

Mission and Objectives
Governance Structure Recommendations
(Submission #2)

November 2018

Voluntary Information Sharing – Governance Alternatives

PHMSA Administered

- Drawing upon experience of Federal Aviation Administration – ASIAS
- PHMSA administers

Privately Administered

- Drawing upon experience of Commercial Aviation – CAST
- Private entity administers

- VIS Governing Board – PHMSA, pipeline operators, service providers, NAPSR representatives, trade associations, public representatives, labor unions and universities
 - Third-Party Information Manager – Private Entity
- Issues Analysis Team(s) – comprising representation of Governing Board with deep technical knowledge

- Legal protections through statute
- Funding through Federal appropriation
- Possible co-funding from private entities

- Legal protections through contract
- Funding through private contributions
- Possible co-funding from PHMSA

Voluntary Information Sharing – Governance Alternatives			
Option A	Major Differences Between The Options		Option D
<ul style="list-style-type: none"> • PHMSA/Industry Co-Chairs • PHMSA provides day-to-day oversight & operational management of VIS • PHMSA/Congress funds VIS • Legislative protections on confidentially & non-punitive reporting. Notwithstanding Congressional action, confidentiality, NDAs, MOUs and other types of implementation agreements • Issue Analysis Team Make-up: NAPSR-appointed State agent (or designated representative), labor and technical experts from industry and PHMSA 	<p>Option B</p> <ul style="list-style-type: none"> • Industry Chair, PHMSA Board Member • VIS CEO provides day-to-day executive management • VIS Operations Group provides day-to-day management • Industry participants fund VIS. Confidentially provided by confidentially Agreements & NDAs, Non-Punitive Reporting by PHMSA Agreement • Issue Analysis Team Make-up: Participants with expertise in specified subject matter 	<p>Option C</p> <ul style="list-style-type: none"> • Industry/PHMSA Co-Chairs. Motions require unanimous Chair consent • VIS CEO provides day-to-day executive management • VIS Operations Group provides day-to-day management • Split funding between industry, PHMSA, grants, etc. fund VIS • Legislative protections on confidentially & non-punitive reporting • Issue Analysis Team Make-up: Participants with expertise in specified subject matter 	<ul style="list-style-type: none"> • Industry/PHMSA Co-Chairs. Motions require unanimous Chair consent • PHMSA provides day-to-day oversight & operational management of VIS • Tabled for the VIS Parent Committee Meeting • Legislative protections on confidentially & non-punitive reporting. Notwithstanding Congressional action, confidentiality, NDAs, MOUs and other types of implementation agreements • Issue Analysis Team – Step 1, Issue Analysis Selection Committee (subset of the Executive Board made up of NAPSR-appointed State agent (or designated representative), labor and technical experts from industry and PHMSA) responsible for populating the Issue Analysis Technical Working Group with technical and non-technical expertise. Step 2) Issue Analysis Technical Working Group that conducts the analysis and provides reports and products to the Board

Pros and Cons

PHMSA Administered Option A

<p>Pros</p> <ul style="list-style-type: none"> • Credibility with public • Sufficient funding (contingent on Congress) • Immediate organizational capability • Ability to draw directly upon other governmental experience • Legal protections in statute • All operators bear the cost, not just users (thus may be more likely to participate/use VIS Data, also less expensive for everyone) • More public engagement <p>Cons</p> <ul style="list-style-type: none"> • Possible industry organization resistance • Susceptibility to changing/ competing priorities • Susceptibility to funding cuts • All operators bear cost not just users

Privately Administered Option B

<p>Pros</p> <ul style="list-style-type: none"> • Stable administrative governance • Not susceptible to government funding fluctuations • Participating operators and service providers bear costs • Ability to quickly and nimbly add enhancements or incorporation of technology solutions for the VIS • Ability to expand program scope as needed and fund expeditiously <p>Cons</p> <ul style="list-style-type: none"> • Possible lack of credibility • No existing organization, Would need to be built from the ground up • Stability of funding or possible insufficient Industry participation to fund program at all
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Jointly Administered Option C and D

<p>Pros</p> <ul style="list-style-type: none"> • Stable administrative governance and credibility with the public • Provides more options for funding • Immediate organizational capability • Ability to draw directly upon private and governmental experience akin to the FAA • Legal protections in statute • More public engagement <p>Cons</p> <ul style="list-style-type: none"> • Possible industry organization resistance • Unanimity and consensus building can take more time • Uncertainty of funding
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Option A

The VIS should be created within the DOT, based on the DOT's authority, and maintained separately from other departments and divisions within PHMSA, including PHMSA's inspection and enforcement departments.

Recommendation 1: Governing Principles

The VIS should be comprised of four parts: (1) Federal leadership, (2) an executive board run by a government co-chair and an industry co-chair who will facilitate day-to-day organizational functions, (3) issue analysis teams that will support and deliver products to the VIS Executive Board and provide input and recommendations in response to voluntarily submitted data, and (4) a third-party data provider that will collect and manage voluntarily submitted data and maintain confidentiality protocols. There may be one or multiple information-sharing systems that share data with the national VIS. This recommendation is intended to encourage the implementation of other information-sharing systems. Participation in a VIS must not be required or mandated.

Recommendation 2: Federal Leadership

The Secretary should authorize a VIS program office within PHMSA that will be responsible for day-to-day leadership over the VIS, including budget administration, strategic and tactical decision making, and legislative and regulatory direction.

Recommendation 3: Executive Board

- The VIS Executive Board should be jointly co-chaired by an industry representative and a PHMSA government representative. The VIS Executive Board would have specific responsibilities for data governance, including data quality standards and oversight of VIS activities and products.
- *IS Executive Board membership should include representatives from key stakeholders, including industry, PHMSA, public safety advocacy groups, labor, and research and development organizations, as well as a State safety agent appointed by the National Association of Pipeline Safety Representatives (NAPSR). Most of the VIS Executive Board should be made up of pipeline industry representatives, as this would help motivate voluntary participation and provide a level of security for industry participants.
- The VIS Executive Board should meet at regular intervals and may be convened to discuss data trends or emergent issues on an ad hoc or emergency basis.
- The VIS Executive Board is responsible for the development of governing documents based on a collaborative model for self-governance rules. Examples of useful governing documents include the mission/charter, the stakeholder organization participant agreement, confidentiality policies, and the issue-resolution process.

Recommendation 4: Issue Analysis Teams

- The issue analysis teams should be made up of the third-party data provider, the NAPSR-appointed State agent (or designated representative), labor and technical experts from industry and PHMSA.
- The issue analysis teams should analyze data and make specific recommendations and lessons learned to the VIS Executive Board regarding non-regulatory actions to address data trends and identified risks.
- Issue analysis teams shall consider the use of other data outside of the VIS in their analyses and reports on lessons learned.
- Issue analysis teams, in coordination with the third-party data provider, should make recommendations to the VIS Executive Board on products for distribution. The VIS Executive Board should decide what information products are distributed to facilitate pipeline safety improvements.

Recommendation 5: Third Party Data Provider

- The third-party data provider will be an independent non-PHMSA entity that will receive, de-identify, analyze, manage voluntarily shared data, and utilize publicly available data. The third-party data provider shall not use or provide VIS data to any outside entity unless approved by the VIS Executive Board. The VIS Executive Board will develop requirements. PHMSA's acquisition process will be used to procure the system.
- The third-party data provider will be the only entity that is able to access all information, including the identity of information submitters; as such, the third-party data provider must work with information submitters on initial analysis. When analyzing or classifying reports, the third-party data provider may reach out to information submitters for clarification or additional information.
- The third-party data provider shall de-identify data with respect to individual submitters and PHMSA criteria and guidelines.
- The third-party data provider would also work with the issue analysis teams to provide input on potential protocols, including but is not limited to metrics, reporting format, and reporting form templates.

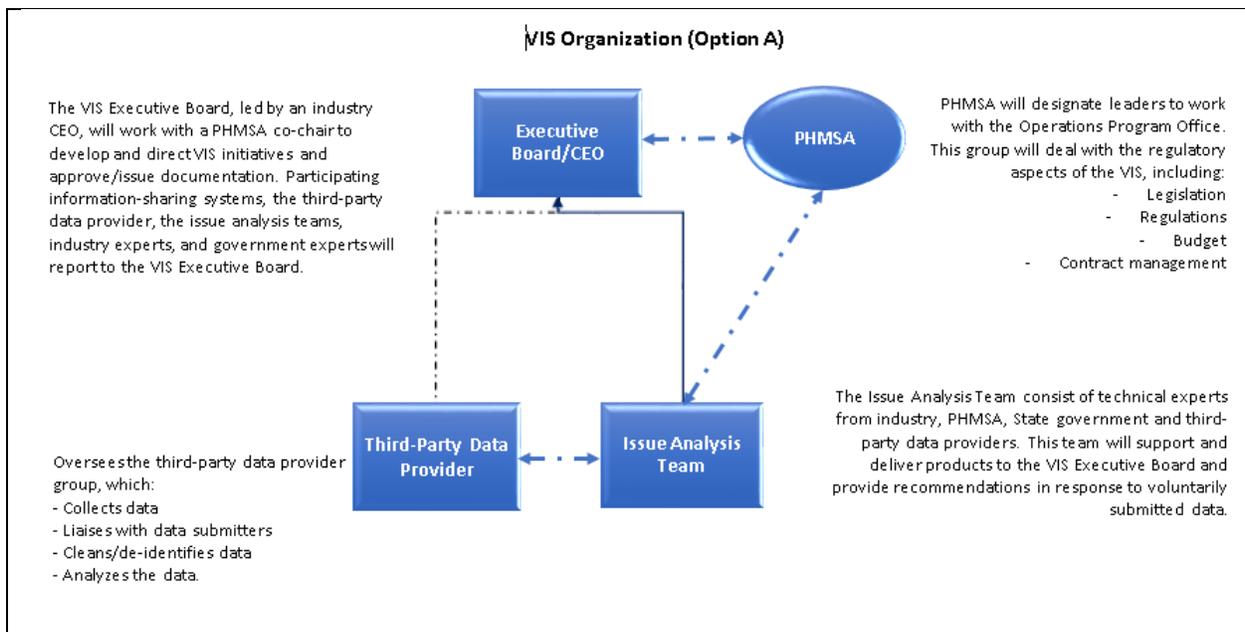
Recommendation 6: Confidentiality

- Confidentiality policies should include issues of redaction, security, and data and information dissemination.
- Confidentiality policies would also be included in contracts between participants and the third-party data provider.
- Individuals performing work in this environment would be required to sign Non-Disclosure Agreements in accordance with the policies established by the Executive Board to include Executive Board members.

Recommendation 6: Information Dissemination and Board Selection

The VIS should establish a tiered Information Sharing System. The Information Sharing System should consist of tiers of information dissemination, transparency and confidentially. One example might be as follows:

- Tier 1, unlimited access to all data. This level of access would require NDAs for all individuals with this access and would be limited to the Third-party Provider. * Tier 2, access to all data, except the name of the reporting company and geographical data, to the extent that it was not a direct contributor to the incident. This level of access would require NDAs for all individuals with this access and would be limited to the members of the issue analysis teams.
- Tier 3, access to all reports and data issued by the VIS. Operators would sign an agreement with VIS pledging not to disseminate this data. This level of access would be limited to the participant Operators who volunteer to share their data through the VIS process.
- Tier 4, access to select reports and data issued by the VIS (this data would consist of critical notices of specific individual risks, facility failures, or summaries of risks that constitute a potential threat to pipeline safety). This level of access would be limited to all industry Operators.
- Tier 5, any publicly disclosed information released by the Executive Board.



Option B

The VIS should be created as an Industry funded and managed VIS.

Recommendation 1: Governing Principles

The VIS should be comprised of four parts: (1) VIS Executive Board (Board). An industry chair will serve as the Chief Executive Officer (CEO) over VIS, (2) a VIS Operations Program Office reporting to the CEO that manages day to day operations (3) Issue Analysis Teams, reporting to

the Operations Program Office, and working with the third-party data provider, deliver recommendations to the Operations Program Office for consideration by the Board, (4) a third-party data provider reporting to the Operations Program Office that will collect and manage voluntarily submitted data and maintain confidentiality protocols.

There may be one or multiple information-sharing systems that share data with the national VIS system. This recommendation is intended to encourage the implementation of other information-sharing systems.

Participation in a VIS must not be required or mandated.

Recommendation 2: VIS Leadership

The Chief Executive Officer will be responsible for establishing an Operations Program Office and staff for the day-to-day leadership over the VIS, including budget administration, strategic and tactical decision making, leadership and support for the Issue Analysis Teams, oversight of the third-party contractor, and other necessary administrative & functions.

Recommendation 3: Executive Board

- The VIS Executive Board will have an industry Chief Executive Officer. The VIS Executive Board would have specific responsibilities including strategic oversight of VIS, budgeting, and policy development.
- VIS Executive Board membership ideally should include stakeholder groups including: Industry, PHMSA, Public Safety Advocacy Groups (groups whose primary missions and focus is to advance pipeline safety), Labor, Research and Development Organizations, as well as a State Safety Agent appointed by the National Association of Pipeline Safety Representatives (NAPSR). Most of the VIS Executive Board should be made up of pipeline industry representatives, as this would help motivate voluntary participation and provide a level of security for industry participants.
- The VIS Executive Board should meet at regular intervals and may be convened to discuss data trends or emergent issues on an ad hoc or emergency basis.
- The VIS Executive Board is responsible for the development of governing documents based on a collaborative model for self-governance rules. Examples of useful governing documents include the mission/charter, the stakeholder organization participant agreement, confidentiality policies, and the Board voting process (i.e. does a simple majority carry the issue, a super majority, other?).

Recommendation 4: Issue Analysis Teams

- The Issue Analysis Teams will be established by and report to the Operations Program Office. The Issue Analysis Teams will be populated by participants with expertise in the area being addressed as selected by the Operations Program Office.

- The issue analysis teams should analyze data and make specific recommendations and lessons learned to the Operations Program Office regarding non-regulatory actions to address data trends and identified risks.
- Issue analysis teams shall consider the use of other data outside of the VIS in their metrics reporting, analyses, and reports on lessons learned.
- Issue analysis teams, in coordination with the third-party data provider, should make recommendations to the VIS Operations Program on products for distribution, based on policies set by the Board. The VIS Executive Board should decide what information products are distributed to facilitate the advancement of pipeline safety.

Recommendation 5: Third Party Data Provider

- The third-party data provider will be an independent entity that will receive, de-identify, analyze, manage voluntarily shared data, and utilize publicly available data. The third-party data provider shall not use or provide VIS data to any outside entity unless approved by the VIS Executive Board. The VIS Executive Board with the support of the Operations Program Office will develop any necessary requirements to support this recommendation. The VIS (Board Identified) acquisition process will be used to procure the Third-Party Data Provider.
- The third-party data provider has access to all information. When analyzing or classifying reports, the third-party data provider may reach out to information submitters for clarification or additional information.
- The third-party data provider shall de-identify data, with respect to individual submitters and geographic data, to the extent it was not a direct contributor to the incident.
- The third-party data provider would also work with the issue analysis teams under the direction of the Operations Program Office to provide input on potential protocols, including but is not limited to metrics, reporting format, and reporting form templates.

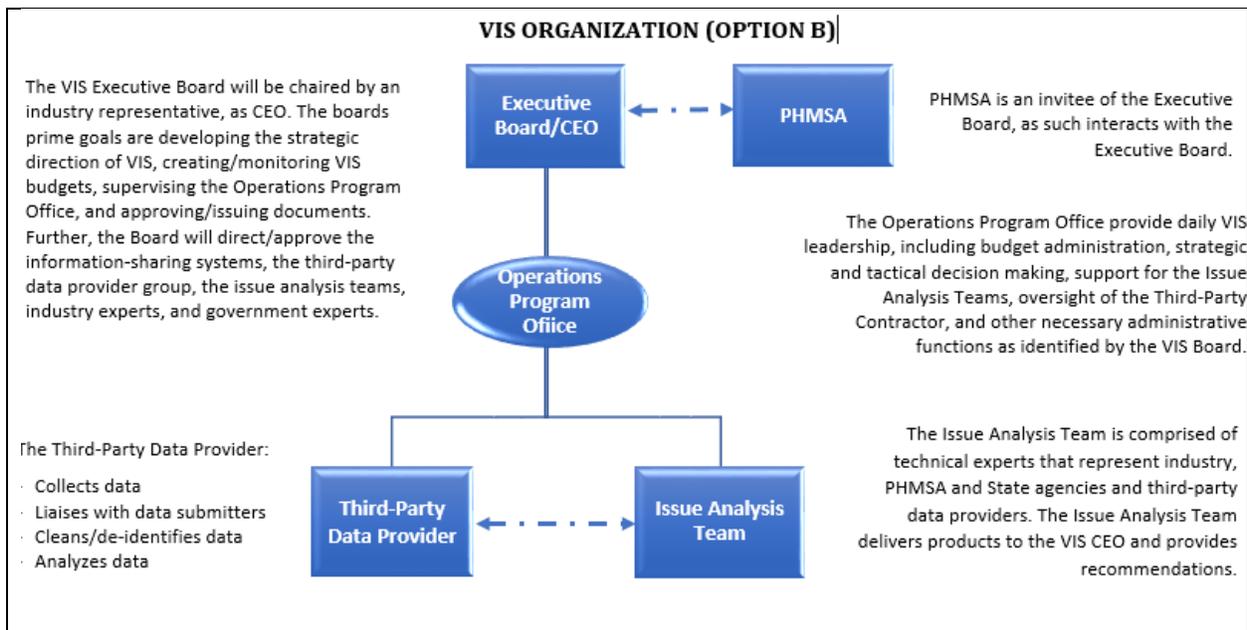
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Recommendation 7: Information Dissemination & Board Selection

The VIS should establish a tiered Information Sharing System. The Information Sharing System should consist of tiers of information dissemination, transparency and confidentially. One example might be as follows:

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- Tier 2, access to all data, except the name of the reporting company and geographic data, to the extent it was not a direct contributor to the incident.
- This level of access would require NDAs for all individuals with this access and would be limited to the members of the issue analysis teams.
- Tier 3, access to all reports and data issued by the VIS. Operators would sign an agreement with VIS pledging not to disseminate this data. This level of access would be limited to the participant Operators who volunteer to share their data through the VIS process.
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- Tier 5, any publicly disclosed information released by the Executive Board.



Option C

TBD

Option D

TBD

Regulatory, Legal, Funding

Recommendations

(Submission #2)

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Privately Administered

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- Legal protections through statute
- Funding through Federal appropriation
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Voluntary Information Sharing – Governance Alternatives				
Option A	Major Differences Between The Options	Option D		
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Pros and Cons

PHMSA Administered Option A	Privately Administered Option B	Jointly Administered Option C and D
<p>Pros</p> <ul style="list-style-type: none"> • Credibility with public • Sufficient funding (contingent on Congress) • Immediate organizational capability • Ability to draw directly upon other governmental experience • Legal protections in statute • All operators bear the cost, not just users (thus may be more likely to participate/use VIS Data, also less expensive for everyone) • More public engagement <p>Cons</p> <ul style="list-style-type: none"> • Possible industry organization resistance • Susceptibility to changing/ competing priorities • Susceptibility to funding cuts • All operators bear cost not just users 	<p>Pros</p> <ul style="list-style-type: none"> • Stable administrative governance • Not susceptible to government funding fluctuations • Participating operators and service providers bear costs • Ability to quickly and nimbly add enhancements or incorporation of technology solutions for the VIS • Ability to expand program scope as needed and fund expeditiously <p>Cons</p> <ul style="list-style-type: none"> • Possible lack of credibility • No existing organization, Would need to be built from the ground up • Stability of funding or possible insufficient Industry participation to fund program at all 	<p>Pros</p> <ul style="list-style-type: none"> • Stable administrative governance and credibility with the public • Provides more options for funding • Immediate organizational capability • Ability to draw directly upon private and governmental experience akin to the FAA • Legal protections in statute • More public engagement <p>Cons</p> <ul style="list-style-type: none"> • Possible industry organization resistance • Unanimity and consensus building can take more time • Uncertainty of funding

Option A

Recommendation 1: Authorize and establish a governance structure for a VIS.

Congress should enact legislation during the PHMSA reauthorization process in 2019 authorizing PHMSA to establish a secure, confidential Voluntary Information-Sharing System (VIS) for the purpose of encouraging the voluntary sharing of pipeline safety information by pipelines and distribution companies and their employees, labor unions, contractors, ILI vendors, and non-destructive evaluation experts, with PHMSA, representatives of state pipeline safety agencies, non-governmental organizations, and other pipeline stakeholders, for the purpose of improving pipeline safety for natural gas transmission, natural gas distribution and hazardous liquid pipelines. The proposed legislation should state clearly the intent of Congress with respect to the following:

- a) The VIS is intended to be an entirely new paradigm for analyzing pipeline safety issues that is separate and apart from, but complementary and additive to, existing PHMSA pipeline safety programs, in particular, Safety Management Systems.
- b) The VIS should be established and implemented to the maximum extent possible under existing PHMSA authority, with the goal of avoiding unnecessary and time-consuming rulemaking.
- c) Other than with respect to the VIS protections described below, the VIS is not intended to change current PHMSA enforcement, regulatory programs or other PHMSA initiatives.
- d) The VIS is intended to develop its own governance structure, and to create as many VIS programs as it deems necessary to address various areas of pipeline safety.
- e) The VIS is intended to allow PHMSA, all pipeline and distribution companies, and all pipeline stakeholders, to draw upon anonymous, de-identified safety related information

that is currently kept confidential and utilized by individual operators to improve pipeline safety, but which information is not otherwise shared due to confidentiality concerns.

- f) The VIS system is intended to enable all industry participants to share the rich source of safety information often held only by an individual operator, which will enhance Safety Management Systems across the industry.
- g) The VIS system analysis of de-identified, voluntarily shared information is intended to deliver tangible, measurable safety benefits to industry participants, PHMSA, and other pipeline safety stakeholders.
- h) The VIS system's collaborative approach to collecting and analyzing safety related information is intended to enhance pipeline Safety Management Systems, delivering benefits to the public, including a reduction in pipeline releases and related personal injuries and damage to the environment.
- i) The VIS system is intended to be based solely on voluntary participation. The VIS system shall not be transformed into a mandatory program, in whole or in part.
- j) The VIS is intended to encourage the widest possible participation by industry. Such participation will only be achieved by providing confidentiality protection for all information submitted to the VIS, along with the additional VIS protections described below. It is the intent of Congress to ensure that those protections are in place. Without such assurance and protections, operators will not voluntarily share information, thereby depriving the nation of associated improvements in pipeline safety and Safety Management Systems.

Recommendation 2: Protect VIS Information from disclosure.

Congress should enact legislation providing for the protection of safety, security-related, proprietary and other sensitive pipeline safety information provided to the VIS system, for the purpose of encouraging and allowing voluntary safety information sharing by industry. The proposed legislation should clearly state the intent of Congress with respect to the following:

- a) It is intended that neither PHMSA, nor any federal, state, local or tribal agency, nor any person having or obtaining access to the information voluntarily submitted to the VIS system, shall release or communicate that information to any person outside the VIS governing body, with the sole exception being the publication of reports by the VIS or PHMSA based on analysis of de-identified information and safety related findings that the VIS governing body in its sole discretion determines to publish or authorize PHMSA to publish.
- b) The intent of Congress is to encourage wide-scale industry participation in the VIS system by entities and individuals in order to further the goal of improving pipeline safety in the United States, and that goal can only be accomplished by creating strong

confidentiality protections for information voluntarily submitted by those entities and individuals to the VIS system.

Recommendation 3: Exempt VIS information from FOIA release.

Congress should enact legislation providing that PHMSA shall be exempt from releasing under the provisions of the Freedom of Information Act any information that was voluntarily disclosed by any company, organization or person to the VIS.

Recommendation 4: Protections for Voluntary Sharing of Information.

To encourage the voluntary submission of information to the VIS, Congress should enact legislation providing that neither PHMSA nor any other federal, state, local or tribal agency, nor any entity or person shall initiate enforcement action, punitive action, or litigation (Enforcement Actions) against a pipeline operator based on information that had been voluntarily provided to the VIS. This prohibition is not intended to limit PHMSA or other parties from Enforcement Actions against pipeline operators based on facts established independently and separate from the VIS process, with the exception of facts arising out of the VIS protections outlined below, in which case no Enforcement Actions shall be permitted.

- a) **ILI, NDE, NDT and Dig Confirmation.** Facts arising out of collaboration of the pipeline operator and its ILI and NDE vendors that are voluntarily reported to the VIS, including if the facts reveal a safety related condition or violation of the operator's procedures, would not subject to any Enforcement Actions, provided that the operator promptly prepares and commences a written corrective action program within 30 days following discovery by the operator. In the event that PHMSA, or any other agency or party, during that 30 day period or at a later date, becomes aware of these facts through an inspection or otherwise, no Enforcement Actions shall be taken, provided that the operator is preparing or implementing its corrective action program during the 30 day period, or thereafter has implemented or completed its corrective action program.
- b) **Near Misses.** Facts arising out of or relating to near misses that are voluntarily submitted to the VIS.
- c) **Non-reportable Releases.** Facts arising out of or relating to non-reportable releases that are voluntarily submitted to the VIS.
- d) **Unusual Events or Conditions.** Facts arising out of or relating to non-reportable unusual events or circumstances that are voluntarily submitted to the VIS.

No Retaliation. Operators are prohibited from taking any retaliatory action against its employees or contractors who report to the operator any potential violation of PHMSA regulations, or any matter that may be related to facts arising out of the incentive scenarios described above. Employees and contractors are not eligible for this protection in cases involving reckless disregard of safety procedures, criminal activity, falsification, alcohol or substance abuse.

Recommendation 5: Prohibit the use of VIS information in litigation.

Congress should enact legislation providing that any information voluntarily submitted to the VIS shall not be subject to discovery or admitted into evidence in any federal, state, local, tribal, or private litigation or other proceedings. This prohibition does not limit discovery or admissibility into evidence in any civil or criminal proceedings based on facts independently and separate from the VIS process.

Recommendation 6: Provide adequate and sustainable funding for the VIS.

Congress should authorize and appropriate funding beginning in 2019 for establishing and sustaining the VIS at levels adequate to achieve the goals of the VIS system, with the intention of getting the VIS system established and operating as soon as possible for the purpose of improving pipeline safety in the United States. In the absence of a specific appropriation, the Secretary should redirect funding from within the Operations Program, Project and Activity (PPA) sufficient for implementation of the initial phases of the VIS.

Option B

Recommendation 1: Authorize and establish a governance structure for a VIS.

PHMSA should collaborate with and assist private industry to establish a secure, confidential Voluntary Information-Sharing System (VIS) for the purpose of encouraging the voluntary sharing of pipeline safety information by pipelines and distribution companies and their employees, labor unions, contractors, ILI vendors, and non-destructive evaluation experts, with PHMSA, representatives of state pipeline safety agencies, non-governmental organizations, and other pipeline stakeholders, for the purpose of improving pipeline safety for natural gas transmission, natural gas distribution and hazardous liquid pipelines. The intent of private industry and PHMSA should be the following:

- a) The VIS is intended to be an entirely new paradigm for analyzing pipeline safety issues that is separate and apart from, but complementary and additive to, existing industry and PHMSA pipeline safety programs, in particular Safety Management Systems.
- b) Other than with respect to the VIS protections described below, the VIS is not intended to change current PHMSA enforcement, regulatory programs or other PHMSA initiatives.
- c) The VIS is intended to develop its own governance structure, and to create as many VIS programs as it deems necessary to address various areas of pipeline safety.
- d) The VIS is intended to allow PHMSA, all pipeline and distribution companies, and all pipeline stakeholders, to draw upon anonymous, de-identified safety related information that is currently kept confidential and utilized by individual operators to improve pipeline safety, but which information is not otherwise shared due to confidentiality concerns.

- e) The VIS system is intended to enable all industry participants to share the rich source of safety information often held only by an individual operator, which will enhance Safety Management Systems across the industry.
- f) The VIS system analysis of de-identified, voluntarily shared information is intended to deliver tangible, measurable safety benefits to industry participants, PHMSA, and other pipeline safety stakeholders.
- g) The VIS system's collaborative approach to collecting and analyzing safety related information is intended to enhance pipeline Safety Management Systems, delivering benefits to the public, including a reduction in pipeline releases and related personal injuries and damage to the environment.
- h) The VIS system is intended to be based solely on voluntary participation. The VIS system shall not be transformed into a mandatory program, in whole or in part.
- i) The VIS is intended to encourage the widest possible participation by industry. Such participation will only be achieved by providing confidentiality protection for all information submitted to the VIS, along with the VIS protections described below. It is the intent of the Secretary, PHMSA, the pipeline industry, and all pipeline safety stakeholders to ensure that those protections are in place. Without such assurance and protections, operators will not voluntarily share information, thereby depriving the nation of associated improvements in pipeline safety and Safety Management Systems.

Recommendation 2: Protect VIS Information from disclosure.

PHMSA should collaborate and assist the VIS in negotiating and signing MOUs, NGAs or other agreements as necessary to provide for the protection of confidential, personal, safety, security-related, proprietary and other sensitive pipeline safety information provided to the VIS system, for the purpose of encouraging and allowing voluntary safety information sharing by industry, employees, contractors and other pipeline safety stakeholders. The Secretary intends that PHMSA work with the VIS to accomplish the following:

- a) It is intended that neither PHMSA, nor any person working in or on behalf of the VIS nor any person having or obtaining access to the information voluntarily submitted to the VIS system, shall release or communicate that information to any person outside the VIS governing body, with the sole exception being the publication of reports by the VIS or PHMSA based on analysis of de-identified information and safety related findings that the VIS governing body in its sole discretion determines to publish or authorize PHMSA to publish.
- b) The intent of the Secretary is to encourage wide-scale industry participation in the VIS system by entities and individuals in order to further the goal of improving pipeline safety in the United States, and that goal can only be accomplished by creating strong

confidentiality protections for information voluntarily submitted by those entities and individuals to the VIS system.

Recommendation 3: Exempt VIS information from FOIA release.

Congress should enact legislation providing that PHMSA shall be exempt from releasing under the provisions of the Freedom of Information Act any information that was voluntarily disclosed by any company, organization or person to the VIS.

Recommendation 4: Protections for Voluntary Sharing of Information.

To encourage the voluntary submission of information to the VIS, PHMSA should enter into MOUs with the VIS and other necessary entities or representatives to provide assurances that PHMSA will not initiate enforcement action against a pipeline operator based solely on information that had been voluntarily provided to the VIS. Such agreements are not intended to limit PHMSA from initiating enforcement action against pipeline operators based on facts established independently and separate from the VIS process, with the exception of facts arising out of the VIS protections outlined below.

- a) **ILI, NDE, NDT and Dig Confirmation.** Facts arising out of collaboration of the pipeline operator and its ILI and NDE vendors that are voluntarily reported to the VIS, even the facts reveal a safety related condition or violation of the operator's procedures, would not lead to enforcement actions, fines, or penalties, provided that the operator promptly prepares and commences a written corrective action program. In the event PHMSA later is made aware of these facts through an inspection or otherwise, PHMSA will not take any enforcement action, provided that the operator is implementing or has completed its corrective action program.
- b) **Near Misses.** Facts arising out of or relating to near misses that are voluntarily submitted to the VIS.
- c) **Non-reportable Releases.** Facts arising out of or relating to non-reportable releases that are voluntarily submitted to the VIS.
- d) **Unusual Events or Conditions.** Facts arising out of or relating to non-reportable unusual events or circumstances that are voluntarily submitted to the VIS.

Operators should be prohibited from taking any retaliatory action against its employees or contractors who report to the operator any potential violation of PHMSA regulations, or any matter that may be related to facts arising out of the incentive scenarios described above. Employees and contractors are not eligible for this protection in cases involving reckless disregard of safety procedures, criminal activity, falsification, alcohol or substance abuse.

Recommendation 5: Provide adequate and sustainable funding for the VIS.

Private industry should establish and provide funding for the VIS beginning in 2019 sufficient to stand up and sustain the VIS at levels adequate to achieve the above-described mission, objective and governance of the VIS, with the intention of getting the VIS system established and operating as soon as possible for the purpose of improving pipeline safety in the United States.

Option C

TBD

Option D

TBD