



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable John D. Rockefeller IV
Chairman, Committee on Commerce, Science
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Section 19(c) of the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355) requires the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to report to Congress each year on any pipeline safety recommendations made by the National Transportation Safety Board (NTSB) during the prior year and to provide a copy of the response for each recommendation. This letter is submitted in fulfillment of this requirement.

The NTSB issued safety recommendations to PHMSA during calendar year 2012, as listed on the enclosure to this letter. The PHMSA will be happy to provide an interim update, upon request, on any actions taken regarding these recommendations after this reporting period ended.

We take our responsibility to address all recommendations seriously, and we have submitted to the NTSB our plan to address these matters. We will continue to work aggressively to close all open recommendations.

A similar letter has been sent to the Ranking Member of the Senate Committee on Commerce, Science and Transportation; the Chairman and the Ranking Member of the House Committee on Energy and Commerce; and the Chairman and the Ranking Member of the House Committee on Transportation and Infrastructure.

If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

Ray LaHood

Enclosure

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable John Thune
Ranking Member
Committee on Commerce, Science
and Transportation
United States Senate
Washington, DC 20510

Dear Senator Thune:

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable Bill Shuster
Chairman
House Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable Nick J. Rahall II
Ranking Member
House Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Rahall:

Section 19(c) of the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355) requires the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to report to Congress each year on any pipeline safety recommendations made by the National Transportation Safety Board (NTSB) during the prior year and to provide a copy of the response for each recommendation. This letter is submitted in fulfillment of this requirement.

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 26, 2013

The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Waxman:

Section 19(c) of the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355) requires the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to report to Congress each year on any pipeline safety recommendations made by the National Transportation Safety Board (NTSB) during the prior year and to provide a copy of the response for each recommendation. This letter is submitted in fulfillment of this requirement.

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Enclosure

NATIONAL TRANSPORTATION SAFETY BOARD RECOMMENDATIONS ON PIPELINE SAFETY ISSUED IN 2012

NTSB Safety Recommendation P-12-3:

Revise Title 49 Code of Federal Regulations 195.452 to clearly state (1) when an engineering assessment of crack defects, including environmentally assisted cracks, must be performed; (2) the acceptable methods for performing these engineering assessments, including the assessment of cracks coinciding with corrosion with a safety factor that considers the uncertainties associated with sizing of crack defects; (3) criteria for determining when a probable crack defect in a pipeline segment must be excavated and time limits for completing those excavations; (4) pressure restriction limits for crack defects that are not excavated by the required date; and (5) acceptable methods for determining crack growth for any cracks allowed to remain in the pipe, including growth caused by fatigue, corrosion fatigue, or stress corrosion cracking as applicable.

PHMSA Actions:

Currently, Part 195, Appendix C, provides guidance to help a pipeline operator implement liquid Integrity Management Program (IMP) requirements including detection of pipeline stress corrosion cracking (SCC) and other crack-like features, such as fatigue cracks, narrow axial corrosion, toe cracks, hook cracks, etc. Appendix C states that an operator must choose a minimum of two internal inspection tools, including one to detect cracks. A rulemaking entitled “*Pipeline Safety: Standards for Conducting Condition Assessments of In-Service Pipelines*” (RIN: 2137-AE88) is under development. This rulemaking would incorporate by reference consensus standards governing conduct of assessments of the physical condition of in-service pipelines using in-line inspection, internal corrosion direct assessment, and stress corrosion cracking direct assessment. Periodic assessment of the condition of gas transmission pipelines is required by 49 CFR sections 192.921 and 192.937. Periodic assessment of hazardous liquid pipelines is required by section 195.452. These sections allow use of the inspection techniques addressed in these standards. The regulations provide minimal requirements for the use of these techniques. Incorporation of the consensus standards would assure better consistency, accuracy, and quality in pipeline assessments conducted using these techniques.

Additionally, PHMSA held a research and development forum on July 18, 2012, in Washington, DC, which included a discussion of the need for a study of the effectiveness of crack detection tools for non-SCC anomalies. We believe this research study will provide valuable information concerning crack detection tools and crack defects that would be considered in any future PHMSA rulemaking.

NTSB Safety Recommendation P-12-4:

Revise Title 49 Code of Federal Regulations 195.452(h)(2), the "discovery of condition," to require, in cases where a determination about pipeline threats has not been obtained

within 180 days following the date of inspection, that pipeline operators notify the Pipeline and Hazardous Materials Safety Administration and provide an expected date when adequate information will become available.

PHMSA Actions:

A rulemaking entitled “*Pipeline Safety: Safety of On-Shore Hazardous Liquid Pipelines*” (RIN: 2137-AE66) is currently under development at DOT. This rulemaking would establish effective procedures that hazardous liquid operators can use to improve the protection of High Consequence Areas (HCA) and other vulnerable areas along their hazardous liquid onshore pipelines. PHMSA is considering whether changes are needed to the existing regulations covering hazardous liquid onshore pipelines, whether other areas should be included as HCAs for integrity management (IM) protections, what the repair timeframes should be for areas outside the HCAs that are assessed as part of the IM program, whether leak detection standards are necessary, whether valve spacing requirements are needed on new construction or existing pipelines, and whether PHMSA should extend regulation to certain pipelines currently exempt from regulation. The agency would also address the public safety and environmental aspects as well as the cost implications and regulatory burden.

NTSB Safety Recommendation P-12-5:

Conduct a comprehensive inspection of Enbridge Incorporated's integrity management program after it is revised in accordance with Safety Recommendation P-12-11.

PHMSA Actions:

PHMSA will conduct a comprehensive inspection of Enbridge’s integrity management program as recommended by the NTSB. The timing of the inspection will be contingent on Enbridge’s completion of its revisions to its integrity management program as delineated in Safety Recommendation P-12-11. Additionally, on August 6, 2012, PHMSA executed a Consent Agreement and Order incorporating a comprehensive safety plan for the oversight of Enbridge’s Lakehead system.

The plan requirements are consistent with NTSB’s recommendation P-12-11, and include additional elements to improve the safety record of the Lakehead pipeline system.

NTSB Safety Recommendation P-12-6:

Issue an advisory bulletin to all hazardous liquid and natural gas pipeline operators describing the circumstances of the accident in Marshall, Michigan—including the deficiencies observed in Enbridge Incorporated's integrity management program—and ask them to take appropriate action to eliminate similar deficiencies.

PHMSA Actions:

As part of the condition to satisfy recommendation P-12-10, PHMSA anticipates issuing an Advisory Bulletin that describes the circumstances of the accident in Marshall, Michigan. This Advisory Bulletin will additionally satisfy the first part of recommendation P-12-6. This advisory is scheduled to be issued by August 2013.

Following the completion of the comprehensive inspection prescribed in P-12-5, PHMSA anticipates that it will issue a second Advisory Bulletin to all pipeline owners and operators that will communicate the identified deficiencies with Enbridge's integrity management program and will ask operators to take appropriate action to eliminate similar deficiencies. This subsequent Advisory Bulletin will satisfy the second requirement of recommendation P-12-6. This advisory is also scheduled to be issued by August 2013.

NTSB Safety Recommendation P-12-7:

Develop requirements for team training of control center staff involved in pipeline operations similar to those used in other transportation modes.

PHMSA Actions:

PHMSA is addressing this recommendation through a number of ongoing and new initiatives. The implementation of the Control Room Management (CRM) regulations continues to provide valuable lessons learned that are being incorporated into guidance for compliance with all aspects of CRM, including training. PHMSA is inspecting and enforcing the entire set of CRM requirements, including training implementation. Inspection and enforcement of CRM training is also contained in operator qualification regulations.

In other related initiatives, PHMSA is an active participant on the Department of Transportation's (DOT) Human Factors Coordinating Committee and engages in information exchange with other DOT Operating Administrations (OA). To the extent practical, PHMSA has disseminated information on other OA efforts and requirements through its CRM website (<http://primis.phmsa.dot.gov/crm/fm.htm>) and has engaged other OAs in the training of PHMSA and State inspectors, particularly in the area of fatigue risk mitigation. Employees from the Federal Aviation Administration's Civil Aerospace Medical Institute (FAA-CAMI) participated in training classes at PHMSA's training facilities in Oklahoma City in 2011. PHMSA will engage with, and seek input from, other DOT OAs about requirements they have in place that may help further address this recommendation.

NTSB Safety Recommendation P-12-8:

Extend operator qualification requirements in Title 49 Code of Federal Regulations 195 Subpart G to all hazardous liquid and gas transmission control center staff involved in pipeline operational decisions.

PHMSA Actions:

PHMSA has assembled a CRM team and is reviewing existing regulations, answers to frequently asked questions (FAQs), and other material to determine the best way to determine whether or not additional clarification is needed and/or whether there is a need to enhance operator qualifications to facilitate requirements to address all operator staff involved in pipeline operational decisions.

PHMSA will follow-up with the NTSB when the CRM team has completed its review. This Recommendation is anticipated to be addressed in the “Miscellaneous II” rule (RIN #: 2137-AE94).

NTSB Safety Recommendation P-12-9:

Amend Title 49 Code of Federal Regulations Part 194 to harmonize onshore oil pipeline response planning requirements with those of the U.S. Coast Guard and the U.S. Environmental Protection Agency for facilities that handle and transport oil and petroleum products to ensure that pipeline operators have adequate resources available to respond to worst-case discharges.

PHMSA Actions:

PHMSA acknowledges there may be potential benefit in having more harmonization or more standardized methods of determining response resources among the plan agencies (i.e., USCG, EPA, the Department of Interior (DOI)).

After the Marshall, MI, incident, PHMSA commissioned the Volpe Transportation Systems Center to perform a benchmarking study of the review and approval processes among the four agencies. The Volpe Center drafted a report with findings concerning the business processes used by each agency: 1) where the reviews were conducted (Field or Headquarters), 2) the number of plans reviewed by each agency, 3) staff devoted by each agency to the process, 4) secondary (Quality Assurance) reviews, and 5) use of exercises to validate plan content. This study, titled “Emergency and Environmental Response Attachment 48 - Draft Volpe Center Report on Office of Pipeline Safety Business Process Review”, is available at the NTSB docket at: <http://dms.nts.gov/pubdms/search/document.cfm?docID=362088&docketID=49814&key=76766>.

These findings showed some differences in business practices that led PHMSA to coordinate with the other approving agencies more closely. PHMSA conducted joint

meetings with USCG, EPA, and the Bureau of Ocean Energy Management, Regulation and Enforcement (now Bureau of Safety and Environmental Enforcement (BSEE)), which have resulted in a review process that is more similar to the other agencies. Specifically, PHMSA:

- Has increased the number of plan reviewers;
- Determined that it will incorporate regional input into each plan's review;
- Increased its consultation with EPA via its Headquarters Office of Emergency Management; and
- Will implement a secondary review of each plan for consistency and quality assurance.

PHMSA does reference Appendix C to the USCG regulations at 33 CFR Part 154 as guidance for determining response resources needed to remove a worst-case discharge. EPA adopted many of those planning concepts concerning the type and amount of response equipment from USCG rulemaking in its response planning regulation for non-transportation-related facilities (40 CFR Part 112, Appendix E). In most instances, plans for pipeline are already using the USCG's and EPA's method for planning response resources for a worst case discharge.

There are differences in capabilities and resources available among each of the agencies. This is due in large part to the difference in mission, organizational size, and staffing.

We have recently redoubled our efforts working with our counterparts in the USCG, the EPA, and BSEE in revising the Preparedness for Response Exercise Program (PREP) guidance, enhancing communications with Area Committees, and seeking to improve the environmental protection provided by the best combination of response resources and response tactics available along any onshore oil pipeline.

PHMSA will continue to work with our counterpart agencies to determine if enhanced communications, cooperation, or regulations are needed to better align the objectives, content, form, and format of facility response plans.

NTSB Safety Recommendation P-12-10:

Issue an advisory bulletin to notify pipeline operators (1) of the circumstances of the Marshall, Michigan, pipeline accident, and (2) of the need to identify deficiencies in facility response plans and to update these plans as necessary to conform with the nonmandatory guidance for determining and evaluating required response resources as provided in Appendix A of Title 49 Code of Federal Regulations 194, "Guidelines for the Preparation of Response Plans."

PHMSA Actions:

PHMSA anticipates publishing an Advisory Bulletin that discusses specific inadequacies of the Facility Response Plan for the pipeline involved in the Marshall, Michigan,

incident. PHMSA anticipates that this Advisory Bulletin will in part satisfy a condition for NTSB recommendation P-12-06. This advisory is scheduled to be issued by August 2013. One concern was the undocumented incorporation by reference of operator manuals and procedures that were not available for emergency responders' use. As a part of our compliance order with Enbridge regarding the Lakehead system, we plan to reach out to industry organizations to share lessons learned.

NTSB Safety Recommendation P-11-8 (Reiterated)¹:

Require operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to provide system-specific information about their pipeline systems to the emergency response agencies of the communities and jurisdictions in which those pipelines are located. This information should include pipe diameter, operating pressure, product transported, and potential impact radius.

PHMSA Actions:

On November 3, 2010, PHMSA issued Advisory Bulletin PHMSA-2010-0307 regarding Pipeline Safety: Emergency Preparedness Communications. PHMSA expanded on that effort through an Emergency Responder Forum, which was held on December 9, 2011, at the U.S. DOT's Headquarters in Washington, DC. The NTSB was invited to attend. This forum convened leaders from the emergency responder community, Federal and State Government, the public, and the pipeline industry to begin development of a strategy and action plan for improving emergency responders' ability to prepare for and respond to pipeline emergencies. Our forum evaluated available resources and current regulatory requirements, drew lessons from several recent pipeline accidents, and sought to reveal potential gaps in information firefighters and other emergency responders need to prepare for and respond to natural gas and hazardous liquid pipeline emergencies adequately. A summary report of this forum can be viewed at: <http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Pipeline%20Emergency%20Response%20Proceedings.pdf>.

NTSB Safety Recommendation R-12-8:

Inform pipeline operators about the circumstances of the accident and advise them of the need to inspect pipeline facilities after notification of accidents occurring in railroad rights-of-way.

On July 31, 2012, PHMSA issued an Advisory Bulletin (ADB-2012-08) to all pipeline operators alerting them to the circumstances of the Cherry Valley derailment and reminding them of the importance of assuring that pipeline facilities have not been damaged either during a railroad accident or other event occurring in the right-of-way. Further, the advisory reminded operators of the importance of communicating with rail

¹ The NTSB reiterated this recommendation when they issued recommendations to PHMSA in 2012. For additional information, see: <http://www.nts.gov/doclib/reclatters/2012/P-12-003-010.pdf>.

operators and emergency response officials regarding the presence, depth, and location of the pipelines so that heavy equipment moving or being moved on the right-of-way does not damage or rupture the pipeline or otherwise pose a hazard to people working in, and around, the accident location. The advisory encouraged the use of the 811- Call Before You Dig program to identify and notify underground utilities of an incident that has occurred in the vicinity of buried facilities.

On September 20, 2012, the NTSB advised PHMSA that this Advisory Bulletin satisfied the requirements of their recommendation and that R-12-8 was now classified as “Closed-Acceptable Action.”