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January 15, 2016

Ms. Marie Therese Dominguez
Administrator
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
East Building, 2nd Floor
1200 New Jersey Ave., SE
Washington, DC 20590

Dear Administrator Dominguez:

I write in response to the Notice of Proposed Rulemaking (NPRM) regarding Pipeline Safety: Safety of Hazardous Liquid Pipelines released on October 13, 2015. I am pleased to see the release of this long overdue proposed rulemaking in response to the requirements included in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Several of the proposals within the rulemaking will strengthen existing standards, and I appreciate the Pipeline and Hazardous Materials Safety Administration (PHMSA) efforts to improve the safety of our nation's hazardous liquid infrastructure. However, while I believe that this rulemaking is a step forward in addressing much needed improvements to pipeline safety standards, PHMSA must do more to strengthen the language and requirements in the final rule and to address the remaining requirements of the 2011 legislation in a timely manner.

Strong pipeline regulation is paramount for the safe operation of pipelines throughout the country. Pipeline failures can lead to devastating impacts on public health, the environment, and the economy. Sadly, my congressional district along the Central Coast of California has firsthand experience of the dangers resulting from oil spills, with the Plains All American pipeline rupture on May 19th of last year being just the most recent of these reminders. In order to prevent the occurrence of these spills and mitigate spill impacts, pipeline operators must be ever vigilant in maintaining and monitoring their lines, and PHMSA must administer appropriately strong requirements to ensure that the necessary level of caution is achieved.

That is why it is critical that the proposals in this rulemaking address existing loopholes and insufficiencies, and do so strongly. While the language in the proposed rule is a start, the language should be clarified and strengthened to ensure that the final product will achieve the stated goal of improving pipeline safety across the nation. In drafting the final rulemaking, PHMSA must give appropriate consideration to all filed comments and to ensure that the resulting regulations are unambiguous and as strong as possible within existing law. While I appreciate that the proposed rule extends reporting requirements and mandates inspections of previously under regulated hazardous liquid infrastructure, the final rule must strengthen reporting requirements and transparency, increase frequency and requirement of inspections to

all pipelines, and clarify definitions, including language relating to extreme weather and high consequence areas (HCAs). Furthermore, strong leak detection and automatic shutoff valve requirements need to be implemented as soon as possible.

Several of the proposals in this NPRM address existing loopholes and inadequacies, which have resulted in inadequate knowledge about pipeline infrastructure and insufficient protection from pipeline failure. However, in the final rulemaking, PHMSA must ensure that rigorous and timely regulations are in place that will actually prevent future spills. Please find specific comments on some of the included proposals below.

Gaps in Coverage

It is very concerning that current regulations exclude or under regulate so much of the hazardous liquid infrastructure around the country, including gravity-fed and hazardous liquid gathering lines. I support extending reporting requirements for this part of the infrastructure as we must have knowledge regarding the location and status of all hazardous liquid lines across the country.

Language Clarity

Similarly, the inclusion of language regarding mandatory inspection and repair of pipelines in areas affected by extreme weather, natural disasters, and other similar events is of particular importance given the increasing occurrence of these events and the increased frequency and volatility of climate events due to global change. However, I am concerned that the definition of a qualifying event and the responsible party for such a determination is too vague as written. The inclusion of definitions and or citations of existing definitions would work to improve the clarity of this language. Additionally, I am concerned that there is too much leeway for interpretation as to what constitutes an "appropriate method for performing the inspection." This terminology also should be clearly defined.

Pipeline Located Outside of High Consequence Areas (HCAs)

I also appreciate that the NPRM provides consideration for inspection requirements for pipelines located outside of HCAs. This is a much needed fix to a loophole that exempts a significant portion of our nation's hazardous liquid pipeline infrastructure from inspection. While I agree that this must be addressed, the inspection alternative language (e.g., "alternative technologies would include hydrostatic pressure testing or appropriate forms of direct assessment") could result in insufficient inspection along the entire pipeline. Alternative methods must account for inspection along the entire pipeline both inside and outside rather than relying on preconceived assumptions regarding probable anomalies. Language to clarify this intention is necessary to make the provision meaningful. Furthermore, requiring inspections every ten years is insufficient to appropriately assess the risk of pipeline failure. As we have seen in my district, even a three year interval between inspections was inadequate to detect the corrosion in a timely manner to prevent the Plains All American oil pipeline from rupturing last May.

Furthermore, gaps remain within the established definition for "high consequence areas." Existing definitions of HCAs, as written, do not automatically include coastal and riparian areas. Given the sensitivity of coastal and riparian systems, these areas should be actively protected as they act as transition zones between land and water. Furthermore, there should be codification of a means for public input on the identification of potential HCAs.

Data Availability

Regarding reporting requirements of inspection results, existing provisions require that sufficient condition information is submitted to the operator within 180 days and that PHMSA be notified if this timeline is not met, but there appears to be no requirement that primary inspection results and data are provided to PHMSA. If there is indeed no provision for transmission of inspection vendor reports to PHMSA prior to onsite inspections, there needs to be an additional requirement that the primary inspection report and data be transmitted to PHMSA at the same time as it is reported to the pipeline operator. This requirement would ensure that pipeline operators are adhering to mandatory inspection timelines and provide for an important verification that this activity is being appropriately conducted. In addition, inspection reports should be available to all interested stakeholders through the PHMSA website to improve transparency.

Adoption of safety technologies

This proposal makes important strides in efforts to increase the use of leak detection systems and increase the use of inline inspection tools for pipelines within HCAs. However, clearer language is necessary in describing the minimum standard for leak detection systems and clarification of the incorporation of leak detection systems in pipelines under construction but not yet completed. Furthermore, automatic shutoff valves, while not addressed in this NPRM, must be addressed immediately, as this technology has the potential to greatly reduce the frequency and severity of future spills.

Greater clarity in the timelines for inline inspection requirements in high consequence areas is necessary. Allowing a 20 year timetable for adoption of these important safety regulations is much too long to bring about meaningful change and to keep our communities safe. This is not new technology, and PHMSA can and must push for these safety provisions to be adopted quickly. Instead, a shorter time frame (e.g., five years) could be established with an extension possible upon request with sufficient evidence for need and a provided plan of action to meet the standard.

Thank you again for your work on this proposal and your commitment to improving the safety of our nation's pipeline system. Hazardous liquid pipelines present a significant danger to public health, the environment, and the economy, and I hope you produce a final rule that meets the needs of protecting these invaluable resources. The final rulemaking must be strong and unambiguous to ensure that pipeline safety across the nation is achieved. I look forward to continuing to work with you to finalize this rulemaking and on the timely release of the remaining rules that are needed to improve the safety of our nation's pipelines. Please contact Eliot Crafton on my staff with any questions regarding this letter or the forthcoming proposed rulemakings.

Sincerely,

LOIS CAPPS
Member of Congress