard consolidates best practices within the industry and addresses a recommendation made by the National Transportation Safety Board. Our members are now incorporating the safety management system elements established in API 1173.

Recent Pipeline Safety Legislation

The Pipeline Safety Improvement Act of 2002 incorporated a new, risk-based approach to safety for natural gas transmission pipelines in federal pipeline safety law. The 2002 reauthorization law directed the Secretary of Transportation to develop a regulation on “integrity management” for natural gas transmission pipeline segments located in populated areas. Regulations subsequently required the operators of such pipelines to: (1) identify pipeline segments located in defined, populated areas, known as High Consequence Areas or HCAs; (2) conduct baseline inspection on such segments within 10 years; and (3) re-assess those segments every seven years thereafter.

This integrity management directive emphasized achieving the greatest enhancement to public safety by reducing risks in populated areas. For interstate natural gas transmission pipelines, only about six percent of total pipeline mileage is located in a defined HCA. Still, because the majority of these segments were inspected using in-line inspection tools (“smart pigs”), over 70 percent of INGAA’s membership mileage is now being inspected periodically with this enhanced process in order to capture the six percent within HCAs. This has resulted in a 72 percent reduction in leaks attributable to corrosion, material or construction defects.

As part of its pipeline safety action plan, INGAA members committed to the phased expansion of integrity management beyond HCAs. INGAA’s plan would cover 90 percent of pipeline segments located near people by 2020, and 100 percent of segments located near people by 2030. We advocate a phased approach in part to minimize delivery service disruptions. Testing some pipeline segments will be challenging because the pipeline must be removed from service for inspection and

possible repair and replacement. INGAA's members are on schedule, and to date have inspected segments located in proximity to over 70 percent of the public along pipelines.

The 2011 Act directs PHMSA to examine the expansion of the integrity management program beyond the 2002 requirements, report its findings to Congress and issue any new rules that might be warranted.

The other major issue addressed in the 2011 Act involved whether pipelines constructed before federal pipeline safety regulations took effect in 1970 remain "fit for service." Many of the nation's natural gas transmission pipelines were constructed before 1970. Industry standards then called for operators to test new pipe to confirm its ability to operate safely at the system's maximum allowable operating pressure prior to placing such pipe in service. Beginning in 1970, operators were required by federal regulations to conduct this testing and retain related records for all new pipelines.

The accident in San Bruno highlighted the need for pipeline operators to ensure that they have adequate testing records. INGAA's members support the validation of testing records, as well as re-testing segments located in populated areas if traceable, verifiable and complete testing records cannot be produced.

The 2011 Act requires regulations on records/testing for pre-1970 pipe in highly populated areas. INGAA members have validated the material strength records for approximately 85 percent of the pipeline in HCAs and are far along in addressing the remaining segments. While these regulations have not yet been proposed, PHMSA engaged in a robust pre-rulemaking dialogue with pipeline safety stakeholders, including INGAA and its members, to develop a process to implement this requirement. We anticipate that PHMSA will address this topic, as well as the proposed expansion of integrity management, in its comprehensive natural gas rule currently under review by the Office of Management and Budget (OMB).

Natural Gas Safety Regulations - Importance of Certainty

INGAA's members remain committed to the goal of zero incidents, and progress toward that target must continue whether new regulations are issued, or not. Nonetheless, consistency between INGAA's voluntary commitments and the regulations that will implement the 2011 Act is both important and desirable. INGAA has engaged in an active dialogue with PHMSA (and other stakeholders) over the past four years to achieve this goal. This has been constructive, and we have every reason to believe that PHMSA's proposed rule will reflect INGAA's input.

Still, these proposed regulations are behind the schedule prescribed by Congress in 2011. INGAA acknowledges that regulations should be considered thoughtfully and include an analysis of costs and benefits. The practical consequence of this delay, however, is to erode the confidence of some pipeline companies that their voluntary

safety commitments will be consistent with the final rules adopted by PHMSA. Therefore, operators may be reluctant to dedicate the enormous resources needed to implement the voluntary pipeline safety commitments. This hesitancy is rooted in the perceived risk that the rules ultimately might compel a repeat of certain steps in the pipeline safety action plan. This is not insignificant. For example, testing pipelines for material strength is both costly and disruptive to service because pipelines are removed from operation to complete the testing. Therefore, progressive pipeline operators are at risk if they act while new regulations are pending.

Our purpose here is not to be critical of, but instead to work collaboratively with, PHMSA. The regulatory process goes far beyond what PHMSA can control, and policymakers should avoid assigning PHMSA too much blame for the delays in implementing the 2011 Act. Indeed, recent press articles have taken the simplistic view that PHMSA can simply draft new regulations and unilaterally bring such regulations into force. This narrative ignores the role of the Department of Transportation and OMB in vetting proposed rules before they can be published for public comment. This process is arduous at best. We need to recognize that reality and work with the agencies to make this difficult regulatory process as efficient as possible.

In the end, we need the regulatory certainty that will come with completion of the regulations implementing the 2011 Act. The title of that legislation makes the point. It is “The Pipeline Safety, *Regulatory Certainty* and Job Creation Act of 2011” (emphasis added). Without certainty, in the form of new safety regulations that clearly define expectations, the path forward on natural gas transmission pipeline safety will be far more disjointed.

Legislative Recommendations

INGAA encourages Congress to reauthorize the Pipeline Safety Act during this Congress. Some have suggested that the upcoming reauthorization should be for a limited term of two years rather than the typical four or five years. INGAA questions the utility of such a limited effort. Congress should gather the information needed and make the legislative changes necessary to have confidence in enacting a four-year reauthorization. PHMSA needs certainty too, and a shortened reauthorization term would deprive the agency of the assurance needed to devote its undivided attention to fulfilling its mission.

Finalize PHMSA Rulemakings Required by 2011 Reauthorization

As mentioned, several major natural gas rulemakings from the 2011 Act are incomplete. INGAA’s highest priority for this next reauthorization is providing greater certainty on what those rulemakings will entail, such that industry can continue with confidence its initiatives to fulfill the purposes of the 2011 Act and other guidance even before regulations are finalized. Given how long it has taken to

send these proposed rules to OMB for review, and the record of delay in other rulemakings across the executive branch, we have good reason to be apprehensive that it may take several more years to finalize these pipeline safety rules.

INGAA recommends that Congress add further details on expected deadlines, testing levels and performance metrics, for the rulemakings on integrity management expansion and pre-1970 pipeline fitness-for-service. More clearly delineated expectations will provide pipeline operators with the certainty to proceed confidently with and take credit for initiatives to improve pipeline safety before the rules are finalized.

Create Safety Regulations for Underground Natural Gas Storage Facilities

There are approximately 425 underground natural gas storage facilities in the U.S. The facilities use underground geologic formations, such as depleted oil and gas wells, to store natural gas. While PHMSA has the statutory authority to do so, to date it has not promulgated federal safety regulations for these facilities. In an Advanced Notice of Proposed Rulemaking on gas transmission safety issues in 2011, PHMSA asked whether it should create safety standards and regulation for natural gas storage. INGAA responded in the affirmative, and over the past four years, we have worked with American Gas Association, PHMSA and state officials to develop industry consensus standards that could form the basis for future regulations. These consensus standards, or “recommended practices,” were completed this month.

INGAA believes PHMSA should undertake a rulemaking to adopt new regulations for underground natural gas storage, and our hope is that the new recommended practices will help to facilitate the more rapid adoption of such rules. We recommend that Congress require the creation of federal regulations by a date certain. We also support the appropriate delegation of oversight authority to state entities for intrastate storage facilities, similar to the existing delegation of authority for intrastate pipeline regulation. Finally, INGAA recommends that Congress give PHMSA the authority to collect user fees from storage operators to fund federal and state oversight of storage facilities. Closing this gap in safety oversight would be an important step forward.

Eliminate Duplicative Requirements

Beginning with the federal rules promulgated in 1970, natural gas pipeline safety regulations always have prioritized achieving the greatest margin of safety where pipelines are in close proximity to population. At that time, regulators created four classes of pipe, based on the number of buildings in close proximity to the pipeline right-of-way. At one end of the scale are pipeline segments in rural areas; at the other end are segments in urban areas. A pipeline’s class location changes if the number of structures along the pipeline increases. This can trigger a requirement that the operator either operate at a lower pressure – which is usually impractical

from an operations standpoint – or completely replace pipelines with thicker-walled pipe.

Pipeline inspection technology now has advanced to a point where operators can inspect pipes internally and assess integrity without removing pipelines from service. This was not possible when the class location rules were adopted in the 1970s. As mentioned, regulations now require natural gas transmission pipeline operators to employ integrity management programs designed to increase the margin of safety for pipe segments located in populated areas. These programs include a thorough risk assessment and detailed pipeline inspections on a regular interval. Smart pig internal inspection technology is the principal method that INGAA members use to comply with integrity management regulations.

Consequently, pipeline operators now must comply with redundant regulatory requirements (integrity management and pipe replacement based on class location) that are intended to address the same problem. Today's use of integrity management principles, and associated inspection technology, is a more sophisticated approach to pipeline safety in populated areas. If pipes can be inspected so that their condition is known, there is no reason for replacing pipeline that remains safe to operate. Eliminating unneeded pipeline replacement also would reduce burdens on landowners and significantly reduce methane emissions and service disruptions.

In the 2011 pipeline safety reauthorization, Congress required PHMSA to assess “whether applying the integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.” Congress required a report from PHMSA by January 2014. To our knowledge, PHMSA has not submitted this report. We hope PHMSA and Congress will agree to eliminate the overlap between these two regulations.

Update Outmoded PHMSA User Fee Funding

While not INGAA's top priority, the PHMSA user fee and funding regime needs to be updated. The law authorizing the user fee, enacted in 1986, has not kept up with the times. PHMSA's user fees need scrutiny and a legislative update.

As part of the appropriations process, the Department of Transportation recently advocated amending the statutory authority for one of these user fees. To their credit, the House and Senate Appropriations Committees refused to legislate on an appropriations bill. The Senate Appropriations Committee also weighed in on another PHMSA user fee matter, related to the allocation of the Pipeline Safety Fund user fee. The committee's report on the Transportation/HUD appropriations bill¹ included the following statement:

Pipeline Safety User Fee Allocation.—The pipeline safety program is largely funded through user fees on natural gas transmission pipelines, jurisdictional

¹ H.R. 2577, as amended; S.Rrpt. 114-75.

hazardous liquid pipelines, and liquefied natural gas terminal operators. Recent authorizations have increased the responsibilities for PHMSA and the States with respect to the safety of our Nation's pipelines. Given this change in scope of the pipeline safety program, the Committee directs PHMSA to review the user fee collection process to determine if it should be modified to more equitably allocate the cost of the pipeline program across the industry segments covered by Federal and State oversight. PHMSA shall submit a report to both the House and Senate Committees on Appropriations within 60 days of enactment of this act, that summarizes the agency's statutory authority to revise the fee structure, its assessment of the current fee structure, and any recommendations for changes to the fee structure that should be considered by Congress as it considers reauthorization of PHMSA.

INGAA agrees, and urges that this be done in a comprehensive fashion. The existing Pipeline Safety Fund fee is not assessed on all regulated sectors of the natural gas industry, but rather only on gas transmission operators. This gives rise to an important question: If a large block of "users" are not paying the user fee, is it still a "user fee" under budget rules and precedent? The answer to this question has implications for both Congressional committee jurisdiction and whether the dollars raised must be sent to the Treasury rather than reserved to offset PHMSA's costs.

We respectfully suggest that the authorizing committees review the current state of this user fee, and amend the statute to make this a true user fee assessed on all regulated sectors of the natural gas industry. At the very least, Congress should clarify that PHMSA is authorized to collect user fees from any new industry sectors added to PHMSA oversight either by statute or regulation.

Collaborative Pipeline Safety Research and Development

For many years, the pipeline industry worked in a collaborative fashion with DOT and PHMSA to identify and fund pipeline safety research and development projects. This collaboration worked well in identifying key priorities and avoiding duplication of effort. Many of the pipeline inspection technology successes of the past were the product of this process. In 2011, however, the Secretary of Transportation suspended collaborative R&D efforts due to conflict-of-interest concerns.

We do not believe that such a conflict of interest, in fact, exists here. To the contrary, we contend that the government, public and industry share an identical interest in a robust and successful pipeline safety R&D effort. INGAA, therefore, suggests that PHMSA return to a collaborative R&D effort. For example, the existing pipeline safety advisory committees could serve as a forum for R&D discussion and approval. These advisory committees include equal representation from three different stakeholder groups – government, industry and the public. The pipeline safety advisory committees are a logical choice for establishing pipeline safety R&D priorities in a transparent and inclusive manner.

Conclusion

INGAA urges Congress to pass a pipeline safety reauthorization bill soon. Industry continues to make significant system-wide investments in advancing its goal of zero pipeline incidents. Congress should provide additional clarity to guide PHMSA on its comprehensive natural gas pipeline rule, require action on storage safety, and address duplicative and outdated provisions that do not contribute to enhancing public safety. Madam Chairwoman, thank you for the opportunity to share our views. I would be happy to answer questions at the appropriate time.