

U.S. DEPARTMENT OF TRANSPORTATION

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PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION

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JOINT GAS PIPELINE ADVISORY COMMITTEE AND
LIQUID PIPELINE ADVISORY COMMITTEE MEETING

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THURSDAY, NOVEMBER 14, 2019

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The advisory committees met in Westside Rooms 1 & 2 at the InterContinental Washington D.C., located 801 Wharf Street SW, Washington, D.C., at 8:30 a.m. David Danner, Chair, presided.

GAS PIPELINE ADVISORY COMMITTEE MEMBERS PRESENT

HON. DAVID W. DANNER, Chair, Washington

Utilities and Transportation Commission

W. JONATHAN AIREY, Vorys, Sater, Seymour, and Pease, LLP

RONALD A. BRADLEY, PECO

HON. DIANE BURMAN, New York State Public Service Commission*

ROBERT W. HILL, Brookings County Zoning and Drainage

SARA W. LONGAN, Alaska Department of Natural Resources

MARY PALKOVICH, Consumers Energy

SARA ROLLET GOSMAN, Pipeline Safety Trust;
University of Arkansas School of Law

TERRY L. TURPIN, Federal Energy Regulatory Commission

RICHARD H. WORSINGER, Wilson Energy
CHARD J. ZAMARIN, The Williams Companies, Inc.

LIQUID PIPELINE ADVISORY COMMITTEE MEMBERS
PRESENT

GRAHAM W. BACON, Enterprise Products Partners,
L.P.

DAVID BARNETT, United Association of Plumbers
and Pipefitters

JERRY K. BARNHILL, DCP Midstream

DAVID W. BRYSON, Enbridge Liquids Pipelines

C. TODD DENTON, Phillips 66 Carrier, LLC

CHARLES "CHUCK" LESNIAK III, City of Austin,
Texas

SHAWN LYON, Marathon Pipe Line, LLC

SARAH K. MAGRUDER LYLE, Common Ground Alliance

CARL M. WEIMER, Pipeline Safety Trust*

JON WOLFGAM, Minnesota Department of Public
Safety

PHMSA STAFF PRESENT

ALAN MAYBERRY, Associate Administrator for
Pipeline Safety; Designated Federal
Official

HOWARD "SKIP" ELLIOTT, Administrator

JOHN GALE, Director, Office of Standards and
Rulemaking

CHRISTIE MURRAY, Director, Outreach and
Engagement

SAYLER PALABRICA, Office of Standards and
Rulemaking

DRUE PEARCE, Deputy Administrator

PAUL ROBERTI, Chief Counsel

CAMERON SATTERTHWAITE, Office of Standards and
Rulemaking

MASSOUD TAHAMTANI, Deputy Assistant
Administrator

ALSO PRESENT

SIMON BELLEMARE, MMT

BILL BYRD, RCB

CARY COGLIANESE, University of Pennsylvania

KALU KELLY EMEABA, GEIS Innovations

ROBERT HALL, National Transportation Safety

Board (NTSB)

ANGIE KOLAR, Colonial Pipeline

* Present via teleconference

1 P-R-O-C-E-E-D-I-N-G-S

2 MR. MAYBERRY: All right. We'll go
3 ahead and get started. Good morning, and thank
4 you for your attendance at this meeting of the
5 Joint Gas and Liquid Pipeline Advisory
6 Committees.

7 My name is Alan Mayberry. I'm the
8 Associate Administrator for Pipeline Safety at
9 PHMSA, and, pursuant to the Federal Advisory
10 Committee Act, I'm the Designated Federal
11 Official for GPAC and LPAC, and we'll start with
12 the presiding official for this meeting.

13 Our chairman -- chairperson for this
14 meeting will be the Honorable Dave Danner, who is
15 chair of the Washington Utilities and
16 Transportation Commission. I'd like to take this
17 opportunity to send a special welcome to new
18 members of both the GPAC and the LPAC.

19 We have Mr. Peter Chase, who's the gas
20 pipeline safety program manager with the Public
21 Utilities Commission of Ohio. He's unable to
22 join us today. We have Mr. Michael Balboni, who

1 is present, and managing director of RedLand
2 Strategies, and Michael, I believe, is joining by
3 phone.

4 Michael, can you hear us? Oh, is that
5 on mute? Okay. Right now. Okay. Thank you.

6 And the new members of the LPAC are Mr. Shawn
7 Lyon, president of Marathon Pipe Line, Jon
8 Wolfgram, chief engineer and program manager for
9 the Minnesota Department of Public Safety, and
10 then Sarah Magruder Lyle, president and CEO of
11 the Common Ground Alliance.

12 I'd also like to introduce several
13 special guests today, including Mr. Skip Elliott,
14 the administrator of PHMSA. To my right, Drue
15 Pearce, deputy administrator. And then before we
16 get started, I've got several housekeeping items
17 that will help run the meeting smoothly.

18 If you need to use the restroom,
19 please exit the meeting room and turn right, and
20 if you proceed past the elevators and turn left,
21 you'll find the restrooms down that way. To
22 leave the building, please exit the meeting and

1 turn right.

2 Once you walk past the Westside 3
3 Room, you should see the elevators on your left
4 and the stairs on your right. I presume we'll be
5 going down the stairs if we have to evacuate.
6 And then this building is equipped with both
7 audio and visual alarms that will trigger if
8 there is an emergency.

9 If such an occasion arises, please
10 remain in place until the floor manager arrives
11 to provide evacuation information, if necessary.
12 And I'd like to ask you to silence your mobile
13 devices, you know, to minimize disruptions.

14 And please hold any comments until we
15 open the floor. I think at this time we're
16 planning -- you know, this meeting is a series of
17 briefings, and our plan is to, just before
18 lunchtime, we'll open it up for comments from the
19 floor, but you know, in doing so, we'd ask you to
20 limit your comments to 2 minutes or less.

21 If necessary, we may -- either the
22 chair or I may have to cut you off if it gets too

1 long, you know, and any written comments can be
2 submitted to the advisory committee docket. I
3 don't see it up on the screen there, but it's
4 PHMSA-2016-0136.

5 And I'd ask for both the committee
6 members -- I don't think I need to say this, but
7 I'll say it, perfunctory -- let's work to
8 preserve order and decorum throughout the
9 meeting. You know, please do not delay or
10 disrupt the meeting, whether by conversing during
11 the meeting proceedings or by causing other
12 distractions, and you can always maintain order
13 by always obeying the instructions of the chair
14 or myself.

15 And please know that anyone who may
16 disrupt the meeting will be asked to leave. And
17 as you probably know, and many of you have been
18 here before, these meetings require immense
19 preparation.

20 So I'm very appreciative of PHMSA's
21 staff who work so hard to put these meetings, so
22 I'd like for staff on my left here to introduce

1 themselves. Sorry.

2 MS. WHITE: Good morning. My name is
3 Senth White. I'm director of Engineering and
4 Research.

5 (Beeping sound.)

6 MR. MAYBERRY: There you go. Sorry.
7 Figuring this out.

8 MR. GALE: John Gale, director of
9 Standards and Rulemaking, Office of Pipeline
10 Safety.

11 MR. SATTERTHWAITE: Cameron
12 Satterthwaite, Standards and Rulemaking.

13 MR. PALABRICA: Saylor Palabrica,
14 Standards and Rulemaking.

15 MR. MAYBERRY: To my far right?

16 MR. TAHAMTANI: Massoud Tahamtani,
17 deputy associate administrator, Office of
18 Pipeline Safety.

19 MR. MAYBERRY: And then I've already
20 introduced Drue and Skip. At this point, I'll
21 turn it over to the chairperson for the meeting.
22 Oh, yes. Thanks, Dave. Also, like to call your

1 attention to the wifi code we have.

2 The wifi network is called IHG
3 Connect, and the password is washc, w-a-s-h-c,
4 all lower case. Okay. At this time, I'll turn
5 it over to our chair, Mr. Danner.

6 MR. DANNER: All right. Thank you very
7 much, Alan. As Alan said, my name is Dave
8 Danner. I'm the chair of the Washington
9 Utilities and Transportation Commission. I'm a
10 member of the Gas Pipeline Advisory Committee,
11 and I'll be chairing today's meeting, which is a
12 joint meeting of the Gas and Liquid Pipeline
13 Advisory Committees.

14 I don't want to say which committee is
15 better, but I notice the Gas Committee got the
16 view today, so....

17 This meeting is being recorded and a
18 transcript will be produced for the record.

19 The transcript and the presentations
20 will be available in a meeting page of the PHMSA
21 website, which is primis.phmsa.dot.gov. That's
22 primis.phmsa.dot.gov, and the e-gov docket on

1 regulations.gov, regulations-gov.

2 The docket number for this meeting is
3 PHMSA-2016-0136. Before we get a started, a few
4 reminders for members, presenters, and the
5 public. Please remember to introduce yourselves
6 each time you speak so your comments are properly
7 recorded in the transcript for the meeting.

8 Additionally, members should set their
9 tent cards on end to alert us if they want to
10 make a comment, and I will call on you in turn.
11 Members on the phone will alert the PHMSA staff
12 at the table to raise their tent cards.

13 And we have, I believe, three members
14 on the phone of the two committees. And now, I'd
15 like to take an opportunity to conduct a roll
16 call. Cameron, can you do that for us?

17 MR. SATTERTHWAITTE: All right. We'll
18 start off with the Gas Pipeline Advisory
19 Committee, and I'll just call your name, and you
20 can just say here. Start off with the chair.
21 David Danner.

22 MR. DANNER: Here.

1 MR. SATTERTHWAITE: Diane Burman?

2 MS. BURMAN: Here.

3 MR. SATTERTHWAITE: Sara Longan?

4 MS. LONGAN: Here.

5 MR. SATTERTHWAITE: Terry Turpin?

6 MR. TURPIN: Here.

7 MR. SATTERTHWAITE: Ron Bradley?

8 MR. BRADLEY: Here.

9 MR. SATTERTHWAITE: Andy Drake?

10 (No response.)

11 MR. SATTERTHWAITE: Rich Worsinger?

12 MR. WORSINGER: Here.

13 MR. SATTERTHWAITE: Chad Zamarin?

14 MR. ZAMARIN: Here.

15 MR. SATTERTHWAITE: Jonathan Airey?

16 MR. AIREY: Here.

17 MR. SATTERTHWAITE: Mark Brownstein?

18 I don't think he's here.

19 (No response.)

20 MR. SATTERTHWAITE: Sara Rollet Gosman?

21 MS. GOSMAN: Here.

22 MR. SATTERTHWAITE: Robert Hill?

1 MR. HILL: Here.

2 MR. SATTERTHWAITE: Pete Chace?

3 (No response.)

4 MR. SATTERTHWAITE: Michael Balboni?

5 (No response.)

6 MR. SATTERTHWAITE: Not here. And I
7 think that's it. Did I get everybody? Did I
8 miss anybody?

9 MS. PALKOVICH: You missed me.

10 MR. SATTERTHWAITE: Oh, my goodness.
11 I am so sorry, Ms. Palkovich.

12 MS. PALKOVICH: Mary Palkovich --

13 MR. SATTERTHWAITE: Mary Palkovich.

14 MS. PALKOVICH: -- and I am here.

15 MR. SATTERTHWAITE: My apologies,
16 utmost apologies to you. All right. Now, we'll
17 go to the Liquid Committee. Start off with John
18 Wolfgram.

19 MR. WOLFGRAM: Here.

20 MR. SATTERTHWAITE: Jeff Lantz?

21 (No response.)

22 MR. SATTERTHWAITE: Sarah Magruder

1 Lyle?

2 MS. LYLE: Here.

3 MR. SATTERTHWAITE: Shawn Lyon?

4 MR. LYON: Here.

5 MR. SATTERTHWAITE: Graham Bacon?

6 MR. BACON: Here.

7 MR. SATTERTHWAITE: Jerry Barnhill?

8 MR. BARNHILL: Here.

9 MR. SATTERTHWAITE: David Bryson?

10 MR. BRYSON: Here.

11 MR. SATTERTHWAITE: Todd Denton?

12 MR. DENTON: Here.

13 MR. SATTERTHWAITE: David Barnett?

14 MR. BARNETT: Here.

15 MR. SATTERTHWAITE: Lanny Armstrong?

16 (No response.)

17 MR. SATTERTHWAITE: Carl Weimer?

18 (No response.)

19 MR. SATTERTHWAITE: And I think Carl

20 will be joining us in -- later on in the day.

21 And Charles Lesniak?

22 MR. LESNIAK: Here.

1 MR. SATTERTHWAITE: All right. And
2 that is it. Thank you very much.

3 MR. DANNER: All right. Thank you very
4 much, Cameron. Now, I'd just like to quickly go
5 over the agenda that we have for today. Again,
6 this is a -- today is briefings. It's
7 informational only, and we're going to hear first
8 some welcoming remarks by PHMSA Administrator
9 Howard "Skip" Elliott, and then we will have
10 briefings today on research and development by
11 Sentho White, the chief counsel's perspective by
12 counsel, Paul Roberti, a briefing on safety
13 regulations in high-hazard industries with Cary
14 Coglianesse.

15 We will have a briefing on the
16 Massachusetts Incident Update by Robert Hall, and
17 committee discussion. We will then go into a
18 briefing on safety management by Angie Kolar and
19 a briefing on public awareness and engagement by
20 Dr. Christie Murray.

21 Finally, a briefing, a regulatory
22 update, by John Gale, before we wrap up and

1 adjourn. As Alan said, we'll be taking time for
2 public comment before lunch, and I think that is
3 it for the agenda. I'll turn it over to Alan at
4 this time.

5 MR. MAYBERRY: Actually, I think at
6 this time, we'll turn it over to the first --
7 we'll turn it over to the administrator, Skip
8 Elliott.

9 MR. ELLIOTT: Well, good morning, Mr.
10 Chairman, Mr. Mayberry. Thanks for those opening
11 comments, and good morning to everyone. It's
12 indeed a pleasure and an honor to be here,
13 especially in front of the Joint Liquid and Gas
14 Pipeline Advisory Committee.

15 I remember -- it seems like a long
16 time ago, but it really wasn't that long, a
17 little over 2 years ago, I think -- one of the
18 very first meetings that I had the opportunity to
19 attend and talk to was one of the advisory
20 committees, and I think I've probably learned a
21 little bit more about pipeline safety in those 2
22 years, thanks to many of you.

1 I want to be cognizant of Alan's
2 warning about 2 minutes before he'll cut me off,
3 so my comments will be brief, but there's a
4 couple of administrative items I'd like to talk
5 about. We've had a couple of new additions to
6 PHMSA that I think are worthy of note to folks
7 sitting right behind me.

8 But Ben Kochman, who oversees
9 governmental affairs, international affairs, at
10 PHMSA, and Randon Lane, who now focuses on public
11 affairs for PHMSA as well as MARAD, the Maritime
12 Administration.

13 But two new additions to PHMSA to help
14 round out that component of our agency. We find
15 that we keep them very busy, so if you have a
16 chance during the day, please introduce yourself
17 to them.

18 I find that in my time as the
19 Administrator, I have come to basically
20 appreciate the work that you all do collectively.
21 I think Drue and I both, on regular occasions,
22 talk about how the LPAC and the GPAC basically

1 serve as models within the Department of
2 Transportation as to how advisory committees
3 should be run, but more importantly, the
4 importance of the information they provide us
5 with, so we can go forward and provide good,
6 balanced regulations.

7 And I think the work that these two
8 committees have done -- that you have done --
9 over the last number of years has really proven
10 that. We look forward to many more years of
11 good, productive dialogue.

12 I think -- I also wanted to mention
13 that I think of my 2 years -- I have found that,
14 while I've learned a lot, there's still an awful
15 lot to learn this morning.

16 Just a few minutes ago, I was talking
17 with Chuck Lesniak about who has -- a perception
18 of PHMSA many, many years ago, and it's very
19 interesting for me to hear and learn about how
20 people who have seen the journey of PHMSA and the
21 Office of Pipeline Safety, especially how it's
22 changed and grown over the last 10 or so years,

1 and that was very important.

2 But we've got a long way to go. I
3 mean, I think PHMSA as a safety agency has made
4 some pretty strong strides in the last 2 years,
5 but I think the reason that we've been able to do
6 that is because of how you've kept us informed on
7 what's important to you, as well.

8 I look around the room and I see a lot
9 of faces that I saw last week in New Orleans at
10 the Pipeline Safety Trust Conference. And I'm
11 not intentionally trying to be maudlin or overly
12 serious, but I think it's -- some thoughts that
13 came to me this morning about that meeting are
14 worth talking about.

15 So it's a well-attended event, for
16 those of you that weren't there, and for those of
17 you that were there understand what I meant. But
18 Carl Weimer started with a video that basically
19 was a portrayal of the horrible events in
20 Bellingham, Washington, 20 years ago.

21 And I don't think any of us in that
22 room could not be moved by what we saw. And

1 driving back to the airport then after my talk,
2 you know, I had this uneasy feeling about
3 reliving that, having been out to Bellingham a
4 little over -- well, it's been almost 2 years now
5 when I went out to visit Bellingham, and then
6 kind of seeing this video.

7 But I think it was important that
8 those of us there saw that, and I think it's
9 important, and maybe I share kind of what came to
10 mind then.

11 It really -- you know, it's Winston
12 Churchill's 1948 address to the House of Commons
13 when he said, "[t]hose who fail to learn from
14 history are condemned to repeat it."

15 So you know, in my mind, that set me
16 right, that we need to be reminded of the, you
17 know, some of the tragedies that have occurred in
18 this wonderfully safe industry, because if we
19 lose sight of that, I think that we can never
20 continue to forge ahead to make the oil and gas
21 pipeline industry even safer than it is today.

22 I know I get the opportunity to talk

1 to many of you about what's the -- what's next,
2 what's the next-step change in pipeline safety?
3 I do believe in my heart of hearts that, you
4 know, we have to really focus on things such as
5 safety management systems and changing culture.

6 I saw that in the railroad industry in
7 40 years and what it did to really change safety
8 in an industry that when I started in 1977 wasn't
9 a very safe industry at all.

10 I think that, too, we at PHMSA also
11 see the value of a well-designed, well-
12 implemented voluntary information system that
13 many of you worked on, and we hope to see that
14 come to fruition someday soon.

15 But I guess, in closing, I would just
16 ask that you all stop and just, you know, take
17 the time to remember that, you know, we've got a
18 ways to go.

19 We've come a long way, but we've got
20 a little bit further to go to get to where I
21 believe we need to be, and I talked about this at
22 the Pipeline Safety Trust meeting, and I really

1 do believe that we have to get to zero incidents.

2 I mean, when you think about how safe
3 the industry is today, if we don't set our sights
4 to zero, then we're never going to be able to get
5 that last little bit of safety that we all know
6 that we can do.

7 So thank you for your time. Thank you
8 for your dedication. Thank you for your
9 commitment. For many of you, thank you for the
10 good education lessons, and thank you for being
11 colleagues and helping me become better equipped
12 to conduct my role as administrator.

13 So thank you, and good luck over the
14 next couple of days. Mr. Chairman, I'll turn
15 back to you.

16 MR. DANNER: Thank you very much, Mr.
17 Administrator. And I'm going to turn it over now
18 to Alan Mayberry again for some opening remarks.

19 MR. MAYBERRY: Thank you, Mr. Chairman.
20 You know, I just wanted to start by saying
21 congratulations. A lot of good work has been
22 done through this advisory committee process,

1 and, in particular, the Gas Committee has worked
2 very hard over the last couple of years to help
3 PHMSA and guide PHMSA in finalizing two major
4 rules, most recently.

5 And so I appreciate that very, very
6 much. The liquid rule, or, I mean, excuse me --
7 the Liquid Advisory Committee -- you know, it's
8 been sometime since we've deliberated on the
9 liquid rule and we finalized that recently and
10 we're very pleased with that, obviously, to
11 finally get to the finish line on that.

12 But the work is not finished. We have
13 a lot of work yet to do. So we have a very
14 aggressive agenda that John Gale will be talking
15 about a little bit later today.

16 So -- and I know we've scheduled
17 meetings coming up. We prescheduled, really, to
18 assist in the planning of your schedule, and put
19 placeholders out in March: March 3 and 4; July 22
20 and 23; and November 18 and 19.

21 So our plan is -- we have the
22 placeholders there. I'm hopeful we can have the

1 one in March. We're not sure if we'll be ready
2 by that time to deliberate on the rules, but we
3 at least have a placeholder, and we'll see what
4 we can do.

5 We'll work to hopefully be able to
6 bring something to you to meet at that time.
7 Today's agenda is really policy-related, as you
8 can see. It's been sometime since we've had the
9 Liquid Committee together, and there's a need --
10 you know, the Act, it says we should meet twice a
11 year, up to twice a year.

12 And so it's really time to bring you
13 together as one group. We had originally planned
14 this meeting earlier in the year, but as you may
15 recall the furlough got into the way, and this
16 was going to be joined with the Gas Committee,
17 but we kind of split them up.

18 We did the Gas Committee meeting
19 separately to talk about the gathering rule, and
20 then we spun this one off and are holding it here
21 today. So a lot of interesting policy updates
22 that you will hear about, and probably some you

1 may have interest in hearing about that we may
2 not get to.

3 We have a fairly aggressive agenda.
4 But you know, just in closing, again, I
5 appreciate the work of these two committees, very
6 important work that you do, and as Skip had
7 mentioned, this has been cited as an example of
8 advisory committee meetings in the federal
9 government that work very well.

10 I think we have a well-oiled machine
11 now, and appreciate the work that you do, you
12 know, on behalf of a lot of people that rely on,
13 you know, these policies that we put out.

14 With that, I will turn it back over to
15 the chair for introducing our first agenda item.

16 MR. DANNER: All right. Thank you very
17 much. First of all, I'm going to ask, do the
18 members have any questions of Alan regarding his
19 comments?

20 (No response.)

21 MR. DANNER: All right. If not, we're
22 just going to right into Agenda Item 2.

1 MR. MAYBERRY: If I may, Mr. Chair?
2 I'm surprised it hasn't been mentioned before,
3 but people on this side -- if we have issues with
4 attention, we do have these shades that we can
5 lower, and that applies to anyone.

6 But I must say, this is the nicest
7 meeting room, I think, we've ever been in, and
8 the audio actually works, which is a plus too.
9 But our plan is in the future, we -- our policy
10 really is to try to meet on a federal facility.
11 So Plan A is to meet back in the DOD building,
12 but I tell you what.

13 I'm okay with this, though, if we
14 can't do that, so --

15 MR. DANNER: I'm still waiting for GAO
16 to approve coffee. All right. So Agenda Item 2,
17 Senth White, the director of Engineering, is
18 going to talk about research and development. So
19 I'll turn it right over to you.

20 MS. WHITE: Thank you, Mr. Chairman.
21 Good morning. My name is Senth White, and I'm
22 the director of Engineering and Research in the

1 Office of Pipeline Safety. This is my first
2 GPAC/LPAC Committee meeting.

3 So thank you guys for having me, and
4 I look forward to meeting some of you today, and
5 then also working with you all in the future. I
6 plan on providing you with an update on research
7 activities within the Pipeline Safety R&D
8 program.

9 We've had a very busy year and it
10 resulted in significant engagement with our
11 stakeholders to establish our research agenda for
12 Fiscal Year 2019.

13 And we awarded over \$15 million in
14 projects related to pipeline safety research. So
15 our R&D program sponsors research on projects
16 that can provide near-term solutions to improve
17 safety, reduce environmental impacts, and enhance
18 the reliability of the Nation's pipeline
19 infrastructure system.

20 PHMSA's R&D program supports new
21 technology to further improve pipeline safety
22 performance and more effectively address

1 regulatory requirements. The program's
2 objectives are to address pipeline safety gaps
3 through fostering technology and knowledge-based
4 solutions to better inform decision makers.

5 There are three research programs that
6 make up PHMSA's overall pipeline safety research
7 program. The first is our Competitive Academic
8 Agreement Program, our CAAP, and it was
9 established in 2013, and we partner with
10 universities on pipeline safety research, focus
11 on validation of proof of concept of a thesis or
12 theory.

13 The program also exposes students at
14 the university level to subject matter that's
15 common to pipeline engineering to encourage entry
16 into the field. The research outcomes from CAAP
17 are intended to be handed off to our Core program
18 to develop more mature research and technology
19 development.

20 We also participate in the Department
21 of Transportation's Small Business Innovative
22 Research program, which is run through our Volpe

1 Center. There are two types of SBIR awards.

2 The first is the Phase I award, which
3 focuses on prototype development and a path to
4 commercialization. These awards are by
5 invitation only, and are awarded up to a million
6 dollars over the course of 24 months.

7 Our Core program is where we sponsor
8 research partnerships with technology entities
9 and research entities to develop ready-to-use
10 pipeline safety solutions, those tools in the
11 toolbox.

12 These run anywhere from 12 to
13 36 months in duration, and are funded anywhere
14 between 250,000 to a million dollars. So our R&D
15 program is designed to increase the number of
16 research projects at the proof-of-concept level
17 in order to transition them into a more mature
18 research project.

19 Unfortunately, of the 50 CAAP projects
20 that we've funded so far, only 2 have
21 transitioned into our Core program. The other
22 projects have fallen into this area called the

1 valley of death, which is depicted here, where
2 proof of concept doesn't actually transition to
3 applied and innovative research.

4 But we've been looking at innovative
5 ways to bridge this gap between the valley of
6 death and enabling more research projects to
7 transition into the market. The 2002 Pipeline
8 Safety Improvement Act gave PHMSA the authority
9 to establish an R&D program.

10 Since then, we've received technical
11 direction to sponsor research-focused topic areas
12 and millions in appropriations to perform
13 pipeline safety research. The CAAP program
14 awards up to \$2 million a year with a 20 percent
15 cost sharing with universities per project.

16 To date, we have awarded
17 24 universities with awards and involved over 234
18 students in pipeline research, and these research
19 projects can perform up to 36 months in duration.

20 As you can see, our Core program
21 generates the most number of projects, at 248,
22 over the course of -- since 2002, of

1 \$118 million. So we've spent quite a lot of
2 money, \$140 million, and a total of 335 projects
3 on supporting pipeline safety research.

4 One of our goals is to sponsor
5 research development in innovative technologies
6 that improve pipeline safety and reliability.
7 We've been successful in most of our program
8 subject categories to sponsor technology-driven
9 research projects.

10 We've had a total of 109 technology-
11 based projects, and the topic area that generated
12 the most was in anomaly detection, at 42
13 technology projects within this topic area.

14 We've had 31 projects go to tech
15 transfer and resulting in a commercialized
16 product. Part of the objectives of our R&D
17 program is to also develop and promote knowledge
18 to decision makers.

19 We do this through collaborative
20 events such as our R&D forums and R&D workshops,
21 which have generated the most stakeholder
22 participation, as you can see here. These events

1 bring together representatives from government
2 agencies as well as pipeline operators and trade
3 organizations, and the objective is to share
4 opinions and clarify key challenges facing
5 industry and government, share information on
6 current research efforts, and also identify new
7 research efforts moving forward.

8 We also track program performance
9 through our website by tracking the number of
10 downloads and the number of visits to our
11 website, as you can see in the top left. And we
12 also track the number of final reports and
13 conferences and journal papers that have resulted
14 from our research projects that we've funded.

15 I'm going to talk about three new
16 success stories that resulted in commercialized
17 products this past fiscal year, and these were
18 multi-year projects that ended prior to 2019, but
19 were commercialized in Fiscal Year 2019.

20 The first is a GPS-based excavation
21 encroachment notification system, and our data
22 shows that excavation damage is the leading cause

1 of pipeline failures, which has resulted
2 unfortunately in fatalities and millions of
3 dollars in public property damage.

4 This technology was developed by
5 UtilAlert, and before any underground utility
6 work occurs in that area, the utility contractor
7 will call the One Call Center and a ticket will
8 be created.

9 This technology would installed on
10 excavators and uses a GPS-based technology to
11 monitor excavation activities. The -- there's a
12 sensor that's installed on the excavator, and it
13 will provide a warning signal if the excavation
14 activity goes outside of a valid digging area.

15 And there's also a digging trigger
16 that can be installed on the excavator to notify
17 the One Call Center when digging actually
18 commences. So if this technology is employed by
19 contractors on mechanized equipment and
20 excavators, it will not only minimize the damages
21 but also enhance public safety and hopefully
22 prevent future incidents of pipeline failures.

1 Our next two success stories were for
2 commercialized natural gas pipeline leak rate
3 measurement systems, and this first one is a
4 leak-sensing technology that measures the leak
5 rate rather than the gas concentration.

6 It allows operators to be able to
7 prioritize the severity of the leaks within their
8 systems. The sensor also detects both methane
9 and ethane gas concentrations, so it's able to
10 differentiate between naturally occurring methane
11 sources from bio-gas from sewers and landfills.

12 The leak-sensing technology can be
13 mounted on a mobile vehicle and be able to drive
14 around urban areas, and so it will cover a larger
15 survey area, and thus reducing the number of
16 personal resources required.

17 The second leak-sensing technology can
18 be installed on a single-engine aircraft, and it
19 uses a fixed-wing differential absorption LiDAR
20 technology. So there's a specific wavelength
21 that methane gas can absorb light, and the plane
22 emits lasers at two different wavelengths to

1 target -- to a target which is on the ground.

2 So there's a baseline wavelength,
3 which is not -- set to the target gas, which is
4 methane, and there's another wavelength that's
5 fine-tuned to absorption wavelength of the gas.
6 So as the plane is flying along, it's constantly
7 emitting these two different types of
8 wavelengths, and the differential in the
9 wavelength intensity is reflected back to the
10 plane, and able to detect whether or not there's
11 methane gas.

12 So this technology also will cover a
13 wider swath, provide a more cost-effective
14 mapping for leak surveys. So overall, in fiscal
15 year '19, we exceeded our plan to award up to \$15
16 million of new research and funded 31 new
17 projects.

18 The research proposals were submitted
19 by over 29 research entities and technology
20 providers, and the R&D team reviewed each
21 proposal based on set evaluation criteria. And
22 members were a peer-review panel that reviewed

1 each of the research projects -- research
2 proposals -- and provided recommendations to
3 whether each project met the criteria for the
4 funding.

5 All of our 31 research projects, as
6 well as our ongoing projects, are listed on our
7 R&D website. So if you have any questions or are
8 interested in the progress of these projects, you
9 can go to our website for more information.

10 So five topic areas of research awards
11 were provided within our Core program for Fiscal
12 Year '19. We awarded three new projects in
13 threat and damage prevention, and the objectives
14 of these research projects are aimed to reduce
15 the risks associated with excavation in multi-use
16 utility corridors.

17 The first project involves developing
18 a market-ready, intrinsically locatable plastic
19 pipe using radio frequency-based sensors. The
20 second project, which was awarded to ULC
21 Robotics, will develop a pre-commercial prototype
22 new surface robotic locating tool.

1 And the third project, that was
2 awarded to Operations Technology Development,
3 will develop a web-based database of relevant
4 technologies, regulations, and best practices to
5 better inform decision makers.

6 Six new projects were awarded in the
7 area of remote sensing and leak detection. Three
8 of these projects range from developing a multi-
9 sensor-based leak-detection system using drone
10 technology to developing fixed sensors to be
11 installed along the pipeline right of way.

12 Three of the leak-detection projects
13 will utilize machine-learning and risk-modeling
14 applications in order to improve the reliability
15 and confidence of pipeline data for improved
16 decision making.

17 Anomaly detection and characterization
18 continues to be a major research area for its
19 importance in identifying and locating critical
20 pipeline defects and characterizing the severity
21 of these defects.

22 Five projects were awarded in this

1 area. The objective of the first project that
2 was awarded to PRCO will be to develop an
3 inspection processing for measuring crack and
4 seam anomalies in steel pipe.

5 The second project will enhance
6 assessment and management of dents and cracks in
7 pipelines by building on the current mechanical
8 damage assessment and management tools developed
9 by industry and other research organizations.

10 And the third project will use
11 statistical analysis to determine the accuracy of
12 in-line inspections in order to minimize the
13 number of missed defects without increasing the
14 number of false indications.

15 Two more projects were awarded in this
16 area. The fourth project will present research
17 over the past 20 years on mechanical damage and
18 the achievements made and opportunities for
19 improvement.

20 And the fifth project will evaluate
21 and employ current performance and testing
22 protocols of existing ILI system to detect and

1 characterize pipeline defects such as corrosion,
2 welds, gouges, and crack-in-the-crack-field
3 features that are interacting with dents.

4 The results of this project will
5 provide evidence and data to PHMSA to consider
6 revisions to the dent response criteria. With
7 the growing demand for LNG exports and the need
8 to evaluate the potential risks for new LNG
9 facilities, there were three new research
10 projects that were awarded in this area.

11 The first two projects will focus on
12 the effectiveness of hazard mitigation -- hazard
13 detection placement -- to reduce the severity of
14 the hazards. And the third project will develop
15 a methodology to evaluate and validate software
16 models to quantify non-LNG hazards, such as vapor
17 cloud explosions at LNG facilities.

18 The fifth topic in our Core research
19 area was in pipeline materials. This specific
20 research topic area was requested from the GPAC
21 to complete a knowledge-based study for
22 consideration of policy development and updates

1 to ASME B31.8 standards.

2 The research projects will investigate
3 definitions for natural gas transmission and
4 distribution lines in 49 CFR 192 and establish
5 technical criteria for reclassifying gas
6 transmission and gas distribution pipelines.

7 We also partner with other federal
8 agencies through interagency agreements to
9 perform pipeline research. We currently have an
10 IAA with NIST to conduct metallurgical testing on
11 vintage X100 pipe. The project will provide
12 insight into the mechanical properties and
13 performance of vintage versus high-strength
14 steels.

15 We also awarded eight total CAAP
16 projects to universities. Five projects were in
17 the anomaly detection and characterization area
18 and support research solutions to address the
19 NTSB safety recommendation to evaluate
20 interactive threats. The first project will
21 develop a multi-camera, stereo-vision-based tool
22 for in-line inspections and will utilize

1 artificial intelligence to detect and
2 characterize pipeline threats.

3 The second project, which was awarded
4 to Iowa State University, will develop an
5 integrated, experimental computational framework
6 to address the interacting threats of external
7 mechanical damage coupled with secondary features
8 of corrosion or cracking on the integrity
9 management decision making.

10 The other three projects focus on
11 assessment methods for interactive threats. The
12 first project will develop a more accurate model
13 to predict failure loads for interacting
14 anomalies from crack-like flaws and dents and
15 from corrosion wall loss. This was awarded to
16 Brown University. The second project, which was
17 awarded to University of Akron, will focus on
18 developing a probabilistic pipeline performance
19 evaluation framework and will focus on multi-
20 modal, non-destructive examination of aging
21 pipelines under interactive threats.

22 And the third project, awarded to

1 Stevens Institute of Technology, will develop a
2 distributed fiber optic sensor network to detect,
3 characterize, and quantify pipeline defects and
4 their interactions between different anomalies.

5 Three CAAP projects were awarded to
6 unmanned aerial systems research to develop
7 technology to evaluate and monitor the
8 performance of pipeline systems, and these
9 projects were awarded to West Virginia University
10 and Missouri University of Science and Technology
11 and University of Nebraska-Lincoln.

12 A total of four Phase II, small
13 business, innovative research projects were
14 awarded. The first two projects will develop a
15 field-scale protocol technology to determine
16 fracture toughness of pipe using NDE techniques.
17 These were awarded to Innerspec Technologies and
18 FBS. The next two SBIR projects were awarded in
19 the area of developing prototypes for internal
20 integrity assessment and cleaning tools for
21 hazardous liquid pipeline systems.

22 We anticipate funding up to

1 \$20 million in pipeline safety research in Fiscal
2 Year 2020. Two Core research announcements for
3 proposals are planned in Fiscal Year 2020. The
4 first one will be scheduled to be issued this
5 fall, and the second one we plan on issuing after
6 our February R&D forum. Both CAAP and SBIR
7 solicitation notices will also be posted this
8 fall.

9 As mentioned, our next biennial
10 pipeline R&D forum is scheduled for February 19
11 and 20 in Arlington, Virginia, and we've had very
12 high participation at these forums and hope that
13 next year's will generate a high amount of
14 stakeholder involvement and feedback.

15 We've also established a steering
16 committee made up of PHMSA's R&D team, as well as
17 representatives from the pipeline industry, and
18 we meet every other week, and we are in the
19 process of developing an agenda for the forum,
20 and soon the steering committee members will be
21 reaching out to representatives within industry
22 to be able to co-lead working groups, once those

1 are established, and also generate presentations
2 for each of these working group subject areas.

3 We are continually evaluating
4 programmatic improvements. We plan on, as
5 mentioned, solicitations in the fall for our
6 program areas, as well as another one after the
7 R&D forum has established research topic areas.

8 We also have a special notice on
9 FedBizOpps. It's a 24/7 solicitation where folks
10 can submit ideas and topics for future research.
11 And I'd like to turn it over to Alan to discuss
12 some of the ideas for the PAC.

13 MR. MAYBERRY: Yeah. Thank you,
14 Senthoo. I tell you. It's -- you know, when you
15 see it all in one place, it's quite impressive,
16 the impact of our R&D program. You can find all
17 this on our website, but it's really -- to have
18 it put together, I think it really shows the
19 impact of that program.

20 Our intent to have this on the agenda
21 are really two-fold. One, obviously, is to
22 inform you, you know, the advisory committee

1 members, but also, as Senthos pointed out, is to
2 have more engagement with this forum, with these
3 two bodies as well, to get input, seek input, as
4 we go forward.

5 So this will be kind of the first
6 foray into that effort right there, and we'll,
7 you know, as we go along, we'll tweak that, but
8 you know, so we'll be interested in receiving
9 your input, you know, today or in future
10 meetings.

11 You can go back and think about it and
12 get back with us. At the same time, too,
13 remember that our main mechanism has been -- has
14 traditionally been and will continue to be -- the
15 forums that we conduct.

16 You know, as Senthos pointed out,
17 there's quite a bit of award dollars that we have
18 teed up for next year. In order to be successful
19 in awarding that, we really need good ideas. We
20 need a lot of ideas, and we need, you know,
21 people to be, you know, at the forums to provide
22 that input to us. It's a very collaborative

1 process. If you've been involved in our forums
2 before, we really take to heart the input that we
3 received there.

4 But nonetheless, we do want to get,
5 you know, the input of this committee and just
6 keep you informed. And this is one of at least a
7 couple of standing agenda items we plan to have,
8 as we go forward with future meetings, just have,
9 say, an annual update, or as we meet, to discuss
10 policy matters.

11 We have R&D on the agenda just to
12 update you on where it is and seek your input on
13 where, you know -- maybe some ideas, you know,
14 would be that -- where we need to go. So with
15 that, I'll, you know, turn it back to our chair
16 to see if there are any, you know, questions, or
17 you know, issues you might want to discuss.

18 MR. DANNER: Okay. I see a number of
19 tents up, but chairman's prerogative -- I get the
20 first question. Senthoo, you used the term "near-
21 term solutions," and I was wondering if there was
22 any magic around that term.

1 You're focused on near-term solutions.
2 What is your timeline?

3 MS. WHITE: Sorry. In terms of near-
4 term solutions that we hope to be able to fund
5 research to be able to enable bringing more types
6 of technology to market faster. But there, of
7 course, with research, it -- there isn't really a
8 timeline on that.

9 Our hope is to be able to bring near-
10 term solutions, but in terms of our projects,
11 they can be -- they're multi-year, and so it
12 just -- it depends on the objectives, that the
13 research objectives have been met by each of
14 those projects.

15 MR. DANNER: Okay. So it's not a legal
16 term of anything? It's just -- you're going to
17 be -- that is the focus? Okay. So we'll just
18 start over here then. So Shawn Lyon?

19 MR. LYON: Sentho, thanks for the
20 update. That's an impressive list, just to see
21 all in one place. I agree, Alan, and I think
22 it's neat to see. I've told other folks: I

1 really feel, as an industry, we're on the cusp of
2 a technology boom that the previous 15, you know,
3 the next 5 years will probably outpace the
4 previous 15 years.

5 And to do that, it seems like all
6 those -- I mean, my wheels were turning as I saw
7 the names of those, but wanting to get into the
8 details, how they're coming and where to go to
9 find more details, to see -- is there some things
10 we're doing in the industry that can be
11 synergistic, and pool our resources to make that
12 technology, you know, pacing go faster.

13 Because I, again, I think we're really
14 at the cusp of doing that. So, and I thought
15 along the lines, is there a synergistic, you
16 know, combining of the VIS or something to share
17 that in a way with some of the details, even
18 though it's not totally proven out? But it's
19 something, I think -- because as industry, we're
20 trying to do our own R&D, too. So --

21 MR. DANNER: Shawn, thank you. I think
22 we compare notes a lot with PRCR. We probably

1 need to more formalize that to make sure that we
2 are not duplicating research. You know, it makes
3 no sense for both of us to plow millions of
4 dollars into a seam study, for instance --

5 MR. LYON: Right.

6 MR. DANNER: -- where, and it just
7 would be more effective to have a more
8 coordinated approach --

9 MR. LYON: Yeah.

10 MR. DANNER: -- to that. So --

11 MR. LYON: So yeah. I'll say that.
12 But outstanding report, and thanks for all the
13 work to, you know, inspire people to go to that
14 next level in technology.

15 MR. DANNER: Great. Todd Denton?

16 MR. DENTON: Todd Denton, Liquids
17 Committee. I -- my comments echo, somewhat,
18 Shawn's, and Alan, you actually nailed it, too.
19 I don't -- when we were commenting, we didn't
20 know all this was going on.

21 So shame on us for not, you know,
22 going to your website and looking at what's

1 happening. But I think there's some really good
2 things there. As Shawn mentioned, I think
3 there's some things that we can partner on.

4 My only comment would be -- and we
5 fight this within our company and our industry --
6 is that we don't spread ourselves, you know, try
7 to do everything, and really focus on the ones
8 that bring value, you know? Target those things
9 that -- so that we don't, you know, just try to
10 do everything, or do technology just because it's
11 cool. But does it really bring value and does it
12 solve a problem? But there's some really neat
13 things there, I think, and can move us forward.
14 Good presentation.

15 MR. DANNER: All right. Chuck Lesniak?

16 MR. LESNIAK: Chuck Lesniak on the
17 Liquid Committee, representing the public. Yeah.
18 I think this is really impressive, and I'm glad
19 to hear that you're going to, you know, moving
20 forward, start bringing more of this to the
21 committees on a regular basis.

22 I think that's a good idea. And one

1 of the things -- and this has been a concern I've
2 had for a while, since I've been on the
3 committee, is that, you know, the committee tends
4 to get stuff toward the end of the process, and
5 for rules and other stuff, and so I'm glad to
6 hear we're going to start seeing stuff at the
7 front end.

8 And I think particularly for the
9 representatives of the public on the committees
10 that, you know, if there are ways that PHMSA can
11 facilitate the public members attending some of
12 these R&D forums, other opportunities where we
13 can get it into the nitty-gritty a little bit --
14 I mean, some of us are laypeople and -- or semi-
15 laypeople, and to help us understand things a
16 little more before they come to a committee down
17 the road, and particularly things that might
18 ultimately result in a rule change or a
19 recommended practice change.

20 And so I encourage PHMSA to look at
21 opportunities to get the -- particularly the
22 public members of the committee at some of these

1 forums.

2 MR. MAYBERRY: Thank you. I was going
3 to say, certainly we can look at that. Sure, I'd
4 be glad to. We have in the past, I know, in the
5 previous forums, engaged the public. A couple of
6 forums ago, when we had a workgroup on leak
7 detection, we had the Environmental Defense Fund
8 there, who was helping really provide some
9 valuable input on where we needed to go there.

10 So yeah. We can definitely consider
11 it, especially since we're engaging in this
12 group. We can pull members in.

13 MR. LESNIAK: And if I can just follow
14 up on that, Alan? You know, a good example was,
15 you know, the Trust got a TAG grant a while back
16 to do technical and regulatory training for
17 members of the public. That was done down in
18 Houston. And that was -- it was just amazing.
19 You know, I've been involved in pipeline issues
20 for 20 years, and so some of it, I had already
21 learned, but I learned an enormous amount in a
22 couple of days.

1 The members of the public that were
2 newer to this, you know, they had a -- either a
3 new pipeline or an incident or some sort of thing
4 that brought pipelines to their attention. I got
5 feedback from them that -- it was really, really
6 valuable.

7 And so the more that the agency can do
8 to get the public engaged, and particularly the
9 committee members who are going to see these
10 things, where we have a better understanding of
11 them, then we'll get just at a committee
12 overview.

13 MR. DANNER: Thank you. Chuck raises
14 a good point, and if we have an aggressive agenda
15 for 2020, there might be a possibility of co-
16 locating some of the advisory committee meetings
17 with the R&D session. So maybe that's something
18 you can take a look at as well. Okay. Chad?

19 MR. ZAMARIN: Thanks. Chad Zamarin
20 with Williams. You know, Mike just -- and again,
21 thanks. It was a lot of great work. It might be
22 a good idea, having just gone through a large

1 rulemaking -- there were several areas of the
2 rulemaking where we identified alternative
3 technology approaches to some of the traditional
4 requirements in the code.

5 And you know, as you think about your
6 call for proposals, it might be a good time to
7 take a look at -- and you may already do this --
8 but kind of scrub through what we have done in
9 the recent rulemaking.

10 And maybe some of the things we're
11 thinking about doing, like, you know, how can we
12 demonstrate the equivalency of certain
13 technologies with traditional methodologies, and
14 you know, maybe -- you know, again, just tell you
15 that, as operators, we're going to be working
16 hard to come up with solutions that demonstrate
17 that equivalency.

18 So you know, I think there's a good
19 opportunity, with as much work as has just been
20 done, to maybe marry some of the work that's
21 being done in the R&D field with what's emerging
22 as new requirements or new opportunities.

1 It was a significant theme of our, I
2 think, rulemaking that we're trying to promote
3 the technologies that will avoid, whether it's
4 methane releases through having to make pipe
5 replacements, or pressure testing and doing other
6 non-destructive techniques.

7 So I think a lot of these technologies
8 relate to the efforts that we undertook, but it
9 might be a good time to take a look at what we've
10 done and see if we can't fill some of the gaps or
11 improve some of what we just passed. Thanks.

12 MR. DANNER: All right. Thank you.

13 Graham Bacon?

14 MR. BACON: Graham Bacon, industry
15 representative of LPAC. Again, like the others,
16 applaud the efforts on the R&D side. I just
17 wanted to ask a question in terms of technology
18 transfer and how much PHMSA and those that they
19 partner with discuss the things that are
20 developed from R&D -- how does that technology
21 get transferred? How much has been put into the
22 discussion of intellectual property rights? Who

1 owns those rights, and how those can be
2 disseminated so they can be used by the industry?

3 I don't know if that comes up --
4 something that comes up at the R&D forums -- but
5 you know, looking to really take advantage of the
6 technology, how much thought has been put into
7 how does that technology get transferred to where
8 it can be used by those that are in a position to
9 apply it?

10 MS. WHITE: Thank you for your comment.
11 So we track the projects and on our website we
12 actually have each of the 31 projects that have
13 gone into commercialization. We don't endorse
14 technology products, but more so help to sponsor
15 R&D towards those in technology development.

16 MR. BACON: Just -- so if I could just
17 follow up on -- so you don't endorse it, but the
18 research is out there. How does -- how do we,
19 you know -- I think, you know, the basic research
20 is good, but until it's applied, we really don't
21 see the value -- a value out of it.

22 Is the research -- how much of that

1 research is available? Is it just out there,
2 available as open source to companies that want
3 to take advantage of it? Or does -- does PHMSA
4 own the intellectual property, or the government
5 own the intellectual property?

6 Are there licensing of that
7 technology? How does all that work with what's
8 been developed from this research?

9 MS. WHITE: I'd have to probably get
10 back to you on that. I don't -- we don't, as a
11 government agency, own any intellectual property
12 rights. That's left up to the research or the
13 technology provider that developed the product.

14 MR. BACON: So the developer owns that
15 technology?

16 MS. WHITE: Yes, correct.

17 MR. BACON: Okay. Thank you.

18 MS. WHITE: Yeah.

19 MR. DANNER: Okay. Ron Bradley?

20 MR. BRADLEY: Ron Bradley with PECO and
21 the Gas Pipeline. So just comment: I'm
22 actually -- I'm glad to see that, and I agree. I

1 think it would be beneficial to continue giving
2 us an update.

3 I have two reasons I like it. There's
4 a couple things there. For the right reasons,
5 the focus on R&D has been on transmission. I
6 mean, I get that. It -- and it's for the right
7 reasons. A lot of risk there. I'm really
8 encouraged to see the focus move to areas that
9 include more distribution as well. I'm really
10 happy to see the drone technology leverage. I
11 think there's a lot there, and I'm glad to see
12 the focus on damage prevention.

13 So while the world was focusing pretty
14 heavily on transmission and piggyback pipelines,
15 distribution challenges were still out there, and
16 we were wrestling. We were trying to figure it
17 all out.

18 So I'm glad to see the shift go to a
19 place that includes some of the distribution
20 field. Also, I'd be encouraged about the -- I
21 know you had a slide that talked about the death
22 valley kind of a thing.

1 MS. WHITE: Uh-huh.

2 MR. BRADLEY: That's encouraging to me,
3 because I tend to think that we sometimes pick
4 projects that we think are going to be slam-
5 dunks. I'm glad you're pushing a little bit and
6 finding some things that, like -- ah, sounds
7 weird -- maybe it will work. Maybe it won't.
8 And it crashes. I think, fail quickly. Move to
9 something that will be really aggressive. But a
10 list of failures isn't something to be sad about.
11 So I'm encouraging you for that.

12 MR. MAYBERRY: Yeah. Just going to
13 follow up to that, Ron. Yeah. I'm actually not
14 too surprised about the valley of death. You
15 know, that's -- the theoretical stuff is risky,
16 riskier.

17 So your success rate won't be as much
18 as probably the Core program. I mean, some
19 things just don't prove out to take to the Core
20 program to develop into a commercially viable
21 product, so -- but the other aspect of that
22 program too, by the way, is to engage academia,

1 engage students, and promote employment in the
2 industry that we all are involved in. So that's
3 a big part of that.

4 MR. DANNER: And can I ask -- I mean,
5 I just want to make sure that when a project hits
6 the valley of death, is -- are we keeping records
7 of that research so that subsequent researchers
8 aren't going to reinvent or try to reinvent the
9 wheel, but actually learn from the research of
10 what didn't work?

11 MS. WHITE: Yes, we do keep track of
12 all of our research on our webpage, and as we
13 look at new proposals and to award projects, we
14 make sure that there is no duplication of those
15 research efforts and research objectives.

16 MR. DANNER: All right. Thank you.
17 Sara Gosman?

18 MS. GOSMAN: So thank you very much for
19 this update. As an academic myself, I appreciate
20 the update. I'm wondering if you -- and I don't
21 know what your limitations are in terms of
22 funding -- but have you thought about funding on

1 the social sciences side? And here, I'm thinking
2 about psychology, behavioral decision theory,
3 risk communications sets of issues. And then the
4 other thing I'm wondering about: you know, NSF is
5 focusing these days on convergence research.

6 And I'm thinking about the ways in
7 which that multi-disciplinary approach to
8 pressing societal needs could be applied in the
9 context of pipelines. I think it could, right?
10 A lot of very interesting issues, a lot of ways
11 in which, if you brought disciplines around the
12 table and really tried to think through these
13 risk issues, it might drive a different way of
14 thinking about also the pipeline safety
15 regulation.

16 MS. WHITE: Thank you for your comment.
17 So we are in the process of developing working
18 groups for this next forum in February, and so
19 we'll definitely take that into consideration as
20 we go back. Thank you.

21 MR. DANNER: All right. Shawn Lyon?

22 MR. LYON: Shawn Lyon with the liquid

1 side, as operator. One of the areas I didn't
2 see, Senthoo, was -- you know, one of our
3 challenges in the pipeline industry is our
4 geography, and miles and miles across all types
5 of different terrains. And how do you monitor
6 those closely? And it seems like satellite and
7 change detection is ripe and out there. But I
8 didn't see any R&D projects on that. Is there
9 anything in the mill on that, or is that an area
10 to focus on?

11 I once told a group -- I said, you
12 know, the next generation probably will laugh at
13 us for using planes to monitor our right-of-way,
14 versus, you know, real-time satellites and being
15 able to say, hey, someone just moved on your
16 right-of-way. I just got a text. I can get out
17 there in minutes, you know, 24/7. Anything on
18 that horizon, or is that an area of emphasis?

19 MS. WHITE: Thanks for your comment.
20 Not to my knowledge, but I would encourage you to
21 submit that as a potential research topic in our
22 special notice for consideration. Thank you.

1 And I will go back to the R&D team and
2 ask.

3 MR. DANNER: Yeah. We do vary -- the
4 workgroups for the forum are really defined by
5 the input we receive, so this is very helpful.
6 And perhaps that's one. I'm sure we've had some
7 projects, Shawn, in the past, but I just -- none
8 are coming to mind right now.

9 But that has been pointed out as, you
10 know, an issue. Geo-technical-type issues is --
11 we've had discussions on before --

12 MR. LYON: Yeah.

13 MR. DANNER: -- but that -- you know,
14 maybe that's one area to look at. You know,
15 that's really -- we'll get the input, and we'll
16 see what workgroups we need to set up for the
17 forum, and perhaps that could be one of them.

18 You know, in the past we've had varied
19 workgroups from -- well, LNG, you know, was the
20 newer one this last time. In the past, you know,
21 when we were really gearing up for an Alaska
22 pipeline that was coming across Canada, we had a

1 workgroup on arctic engineering methods, arctic
2 welding, and the like.

3 So it just varies depending on what
4 the issues are. You know, certainly, human
5 factors, we've seen, is a, you know, an issue.
6 It's a common thread for a lot of accidents. So
7 perhaps that's an area as well.

8 So -- but that's why it's very
9 important for you to take back to your, you know,
10 the group that you represent to, you know, make
11 sure you engage in our process to, you know,
12 provide that input.

13 MR. DANNER: Thank you.

14 MR. MAYBERRY: Thank you. Remind us
15 again when the special notice -- when you're
16 expecting to issue that?

17 MS. WHITE: The special notice actually
18 on FedBizOpps, and it's been up. So it's 24/7
19 solicitation. So we encourage you to submit on
20 these sort of research topic areas that you'd
21 like us to consider.

22 MR. DANNER: All right. Jerry

1 Barnhill?

2 MR. BARNHILL: Yeah. Good morning.
3 This is Jerry Barnhill with LPAC. My question, I
4 think, kind of follows the comments that were
5 just made in that, you know, when we talk about
6 technology, we all have the goal of wanting to
7 work safer, and I think the amount of
8 transformation taking place today is just
9 phenomenal.

10 And my question is -- a number of us
11 have even gone as far as companies to set up
12 venture capital companies out in Silicon Valley
13 today where we're really on the front edge of
14 technology. Leak detection, that type of thing.
15 Do you feel like you're plugged into that, or is
16 there a way or a mechanism? Because some of the
17 topics that we're discussing here today, there's
18 just a tremendous amount of activity and work
19 that's taken place.

20 I mean, when you think about
21 pipelines, it's big data, and real smart people
22 have realized that. So there is a lot of effort

1 going on. So do you get that visibility, and how
2 do we help you?

3 MS. WHITE: The R&D team has
4 participated in national conferences that --
5 where they are able to speak on and get a wider
6 audience of the work that we're doing, as well as
7 getting feedback from various organizations.

8 So we've -- in the future, too, we
9 will continue to participate in and hopefully
10 speak at these conferences.

11 MR. BARNHILL: Yeah, and I think as --
12 I will just say, from an industry perspective, I
13 think we have an opportunity to help you as well,
14 continue to guide and direct some of the people
15 that continue to kind of knock on our door, to
16 make sure that we're all kind of having an
17 opportunity to see this in real time, because it
18 is moving immensely quickly.

19 MR. DANNER: Okay. Mary Palkovich?

20 MS. PALKOVICH: Mary Palkovich with
21 GPAC. Yeah. I agree with all the points,
22 especially Jerry's, and the big data and utility

1 analytics and those types of things, because
2 they're starting to uncover the not-obvious
3 issues that we need to be attacking.

4 Also, on cybersecurity, I'm not sure
5 if there's an opportunity. There's a lot of --
6 for combo utilities like Consumers, there's a lot
7 of work on the electric cyber. And we're talking
8 a lot about gas cyber for the AGA member
9 companies. But I don't know if there's another
10 opportunity to do some research about the effect
11 on gas systems, when the electric grid is
12 attacked and those types of things. We're wading
13 through all of that, but I don't know if that's
14 another opportunity.

15 Also, I just wanted to mention -- many
16 utilities are trying to find ways to get
17 renewable gas into the stream, and we're familiar
18 with landfill gas and the BTUs fluctuating, that
19 causes distribution companies issues when the
20 quality of the gas is inconsistent.

21 And now that we're all looking to get
22 to more RNG, for all the environmental reasons,

1 there might be some opportunities there to
2 tighten up and maybe get some research. And then
3 just lastly, for utilities, damage prevention is
4 the number one reason for gas events, and inside
5 of that space, there are things like simple meter
6 set protection. And barricades and bollards have
7 been in place since the 1930s. But there might
8 be some other opportunities of air bags or
9 something that we could do to really hit that
10 threat.

11 MR. DANNER: Thank you for that. I
12 also want to note, when Mary mentioned the RNG, I
13 think that that is an area that is certainly ripe
14 for some research. California has set standards
15 for RNG, and we have -- and Washington has been
16 asked to do the same.

17 I wonder if there are going to be
18 52 separate standards for RNG and whether we need
19 to have some research to figure out what that
20 should be. Alan?

21 MR. MAYBERRY: Just wanted to call your
22 attention to a guidance document that's working

1 its way through the department right now related
2 to using risk models. We had a workshop back
3 in -- gosh, it's been -- it was around in 2015
4 where we brought people together to talk about,
5 you know, using risk models and to gather input
6 on that topic, because the issue was that, you
7 know, in looking at pipeline failures, we saw
8 that, you know, there were issues with how people
9 were aggregating risk and they were missing
10 items.

11 So this forum really was designed to
12 seek input and also out of -- we stood up a
13 working group that included a lot of industry
14 members that developed a document, a guidance
15 document, if you will, on how to model risk.

16 So I expect we'll be coming to you
17 before too long with that to present that to you.
18 We also plan to post it publicly. And so that
19 specifically dealt with -- at the time it dealt
20 with big data, but I think there's more work that
21 needs to be done, and certainly, you know, we're
22 open, you know, for our R&D program to maybe

1 consider that as well.

2 MR. DANNER: All right. Todd Denton?

3 MR. DENTON: Todd Denton, Liquids. To
4 build on Jerry's point a little bit, and Alan,
5 you've mentioned a working group a couple of
6 times, and apologies, that this has already been
7 discussed or mentioned.

8 But is there an opportunity to have a
9 working group, you know, among this work, to --
10 at the front end of some of that R&D, in the idea
11 stages, to do some of the filtering or even, you
12 know, maybe before the valley of death stage,
13 whatever -- to collaborate a little bit on what
14 each of us are doing, and going back to those
15 ideas that, you know, that will bring value, and
16 work those together? Just an opportunity
17 potentially.

18 MR. MAYBERRY: Yes. Certainly, we'll
19 take that as input. Thanks.

20 MR. DANNER: Okay. Any other questions
21 from the committee members?

22 (No response.)

1 MR. DANNER: Okay. Because Senthos has
2 to leave us, we are going to now open it up to
3 questions from the audience members, if anyone in
4 the audience has questions for Senthos before she
5 leaves. I see there is a portable mic making the
6 rounds of the floor, so if anybody has any
7 questions?

8 MR. BYRD: Hi. I'm Bill Byrd,
9 president of RCB. But I really want to make a
10 comment on behalf of the International Pipeline
11 Conference. I'm the chair for the next
12 conference in 2020, and it's heavily focused on
13 the pipeline research industry.

14 There will be 400 peer-reviewed
15 papers. PHMSA consistently participates, and I
16 want to thank them for that. I also want to ask
17 you, and the audience, and Skip specifically, to
18 continue to support their attendance, because
19 it's always a little bit tricky to get the
20 approval for U.S. government officials to go to
21 Canada for a conference, but that's where it is.

22 And it's run by two nonprofits, the

1 American Society of Mechanical Engineers and the
2 Canadian Energy Pipeline Association. So thank
3 you, PHMSA, for participating, and thank you for
4 all the research organizations and operators that
5 continue to support the conference.

6 MR. DANNER: Any other questions or
7 comments?

8 MR. BELLEMARE: Yes. Simon Bellemare
9 with MMT. I would like to congratulate PHMSA for
10 being able to issue that first section of the
11 rule, the gas rules. One specific item has been
12 defining what is a pipe population, that was
13 better than people had expected.

14 To the GPAC, I want to apologize for
15 some of my comments previously and not
16 necessarily being exactly on topic. We have gone
17 across the valley of death as a company, MMT, and
18 at this point, we are able to collaborate.

19 So as far as a question for Senth
20 White here, it was very hard for us to really get
21 a full grasp into the complexity, the importance
22 of this process, between the regulation, the

1 operation, and then the solution providers, the
2 service providers that are in between.

3 There was a comment about how the
4 public can get a grasp and participate through
5 some of those R&D forum. There was also a
6 comment in terms of bridging that gap of what's
7 available on the outside marketplace. And I've
8 been thinking perhaps PHMSA can play a role in
9 that education. You are very knowledgeable and
10 you're very credible, and I wanted to know if
11 there was already some effort done in that
12 direction. Thank you.

13 MS. WHITE: Thank you for your comment.
14 In terms of trying to bridge that valley of death
15 and knowledge, we definitely are looking for and
16 evaluating currently ways to do that. So we'll
17 take that back to the R&D team.

18 MR. DANNER: Thank you. Any other
19 questions or comments from the audience? Okay.
20 Just one more.

21 MR. EMEABA: Morning all. This is Kalu
22 Kelly Emeaba from GEIS Innovations. I'm just

1 backing up -- going back to the research and
2 engineering, and I appreciate the researches that
3 PHMSA conduct, which is spending a whole lot of
4 money.

5 But would there be a way that PHMSA
6 could have agreements with your partners in
7 research, so that you may actually own some of
8 these research you spend money on? Just like one
9 of the speakers ask, how will it be beneficial
10 to the industry?

11 And the response is, you know, the
12 research, the property right, belong to a certain
13 person. I believe -- haven't spent much money on
14 the research, and if there is a conclusion that
15 is reached, wouldn't there be a kind of agreement
16 whereby if the conclusions are drawn from those
17 researches, you may actually give advisory --
18 write advisory bulletin, not just writing the
19 list of your projects on your website, but send
20 an advisory bulletin to operator that these
21 research has been done, is conclusive, and we
22 recommend, because you can recommend.

1 You don't have to make the operators
2 to do it, but you can recommend so that they
3 know, yes, PHMSA believes in it, because
4 scientifically, this has been proven. There
5 needs to be -- now the burden would not be left
6 on the companies to now pursue to it or go to
7 whichever researcher that did it. So that's just
8 my question.

9 MS. WHITE: Thank you for your comment.
10 Our -- the mission of our agency is to regulate
11 pipeline infrastructure, and so with that, we
12 don't endorse technology, per se. But our goal
13 is to continue to not only regulate, but also
14 ensure the safety of pipeline infrastructure.

15 MR. EMEABA: That does not answer my
16 question. My recommendation is not for you to
17 endorse any product. I'm in your shoes, too. So
18 I don't want you to endorse, but recommend a
19 conclusion from your research, that this has been
20 conclusive and scientifically you have the
21 ability and capability to say this works, and
22 it's going to work.

1 Therefore, you recommend to them they
2 can look into that. That is recommendation, not
3 a final -- you are not ordering them, or by
4 regulatory mandate, you can't do that --
5 recommend they should look into that, by
6 advisory; that's where I'm coming from.

7 MR. MAYBERRY: Appreciate it. We'll
8 take that under advisement.

9 MR. DANNER: All right. Thank you very
10 much. Are there any other comments or questions
11 from the audience or from the committee members
12 for Senthos before she departs?

13 (No response.)

14 MR. DANNER: All right. Hearing
15 nothing, thank you very much, Senthos. Obviously,
16 a lot of interest in your work, as evidenced by
17 the questions this morning, and I really
18 appreciate your taking the time to brief us this
19 morning.

20 MS. WHITE: Thank you for having me.

21 MR. DANNER: Okay. We are going to
22 take a little change in the agenda today, and

1 move to Item 8, which is the regulatory briefing
2 by John Gale. John, I'm going to turn it over to
3 you now.

4 MR. GALE: Thank you, Mr. Chairman.
5 Good morning, members. Good morning, public.
6 You know, I was kind of hoping that, you know,
7 with publishing three final rules on one day, you
8 know, I could take that credit, just kind of come
9 up here and drop the mic and walk away.

10 But you know, as Skip said, we still
11 have a lot to do, and coming forward in 2020, we
12 have a very aggressive regulatory agenda. We're
13 managing about 12 rules right now, cover a
14 variety of topics from LNG to a variety of gas
15 transmission issues, to gas gathering, and some
16 hazardous liquid issues as well.

17 So luckily I have a great staff and a
18 great team, and that's kind of proven itself
19 today by how nimble they are on moving this
20 agenda around a little bit right now. I thought
21 it was important, too, to summarize to you guys
22 some of the work that may be needed of you in the

1 coming year.

2 I'm going to get into these different
3 rules individually, but right now we have six
4 rules that are on their last stage of approval
5 before publication, six NPRMs. Each of those
6 rules will need work by these committees, either
7 the Liquid or the Gas and, in some cases, both.

8 So I just wanted to highlight for you
9 that, you know, in the coming year, in 2020, it's
10 very likely that we're going to need committee
11 meetings on our valve rule, our LNG NPRM, our
12 rulemaking on class locations, and standards
13 update, gas reg reform, and hazardous liquid reg
14 reform.

15 Two of the meetings will be joint
16 meetings. Three will be Gas-only meetings, and
17 one will be an LPAC-only meeting. We have, like
18 Alan mentioned, we have already scheduled some
19 tentative dates for some of these meetings.

20 We have a meeting scheduled in March,
21 July, and November, and we've even scheduled some
22 meetings out into 2021. But you know, a lot of

1 times, these meeting schedules are going to be
2 more dictated by when the rules get published,
3 when those comments period end, and then, well,
4 you know, depending on the breadth of the
5 comments, when we're able to bring it to the
6 committees for their review.

7 But I'm sure, knowing our leadership,
8 we're going to be pushed to get those rules to
9 you as quickly as possible after those comment
10 periods end. So I just wanted to highlight for
11 you guys this aggressive schedule we have coming
12 up in 2020.

13 As I mentioned earlier, and I think a
14 few of you may know, you know, we did publish
15 three final rules back on October 1. We
16 published the final rule on the hazardous liquid
17 pipeline rule that had been around for quite a
18 bit of time, and our safety of gas transmission
19 pipelines, where some people refer to as RIN 1,
20 or the rule that was focused on more the
21 mandates.

22 There's still more work to be done

1 there, but that, with the emergency orders, was a
2 great accomplishment, we thought, of our
3 organization and our office. The effective dates
4 of the two big rules -- the gas transmission and
5 hazardous liquid final rules -- is July 2020.

6 There is also some built-in time frame
7 depending on the requirements later on, but the
8 main effective date is July 1, 2020, and the
9 effective date for the emergency rule is coming
10 up on July 2.

11 Part of the rulemaking process,
12 though, also is stakeholders have the opportunity
13 to petition us for reconsideration of that final
14 action. You have 30 days after that rule is
15 published to receive any petitions for
16 reconsideration.

17 These two rules, if you look, printed
18 out on just regular paper, you know, Microsoft
19 Word or something like that, we're talking
20 probably over 500 pages of different -- of text
21 that was -- that had to be printed out.

22 Numerous regulatory amendments,

1 numerous changes to the regulations, and due in
2 no large part -- or small part -- to the work of
3 these committees, we did receive one petition.
4 But if you looked at the keystrokes that would be
5 involved to address that petition, we're talking,
6 like, literally 15 keystrokes. That's amazing
7 work by this committee to get those rules to that
8 point where we got to that kind of conclusion.

9 So we have that petition. We have to
10 address that petition. We're reviewing it right
11 now. But considering the breadth of those rules
12 that we're involved with, to only have those two
13 issues that in those -- in that petition is
14 pretty amazing to me.

15 One of the biggest rules that we have
16 that we're working on right now is the rulemaking
17 on LNG. As many of y'all may be aware, there was
18 an executive order issued by the President
19 dictating that we actually issue the final rule
20 on this rule by May 2020.

21 So obviously, when you get a dictate
22 like that -- right -- that's going to be one of

1 your top priorities for your office. So we have
2 a very big team and a very aggressive team
3 working on this team.

4 It basically, in general, would revise
5 Part 193 to address the changes in NFPA 59A in
6 2019. Of course, addressing and looking at
7 issues related to export of LNG facilities,
8 small-scale LNG facilities, and also looking at
9 making any changes that we think are appropriate
10 to address the safety of LNG facilities in this
11 nation.

12 Another rulemaking that we have
13 ongoing that's on its last steps of approval is
14 our final rule on underground storage. As many
15 of you are aware, we published an interim final
16 rule back in December 2016 on this topic, as
17 dictated by the PIPES Act of 2016, which
18 basically adopted to API standards, RP 1171 and
19 1170, and it also adopted some annual and
20 incident reporting requirements related to
21 underground natural gas storage.

22 But as -- when you do an interim final

1 rule, right -- you're taking an action, adopting
2 amendments, but also providing the public an
3 opportunity to comment. We are required to then
4 issue a final action that addresses those
5 comments and make any changes that are necessary.

6 One of the biggest items we had in the
7 proposal that drew the most comments was the
8 provision in the rule to make the non-mandatory
9 provisions of the RP -- we adopt them in a manner
10 that would make them all mandatory.

11 Like I said, we received a lot of
12 comments on that, a lot of petitions on that, and
13 because of the nature of the comments, we thought
14 it was important to issue a stay of enforcement
15 for those non-mandatory provisions

16 So we issued that notice back in June
17 2017, and we delayed some of the annual reporting
18 requirements until March 2018 in that same
19 notice. We then actually even reopened the
20 comment period and got additional comments back
21 in November 2017.

22 That final rule is currently at OMB,

1 and is -- for those of you who understand the
2 rulemaking process, after a rulemaking passes
3 PHMSA, it's going to go to the Office of the
4 Secretary, and go to the Office of Management and
5 Budget if it's a significant rulemaking action,
6 which many of the rules in pipeline, managed by
7 our office, are significant rulemaking actions.

8 But after it gets through OMB, we can
9 then publish that final rule. So we're
10 optimistic that we should get our approval from
11 OMB here in the coming weeks here. It's been
12 there for a little bit, and when we get that
13 approval, we'll be able to send that rule to the
14 Federal Register and finalize that action.

15 One of the biggest proposals and the
16 highest-priority proposals that are dictated by
17 our leadership to my office is the rulemaking
18 regarding rupture detection and valve rule. It's
19 by far the most important mandate remaining from
20 the 2011 Act, and basically responds to Section 4
21 and 8 of that Act, and NTSB recommendations and
22 studies performed by both PHMSA and GAO.

1 And basically, for those of you that
2 haven't been following it that closely, it
3 addresses the insulation of automatic shut-off
4 valves and remote control valves on newly
5 constructed or entirely replaced natural gas and
6 hazardous liquid transmission pipelines,
7 basically to require the insulation of these
8 valves across that infrastructure.

9 So we're developing a rule that not
10 only requires that, but it also defines the
11 metrics of when these valves would have to be
12 shut down or be shut and how quickly they'd have
13 to be closed.

14 This rule and this notice is also at
15 OMB, and we're optimistic that we'll get that
16 approval within these coming weeks, and that's
17 probably, by far, one -- that, with LNG, one of
18 the more significant rulemaking actions that
19 we'll have to bring to the committees, and that
20 will actually be a rulemaking we'll bring to
21 both, to a joint committee meeting.

22 Another initiative we have on --

1 undergoing right now is related to our standards.
2 Because of our emphasis on some of the other
3 rules, the higher profile rules, the safety
4 rules, the standards that we incorporate by
5 reference have gotten a little out of date, and
6 we've taken very aggressive actions to initiate
7 rulemakings to address those standards that are
8 out of date.

9 We -- in the plastic pipe rule, they
10 had addressed some of those standards, and we're
11 having to review those again, to some degree, but
12 we have actually initiated two rules to address
13 standards, because the number of standards that
14 are out of date is pretty large.

15 We have a rulemaking that would
16 address about 25, 26 standards, I believe,
17 currently in its final stage of approval.
18 Luckily, this rule is deemed non-significant, so
19 hopefully, as soon as we get that approval, we'll
20 be able to get that to the Federal Register and
21 hopefully bring it to the committee early in
22 2020.

1 But at the same time, we've got
2 another team working on the rest of the
3 standards. We already have approval. We have
4 approval to initiate that action, and it's
5 actually in the regulatory agenda to update the
6 remaining standards.

7 But, more importantly, we think we
8 have a good system in place now and a good team
9 in place to ensure that these standards, after we
10 get these up to date, will not -- get out of date
11 as bad as they have in the past, and we can move
12 much more quicker to update these standards going
13 forward.

14 The rulemaking that has its beginnings
15 from the 2016 PIPES Act is our rulemaking on the
16 USA definition. Basically, Section 19 of the
17 2016 Act requires PHMSA to expand the definitions
18 of USAs to include the Great Lakes, coastal
19 beaches, and marine coastal waterways.

20 And those of you who are familiar with
21 the hazardous liquid definition for a high
22 consequence area, that has the effect of

1 subjecting these lines or those areas to the
2 integrity management rules in Part 195.

3 PHMSA recently updated its National
4 Pipeline Mapping System by reclassifying the
5 Great Lake Region as an unusually sensitive area
6 ecological resource. We've held a couple public
7 meetings on this topic -- held one back in 2017,
8 and we held one just recently in 2019, right
9 before the gas gathering GPAC meeting. We are
10 right in the development of an ANPRM on this
11 topic. We think that's the best strategy right
12 now to move forward with this rule to get some
13 action done as quickly as possible.

14 This, again, would be a significant
15 action and a significant rulemaking. By being a
16 significant rulemaking, the review period at OMB
17 is only 10 -- supposed to be 10 days and not the
18 normal 90 days that is scheduled for a full
19 ANPRM. So we think we can -- we have the
20 opportunity to publish that ANPRM by the spring
21 of 2020, and we're still on track to meeting that
22 schedule.

1 Another pretty significant action we
2 have ongoing right now is related to class
3 location. We published an ANPRM on this topic
4 back in July 2018. We had even published some
5 other notices on this topic, I think, back in
6 2015 or 2016, if I recall. But this rule, this
7 action, is looking specifically at the issues or
8 options for addressing existing pipe when the
9 class location changes due to population
10 increases near the pipeline, and then the MAOP is
11 not commensurate with that new class location.

12 So right now, the current
13 requirements, if that classes changes, the
14 options to an operator are to reduce that
15 operating pressure, confirm the new MAOP with
16 another pressure test, replace the pipe with
17 thicker wall pipe. It was also the option, and
18 used for numerous years now -- is for operators
19 to apply for a special permit to operate those
20 segments at that previous MAOP while performing
21 other types of preventive and mitigative
22 measures.

1 And we're reviewing the possibility,
2 the option, of taking those preventive and
3 mitigative measures, similar like we did with the
4 alternative MAOP approach, and building those
5 into the regulations.

6 So again, this is one of our more
7 significant actions. This was -- would be an
8 action that we would characterize under our
9 regulatory reform initiatives, and we have a
10 fairly aggressive team working on this rulemaking
11 as well. This is another rule that I would
12 anticipate being published in the near future, or
13 well, let's say in 2020, and that would require
14 action at least by the GPAC Committee, and to
15 have a meeting by the GPAC later in 2020.

16 MR. DANNER: John, just --

17 MR. GALE: Uh-huh?

18 MR. DANNER: -- to be clear, an ANPRM
19 is an advanced -- and that's more like a notice
20 of inquiry?

21 MR. GALE: Yes. Thank you, Chairman.

22 Yes. So an Advanced Notice of Proposed

1 Rulemaking that we see mentioned here under the
2 USA rule is a rulemaking that you basically have
3 an issue -- you have a topic that you're under
4 consideration, but you're not sure what the
5 proposal is. What should be the solution to the
6 problem, because you haven't come to that
7 conclusion yet?

8 So an ANPRM identifies the issue and
9 then identifies options for the public to
10 consider, and then we solicit feedback on what
11 those options or what that solution could
12 possibly be. That's unlike a notice of proposed
13 rule, where we have an issue or a problem that
14 we're trying to solve and we actually have a
15 specific proposal where we've initiated and we're
16 getting comment on.

17 So this gives a little bit more
18 latitude. We also have two rulemaking actions
19 ongoing right now related to regulatory reform,
20 and this has its beginnings back in the executive
21 order issued in the beginning of this
22 administration, 13771.

1 And also, regarding some comments we
2 received, the Department of Transportation issued
3 a Federal Register notice asking for comments on
4 what -- or what changes in the regulations --
5 would be appropriate to lessen the cost on the
6 different industry groups, but also at the same
7 time, and I think is very important to be very
8 clear on it, and this is a directive from our
9 administrator and deputy administrators and our
10 AAs as well, that these amendments cannot have a
11 negative impact on safety, and we were very
12 careful in identifying those changes.

13 We did a very extensive review
14 ourselves of our regulations, and have identified
15 several changes to the regulations we thought
16 were very prudent and very, very -- we thought
17 were worthwhile at moving forward with, but at
18 the same time, balance safety with those changes.

19 So on the gas reg reform initiative --
20 so we basically have one on gas and we have one
21 on liquid. On the gas rule, we have some
22 proposals related to distribution integrity

1 management, related to how they apply to farm
2 taps and to master meters.

3 We have a proposal we're considering
4 on the mechanical fitting failure reports that
5 was adopted under DIMP. We've received a lot of
6 data there and we think that some changes to that
7 form in relationship, also to the annual report,
8 are very prudent right now, that could
9 minimize -- eliminate some unnecessary reporting
10 requirements.

11 We're also looking at the incident
12 reporting criteria, and the monetary threshold
13 and looking to see if it should be indexed to
14 inflation. We're looking at a proposal related
15 to the remote monitoring of cathodic protection
16 rectifiers, and this is an issue also on the
17 liquid rule.

18 This is an area where, in the past,
19 we've always said that, you know, remote
20 monitoring would be acceptable. We're just
21 modifying the regulation to make it very clear.
22 We're also looking at atmospheric corrosion

1 assessment requirements for gas distribution
2 service pipelines, standards for polyethylene
3 pipe and pressure vessels, and some petitions for
4 rulemaking that we received from GPTC related to
5 welder requalification and preinstallation
6 testing.

7 But this is a rule also -- this rule
8 actually is currently at OMB, and we're hoping to
9 get their approval probably in the next couple of
10 months. It just got there pretty recently. But
11 if that rule gets published, we'll be bringing
12 this to the advisory committee sometime later in
13 2020.

14 Its sister rule, too, in a way is the
15 Liquid Reg Reform rule. It has its beginnings
16 the same way, from the executive orders and the
17 comments we received from the OST notice and our
18 own review.

19 And so the topics are not as broad as
20 they are in the gas, but they are -- we're
21 looking at how companies submit information,
22 especially confidential information, to PHMSA.

1 We're looking at our response plan clarification,
2 or clarifying some of the response plan
3 requirements for oil spill response plans. We're
4 also -- like I mentioned before, we're looking at
5 the remote monitoring and rectifiers and
6 corrections to some -- to guides we give on
7 integrity management.

8 Well, one of the little bit of a
9 nuance on this rule for the members to take note
10 of is that, actually, the one proposal related to
11 submitting information to PHMSA will affect both
12 gas and liquid, so we'll make that we get the
13 input from both the Gas and the Liquid Committee
14 on that given specific proposal.

15 As you all are -- especially on the
16 gas side -- are well aware, you know, in order to
17 manage the gas rule, we thought it was very
18 prudent to split that final rule up into three
19 components.

20 In kind of that same vein, in the
21 liquid rule, there was a component related to
22 repair criteria, which we thought it was prudent

1 to go ahead and split it out. But a little bit
2 differently, we thought it was appropriate to go
3 ahead and actually go back and do another notice
4 of proposed rulemaking.

5 So we're taking the issues related to
6 repair criteria that -- from what we proposed,
7 from the input we received from the LPAC back
8 when the LPAC met in 2016 on this rule, and
9 actually developing a new notice of proposed
10 rulemaking, because at the same time that we've
11 been working on this rule, a lot of good work is
12 being done on what we call a dent engineering
13 critical assessment method through API RP 1183.
14 And we think it's very important, as we develop
15 that rulemaking, to look at those -- the work
16 that's being done in that RP -- to see how or
17 should it be integrated into our regulations.

18 So with that new change, if that was
19 to be considered, we thought it was very
20 important to go ahead and move forward with a
21 notice and not a final rule, like we are with RIN
22 2.

1 This rule right now, we have
2 anticipated publication of that rule, of an
3 NPRM -- right -- an NPRM, probably in the fall of
4 2020. So I'm not sure if we would see advisory
5 committee action on this in 2020. That will all
6 depend on, you know, the length of the comment
7 period and the extent of the comments, but we
8 hope and are optimistic that we'll be publishing
9 an NPRM on this topic later in 2020.

10 As I mentioned earlier, you know, we
11 split the gas rule into three different
12 components. One of the components was published
13 on October 1. The second, which some of us like
14 to refer to RIN 2, or the discretionary rule or
15 non-mandated rule, deals with a variety of
16 different topics, obviously, that weren't in that
17 first October 1 rule.

18 Again, just going to go back through
19 the history a little bit. The NPRM was published
20 in April 2016. The comment period closed in July
21 of that same year, and then we held numerous
22 advisory committee meetings through 2017, 2018,

1 et cetera.

2 But the major topics that are in
3 there, especially -- the biggest topic probably
4 by far is the repair criteria for both high
5 consequence areas and non-high consequence areas.
6 We think it's very important to move forward with
7 this action, mainly, you know, due in part to
8 that proposal, that because we have the
9 requirement in RIN 1 to do the assessments for
10 the non-HC areas, it's important to also get this
11 repair criteria into the regulations.

12 Similar to the liquid rule, we have an
13 amendment in here related to extreme weather and
14 also for strengthening the assessment
15 requirements, some proposals related to corrosion
16 control, management of change, and additional IM
17 clarifications.

18 This is a rule that we are actively
19 working on, and you know, with the finishing up
20 the RIN 1, we've been moving our resources to try
21 to complete this action as quickly as possible,
22 and we hope to actually publish this final rule

1 in the summer or fall of 2020.

2 And I think the last action to talk
3 about, last but not least, is our Gas Gathering.
4 This could -- and some people will refer to as
5 RIN 3. This was the third item that was split
6 out of the gas transmission rule.

7 Again, just like the RIN 2, you can
8 see the date it was proposed back in 2016. The
9 comment period was the same comment period. The
10 GPAC for this was just held back in June 2019.
11 So the major topics that we have under
12 consideration is the revision to the definitions
13 for gas gathering related to production,
14 gathering, incidental gathering, and eliminated
15 of RP 80 data collection.

16 And we think data collection is very
17 important for this initiative. We -- there is
18 roughly over 400,000 of gas gathering lines out
19 there right now that we currently regulate, but
20 we also don't know exactly how many there are,
21 and we don't have the incident history that we
22 need to make good policy decisions. So we want

1 to get that information so that we can make the
2 next step, because we think that, right now, we
3 have the information we need. We have the
4 history to take the next step to address those
5 high-hazard or high-pressure gas gathering lines
6 and to issue appropriate regulations for them.

7 At the advisory committee back in --
8 sorry -- in June 2019, the advisory committee
9 recommended that we not adopt the revisions to
10 the definitions, that we do collect the
11 information related to annual reporting and
12 incident reporting for gas gathering, and that we
13 adopt a minimum set of regulations for those
14 lines eight inches and greater, mainly related to
15 damage prevention, emergency plans, public
16 awareness, line markers, construction, et cetera.

17 So our team is actively working on
18 this issue, and making recommendation to our
19 executive and senior management as to what would
20 be the appropriate path forward to make sure we
21 regulate right now at that appropriate level a
22 regulation to address those high-diameter, high-

1 pressure lines on gas gathering, but at the same
2 time, putting our marker down to collect that
3 data that we need to make those decisions in the
4 future.

5 At the Pipeline Safety Trust,
6 recently, we had a good panel on gas gathering
7 lines, and to me, this is just one step in a
8 journey. We've been dealing with gathering for a
9 long time, but this is a new -- kind of a new --
10 day to address those gathering lines that are
11 coming from unconventional wells. And it's not
12 the end of the journey -- it's just the beginning
13 of the journey, and the data is going to drive us
14 to where those next steps are going to be. But
15 at the same time, we think -- and I think we have
16 agreement -- that we need to address those high-
17 diameter and high-pressure lines today.

18 So, Mr. Chairman, that's all. Take
19 any questions you have.

20 MR. DANNER: All right. Thank you.
21 Are there any questions for John from members?
22 Chad?

1 MR. ZAMARIN: Thanks. Chad Zamarin
2 with Williams. I would just maybe beg or
3 implore, as you think about the class location
4 path that we're taking -- you know, we just went
5 through a huge overhaul of the safety
6 regulations, added a bunch of requirements, and I
7 really think we need to take the opportunity to
8 remove an outdated technology. It dates from 70
9 years ago. You know, our friends across the
10 table don't have to expend the kind of energy and
11 resources we do as a result of class location
12 changes in particular.

13 You know, every hour of an employee's
14 time, every dollar of a company's resources spent
15 on class location changes, I would argue, could
16 be better spent on the things that we've added to
17 the code over the last, you know -- or will add
18 through the recent enhancements.

19 And the special permit requirements
20 that you referenced, I would argue, were in place
21 when we didn't have those enhanced requirements
22 in the code. So picking that path to add more

1 requirements wrapped around a 70-year-old
2 technology, I think, is a really, really bad
3 direction to go.

4 So I would just ask that we continue
5 to look at the opportunity to take some things
6 that are outdated out of the code while we
7 continue to add things that are more relevant,
8 more modern, and effective to the code. Thanks.

9 MR. GALE: Just one last thing to add,
10 Mr. Chairman, as I was hearing the further --

11 MR. DANNER: Yes, go ahead.

12 MR. GALE: -- questions, is that
13 regarding the meetings that we have possibly in
14 2020 -- go back to that -- so those six. One of
15 the things we'll try to look at, you know, to
16 make sure we're using your time as effectively as
17 possible: some of these rules may not be as
18 controversial as the others. Right? Standards
19 updates sometimes don't get -- it's not usually
20 that controversial. We're not anticipating that
21 some of the reg reform rules will be that
22 controversial. So if we think it's prudent and

1 it's useful to everyone's time, we may do some
2 telephonic meetings and have the committee
3 meetings over the phone -- but obviously they
4 will also be open to the public.

5 But we done that in the past in some
6 of the other rules. We've done it -- we did it
7 for EFES. We've done it on standard update rules
8 in the past. I think we even did it for low-
9 pressure hazard liquid lines back in 2010.

10 So you know, we know that's an
11 aggressive schedule for the members, given
12 everyone's time, and -- but we'll try to use it
13 as best we can.

14 MR. DANNER: All right. Thank you.

15 Drue Pearce?

16 MS. PEARCE: Thank you, Mr. Chairman.

17 I just want to publicly tell the committees while
18 you're here, both -- I want to thank you for the
19 work that you do on our regulations when we meet,
20 whether it's in person or by phone. It's very
21 important that we have your input and that of the
22 public. And it helps direct the actions then of

1 the team. But I also want to say that under Alan
2 and Massoud's leadership -- and John's
3 leadership, along with Cameron, on the rulemaking
4 team -- they have done a tremendous lift in the
5 past 24 months.

6 I started meeting with the joint
7 hazmat and pipelines rulemaking teams once a week
8 2 years ago about now, whether they wanted to or
9 not, for them to tell me what was happening,
10 where they needed help, if we needed more
11 resources, and the amount of progress that we've
12 made has been tremendous. And you saw the number
13 of things that we hope to publish in 2020. We're
14 going to be keeping OMB very busy, and we hope to
15 get all of those things through and actually out
16 and published.

17 We know that we'll be -- once we get
18 things to OMB, we'll be running up against some
19 time constraints that they have, but we are
20 pushing, and these folks are to be commended for
21 the work that they've done on very organized
22 teams that include a lot of people behind the

1 scenes, our SMEs, along with the attorneys and
2 others who are on each of these teams, and help
3 put the pen to paper. Regulations aren't easy to
4 write, and I commend them for all the work
5 they've been doing. Thank you, Mr. Chairman.

6 MR. DANNER: Well, thank you for those
7 comments. Alan and then Jerry.

8 MR. MAYBERRY: I just had a question
9 for the committee. Will your bosses allow you to
10 be coming to all these meetings? Yeah. Well, I
11 wanted to ask -- you know we did -- we're trying
12 to do better on scheduling these. That's why we
13 put the dates out well in advance. So for the
14 ones that we have in person, I would just ask
15 that, you know, we please, you know, pay
16 attention to those dates and make sure you can
17 make it, and if we need to tweak that, let us
18 know now, because we really want you here in
19 person.

20 We're going to -- you know, that's
21 really the preferred method when we, you know,
22 engage in the deliberations. Some of the minor

1 rules, we do, you know, this gentleman was
2 referring to some we may do by conference call,
3 and we've done that before. But some of the
4 meaty topics, it's just better -- and you know,
5 we're trying, like I said, to do a better job of
6 scheduling and getting these out to you sooner
7 rather than, you know, at the last minute. So
8 that extent, please -- you know, please make sure
9 you can make it. Thanks.

10 MR. DANNER: All right. Thank you.

11 Jerry?

12 MR. BARNHILL: Thank you, Chairman.

13 Jerry Barnhill with DCP Midstream. Clearly, hats
14 off to PHMSA. I mean, just a phenomenal amount
15 of work ongoing here, and you guys are doing a
16 great job.

17 With that being said, I did want to
18 comment on the need to continue to push forward
19 on the proposed gas gathering rule out there. I
20 think there's been just a tremendous amount of
21 work that's kind of brought us to this point. A
22 big thank you to PHMSA and GPAC for all of their

1 work here, and most recently at the June meeting.
2 Something very important: I know that we feel
3 strongly that this is the right approach. It was
4 focused on risk, and I think letting the data
5 drive us to the right and appropriate level of
6 regulation is key to this, and so as John
7 mentioned, and we said several times, it's a
8 journey, but I know that all of the parties
9 involved -- there was compromised in order to put
10 the framework we have on the table today, and so
11 I'm confident we're going to get to the right
12 spot.

13 I think there's also a real
14 opportunity for PHMSA, from a leadership
15 perspective, and that there a number of states
16 out there that are wrestling with this issue
17 right now, in terms of what do they do around gas
18 gathering lines. And I think that with the void
19 of no regulation, they're out there on their own
20 trying to surmise where they need to go, and so
21 by bringing this to a conclusion, I think it's
22 going to help a number of states and kind of set

1 the foundation on where we go in this country
2 around gas gathering.

3 MR. DANNER: All right. Thank you for
4 that. Graham?

5 MR. BACON: Graham Bacon, industry.
6 Jerry just kind of stole my -- one of the points
7 I was going make, but I want to reiterate it. I
8 met with -- was meeting with a state regulator
9 yesterday in regard to gas gathering rules.

10 They're proposing their own set of
11 rules. They've been waiting on PHMSA. We've
12 been -- in order for consistency, we'd certainly
13 like to have PHMSA have the rules out, but their
14 comment was, we've been waiting 7 years for this,
15 and we can't wait much longer. We've got our own
16 legislative mandate. So again, it would be good
17 to try to push this one across the finish line
18 next year so that we can get consistency, rather
19 than have a patchwork of regulations. Thank you.

20 MR. DANNER: All right. Thank you for
21 that. Are there any other questions for John
22 from the members of the committee?

1 (No response.)

2 MR. DANNER: Okay. Seeing none, I
3 think, at this point, we're going to take a mid-
4 morning break. It is now 10:24. We'll take
5 15 minutes, and then we'll come back and then
6 we'll turn it over to the chief counsel, Paul
7 Roberti, who has arrived this morning.

8 (A brief recess was taken.)

9 MR. DANNER: Okay, everyone. We are
10 now going to turn to Agenda Item 3, which is a
11 briefing from PHMSA's chief counsel, Paul
12 Roberti. Paul, you're going to give us some
13 perspectives on your work and things going on at
14 PHMSA. So I'll turn the microphone over to you.

15 MR. ROBERTI: All right. Well, thank
16 you, Chairman Danner. It's a pleasure to be here
17 to speak to you, to the joint committee. Dave
18 and I, incidentally, go way back, as former -- I
19 was a former regulator. So we're in the -- I'm
20 in the commissioners' emeritus club.

21 But -- so let me -- I thought I'd talk
22 to you -- I've been at PHMSA for about a year and

1 a half now, and before that, I -- like I said, I
2 was a former regulator. Also spent some time at
3 the attorney general's office in Rhode Island.
4 Recently, I was consulting at Ernst & Young. But
5 just for the sake of my background, I did a lot
6 with the enforcement cases in Rhode Island,
7 and -- before coming to chief counsel at PHMSA.

8 These are some of the topics I was
9 going to touch on today: background on my office,
10 some of the initiatives that DOT has taken in
11 terms of improving the enforcement, guidance, and
12 regulation review process, and some of the White
13 House executive orders that also came out to
14 speak on that issue.

15 I touched on the emergency waiver
16 authority that my office is involved in.
17 Reauthorization, a big topic -- I'll give you an
18 update on that. And then talk to -- speak about
19 your function as an advisory committee, some of
20 the statutory requirements and the process, and
21 certainly some of the questions that have been
22 raised about the form and the procedures and the

1 substantive work products that you generate, and
2 how that meets compliance with existing federal
3 law.

4 I, like you, served two terms on the
5 Electricity Advisory Committee at the Department
6 of Energy. So I fully appreciate what you do,
7 what you bring to the agency, and so my
8 perspectives will include my own personal
9 experience.

10 Our mission -- you know our mission.
11 You've probably heard many times. Protect people
12 and the environment by advancing the safe
13 transportation of hazardous materials across all
14 modes, not just pipelines. Our four pillars that
15 undergird the mission: safety, infrastructure,
16 innovation, and accountability. You know, all of
17 those -- I think the latter three -- all speak to
18 safety. It's all an input to safety. That's our
19 number one priority. But we want to support
20 policies that promote infrastructure, new
21 infrastructure. We want to harness innovation,
22 not as the -- not to pursue innovation for the

1 sake of innovation, but as technologies improve,
2 like new materials come along that make durable
3 plastics, or like, our recent plastic pipe rule,
4 we want the consuming public and the industry to
5 benefit by improved technologies, and to have
6 that reflected in current regulations.

7 Accountability, that fourth pillar, is
8 important to us. We -- particularly in my role
9 as chief counsel, we look to hold the industry
10 accountable with our enforcement process, but
11 also we hold ourselves accountable to be an
12 effective and efficient regulator, and that's one
13 of the themes that I try to bring to the Office
14 of Chief Counsel, particularly as it relates to
15 the enforcement process.

16 I don't have a slide in here, but just
17 to speak on that -- like I said, I did an OPV
18 case -- you all know what NOPVs are. Right?
19 Yeah. Unfortunately, you do. So I did a lot of
20 those cases many, many years ago. So in my
21 current role, we took a deep dive to examine that
22 process and made -- has been making a number of

1 changes to improve the process. And I'm not sure
2 if I have any slides on that.

3 As the chief counsel, I am the
4 principal legal officer for PHMSA. So all legal
5 matters come through the Office of Chief Counsel.
6 Just about everything that happens within the
7 agency eventually crosses my desk. We are
8 divided into -- we have four divisions, and also
9 an adjudications counsel, and we also have
10 presiding officials to handle any hearings that
11 are filed. I know there are some folks here in
12 the room that do represent some of the companies
13 that may have to navigate the process before the
14 Chief Counsel's Office.

15 Here, you'll see a breakdown of our
16 division. You see we have a pipeline division
17 and a hazmat division. Then we have a general
18 law division to deal with all issues like
19 personnel, procurement, contracts, and even this
20 FACA. I think Amal Deria is probably in the
21 room. Is she here? She's not here. Okay. We
22 devote resources to support this advisory

1 committee. That would come under the general law
2 division. We also have a division of regulatory
3 attorneys that focus on helping to move the
4 regulations through. The comment that it takes 7
5 years to get a rule out -- it took us -- you
6 know, it's a cumbersome process, but we have
7 tried to have a specific focus on moving
8 regulations and supporting both programs as they
9 develop the rules and move them through the
10 process, both within PHMSA, through the Office of
11 Secretary, ultimately to OMB, with a review and
12 get final approval.

13 I think we're making headway. I think
14 you recent -- you heard that we announced three
15 rules that came out 2 months ago. I don't think
16 I have my -- I did have a slide for that, and it
17 had a picture of hell freezing over and pigs
18 flying. I don't -- it's not in this
19 presentation, but we actually put one together,
20 because that's what people would say, to see
21 three significant rules come out on the same day.

22 And I can tell you that Drue has

1 headed up that whole effort, and since this
2 administration has come in, we have been focused
3 on that. Congressional mandates, we want them
4 off the list. And under Drue's leadership and
5 Skip's, we're making some progress and we're
6 going to continue working on that, particularly
7 over the next year.

8 As I mentioned, the general counsel
9 issued a memorandum on enforcement to guide some
10 of the procedural requirements. Also, recently
11 out of the White House came an executive order
12 promoting rule of law transparency, fairness in
13 the administrative enforcement process.

14 All of these requirements, I'd like to
15 say, are mostly common sense. Due process,
16 prompt disclosure of compliance issues -- I think
17 that's critical to have feedback to the industry.
18 No overly broad or unduly interpretations of
19 regulations to guide enforcement.

20 We have a new process to make sure
21 that any enforcement action is reviewed by the
22 Office of Chief Counsel before it goes out.

1 Exculpatory evidence, mandatory disclosure -- I
2 like to think that if we have exculpatory
3 evidence, this agency will not bring the
4 enforcement action in the first place. Penalty
5 calculation -- our methodology is transparent.
6 The worksheets that lead to a penalty calculation
7 are shared with the operator. And importantly,
8 limitation on use of guidance documents.

9 We don't want to regulate through
10 documents that are loaded up into the -- on our
11 website. Enforcement actions should derive from
12 the four corners of a regulation or statute. And
13 we, at the Office of Chief Counsel, will review
14 any enforcement action in the documents to ensure
15 that these requirements are met.

16 And then there's a bunch of other
17 requirements. We -- ex parte communications --
18 that's forbidden by regulation already. ADR,
19 alternative dispute resolution, we do want to
20 promote settlement, but I can say this, that from
21 the point of an issuance of an enforcement action
22 to the rendering of a final order, that entire

1 process has to occur and be completed within a
2 reasonable period of time.

3 As an agency, our accountability as an
4 agency -- we have to make sure that from start to
5 finish it's a timeframe and that we don't have
6 cases lingering on for years. That's something
7 is of particular focus to me.

8 Working with Alan, I think we're
9 making significant headway on refining the
10 process and looking at the allocation of
11 functions to make sure that we can move these
12 cases.

13 But those -- within those timeframes,
14 it still should allow for an opportunity for
15 settlement to occur. One thing I mentioned the
16 Office of Chief Counsel does, working with the
17 program's emergency waiver authority, there are
18 some regulations that we will waive if there are
19 significant events, like a hurricane, or the
20 wildfires in California, or the earthquake in
21 Alaska, the flooding in the Midwest.

22 So we support the programs readily to

1 make sure that waivers are issued on an
2 expeditious basis timeframe if there is a need,
3 and we have seen a need for that in the last 2
4 years.

5 Another thing that we've been
6 supporting at the Office of Chief Counsel is the
7 review of LNG export facilities that are
8 permitted by the Federal Energy Regulatory
9 Commission. I see my colleague, Terry Turpin.
10 FERC and PHMSA have worked very hard over the
11 last year and a half to streamline the permitting
12 process. I know you don't do as much LNG
13 probably before this committee, but it's a very
14 important area.

15 You see that most of those permits are
16 down in the Gulf Coast. What we did was, we took
17 at the -- what FERC does and what PHMSA does, and
18 we allocated the functions better, and had issued
19 a -- we reached an agreement, a memorandum of
20 understanding, in August 2018, and it better
21 allowed for the -- for what FERC to do on the
22 permitting, leaving DOT to apply the safety --

1 the standards, the locational standards, the
2 determination of hazard distances, so that those
3 standards were reviewed by PHMSA, and FERC had
4 conducted the Section 3 Natural Gas Act
5 responsibilities, including a NEPA review. That
6 helped us get at least 13 projects. We issued
7 letters of determination to FERC after reviewing
8 the applications, and it really provided for a
9 better format. Good government, more efficient,
10 streamlined process, and consistent with the
11 White House's One Federal Decision executive
12 order.

13 You know where all this comes from:
14 the vast shale gas resources in the United States
15 that now is allowing LNG exports to about 37
16 countries around the globe. So it's having a
17 major geopolitical effect. And the Office of
18 Chief Counsel -- we work with the program and
19 Alan's team to make sure that that whole process
20 is streamlined, effective, and efficient.

21 Another thing we're working on: LNG is
22 now likely to move to rail as well. We are

1 working on an NPRM on that. That's been
2 published recently, and this is all consistent
3 with the executive order requiring us to examine
4 these issues.

5 Reauthorization, 2020 -- I think right
6 now, we're in a holding pattern, as everybody
7 knows on the Hill, but on the left side, we had
8 our own -- it was unique this year, this round of
9 reauthorization. We put forth our own proposal
10 and on the left side you see many of the issues
11 that we sought to tackle. You're probably
12 familiar with most of them. On the right side,
13 there were a number of additional proposal that
14 came out. There was no proposal on methane
15 emissions, but the -- that issue seemed to be
16 what stalled the process on the Hill. So we're a
17 bit -- we're in a bit of a holding pattern.

18 But we -- on the left side, you see
19 that we put forward a lot of proposals that we
20 thought would address the Merrimack Valley gas
21 explosion up in Massachusetts that occurred in
22 2018. We had a number of provisions there. We

1 had an incentives program, a voluntary
2 information-sharing platform that we were trying
3 to pursue after the VIS Working Group completed
4 its report to the Secretary. And then, just to
5 update regulations, like the property damage
6 threshold -- we thought that should be updated;
7 118,000 is the reporting threshold. If you took
8 a CPIA cumulative effect of inflation, it would
9 land around 118,000.

10 We also had provisions on LNG siting
11 review. On the fees, to make sure that the cost
12 causation -- for the companies that were using
13 PHMSA resources to build LNG facilities, that
14 they would be charged those fees, rather than to
15 have the pipeline industry support that effort.
16 So it's really a cost causation. Allocate the
17 cost of the government agency responsibilities to
18 the entities that are requiring that work.

19 We sought to amend criminal trespass
20 standard, to provide a little bit more rigor,
21 given some of the things that happened. It's a
22 controversial issue, but tampering with pipelines

1 that we saw, we wanted to make sure that that did
2 not happen, because the repercussions are very
3 significant in terms of what could happen to life
4 or property and ... when you tamper with a
5 pipeline.

6 There was a provision on the operating
7 status for idle pipelines, some changes to state
8 program requirements. And also better data
9 collection. We were seeking to get more data on
10 larger pipeline projects, even if they were
11 within a state. We think that PHMSA needs to
12 have good visibility in -- within the states so
13 that we make sure that our -- the regulations are
14 up to date. And there's a lot of large
15 intrastate pipeline projects that don't formally
16 come to PHMSA, so we wanted visibility into those
17 projects in the form of data collection.

18 So to your responsibility here as a
19 federal advisory committee -- you know we have
20 two -- those are the formal names. I take it,
21 you all know that you're the Technical Pipeline
22 Safety Standards Committee or the Technical

1 Hazardous Liquid Pipeline Safety Committee.
2 We've shortened those to GPAC and LPAC. And
3 under statute, the role is to review to any
4 proposed safety standards, which you do, looking
5 at four categories. Some of those probably
6 overlap, but the statute says technical
7 feasibility, reasonableness, cost effectiveness,
8 practicality.

9 And, as you know, the statute does say
10 "shall prepare and submit a report to the
11 Secretary," and the Secretary is not formally
12 bound by any recommendations. The goals of the
13 advisory committees is to promote openness and
14 transparency regarding what we do here at PHMSA
15 in form of ushering in new standards for the
16 industry. We need to ensure that your advice
17 is -- that our input to you is objective and
18 provide you with the information and data, as you
19 typically receive from Alan and his team. And in
20 complying there are a number of statutory
21 requirements about the roles and
22 responsibilities.

1 The one that came up in -- from API
2 and GPA, which was filed in the docket of the
3 gathering rule, was about this provision that
4 says that, not later than 90 days after receiving
5 the standard, that the committee would prepare a
6 report to the Secretary and report on those four
7 categories that I just mentioned, and also report
8 recommended actions. That -- this whole process
9 serves as a peer-review, and that's right from
10 the statute. And the report is supposed to have
11 an evaluation of the data, methods, and options -
12 - any recommended options related to risk
13 assessment.

14 As you know, our practice is not --
15 this committee does -- has not done a formal
16 report to the Secretary. But the statute
17 probably, the statute predates -- came out at an
18 earlier time -- when the rulemaking has become
19 much more. There's so much rigor in rulemaking,
20 pursuant to executive order and the OMB
21 requirements in terms of doing a regulatory
22 impact analysis, and notice and public comment,

1 and complying with the APA, such that the
2 practice, as you know, that when it comes here,
3 you get a very detailed breakdown of any rule --
4 a breakdown -- you get a copy of the RIA. You
5 get all of the information and also an
6 assimilation and analysis of all public comments
7 that have come through the NPRM and a roadmap to
8 how PHMSA believes the final rule should be laid
9 out before it becomes a regulation with full
10 force and effect.

11 Typically, that discussion would lead
12 to an iterative process where you go through each
13 provision and you reach a consensus on what you
14 believe is the proper outcome. That is all built
15 into the rulemaking process. It ends up being
16 discussed in the preamble in the rule, and,
17 ultimately, the Secretary does in fact get, as
18 part of our recommendation, in the recommendation
19 of the advisory committee -- it ultimately, under
20 the law through the delegated features of the
21 Pipeline Safety Act, all ends up before the
22 Secretary.

1 So I guess my -- I would say that this
2 committee and everything it's done for all the
3 rulemakings, including the gathering rule, have
4 met the standard of the -- that's contained in
5 the law.

6 We are looking at this matter after
7 the issues that were raised in the API letter.
8 We're taking a closer look at that, and it may be
9 that you would want to ratify your -- that the
10 presentation, the iterative presentation that
11 comes out of your discussions of each of the
12 rule's provisions and the transcript of this
13 proceeding, you may want to adopt that by motion,
14 and make that your report to the Secretary.
15 Either way it gets to the Secretary, and either
16 way I think you're meeting the intent of the law,
17 from a practical perspective.

18 I know, having served on the
19 Department of Energy Advisory Committee, this
20 committee has a lot of responsibility. If it
21 wants to do more and it wants to produce its own
22 written report, you're free to do so, but I think

1 the process has worked well, and I think the
2 process gets this committee in the most effective
3 and efficient way to meet the requirements of the
4 law, the way you're doing it now. I say that as
5 a prior -- a former member of the EAC at DOE,
6 where I was tasked with writing some of those
7 reports. So you know, if you want to -- if you
8 have extra time and you want to develop your own
9 report and spend a week in writing a report, you
10 can do that. I had to do it. Had I known about
11 this process here, I might have brought that over
12 to the EAC at DOE.

13 But you do important work. You do
14 important work, and it's obviously the work that
15 we provide PHMSA to put all this information
16 before you and have you review all of the
17 standards that are being proposed. We appreciate
18 that work. It's very valuable, and we look
19 forward to, you know, continuing to benefit from
20 this committee's hard work. So with that, I'd be
21 glad to answer any questions.

22 MR. DANNER: Thank you. Well, I guess

1 I want to make a comment. If you go back to
2 slide 19, I would just say that my own view is
3 that I've assumed that the transcripts of our
4 meetings actually serve as the report, because
5 they -- if you sat through all of them, you would
6 know there was a thorough evaluation of the merit
7 of the data and the methods used. And we laid
8 out our recommended options. And if you go back
9 to slide 18, you would see that, for every
10 recommendation we made, we made specific
11 reference to the technical feasibility,
12 reasonableness, cost effectiveness, and
13 practicality of the proposed standard, and said
14 so in our motions.

15 So you mentioned a formal motion in
16 the committee about making the transcripts the
17 report, and I don't know if we can do that today
18 without noticing it, but that has certainly been
19 my assumption, as we've been working through
20 this.

21 MR. ROBERTI: Yeah. So essentially,
22 you essentially do it by a breakdown on each

1 element, each standard. So it probably isn't
2 necessary, but certainly if it would make the
3 committee feel better, you could have one entire
4 vote to -- that transcript, the discussions in
5 the transcript, and the iterative presentation
6 that's developed as you review each element of
7 the standard, I think, you know, meets the
8 requirements of the law.

9 MR. DANNER: And that's my -- that's --
10 I would agree with that. Chuck?

11 MR. LESNIAK: Chuck Lesniak, Liquids
12 Committee. I wanted to ask about a couple of
13 points you made on the enforcement stuff you're
14 doing, I think, related to transparency and those
15 sorts of things. And there's nothing that I have
16 an objection to.

17 But I did -- there was some questions
18 about, you know, that you -- one of your items
19 was prompt disclosure of compliance issues,
20 limitation on the use of guidance documents,
21 explanation of penalty calculations, disclosure
22 of exculpatory evidence, those sorts of things.

1 You know, are those kind of things -- when you're
2 looking at enforcement orders, are those, that
3 kind of information, available to the public?

4 Because I think one of the things, from the
5 public's perspective, the enforcement process is
6 very opaque, and how you get to a settlement
7 often with an operator is not very clear or
8 understandable or -- at all. And so if the
9 agency is taking all those kind of things into
10 consideration, they're sharing all of that
11 information with the operator, which I think is
12 appropriate, I think it also should be shared
13 with the public, and not upon request.

14 I think that when a final agreement is
15 reached on an enforcement order, that the
16 background on that should be at least a summary
17 that -- so the public can understand how the
18 agency and the operator got to an agreed order --
19 is clear to the public too. I think there's a
20 duty to the public there. It's important.

21 MR. ROBERTI: Yes. So obviously, most
22 of these documents would be available through a

1 request under the Freedom of Information Act.
2 Any NOPV or enforcement action is posted on the
3 website. If there was a hearing, it actually
4 creates a docket which will track the progress of
5 the proceedings, including the -- when a hearing
6 would be scheduled. We have been ... there's
7 been a question about whether or not the public
8 could have -- should have -- access to those
9 hearings. We have made a determination that --
10 you know, within reason -- there ought to be
11 public access. We had one request from a
12 reporter in the last year. So we try to be open
13 and transparent.

14 Your question about whether or not the
15 NOPV is issued -- and the requirements here that
16 came out of the DOT order and the executive order
17 cover everything from, you know, all aspects,
18 that you would probably see more -- they're a
19 little bit more rigorous than what actually
20 occurs in an administrative proceeding.

21 When an NOPV is issued, if there's a
22 worksheet, a penalty calculation worksheet, I'm

1 not sure that that's supposed to -- we don't
2 make -- we don't have a posting on the website
3 for that. There's not a lot of documents, and
4 that's why I said that the Brady requirement
5 that -- exculpatory evidence. We don't bring --
6 there's not a big exchange. We don't bring cases
7 where we know that there's exculpatory evidence
8 in the first instance.

9 So at most, you're talking about --
10 there is a -- by statute, within the 30 days,
11 there has to be a readout from any inspection
12 that is made. That's probably higher level in
13 terms of findings. And then if there is any
14 enforcement action, either an NOPV or a warning
15 letter or a notice of amendment, or it could just
16 be a compliance order, that would be kind of the
17 sole document. If there's a fine, there may be a
18 worksheet. Other than that, there's not a lot of
19 documents.

20 If there's a request for the hearing,
21 then we do create more of a -- we catalog it and
22 docket the matter, and the -- we chronicle the

1 proceedings as they set forth, as they occur when
2 we have a formal, when we have a hearing
3 conducted by one of my lawyers.

4 MR. LESNIAK: And I appreciate that.
5 And I would just encourage the agency --
6 particularly where you're doing an enforcement
7 case related to an incident that impacted the
8 public or the environment -- maybe there was no,
9 you know, direct public safety threat, but there
10 was an environment impact, that I think that, you
11 know, that the industry and the agency is trying
12 to work really hard to build public trust through
13 the public engagement process and in other ways,
14 and helping the public be able to easily
15 understand the enforcement process and how
16 enforcement cases are developed, and how those --
17 I worked on the regulatory side, the enforcement
18 side, for a long time. And I understand that you
19 take mitigating circumstances into effect. You
20 take how the operator responded into account,
21 and -- but just being able to summarize that for
22 the public, and they get that information easily,

1 I think, would go a long way to building up the
2 trust.

3 MR. DANNER: Alan?

4 MR. MAYBERRY: There's -- I want to
5 add, there's a larger government effort to, you
6 know, avoid regulating by guidance or avoid
7 regulating. And you know -- which we issue a lot
8 of guidance, and have it has, you know -- they're
9 really guides to, you know -- they're examples of
10 how to comply with the regulation.

11 Like, in issuing enforcement action,
12 we have to be careful, and we really guard
13 against it. We're not perfect, but we guard
14 against it. The goal is not to, you know,
15 exercise sort of artistic license, if you will,
16 on what the regulation means or that if there is
17 some very specific, you know, guidance that might
18 need more comment and deliberation on, that we
19 have a way of -- a transparent way of vetting
20 that guidance, and that's really a big part of
21 what the -- you know, the current initiative is
22 all about. It's just making sure the guidance --

1 you know, it's not PHMSA, but throughout the
2 government -- is well vetted and well understood,
3 in that we don't regulate inadvertently by doing
4 that, because you know, it's -- cases that do do
5 that aren't strong. And we want to be effective,
6 you know. So that's really the effort there.

7 MR. DANNER: All right. So Graham and
8 then Todd.

9 MR. BACON: Graham Bacon, industry.
10 Thank you for the presentation. Thank you for
11 the work you do to increase transparency in this
12 process. Just a question in regard to the report
13 out of the committee that you mentioned -- I
14 believe it was slide 19 -- and a discussion
15 around the transcripts. If the transcripts are
16 used -- going to be used as a record or a report
17 out of the meetings -- shouldn't there be a
18 process where they can be reviewed similar to any
19 typical meeting protocol to review meeting
20 minutes or in some form like that, so that
21 there's some validation of the transcript if it's
22 going to be used as recording of this meeting or

1 some type of report out?

2 MR. ROBERTI: So the transcript should
3 accurately reflect every word that's stated, so
4 much so that that Massoud reminded me that --
5 told me to be careful, because there's a
6 transcript. Right? Am I behaving, Massoud? So
7 you know, I think the transcript is going to be,
8 accurately record all of this, all of the
9 discussions, and it's -- it will be there.

10 I think the important element here is
11 that when the final rule -- whatever comes out of
12 this committee that's embodied in the
13 transcript -- that the final rule thoroughly and
14 accurately discusses what this committee's
15 recommendations are, whether to adopt it or
16 whether to not adopt it, that that be all
17 enumerated, either within the preamble of the
18 rule that ... and to the extent that we need to
19 cite to the transcript, we will, or to the
20 presentation that basically reflects the
21 committee's votes. But I'm not sure if I
22 answered your question?

1 MR. BACON: I think that just the
2 purpose of the question was just -- at the end of
3 the meeting, I'm not sure where the transcript is
4 available, where the -- or just procedurally,
5 where that transcript is.

6 MR. ROBERTI: It should be available?

7 MR. MAYBERRY: Yes. Posted. We'll --
8 the link is available, posted on the website, and
9 so it is -- you know, people have access to it.
10 I will tell you, we do rely on that transcripts,
11 oftentimes, to help, you know, make sure we
12 understand the, you know, deliberation that
13 happened, aside from the voting slides, you know.
14 It's very helpful.

15 MR. BACON: You know, just sometimes
16 it's -- in the course of discussion that maybe --
17 and something maybe not be heard or very clear,
18 microphones aren't working, those type of things,
19 and just to be able to validate that. That was
20 really the --

21 MR. ROBERTI: Yeah. I'm not sure. Are
22 the -- is the transcript circulated after the

1 meeting to everyone?

2 MR. DANNER: It's -- no, it's not
3 typically --

4 MR. ROBERTI: It's not?

5 MR. DANNER: -- circulated, but --

6 MR. ROBERTI: What's ... that might
7 be --

8 MR. DANNER: -- we could do that.

9 MR. ROBERTI: That might be something
10 you want to do, is after the meeting circulate
11 the voting slides and the transcript so that it
12 allows for review in the event that there are
13 any ... and each member can review the discussion
14 that they feel is very important and make sure
15 that it accurately reflects.

16 It's really for each member to -- when
17 it comes to the transcript, your participation
18 and what you say on an important issue, to
19 your -- whatever the stakeholder interest is,
20 it's -- you really want each committee member to
21 review their input, to make sure that it
22 accurately reflects what transpired at the

1 meeting. So that might something that we could
2 do, is circulate the voting slides after a
3 meeting, circulate the transcript -- both of
4 those, when they're available -- and members be
5 encouraged to review any sections where they
6 provided substantive input to ensure that
7 accuracy, and then it can be relied on by the
8 agency.

9 MR. DANNER: So that's kind of like
10 approving minutes --

11 MR. BACON: Exactly.

12 MR. DANNER: -- of a previous meeting.
13 I mean, I would say -- I just want to remind us,
14 and that's the ... to ... this is a committee
15 that is advisory to PHMSA, and PHMSA is actually
16 in the room while we're providing our advice. So
17 I think the communication flow has been pretty
18 accurate and pretty thorough, but I think your
19 point is a good one.

20 MR. BACON: That's all I had. Just to
21 make sure there was a review process. Thank you.

22 MR. DANNER: All right. Thank you.

1 Todd?

2 MR. DENTON: Todd Denton, Liquids. On
3 that topic, before I ask my question, the -- I
4 think that there has been instances where the
5 transcripts were distributed after the meeting,
6 as well as the presentations, but it hasn't been
7 consistent over the years. But to that point, I
8 think it is helpful when that does occur, after
9 the meeting, to the committee members. As far as
10 what you were talking about on the report out and
11 the API letter, I think that might have been more
12 on the gas side.

13 So I -- you know, I guess I'm not sure
14 I understand the peer-review process that you
15 were talking about. How does that work with --
16 per this committee? I think, you know, from our
17 standpoint, everyone on this committee is about
18 reducing the risk to the public. You know, as
19 far as new rules, regulations, that kind of
20 thing, obviously want to make sure cost-benefit
21 analysis goes into that, but we are about
22 reducing those risks. So I'm curious to hear a

1 little bit more about the -- this peer-review
2 that you mentioned and what that means.

3 MR. ROBERTI: So the peer-review -- the
4 phrase peer-review comes right out of the
5 statute, and it touches on the -- go back here.
6 Let me go back to that first -- is this -- can
7 you -- no. Go back to that first slide, where
8 the -- one more, one more. Right there. You
9 know, the statute -- the peer-review is to look
10 at those four categories. That's what the
11 statute says: feasibility, reasonableness, cost
12 effectiveness, practicality. But most of that
13 comes down to the cost versus the benefits of any
14 particular standard. The thrust of the statute
15 really focuses on the analysis of the cost versus
16 the benefits of any particular standard -- it
17 goes to the heart of it.

18 So that review, you were presented --
19 I reviewed the materials from the gathering rule.
20 You were presented with -- John, how many slides?
21 I mean, it was substantial. I decided not to
22 take it, because it was too heavy. And detailing

1 every aspect of the rule, detailing PHMSA's sense
2 of where the rule, the final rule should come
3 out, including an analysis of all the comments
4 that were submitted in response to the NPRM that
5 was published, and many of you around the table,
6 I assume, were -- probably filed comments in the
7 NPRM.

8 So the peer-review element before this
9 committee is to -- is precisely that, to go
10 through all the elements of the rule, to
11 understand the -- to discuss the regulatory
12 impact analysis, the practicality, the cost
13 effectiveness of each aspect, and evaluate the
14 scope of the safety improvements that are being
15 achieved by the rule, and reach a consensus,
16 which I think that's reflected in your voting
17 slide, so that --

18 MR. DENTON: Okay. So just --

19 MR. ROBERTI: -- that essentially
20 is --

21 MR. DENTON: -- just for clarity, we
22 are a peer-review committee, then or

1 considered --

2 MR. ROBERTI: You are the peer -- yeah.

3 MR. DENTON: Yeah.

4 MR. ROBERTI: If I didn't make that
5 clear. Yes, you are the peer-review committee
6 for any standard that comes out of PHMSA.

7 MR. DANNER: Okay. Chuck and then
8 Sara.

9 MR. LESNIAK: The API letter -- can
10 you -- and I know you can't speak for API, but
11 can you explain a little bit what the issue that
12 API raised? Was it a concern about process? And
13 was the question of any adopted rules because
14 they were concerned that a report was not being
15 issued by the committees?

16 MR. ROBERTI: You just had to ask that
17 question. That's a really good question. So the
18 review of the gathering rule, it's been a little
19 bit unprecedented that the final vote for the
20 rule actually differed from where I think PHMSA
21 was recommending the final rule come out. And
22 that begs the question of -- is PHMSA bound by

1 that recommendation by the advisory committee?
2 And the answer to that always go right down to
3 the detail about cost effectiveness,
4 reasonableness, or practicality, and requires the
5 agency to evaluate that recommendation against
6 the body of evidence that has accumulated in the
7 record of the NPRM and make a determination as to
8 whether or not it meets the requirements of
9 executive order, the cost effectiveness, and each
10 of those areas.

11 In all of that, that determination has
12 to be spelled out in the final rule -- in the
13 preamble -- to meet the requirements of the Act.
14 So that was the question, whether or not -- I
15 think API -- the API GPA Midstream letter raised
16 the question of what is the standard for PHMSA to
17 adopt the committee's recommendation, versus to
18 stick with any outcome that the agency believed
19 was appropriate, based upon all of the evidence
20 and the public comment gathered during the NPRM
21 process. And the answer is that, for an outcome
22 of this committee to -- if there was a difference

1 of opinion on cost effectiveness or on the
2 reasonableness or the feasibility of a particular
3 rule, the committee -- there has to be some
4 significant information coming out of this
5 committee that would really lead to the
6 conclusion that an alternative is appropriate to
7 what is embodied in the record of the NPRM
8 proceeding.

9 And I'm not saying that that's not an
10 impossible -- that's not impossible at all, but
11 it does -- it is -- it's not a small lift. It's
12 a heavy lift for this committee. This committee
13 can't change the ship's course just by a vote or
14 discussion. Now, this committee could bring to
15 bear, you know, more information in the form of
16 weighty economic analysis after the record of the
17 NPRM closes, and that might lead a different
18 outcome.

19 If it's a close call on a particular
20 issue, where the evidence could support two
21 alternatives, and PHMSA was leaning towards one,
22 and the committee felt that the committee -- that

1 a standard should come out differently, then, you
2 know, that's something -- that's an outcome that
3 would be reasonable.

4 And I think PHMSA looks to this
5 committee, this -- PHMSA wants to render any
6 final rule consistent with this advisory
7 committee's recommendation. But if it chooses a
8 different course, it has to be rooted in
9 substantial evidence about the cost effectiveness
10 and the technical feasibility and reasonableness
11 of a different approach. So --

12 MR. LESNIAK: That makes sense to me,
13 and, you know, despite the acknowledged
14 brilliance of both committees, you know, by the
15 time stuff gets to us, it's gone through a lot of
16 process. And the -- but I do think, and I want
17 to ... just a general comment to PHMSA: I think
18 that is a good reason why I've been concerned in
19 the past about the -- particularly for the
20 members of the public on the two committees --
21 that we get as much information on these rules
22 and guidance documents and other things that come

1 before us as early as possible, because
2 particularly the members of the public come into
3 this process to some extent handicapped by a lack
4 of technical expertise, often, and experience in
5 the industry. And for us to be able to represent
6 the public well, you know, we need to be part of
7 the process earlier, and so the extent that we
8 can continue to do that, you know, make that
9 better, that would be appreciated.

10 MR. DANNER: All right. Thank you.

11 Sara?

12 MS. GOSMAN: Thank you, Paul, for your
13 explanation of our authority, as well as the
14 process that we have. And I particularly
15 appreciate your legal opinion that we have in
16 fact complied with the statute, which I agree
17 that we have.

18 I think that this committee has been
19 very effective in terms of talking through issues
20 and providing our advice to PHMSA, and I think we
21 understand collectively that PHMSA has the final
22 policy decision to make, and that we are a part

1 of the process.

2 I think it concerns me a little bit
3 that we are -- that a discussion around
4 substantive policy has turned to a discussion
5 around procedure in the committees that I think
6 are really, as I say, a very important part of
7 this rulemaking process. And in terms of the
8 letter, you know, I think members of the trade
9 associations that sign that letter are on the
10 committees. So if they have concerns as it
11 relates to our procedures, certainly during the
12 process of the committee discussions, I would
13 have hoped that that would be raised at the time
14 that we had the discussions. But I appreciate
15 this discussion afterwards and your clarity on
16 this set of issues. Yeah.

17 MR. ROBERTI: And we fully expect that
18 all the issues that were raised by that letter
19 will be discussed in the final rule, in the
20 preamble, and particularly with regard to
21 wherever PHMSA comes out based upon the evidence
22 that we have.

1 MR. DANNER: All right. Rich?

2 MR. WORSINGER: Rich Worsinger, Wilson
3 Energy. Two comments. First, to Chuck's
4 comments about getting as much information as
5 early as possible, especially for the public
6 members: I agree with that, and I would expand it
7 to all members. And Alan, we've had this
8 discussion before, and John, we've had this
9 discussion before. The more information that you
10 can provide all the members of the committee as
11 early as possible helps everybody. But I agree
12 with Chuck's request.

13 Second comment. Paul, thank you for
14 your points -- the discussion surrounding the
15 transcripts. Just a point of history: back when
16 we discussed the control room, and definition of
17 what a control room was, I know we revisited that
18 and looked at the transcript as to what was said
19 and how it was interpreted. So it has been used
20 in the past, and it -- I don't know it was -- it
21 wasn't circulated, but we did get an email that
22 just said it has been posted, so we could refer

1 to it if we wanted to.

2 MR. DANNER: All right. Thank you.
3 Shawn, you had your tent up? Okay. Are there
4 any other questions for the chief counsel?

5 (No response.)

6 MR. DANNER: Okay. Let's see. Thank
7 you very much for --

8 MR. ROBERTI: Thank you.

9 MR. DANNER: -- your participation --

10 MR. ROBERTI: Thanks for having me.

11 MR. DANNER: -- in this. Appreciate
12 it. Okay. And now, we're going to move on to
13 Agenda Item Number 5. We have Robert Hall here
14 from NTSB. No. I'm sorry. Ignore what I just
15 said. The transcript will reflect that we are
16 moving on to Agenda Item 4. Okay. So I'll let
17 Alan introduce our speaker.

18 MR. MAYBERRY: Well, Mr. Chairman, if
19 you might indulge me, we're sort of playing
20 catch-up here in updating you, bringing before
21 you a topic that we probably would have brought
22 up sooner. It relates to a study that was

1 commissioned by PHMSA with the National
2 Academies. On -- you can see the title here.
3 But the original intent -- I go back to my
4 predecessor, Jeff Wiese, that commissioned a
5 study a few years ago.

6 When the questioners were being called
7 about the effectiveness of the performance-based
8 regulations, you know, the desire to have more
9 prescription, or how do you apply to each one ...
10 but you know, in the backdrop, at the time, there
11 was a lot of concern over, you know, the
12 implications of -- perhaps performance-based
13 regulations means self-regulation, or you know,
14 less controls. And so it was really designed to
15 inform that. So -- and I know the study -- I
16 think you'll find the results, which are quite
17 informative.

18 As you, you know, advised us on the
19 rulemaking and policies that we've developed, I
20 think you'll find this very helpful to guide you
21 on how we decide, you know, which level of
22 prescription, although I know the terminology was

1 tweaked in this report, that we dialed in, versus
2 the performance-based part of it. And so here
3 today -- and I'll probably -- I'm not sure about
4 the pronunciation. I'm really bad on this. But
5 I can nail your first name. It's Cary.

6 MR. COGLIANESE: You can go with that.

7 MR. MAYBERRY: Coglianesse --

8 MR. COGLIANESE: Yes.

9 MR. MAYBERRY: -- with University of
10 Pennsylvania. And I'd like to also thank Tom
11 Menzies for arranging it, you know, in short
12 order for you to be here today. But we really
13 appreciate your coming to Washington today to --
14 you were a member of the study committee, and we
15 look forward to hearing more about it. So
16 thanks.

17 MR. COGLIANESE: Well, thank you very
18 much, Alan, and thank you to all the members of
19 the advisory committee for your public service in
20 this way. I'm delighted to be here.

21 As Alan said, I am a faculty member at
22 the University of Pennsylvania. I teach at the

1 law school, I have affiliations at various other
2 places around campus, and I direct the Penn
3 Program on Regulation. My background for the
4 last several decades has been focused on issues
5 of regulation and regulatory policy, particularly
6 in the health, safety, and environment context.
7 In this particular project, as Alan mentioned --
8 if we can get this clicker to -- did it work?
9 Oh, not overwork. I was a member of a committee,
10 a commission by PHMSA to undertake a study of
11 performance-based safety regulation. And so what
12 I'm going to present today is the output of that
13 committee effort, and share with you the
14 highlights that can be found in this National
15 Academy of Sciences report, which is available
16 online, and the link to that is at the very last
17 slide that I'll present, and these slides are
18 freely available. We can certainly share those,
19 if you don't have them already, and find all of
20 the sources.

21 Okay. So let me just start by
22 highlighting the general context for the study

1 and what we saw as the purpose: was first to
2 focus on areas of high hazard, where there's a
3 low frequency but nevertheless high-consequence
4 risk associated with industrial activity,
5 pipelines certainly being one of those. But in
6 general, this study is contributing to a way of
7 thinking about different ways of designing
8 regulation in this particular context. This is a
9 challenging context because the low frequency of
10 the hazard is -- makes it hard to get good
11 quantitative analysis to assess regulations and
12 determine how much risk they're actually
13 reducing.

14 We probably all remember when
15 President Obama, about three weeks before the
16 Deepwater Horizon occurrence in the Gulf of
17 Mexico, proclaimed the great track record that
18 the offshore oil and gas industry had in the
19 United States. It's hard to assess the track
20 records when we're dealing with rare events. The
21 fact that one hadn't occurred didn't -- not for a
22 long time -- didn't necessarily mean that three

1 weeks after President Obama made that statement
2 we wouldn't have one of the major environmental
3 disasters in U.S. history. So this is a
4 particularly challenging area to regulate because
5 of that lack of ongoing feedback and data. But
6 nevertheless, advisory committees need to advise
7 and regulators need to regulate and to be able to
8 justify their choices about how they regulate.
9 And so for us, at the National Academy of
10 Sciences, the study was designed to try to
11 explain some of the key considerations that
12 regulators should take into account when making
13 policy choices and designing regulations in these
14 high-hazard areas.

15 Now, let me start with a few initial
16 observations about why this matters. It matters
17 because different designs for regulation can
18 affect, first of all, the degree of flexibility
19 that is afforded to regulated firms and the
20 degree of choices that they have, and that can
21 affect certainly the cost of compliance. But
22 different designs also tax the capacity of those

1 regulated firms. Small firms may not be able to
2 respond as well to a great deal of flexibility,
3 and may desire more direction, for example.

4 And lastly, different designs can call
5 for different capabilities from the regulator,
6 especially in terms of inspections, monitoring
7 and enforcement. It's one thing to have an
8 inspection force that can know to go out and look
9 at something and check a box and see whether a
10 piece of safety equipment is working and
11 operational, another to have an inspection or
12 monitoring or auditing workforce that knows how
13 to do risk analysis, for example. Ultimately,
14 these different designs matter because they will
15 yield different benefits and different costs.

16 Okay. Our study approach was to take
17 a look at, first of all, the existing literature
18 -- academic research literature -- on regulation,
19 but then we had a series of briefings to try to
20 capture a broad range of views. We met with and
21 heard from regulators in a variety of different
22 sectors; certainly from PHMSA, but also from

1 other regulatory agencies in the U.S. and around
2 the world, dealing with high-hazard industries.
3 We then also heard from folks in the various
4 industries. As I said, we also talked to folks
5 around the world, here in the U.S., at the state
6 level, Canada, U.K., Norway, Netherlands, Denmark
7 as well, and then heard from a number of other --
8 sort of a peripheral or additional viewpoints
9 from government, from academe, from labor, and
10 from community groups.

11 A couple of initial observations, I
12 think, are important to highlight. First, the
13 charge that we were given by PHMSA was couched in
14 the terminology of prescriptive regulations
15 versus performance-based regulations, and we
16 noticed, actually as we proceeded through our
17 study, that the use of these terms is
18 inconsistent across a number of regulatory realms
19 -- and in fact, even within our own committee,
20 people had different conceptions of what these
21 terms mean. And that has important implications
22 if we're going to try to generalize about

1 regulation. If we're trying to aggregate
2 information from various studies, if people have
3 different terminology, it's hard to aggregate
4 that knowledge and learn from it. Performance-
5 based regulation, actually traditionally -- and I
6 think most of the time -- refers to regulations
7 that specify outcomes, and then leave it up to
8 firms to figure out how to comply with that.

9 A classic example would be an
10 emissions limit where an environment regulator
11 would set a limit on how much pollution could
12 come out of a smokestack. That's the performance
13 level, and that's what -- the obligation is
14 imposed on the regulated entity. And then they
15 have the choice of how to bring those emissions
16 to down below the emissions limit level. That's
17 a different use of the term "performance-based,"
18 I would note, than PHMSA had in mind, I think,
19 when commissioning the study and maybe within the
20 agency still today is being used.

21 That type of terminology of
22 performance-based actually equates to what I have

1 called -- what others called, and I think many on
2 the committee thought of -- as management-based
3 regulations.

4 And I'm going to talk about the
5 difference between that in a minute. But getting
6 the terminology right, trying to move past some
7 of the differences in terminology is I think an
8 important contribution that this study makes and
9 offers for all of us in thinking about how to
10 design better regulation.

11 There is, though, it should be clear,
12 not enough existing empirical research about the
13 various advantages and disadvantages of various
14 regulatory designs. There is, however, within
15 the academic literature, a replication of this
16 terminological confusion. This is a reprint from
17 an appendix from one study, now almost 20 years
18 old, but I think it still reflects the nature of
19 academic discourse on regulation. You can't see
20 the items in this list. That's not intended or
21 necessary. What this is showing you, though, is
22 an appendix, where somebody actually took

1 multiple studies, and then listed out their
2 taxonomies that they used for categorizing
3 different regulatory designs, and the terms are
4 vary widely -- even though there's commonalities
5 and similarities across all of these different
6 taxonomies.

7 So our one key observation is if we're
8 going to make progress in thinking about
9 regulation and doing regulation more effectively,
10 then we have to make sure we have in mind a clear
11 conceptualization of what those designs are; and
12 in fact, that's one of the contributions of this
13 academy study -- is to sort of pierce through the
14 veil of confusion and ambiguity that is created
15 by the various taxonomies and terminology, and
16 really try to focus at a very fundamental level
17 on what options are available to a regulator in
18 terms of choosing a regulatory design. In fact,
19 the report boils down all regulatory designs to a
20 two-by-two matrix, two dimensions of regulatory
21 design. The first dimension is simply a
22 difference between regulation that commands

1 the -- a certain kind of action or means.

2 Another dimension or another aspect of
3 this first dimension is regulation that compels
4 the attainment or avoidance of some kind of end
5 state. So often, when people do think about
6 prescriptive regulation, they are thinking about
7 regulation that prescribes the means. Of course,
8 prescriptive can also be used to say we're
9 prescribing the ends, as well. But that, as I
10 said before, often is thought of performance-
11 based regulation. But this is one way of
12 distinguishing between regulatory designs,
13 whether the obligation on the regulated entity is
14 to undertake a certain kind of action to adopt a
15 particular means or achieve or avoid a certain
16 end state.

17 That's one dimension. The second
18 dimension the report labels as micro versus
19 macro. And here, I think it's important to
20 distinguish between the ultimate outcome that
21 regulation is designed to achieve or an outcome
22 that it's trying to prevent; if you will, let's

1 say a major, catastrophic accident. That's the
2 ultimate outcome. But there is a host of
3 contributing factors that could lead to those
4 kind of accidents, and if you can imagine drawing
5 a causal chain that maps out all those various
6 pathways that could lead to a catastrophic event,
7 those -- regulation can target those pathways or
8 it can focus on the ultimate outcome, and that's
9 the second dimension that this report highlights.

10 When regulation is focused on one of
11 those causal pathways, a step on that causal
12 pathway to the ultimate problem, it's considered
13 micro, looking at some part on that process
14 leading to the accident. Micro regulation,
15 though, is focused on that ultimate problem
16 itself. Let's get the risk down of the accident.
17 Okay, so that's two dimensions, and when we put
18 these together, we get actually a nice, clean
19 framework for thinking about design options that
20 are available in regulating high-hazard
21 industries or, quite frankly, any industry.

22 The top row there labels the two

1 columns, the means versus the ends, and then the
2 column on the left maps the micro and macro, and
3 we end up four ideal types of regulatory design.
4 Upper left, micro means -- this is the, you know,
5 bugaboo prescriptive regulation where we're
6 really getting very specific about a path ...
7 point on a pathway, and identifying a particular
8 means. Or we can get a point on the pathway and
9 look at an ends. Or -- and I'll go through each
10 of these -- or the focus can be on the ultimate
11 problem itself, and the regulator can either
12 mandate a particular kind of means, risk analysis
13 or planning, that focuses the attention of the
14 regulator -- regulated entity on that ultimate
15 problem or imposed a general duty obligation or
16 liability.

17 Let me walk through each of these,
18 give you some examples, and then I'm going to
19 turn to what some of the pros and cons are, and
20 some of the choices and considerations for
21 choosing one or the other of these designs. So a
22 micro means approach -- again, mandating a

1 particular action at some point on that causal
2 pathway. Examples might be install a hazard
3 warning sign, install a particular type of a
4 valve or other type of safety equipment,
5 constructing a pipeline using a very well-
6 defined, specified grade of metal, for example.
7 Okay. That often is called prescriptive, which
8 we have used these clinical terms of micro means
9 in part to help focus on the concepts and help
10 you -- help every one of us -- sort of break out
11 of our ... whatever terminology we're used to
12 already and really look at the concepts.

13 But I put in quotation marks here what
14 are some of the common terms of prescriptive. In
15 this case, performance-based, of the traditional
16 kind that I talked about before, where the
17 mandate is to achieve or avoid a particular
18 output. Some were on that causal pathway. An
19 emissions limit is an example of a micro-ends
20 regulation -- there's no intrinsic to get sulphur
21 dioxide emissions levels coming out of a
22 particular industrial facility down to a certain

1 level. That's not the ultimate outcome. The
2 ultimate outcome -- are people getting sick or
3 forests deteriorating due to acid rain due to
4 sulphur dioxide that gets into the atmosphere?
5 So this is some point along that causal pathway.
6 Others might be to make sure that you use
7 equipment that meets a particular standard for
8 shock resistance or demonstrate that you have
9 built a building that can meet an outcome of
10 occupants being able to leave in a particular
11 amount of time.

12 Okay. And let's move from now
13 regulation aimed at the micro level, whether it's
14 means or ends, to regulation at the macro level.
15 Here, macro means -- is actually the term that I
16 think PHMSA had in mind originally with
17 performance-based regulation when commissioning
18 this, or what others have called, management-
19 based regulation. Here, they're actually -- it's
20 a means-based regulation because the regulator
21 tells a regulated facility or firm, do some risk
22 analysis. Adopt a safety management plan. And

1 it may well be very prescriptive in the sense of
2 telling firms exactly what to do by way of
3 planning, but it's macro level, because it's
4 saying, do this -- these activities with in mind
5 addressing that ultimate problem.

6 Come up with a safety management plan
7 to prevent the accidents that we care about. And
8 it's not telling them -- the firm exactly what to
9 do on any of the causal pathways.

10 Okay. Lastly, just to keep in mind
11 that there is also a macro-ends option for
12 regulators -- which is to mandate the avoidance
13 of the ultimate outcome that's trying to be
14 prevented by regulation -- and in some regulatory
15 contexts this is a viable option.

16 The FAA has a general duty that it
17 places upon commercial airlines to operate their
18 aircraft in a safe manner. OSHA puts in place a
19 general duty to make sure workplaces are free of
20 hazards. There's liability when accidents occur.
21 That's a macro-ends approach.

22 Now, what we did with this framework,

1 this two-by-two framework, is then engaged in a
2 couple of case studies -- actually four of them,
3 two case studies in the pipeline sector, the U.S.
4 and Canada, and then two case studies in the
5 offshore oil and gas area, the U.S. and various
6 North Sea European regulators. What we did there
7 is we looked for what are the challenges that
8 regulators and the regulated entities facing when
9 they are charged with implementing, enforcing or
10 complying with various regulatory designs? And
11 we also considered the nature of these
12 industries. They vary from country to country,
13 they vary from sector to sector. And we looked
14 at the capacities and competencies of the
15 regulatory agencies, and in particular, we were
16 looking for the types of regulations or the
17 designs that were chosen by the regulators. What
18 did we come away with? Several observations that
19 I think are important.

20 First, across all the case studies,
21 regulators are actually using all four types of
22 regulatory designs even though there's this

1 impression, for example, that European offshore
2 oil and gas is principles-based. And we hear
3 this all the time. "Such-and-such country is
4 principles-based or performance-based, and
5 another country is more prescriptive." Actually,
6 we saw examples of all of these types everywhere;
7 okay, to different degrees, but we did find that
8 the actual operational level of rules and their
9 density actually were fairly similar in other
10 countries to the U.S.

11 Now, it may be that the way those
12 rules get developed differs in other countries.
13 Some, the official law might be general, but then
14 there's more specific rules that are adopted by
15 industry actors or by the companies themselves.
16 We did see that these macro-means standards or
17 the management-based regulation is used in high-
18 hazard sectors fairly commonly to address these
19 risks that can't be generalized very well, that
20 are very context-specific. Where one size fits
21 all, it's fine to put in place, you know, a micro
22 means regulation, a prescription regulation, but

1 many of the ultimate hazards in these high-hazard
2 industries are coming about from very context-
3 specific risks, and that's one area that we saw
4 management-based regulation being used.

5 We also saw that the way these
6 regulation were structured -- and I'm going to
7 talk a little bit, in a bit, about differences
8 between these four designs and then how each
9 design can be structured differently, but there
10 were different structures associated with them.
11 We did notice, in particular in the offshore
12 context, that the European regulators tended to
13 collaborate more with industry actors than
14 regulators in North America. Query: we didn't
15 answer it, but it was a question raised for us,
16 and perhaps for further research, whether that
17 collaboration is an important variable in either
18 the success or maybe the vulnerability, perhaps,
19 of a more flexible regulatory regime.

20 Let me walk through, now, what we see
21 as some of the pros and cons of each regulatory
22 strategy, just very briefly. The micro means

1 approach has an advantage of clarity and telling
2 firms exactly what they need to do -- and so it
3 may be easier for firms to comply, because they
4 know exactly what they need to do. For that
5 reason, it may be easier, often, for the
6 regulated organization -- the government
7 organization -- to enforce. However, these types
8 of regulations tend to be or have the potential
9 at least to be less cost-effective because they
10 don't allow for heterogeneity, and it may be that
11 what works well in one firm or one setting
12 doesn't work so well in another setting. It also
13 may impede the ability to innovate or change.
14 Performance-based regulation, in the traditional
15 sense of this micro-ends regulation, does allow
16 some flexibility and has the potential for firms
17 to be able to innovate, and as long as they can
18 meet that end state that's required.

19 However, this kind of regulation only
20 is going to be effective to enforce if the
21 regulator has an ability to monitor the actual
22 ends that are required or prohibitive. And it

1 also -- it runs the risk of a phenomenon that in
2 other contexts would be called teaching to the
3 test -- a type of gaming in which, for example,
4 that Volkswagen engaged in with respect to the
5 performance standards that EPA set for its diesel
6 engines, that they tried to meet the letter of
7 the law, meet that test, but work around it to
8 defeat the spirit of it. That's something to
9 worry about, certainly, from micro-ends
10 regulation.

11 What about the management-based
12 regulations, these macro means? These do allow
13 flexibility, because they do mandate some kind of
14 means, but these are means about analysis, and
15 planning, and setting up internal procedures and
16 systems, not necessarily about exactly what steps
17 to take to reduce the hazard or the risk. So
18 they allow flexibility. They can be used in
19 context when it isn't possibly very easily to
20 measure the outputs. So when performance
21 standards of the traditional kind don't work,
22 it's a possible option, and it may also help

1 inculcate a sense of responsibility on the part
2 of the regulated industry for owning safety and
3 environmental protection.

4 But what might be some of the
5 downsides here for this kind of a regulatory
6 approach -- well, they call for both the firm and
7 the regulator to be able to engage in risk
8 analysis, to be able to understand what is a
9 good-quality system or safety management plan.
10 What does that look that? That may get harder
11 also to monitor all how well a firm is doing.
12 What may look good as a safety system on paper
13 might not be so good in practice. And for
14 smaller firms, perhaps, who don't have the in-
15 house capacity to engage in the kind of risk
16 analysis and planning required, this could be
17 particularly burdensome.

18 General duty regulation, that lower
19 right cell in the two-by-two matrix, has the
20 advantage of flexibility. It may well reinforce,
21 as a backstop, these other regulatory strategies,
22 but by itself it may not be enough to prevent

1 harms because the consequences for violating the
2 obligation only occur after the disaster has
3 happened, and it may not, therefore, give a lot
4 of direction about how to prevent that accident
5 in the first place.

6 Let me suggest these pros and cons are
7 relative to one another -- and that was one of
8 the findings that the committee came to. These
9 are not always advantageous or disadvantageous,
10 but they are relative to each other. We also
11 want to recognize that these standards will work
12 well only various constraints and conditions, and
13 the report actually outlines -- and I'll just
14 briefly highlight -- three key constraints and
15 conditions that any regulator should be
16 contemplating when choosing among these designs.

17 One is what's the nature of the
18 problem itself? Is it something where there's
19 really severe consequences, where there's, you
20 know, a very low threshold for or room for error?
21 Well, that may affect the degree of flexibility
22 that might be appropriate. How about the

1 industry itself? I've already suggested that
2 some of these standards may be harder for smaller
3 firms, for example, to use, so you want to know
4 about the industry. And, lastly, the regulator
5 needs to think about its own capabilities, as
6 well. What its workforce for inspection, for
7 example, is like, and whether they are adequately
8 trained to monitor and address a particular
9 regulatory approach.

10 Lastly, and this is where I alluded to
11 before, there's a difference between design of
12 regulation and how it's structured. And these
13 advantages and disadvantages -- or pros and cons
14 -- that I've talked about will depend not only on
15 the design, but also on how a particular
16 regulation is designed, because not all rules are
17 the same even within the same design type.

18 And let me just give you an example of
19 a traditional performance-based regulation of
20 the -- what we call the micro-ends variety. The
21 obligation, the end state, could be specified in
22 a very specific term, of a .07 part per million,

1 or it could be specified in a very loose manner:
2 no unreasonable risk, for example. The location
3 of that micro-ends standard might be close to the
4 ultimate outcome on a causal chain that leads to
5 that ultimate outcome, or it could be very
6 distant. And the closer it is to the ultimately
7 outcome, probably the more flexibility the firm
8 will have, than if it's distant.

9 How performance is determined will
10 affect the performance of the performance
11 standards, whether the performance is actually
12 something that's measured or whether it's just
13 simply predicted. And then, how good are your
14 predictions? Is the standard set at a level that
15 is ideal for whatever's optimal for society, or
16 just what's feasible? That will affect its
17 performance. Is the unit of analysis that is the
18 regulated target -- is it, say, an individual
19 segment of pipe, or is it the entire system of a
20 pipe? That might matter. Who bears the burden
21 of proof for showing failure to comply with the
22 required end state, the regulator or the

1 regulated? Those all -- all these things will
2 affect the performance, even within the same
3 design site.

4 And this quote just highlights from
5 the report that if a performance standard, which
6 in principle allows a great deal of flexibility,
7 is set a level that's only possible for industry
8 to meet in one particular way, then it's probably
9 giving the industry no more flexibility, at least
10 in the short term, than any micro means
11 regulation.

12 Now, I know that there's a great deal
13 of interest in performance-based in the
14 management-based regulatory sense, or what we
15 call macro means. So I want to just spend a
16 brief amount of time highlighting this particular
17 strategy and what the report has to say about it.
18 It is, as I have indicated, advantageous in
19 situations where risks are very context-specific.
20 It is being used by regulators around the world
21 for high-hazard context where there's low-
22 frequency, high-consequence events. They can

1 serve a valuable purpose, because there may be no
2 other effective to regulate certain kind of
3 risks, and they can certainly augment existing
4 other kinds of regulations, but they do require
5 vigilance and capacity on the part of the
6 regulator if they're going to be effective.

7 In particular, when it comes to
8 structuring macro-means regulations -- remember,
9 I distinguished designs from structures --
10 there's some key questions. Even within this
11 realm, are you going to require as a regulator
12 the planning, the analysis in creating the plans,
13 or do you also require not only the plan, but
14 then actually the facilities follow their plans?
15 There's differences across countries in this kind
16 of -- that's a question. What kind of
17 specificity or precision in the planning criteria
18 will there be? Will the regulator have to
19 approve a safety plan or a management system
20 ahead of time? This is what they do in Europe
21 with the safety cash approach. What kind of
22 transparency or recordkeeping requirements are

1 accompanying? And to what extent are other
2 regulation also filling out the regulatory
3 regime?

4 With that, those are key questions.
5 Okay, and what we've done with this report is
6 give you and any other reader, any other
7 regulator, a framework -- a checklist, if you
8 will, even to think about the issues in designing
9 and structuring a good regulatory regime for
10 high-hazard context.

11 In conclusion, I do think -- I want to
12 come back to this from the outset. There has
13 been in the academic literature -- and I think in
14 the policy world as well, judging from the
15 various briefings that we've had and all the
16 interactions that I have with regulators around
17 the world -- there's often too much emphasis
18 placed on very simplistic and often misconstrued
19 lists of general advantages and disadvantages of
20 these regulations. What we really need -- and
21 what the challenge is -- is to fit the type of
22 regulation and its structure the nature of the

1 problem, the characteristics of the industry, and
2 the capabilities of the regulator.

3 And so if you want to think about this
4 is a very simple, almost mathematical sense, the
5 performance of regulation will be a function of
6 the regulation itself, how it's -- which design
7 type it is and how it's structured, and how that
8 interacts with the context, the nature of the
9 problem, the industry, and the regulator and its
10 capacity. Ultimately, there isn't one single
11 silver bullet. We did see all of these types
12 used everywhere, and it's always important for
13 regulators to consider the possibility that
14 sometimes the best solution and the way to think
15 about regulation is how do we get the best
16 combination of regulatory types?

17 So with that, I'm open to additional
18 questions, comments. I have a variety of
19 resources for you, and happy to take your
20 questions.

21 MR. DANNER: Okay. Cary, thank you
22 very much. Very useful construct. Sara?

1 MS. LONGAN: Thank you, Mr. Chair. I
2 really want to applaud PHMSA for allowing and
3 scheduling the speakers we have today, because
4 from the Gas Committee or from my perspective
5 serving on the Gas Committee, everyone has been
6 describing themes that we have discussed and
7 deliberated over, in some ways very intensely,
8 through our various work efforts.

9 And Cary, I really enjoyed your
10 presentation, and I look forward to reading your
11 study. I applaud you for making a comparison
12 among the United States regulatory framework with
13 those in other countries. It's an effort I think
14 you probably know or a tool that industry has
15 used often, and I think it's been very effective
16 in helping a regulator -- and I am a regulator --
17 really try to focus on what the problem, that
18 causal pathway that you described.

19 I learned a lot from you, the fact
20 that, yeah, there is a conception that,
21 particularly in the oil and gas offshore industry
22 overseas, that it is principle-based. So it's

1 interesting that we have comparisons, but I do
2 think there is still a lot of work to be done
3 inside the U.S. regulatory framework to increase
4 regulatory reform without reducing regulatory
5 efficacy. So I really enjoyed your presentation.
6 Thank you.

7 MR. COGLIANESE: Thank you.

8 MR. DANNER: Go ahead.

9 MS. LYLE: Hi. I thought that was a
10 great presentation. It's very interesting. And
11 to the other Sara's point, I think that the one
12 point that really stuck to me was in the pros and
13 cons, particularly in those pieces where one size
14 doesn't fit all, which I think, as we all sit
15 here, you know, whether it's on the gas or liquid
16 side, that is what, you know, the agency is
17 trying to do -- is try to find something that
18 best fits a very, very diverse industry, even
19 though it is the same industry.

20 And I was curious if you had done any
21 further research into sort of that particular
22 disadvantage, or if there was any other work

1 around the -- you know, how do you deal with the
2 one-size-fits-all challenge? Because I know that
3 that is a challenge from the -- you know, the
4 federal seat, if you will.

5 MR. COGLIANESE: Sure. Well, I've done
6 a lot -- do you want me to take questions?

7 MR. DANNER: Yes. Go ahead.

8 MR. COGLIANESE: Thank you. Thank you
9 for the comment and the question. It's a great
10 one. It's something that for actually the last,
11 oh, probably 25 years or so I've been writing
12 about, what is called here, macro-means
13 regulation or management-based regulation, or
14 what I think PHMSA has meant by or at least did
15 mean, when it commissioned the study,
16 performance-based regulation, as a tool to use
17 when one size doesn't fit all, and I think --
18 this is important -- when it's also not very easy
19 to measure outputs.

20 And now, we do all know when a
21 catastrophe happens. Right? That's certainly
22 observable, hard to miss -- right -- but at that

1 point, you know, it's a little bit, in some
2 sense, too late. So typically a performance-
3 based regulation would sort of put this back on
4 the causal pathway, try to take some measures,
5 but the causal pathways themselves may vary from
6 facility to facility, from firm to firm. And
7 when you have that, it's going to be very hard to
8 measure the outputs and impossible to have a one-
9 size-fits-all. So this is, I think, an important
10 development in regulation, to use management-
11 based regulation.

12 I have -- and I think it's on the list
13 of references here -- a report that I did for the
14 OECD some years ago, as well, that I might
15 recommend in this area. It's -- it requires a
16 certain capacity by the regulator to be able to
17 conceptualize and articulate in a regulation what
18 good planning would require, and then to be able
19 to have the capacity to oversee and make sure
20 that regulated entities are doing adequate
21 planning, and not just what sometimes -- and I
22 think we've mentioned this in the report -- is

1 called, pencil whipping. Just, you know,
2 churning out the paperwork that makes it look --
3 but actually putting it in place. That -- if you
4 can build that capacity, this is a very promising
5 regulatory strategy to consider when one size
6 doesn't fit all.

7 MR. DANNER: All right. Thank you.

8 Shawn?

9 MR. LYON: Shawn Lyon with Liquids.

10 Thanks, Cary, for the presentation. Just want to
11 comment: I think one aspect to performance- and
12 prescriptive-based regulation is also safety
13 management system, and it's an independent way to
14 also bring in flexible and scalable -- of doing
15 the right thing. And I think it's a good
16 parallel, an independent path, along -- to only
17 enhance, I think, the goal of regulations and
18 also enhance doing the right thing. So I've been
19 teed up a little bit for Angie after lunch here,
20 but I think it's important that regulations isn't
21 the only driver. There's other things that drive
22 us towards continuous improvement, which is, I

1 think, the ultimate goal of regulation anyway.

2 So --

3 MR. MAYBERRY: Yeah. On that point,
4 Shawn, in my cross-reference here, I would say
5 yes, and this is a macro-means regulation --

6 MR. LYON: Yeah.

7 MR. MAYBERRY: -- sort of -- well, not
8 regulations. Obviously, not a regulation. But
9 it's a macro-means approach, if you will. I'd
10 just like to say thank you. We've really been
11 wanting to present this to you.

12 We've had a very packed agenda over
13 the last couple of years, but I must say that we
14 have used the results of this study as we, you
15 know, do our briefings on the Hill. I think this
16 has been very helpful in just explaining the
17 methodological approach one needs to take in
18 developing regulation, and not just to gravitate
19 toward -- well, we need to prescribe more,
20 because something happened. But we really need
21 to be more methodical, and there's a lot more to
22 it, to your point, on, you know, not

1 oversimplifying it. It's been very helpful.

2 MR. DANNER: All right. Thank you.
3 I'd like to just comment. I mean, I'm a state
4 regulator, and I do both economic regulation of
5 utilities and safety regulation. And it's
6 interesting to see the different approaches,
7 because with economic regulation, there's a
8 little more room for experimentation, and when
9 you have health and safety on the line, you're a
10 little more hesitant to be flexible.

11 But what I see is that we, taking some
12 of your categories -- we have hybrids or we have
13 layers. And there's always -- I mean, we may
14 have a broad rule, but we will have waivers that
15 we can grant on a case-by-case basis, or we will
16 have a backstop of a public interest standard or
17 a reasonableness standard. So if somebody says,
18 oh, I can be -- I can have a VW cheating scandal
19 and still comply with the letter of the law, we
20 can say, no you can't.

21 And there's also -- you have to, as
22 you say, look at the context. We have companies

1 that are always eager to operate in the public
2 interest, and we have others that are scofflaws,
3 and we have some that just can't operate safely,
4 and they take a different level of attention.
5 And so it's interesting to see how you've got all
6 of that factored into your analysis and still are
7 able to organize it.

8 MR. COGLIANESE: Well, thank you very
9 much. That was, I think, one of our principal
10 goals, to try to organize our thinking, because
11 as a field, both those of you who are in practice
12 at the state or the federal levels as regulators
13 have to work through these issues. And those of
14 us in the academic community who are providing
15 research that we hope will be informative for
16 your decision making, we all have to start, you
17 know, coming up with a common language. And
18 we -- I don't have any illusions that we'll do
19 that overnight, or that report will resolve
20 all -- but at least, hopefully, we can start
21 asking or having the kind of exchange that, I
22 think -- between Shawn and Alan a minute ago.

1 "Well, you're talking safety management system."

2 "Well, that's really the same thing as what we're
3 talking about with management-based regulation,
4 or you know, the macro-means regulation." So --
5 but I appreciate the opportunity to be here and
6 to share this important work with you.

7 MR. DANNER: Other questions or
8 comments from the committee members?

9 (No response.)

10 MR. DANNER: All right. Well, thank
11 you very much for coming, and maybe for the
12 benefit of the committee, you could tell us how
13 to pronounce your last name.

14 MR. COGLIANESE: Sure. It's
15 Coglianesse --

16 MR. DANNER: Okay.

17 MR. COGLIANESE: -- but I'll answer to
18 just about anything.

19 MR. DANNER: Okay. Well, I butchered
20 it this morning, so I apologize for that. All
21 right. Anything else? Then we are up against
22 the lunch hour.

1 the NTSB. So I will turn it over to Alan to
2 introduce Robert.

3 MR. MAYBERRY: Well, it's a pleasure to
4 introduce Robert Hall. He and I go back a little
5 bit -- he actually interviewed me when I came to
6 work for PHMSA, so I think we share stories of
7 that. So I owe a lot of gratitude, I think, to
8 Robert. And now he's moved on, since that time a
9 while back, to the NTSB, and I commonly refer to
10 Rob as my counterpart over at the NTSB. So it's
11 a great pleasure to introduce, you know, a
12 colleague in the safety business, Robert Hall.

13 MR. HALL: Thank you very much, Alan.
14 As you're all probably well aware, we just
15 wrapped up a year-long investigation into an
16 overpressurization accident that occurred in a
17 natural gas utilization system in Merrimack
18 Valley, Massachusetts.

19 Just a little background: I think most
20 people are familiar with the National
21 Transportation Safety Board, but we are an
22 independent federal agency that was created to

1 investigate transportation-related accidents and
2 make recommendations. We were created in 1970 as
3 part of DOT, so we're, you know, just about the
4 same age as Office of Pipeline Safety. And, in
5 1974, we actually became independent DOT, because
6 it was felt that reporting to the Secretary was a
7 conflict of interest in making recommendations to
8 the Secretary. So they pulled us out of DOT and
9 made us independent. In that time, we've done
10 right about 125 pipeline accident investigations.
11 It is one of the smallest parts of our mission,
12 but it's a very important part and very
13 significant.

14 So again, our mission: prevent
15 accidents, reduce injuries, save lives. You
16 know, we look to those recommendations, and in
17 pipeline, we've had some fairly significant
18 recommendations lately, and reduce -- eliminating
19 the grandfather clause, being one of them. And
20 we're really pleased to see some of those rules
21 come out of PHMSA recently.

22 So let me just -- our various offices.

1 Aviation, rail, which is also under my
2 responsibility. That particular rail accident
3 was an Amtrak -- the accident in Cayce, South
4 Carolina. Oh. This was a limousine crash in
5 Schoharie, New York. The Conception was a dive
6 boat out in San Diego. That was big in the news,
7 that sank with -- all the passengers were lost.
8 The crew was saved. And Merrimack Valley, which
9 I'm here to talk about today.

10 So we operate in all five modes of
11 transportation. So we investigate accidents, and
12 part of that investigation is determining the
13 probable cause of the accident, and then issuing
14 safety recommendations that are aimed at
15 preventing future accidents.

16 One important point about our safety
17 recommendations is the NTSB, by our authorizing
18 legislation, does not consider cost of
19 implementation. So our recommendations are done
20 without any consideration of cost, and it's
21 always the challenge that PHMSA has to try and
22 figure out to implement in what we want, and

1 something that will pass a cost-benefit analysis.
2 But that's one aspect of our investigations that
3 sometimes cause a little heartache, when we give
4 them.

5 But -- and as the other point, we have
6 no congressional authority to fine organizations
7 and enforce laws or regulations. The only
8 leverage we have is our bully pulpit, and using
9 the public, using the media, is the leverage we
10 have to make change.

11 One of the other things that we found
12 over the years, and certainly it's true in
13 Merrimack Valley, when we look at an accident and
14 our desire to make change, there's a golden time
15 period in which you can make change, and that's
16 when it's fresh in the minds of the public. If
17 we take 3 years to do an accident investigation,
18 which there are some that have taken 3 years, we
19 don't really get much change coming out with a
20 recommendation 3 years later. We kind of
21 recognize the industry's already moved on. In
22 Merrimack Valley, though, we got that

1 investigation done within a year. Not only did
2 we get it done within a year, we issued
3 recommendations 2 months after the accident,
4 again to make that golden window of when we had
5 the leverage behind us to actually create change.

6 So Merrimack Valley began with our
7 screening. We have a room -- and I was actually
8 on the telephone when we were screening this,
9 because I wasn't in the office -- but we heard
10 about it right away. We have a response
11 operations center at the NTSB that monitors half-
12 dozen 24-hour cable news channels, and this one
13 hit the cable news channel really quick, and that
14 kind of starts the ball rolling. We also get
15 notified by the National Response Center. That
16 notification usually runs a couple hours. So
17 when -- on these big accidents, it's typically
18 the news media that kicks us off. And this
19 particular one was one of the ones that we knew,
20 as soon as we saw it, that we would be launching.

21 So when we up there, we wanted to look
22 at -- basically, there were two areas. How and

1 why the overpressurization occurred -- so we're
2 getting at the cause of the accident -- but one
3 of the things that we do in the major
4 investigations is look at the emergency response
5 to the accident. Are there elements of the
6 emergency response that either led to additional
7 injuries or fatalities? Or are there areas that
8 could have gone better or worse?

9 One interesting accident that I did a
10 few years ago, in Philadelphia, was an Amtrak
11 derailment on -- in Philadelphia, and their
12 emergency response was something that we have
13 virtually never seen before. The accident
14 occurred in an area of Philadelphia that the
15 local police refer to as the knife and gun club,
16 and the police got to the scene, and the
17 injuries -- and there were about 200 injuries --
18 they threw them in whatever vehicle they had and
19 rushed them to whatever hospital they could get
20 them to. There was no on-site triage, there was
21 no coordination. They had the site cleared in 2
22 hours. We took a really hard look at that

1 emergency response, and the interesting thing,
2 when we got to the end of it: we could find no
3 adverse outcome from the way they handled the
4 emergency response, even though it was totally
5 non-traditional.

6 So we do look at the emergency
7 responses to try and understand what the outcome
8 is. We had a couple of things in Merrimack
9 Valley that we saw needed improvement. So, in
10 November, we issued safety recommendations. We
11 issued one recommendation to the State of
12 Massachusetts to require that PEs sign off on the
13 design documents. This was -- in this particular
14 case, we had a relatively junior engineer, just a
15 couple years out of college, that did all the
16 design works. There were some upper-level
17 reviews, but those reviewed seemed to be more
18 interested in financial and cost of the project
19 than the actual safety of the project, and there
20 was a major omission in the design work.

21 The reason why we moved towards the PE
22 review -- it's currently required in 29 states,

1 so it's something that some companies are
2 familiar with. But with that PE review, there is
3 a personal accountability for signing off on the
4 work that you do. And having been a PE myself
5 for -- I'm still a PE, and having done design
6 work, you take that very seriously when you put
7 your name on that piece of paper. That it's the
8 best work that you know it is, and it's safe.

9 And then we issued four urgent
10 recommendations to NiSource. All of those
11 recommendations at this point are now closed,
12 acceptable action. So getting them out there in
13 November was really good for us from the
14 standpoint -- in fact, the one recommendation to
15 the State of Massachusetts for the PE
16 licensure -- we did not make an urgent
17 recommendation because we felt that, you know,
18 getting something through the state legislature
19 was not something you get through in a year, and
20 that's our criteria for an urgent recommendation,
21 although that was the first recommendation that
22 was satisfied. The Massachusetts legislature

1 actually had that satisfied by early January, and
2 we were really pleased with the speed at which
3 they worked.

4 There was a hearing right after we
5 issued our recommendations, and some of you may
6 recognize the guy all the way on the right that
7 had to stand in for PHMSA. But all the way on
8 the left is our chairman, Sunwalt. It was a
9 Senate field hearing up in Massachusetts
10 regarding the accident, and we were asked to
11 testify, as was PHMSA. Our board meeting was
12 September 24 of this past year, so just a short
13 time ago. We met and considered the report, and
14 the board approved the report and some follow-on
15 recommendations.

16 To look at the accident, the accident
17 impacted actually three towns: the town of
18 Lawrence -- which some people refer to it as the
19 Lawrence, Massachusetts, accident -- but it also
20 impacted Andover and North Andover, which is why
21 we opted to call it the Merrimack Valley
22 accident, because all of those three towns were

1 in Merrimack Valley. So we have two areas here,
2 the corner of Salem and South Union and the
3 corner of Winthrop and South Union, that were key
4 in the accident. At Salem and South Union, there
5 was a bypass, and this bypass was connecting the
6 old cast iron main into the new polyethylene main
7 that had been done several years before the
8 accident. And then we have, down on Winthrop
9 Avenue -- this is where the regulator and monitor
10 regulator were and the sensing lines were
11 located. It's a quarter mile away from the
12 initiating event.

13 So to kind of describe what
14 happened -- and this is a very simplified
15 diagram -- we have the red indicating the high-
16 pressure gas at 75 psi. The black shows the
17 legacy cast iron main. The green is the new
18 polyethylene main. This was the configuration
19 pre-accident. During the course of the
20 accident -- or before the accident, after that
21 polyethylene main was laid, the branches were all
22 moved to the polyethylene main. There were about

1 dozen different work packages that moved these --
2 all these branch connections from one main to the
3 other main. The package that was being
4 implemented the day of the accident was the final
5 package, and that was to retire the old cast iron
6 main in place.

7 And the first part of that package --
8 and that little bypass -- also had two isolation
9 valves in it. They closed the isolation valves
10 and then they cut the bypass. In cutting the
11 bypass kind of become an important part of the
12 accident. You know, when they shut the two
13 isolation valves, they isolated the main from the
14 sensing lines and, at that point, it was no
15 longer sensing actual pressure. But when they
16 cut the bypass, there was no going back. If they
17 had not cut the pass immediately after isolating
18 the two mains, there would have been an
19 opportunity to reopen and go backwards, but as
20 soon as that bypass was cut, that was eliminated.
21 So the old cast iron main slowly bled down to
22 atmospheric pressure, and the regulator and the

1 monitor valves responded by opening fully, and
2 that put the 75 psi gas into the main and out
3 into the community.

4 Now, these -- the -- where the bypass
5 and where all the work was done was a quarter
6 mile away from where the regulator station was,
7 so there wasn't kind of an immediate to the work
8 crew as to what was going on. I mean, at that
9 regulator station, when NiSource crews finally
10 got there, they could hear the gas screaming
11 through the regulator station, but the
12 construction crew a quarter mile away didn't hear
13 that. Their first indication was they started
14 hearing sirens all over the place.

15 So we've issued our final report. We
16 have 14 findings, 5 new safety recommendations, 2
17 of them to PHMSA, which hopefully the gas group
18 will see eventually. At least they'll see one of
19 them. We issued a recommendation to the
20 Massachusetts Executive Office of Public Safety
21 and Security, and that was an emergency response
22 recommendation. We issued some recommendations

1 to NiSource, including an emergency response
2 recommendation. And we issued 31 state
3 recommendations for requiring -- eliminating
4 what's known in the PE world as the industrial
5 exemption for natural gas, to require that
6 natural gas projects of this type be signed off
7 by a professional engineer, and we issued the
8 probable cause.

9 So some of our selected findings, we
10 found that NiSource's risk management processes
11 were deficient, failing to identify the
12 possibility of human error that led to the
13 overpressurization. It's kind of interesting, as
14 part of this -- and it's in the report, if you
15 get ... download the report, and I'll show you
16 how to get that shortly. We went back and we
17 looked at all the 125 accidents that NTSB has
18 investigated. We found seven accidents that were
19 similar to this, and out of those seven, the
20 first one, which I have the report here, from --
21 the report was issued in 1970. It was a pipeline
22 accident in Gary, Indiana, by a company known as

1 NIPSCO, which some people will recognize as the
2 predecessor of NiSource. It was an
3 overpressurization of a low-pressure system. It
4 occurred during construction to replace the low-
5 pressure system with a medium-pressure system. A
6 little bit different in that, in this particular
7 system, they had subdivided it into two systems.
8 They had a cross-connect. One side had already
9 been upgraded to 20 psi; the other side was still
10 low pressure. Somebody opened the cross-connect
11 and put 20 psi in a low-pressure -- but very
12 similar system, very similar accident.

13 We also found an accident in 1977 in
14 El Paso, Texas, which was absolutely identical to
15 this accident, in that they were replacing the
16 system. They left the sensors on the cast iron
17 pipe and they isolated the cast iron pipe when
18 they were commissioning the new system.
19 Absolutely identical.

20 When we look at those early accidents
21 and the recommendations that the NTSB made,
22 because that was one of the next things that I

1 really want to address, is -- okay. We've had
2 these similar accidents, and they continue
3 beyond -- there's seven that we talk about, but
4 then we also went through the leak and failure
5 database and identified a number, six, six more
6 accidents that were very similar. We wanted to
7 look and see, what recommendations did we make?
8 Where did we address this? And our
9 recommendations typically went towards
10 administrative controls. There were some
11 recommendations on hardening sensing lines,
12 because we had a couple of dig-ins on sensing
13 that resulted in a similar accident.

14 About half the accidents were actually
15 during system upgrades and, in fact, out of
16 the -- this original NIPSCO accident, we went
17 towards training. And you'll see a couple of
18 them went towards training. And these are some
19 of the initial accidents that became the
20 foundation of our recommendations that
21 resulted -- ultimately resulted in OQ.

22 But interesting to look at. So their

1 constructability review was insufficient in that
2 it did not detect the emission of a work order to
3 relocate the sensings lines. They had no -- they
4 had not prepared any work order. There was a lot
5 of talk about a 2-year delay they had because of
6 the town and things going on, but during that 2
7 years, they didn't take time to prepare the work
8 order, so when they picked the project back up,
9 they had the accident. The delay had no impact,
10 and so there was a lot of discussion about that,
11 and we included it had no impact.

12 They had a two-year opportunity to
13 solve the problem. They didn't solve the
14 problem. They picked up where they left off.
15 The Columbia Gas incident commander faced
16 multiple competing priorities, communicating with
17 the affected municipalities. This adversely
18 affected the emergency response. The Columbia
19 Gas incident commander had his priorities on
20 getting the system shut down, and really, what --
21 they had other people there to help, but they
22 didn't have the information that the emergency

1 responders needed.

2 And what happened is -- the adverse
3 effect that happened is electricity was shut in a
4 much wider area than it had to be, and the
5 evacuation areas were wider than they had to be.
6 And as I said at the board meeting, you know,
7 they operated this system for 100 years, and they
8 couldn't hand the emergency responders a map of
9 the system, so that the emergency responders had
10 information to act on. So it's really important,
11 and we've made recommendations in that record to
12 have actionable information to be able to provide
13 to the emergency responders. And they were not
14 adequately prepared with the resources, and maps
15 was one issue there, being able to interface with
16 those emergency responders and deal with that
17 aspect.

18 The broader evacuation resulted in
19 much greater traffic jams, a lot of issues around
20 that particular aspect. The probable cause of
21 the accident -- Columbia Gas of Massachusetts'
22 weak engineering management did not adequately

1 plan, review, sequence, and oversee the
2 construction project that led to the abandonment
3 of the cast iron main without first relocating
4 regulator sensing lines to the new polyethylene
5 main. Fairly simple, when you get down to it.
6 Contributing was a natural gas distribution
7 system designed and operated without adequate
8 low-pressure protection. What we found is, the
9 system complied with 192, and when you read the
10 requirements of 192, having just that monitor and
11 the working regulator was all that was required.

12 But -- and this is partly why I went
13 back and I looked at those earlier
14 recommendations. You know, why in those earlier
15 recommendations did we never get to overpressure
16 protection? And I really can't answer that one.
17 We kind of stopped short of that.

18 But there was no system in there that
19 was automatic, that would have prevented this.
20 And we note that -- and just anecdotally, because
21 we didn't do research, but a lot of companies
22 have, after this occurred, begun upgrading their

1 systems. Particularly, it seems that what we've
2 heard is that the design change of choice is to
3 put in a slam-shut valve that would independently
4 act on overpressure. The configuration of the
5 monitor and worker regulator, as we discussed in
6 the report, was really a common mode failure. It
7 was very easy to take both of those out at the
8 same time.

9 So to PHMSA, we made a recommendation,
10 and we made this very specifically general,
11 because we knew that the industry was doing a lot
12 of things to prevent from occurring, and not
13 everybody was doing the same thing. So we wanted
14 to make a recommendation that got to the root of
15 the problem but had the flexibility that
16 everybody that's been proactive and taken action
17 wouldn't need to take action again after PHMSA
18 gets around to changing the regulations. So we
19 asked that they make sure -- and this is kind of
20 paraphrased, but make sure that the regulations
21 are such that the systems are protected against a
22 single operator error or equipment failure, that

1 we can't have a common mode failure.

2 We also recognize that the regulations
3 take a long time and, in fact, our -- the
4 regulation that we're so happy about, getting rid
5 of the grandfather clause -- I mean, San Bruno
6 was 9 years ago -- 2009 -- almost 10 years ago.

7 MR. MAYBERRY: 2010.

8 MR. HALL: 2010. Yeah. Nine years
9 ago. It's going to take a while, and so we've
10 asked PHMSA to issue a safety advisory alerting
11 to the overpressurization, and urge them to take
12 action to prevent similar failures. And then, to
13 the 31 states that don't require the PE seal,
14 change your laws to require a PE seal on public
15 utility engineering drawings. And then, to the
16 Massachusetts Executive Office of Public Safety
17 and Security, develop guidance for effective
18 first-responder communications on a large-scale
19 emergency event.

20 There was an enormous amount -- I
21 think it was 100 different fire
22 departments/localities responded, and it's

1 detailed in the report the number of localities
2 that responded, but we had, you know, throughout
3 the state of Massachusetts, as well as New
4 Hampshire and Maine, were responding with
5 firefighters. And communications became an issue
6 -- the radio channels became overwhelmed. Some
7 departments didn't have separate channels with
8 which to handle department communications. So
9 we've asked Massachusetts to work on that
10 particular issue.

11 And, to NiSource, to revise the
12 training for large-scale emergency events so
13 timely information can be provided to first
14 responders. You know, pipeline companies, and
15 pretty much all of them, do drills. They work
16 with the emergency responders. But an event this
17 large was never part of a drill, not even coming
18 close. And so the issues that we saw in this
19 accident, you'd never figure out from the kind of
20 drills that were run.

21 And so we really want to look at, you
22 know, thinking about those large-scale incidents.

1 When we look at this -- these low-pressure or
2 utilization systems, you know, we were talking
3 around the office -- we actually think these are
4 the most dangerous systems of gas systems. You
5 know, a lot of people equate pressure to the
6 danger, but these are the only systems that can
7 take out an entire community. In San Bruno, as
8 bad as that was, it was a relatively small
9 geographical area that was impacted. Here, we
10 had a huge geographic area. And in that regard,
11 the low-pressure-utilization systems are quite
12 dangerous, because you don't have that
13 independent overpressure protection at each
14 service. And that's really what makes these
15 different than the medium- and the high-pressure
16 systems, is having that regulator with the
17 overpressure protection at each house. If you
18 had had something like, this incident would not
19 have occurred the way it did, and we would not
20 have gone there.

21 So where you can find our report -- so
22 you go to NTSB.gov, and then you go to where it

1 says "Publications." You can actually also click
2 on "Investigations" and get to the same place.
3 That brings you to a page where you see "Accident
4 Reports," and there's a thing down here to click
5 on for "Pipeline Accident Reports." And that
6 will take you to a page of pipeline accident
7 reports that are chronological, and there you'll
8 find the Merrimack Valley report with a PDF. You
9 can get just the report by clicking on the PDF
10 icon on the right. If you click on the title on
11 the left, it will take you to an accident page
12 where you can not only get the accident report,
13 but you can get the preliminary report we issued.
14 You can also get the safety recommendation report
15 that we issued, all the press releases. You can
16 find out the recommendations and get to the
17 recommendations page.

18 I want to say one more thing about the
19 preliminary report that we issued -- that when
20 this accident occurred, there were a lot of
21 people asking what happened, and the industry was
22 asking us what happened. And so our intent

1 here -- because we had this one, as far as the
2 proximate cause, figured out before we left the
3 site. So we issued a preliminary report with
4 that proximate cause, a very detailed preliminary
5 report that got right to the root of exactly how
6 it happened.

7 And with that, AGA responded with
8 their best practices for the overpressure
9 protection in low-pressure systems, which was
10 really good, and then we saw a lot of industry
11 response to that. So it does show that the
12 industry was very interested in taking this head-
13 on, and we were happy to be able to provide that
14 information very early so the industry could do
15 that.

16 And that's just the cover of the
17 report. And I'll answer any questions you might
18 have.

19 MR. DANNER: All right. Thank you very
20 much. So I have one question: in the
21 recommendations that you make, who does the
22 follow-up? When you tell NiSource that it needs

1 to improve its communications protocols, when you
2 tell the state government that they need to be
3 the same, is anybody checking to make sure that
4 they do what you're telling them to do?

5 MR. HALL: Within the NTSB, we have the
6 Office of Safety Recommendations and
7 Communications, and we actually -- when my office
8 finishes the report, we hand it off to Safety
9 Recommendations and Communications. They
10 actually write an initial letter to all the
11 recipients telling them that they got a
12 recommendation, and then they will follow up
13 periodically with those recipients, reminding
14 them that we're waiting for an answer.

15 PHMSA and DOT, when we write
16 recommendations to DOT, they actually have a
17 congressional mandate to give us a response
18 within 90 days -- 30 days if it's urgent. We
19 don't have any sort of mandate on the industry,
20 but we do follow up, and we'll continue to ask
21 those people. If we don't get a response within
22 5 years, though, we generally close it

1 unacceptable.

2 One of the great things about
3 recommendations is although they're just that --
4 they're just recommendations -- it does put
5 people on notice. And in the world of litigation
6 we live in, if you receive a recommendation, do
7 nothing and have the same accident, the lawyers
8 have a field day. So that's a big driver that's
9 not our driver, but it's the world in which we
10 live in. So --

11 MR. DANNER: All right. Ron? Alan,
12 and then Ron Bradley.

13 MR. MAYBERRY: I just wanted to say
14 briefly ... I meant to say this in introducing
15 Rob, but the reason this is on the agenda is, you
16 know -- and so oftentimes, I say that, regardless
17 of which of the pipelines you operate or have an
18 interest in, you know, there's a common learning
19 here. There are lessons learned here for all of
20 us. So -- and I often say that whether, you
21 know, you're a liquid operator or a gas operator
22 or a gathering line operator, or you know, a

1 related industry, there are lessons learned in
2 this accident. I think it's also very relevant
3 to our conversation coming up on SMS. So --

4 MR. HALL: I'd like to add one thing to
5 what Alan said. And one of the things that view
6 our recommendation process as -- you know,
7 NiSource is going to fix their issues, but our
8 recommendations really aren't to fix NiSource.
9 Our recommendations are to fix the industry, and
10 it's to spread that learning to everybody so that
11 we can all learn from that.

12 And my very first boss that I worked
13 for was Admiral Rickover. I was a member of his
14 staff. And he once said that you have to learn
15 from the mistakes of others. You won't live long
16 enough to make them all yourself.

17 MR. DANNER: Okay. Ron?

18 MR. BRADLEY: Yeah. Ron Bradley from
19 PECO. So, Mr. Hall, thank you for coming today.
20 I always like to hear the updates from you. And
21 I'll tell you, my thought with this one was I
22 applaud you on the reports -- the quality of the

1 reports, the detail, the analysis. None of us
2 wants an incident to happen in the industry, but
3 when your reports come out, they're exceptional,
4 very easy for us to understand and to move
5 forward with.

6 I'm glad you made a point about the
7 timeliness of the report. This one came out,
8 like you said, with a preliminary right away --
9 almost right away. Like, for me it was right
10 away, because, as a member of industry, we
11 scramble quickly to try to figure out what could
12 have happened. And when your preliminary came
13 out, it enabled AGA to get us together quickly so
14 that we could work on a fix across the industry,
15 and so I applaud you for the speed and encourage
16 that same speed as we go forward. Thank you.

17 MR. HALL: Thank you.

18 MR. DANNER: Okay. Mary?

19 MS. PALKOVICH: Mary Palkovich,
20 Consumers Energy. Agree with Ron. In fact, we
21 were working on that -- leading practices to
22 prevent overpressurization -- when the

1 preliminary came out, and that was very helpful,
2 and I think it helped improve the document. And
3 already, the industry was taking things very
4 seriously, but that was just another impetus.

5 One comment, and perhaps a question.
6 In the recommendation to remove the PE exemption,
7 the intent is good, and pretty much all in the
8 industry support the intent. The one thing that
9 we're going to need to wade through, with the
10 help of NTSB and others, is alignment on the
11 complexity differences in distribution design
12 work. So I know Massachusetts is already kind of
13 out there in front of other states at this point.
14 But the difference in complexity and how PE
15 license does not guarantee suitability of an
16 individual to have the knowledge and skills and
17 ability to approve a gas distribution design.

18 And there is an AGA whitepaper out
19 there, and I know there's some conversation about
20 enhancing that whitepaper, and keep driving
21 forward. So I just wanted to put that out there,
22 and I know, Mr. Hall, you're aware of that, and

1 so are you, Alan.

2 MR. HALL: Yeah. I'd like to add: I
3 have reviewed the whitepaper, and it's a good
4 guide at this point. I know also the New -- I
5 think it's the New England Gas Association -- has
6 put together their own whitepaper, as well. And
7 the one in New England -- one of the -- I think
8 one of the better features of that is it ties in
9 this whole PE design review into the SMS program,
10 and how you integrate that with the SMS. Because
11 certainly, I think that's where it needs to go.
12 So --

13 MR. DANNER: All right. Are there
14 other questions for Mr. Hall? Shawn Lyon?

15 MR. LYON: Thanks, Rob, for the report.
16 Just curious -- you touched on it just there, on
17 SMS. Any -- as you went through the
18 investigation, any other thoughts of the ties to
19 SMS and other things? And maybe it's in the
20 detailed report.

21 MR. HALL: Yeah. Actually there is a
22 section in the report on SMS. We did not make

1 any recommendations regarding the SMS program
2 because, during the course of the -- well,
3 actually before the investigation, thanks to, I
4 would say, some strong-arming that ran the
5 Virginia program, Columbia Gas of Virginia had
6 adopted the SMS, and the course of the
7 investigation, NiSource said that they would
8 implement it for all of their subsidiaries. So
9 that's really a major part of why we didn't touch
10 on that with any recommendations, because we saw
11 that as a very positive, and it was an action
12 that was already taken. So --

13 MR. DANNER: All right. Any other
14 questions? Any other comments?

15 (No response.)

16 MR. DANNER: Thank you so much for your
17 presentation. Very informative. So at this
18 point, we're going to move into Agenda Item 7.
19 Okay. Angie Kolar from Colonial Pipeline will
20 talk about safety management. And good
21 afternoon.

22 MS. KOLAR: Thank you. Good afternoon.

1 I'm Angie Kolar from Colonial Pipeline Company.
2 My day job is vice president of operation
3 services, but I'm here today as the chair of the
4 SMS Industry Team. So I appreciate the
5 opportunity to come and speak with you on the
6 work that the Industry Team is doing, has done in
7 the past couple of years, and continues to do to
8 progress pipeline safety management systems.

9 So our Industry Team is the first of
10 its kind, as far as we're aware. We have
11 representation the team from all the trade
12 associations that you see on the screen here. So
13 representatives from liquids, gas, gathering,
14 distribution, across all of these entities. In
15 addition to the trade association representation,
16 we also have 20 member companies represented as
17 well. In that is about a 50-50 split between
18 liquids and gas, so our team has about 30
19 members, altogether.

20 We'll talk through in a little while
21 how we've kind of divided and conquered the work
22 among those members. But important to note that

1 this is a really positive, very highly active
2 group, even with the 30 members that we have in
3 place. The team is really excited to be doing
4 what they're doing and really engaged as a cross-
5 industry team, again, for the first time.

6 Just a little bit on history of the
7 team: kicked off in the 2015-2016 timeframe with
8 the publishing of RP 1173. Started down the path
9 of providing support for implementation tools.
10 So these are things like gap assessments and the
11 support needed to just get involved and
12 understand what SMS is. I think the initial
13 efforts were along the lines of a campaign
14 approach, really, to just help operators
15 understand what SMS looks like and how it could
16 be integrated into their existing practices.

17 And of course, operator implementation
18 began in that timeframe, as well. So in '17,
19 just 2 years ago, liquids and gas joined forces
20 in the industry team that I mentioned previous,
21 and that group was led by Shawn Lyon. I took his
22 place in January of this year. They formed this

1 cross-industry team -- and again, took on the
2 principles that were created under 1173 and
3 helped try to promote that going forward.

4 Over the last couple of years, we've
5 got the systems and the processes and the tools
6 developed, and the RP really laid out nicely. So
7 the transition focused to increasing
8 participation -- so giving operators the support
9 and guidance that they need to get into the game,
10 and then the tools that they need to continue to
11 develop their safety management systems. Another
12 big focus of the group is just the governance.
13 So again, having 30 members across industry,
14 making sure that everybody's participating and
15 helping to move the needle. And then this year,
16 we've maintained our focus on the strategy and
17 tactics and support needed to continue to gather
18 that engagement across the industry and the tools
19 and support needed to continue to do that.

20 So we have a number of guiding
21 principles: one industry, one goal, again,
22 helping to implement safety management system, no

1 matter what your facet is in the industry.
2 Improving overall performance, really tying it
3 back to the idea that zero is possible and
4 results matter. It's a journey, not a
5 destination. I've heard that term a number of
6 times today in regard to SMS and other
7 initiatives as well. You're never going to be
8 done with implementing a safety management
9 system. You can be done implementing the
10 principles and the foundation, but the progress
11 is and the idea behind it is continuous
12 improvement, so we want to focus on that.

13 Principle 4: flexible and scalable --
14 making sure that we can make this doable, if you
15 will, for any size operator. I had the
16 opportunity to speak at an APGA conference a
17 couple of weeks ago, and that's one of their
18 biggest concerns, obviously, is how do I get my
19 foot in the door? And it was a really good
20 conversation. And what you're starting to see
21 with some of these operators is they see the
22 benefits. So they're telling each other now,

1 "Hey, you can do this. Just go start your gap
2 assessment. It's really easy. It's not as hard
3 as you think it's going to be." So you're
4 starting to see that peer pressure at all levels,
5 even from the majors in the industry, all the way
6 down to the APGA organizations.

7 Number 5: stay true to RP 1173,
8 especially the terminology. So making sure that
9 we're continuing to have consistent elements and
10 consistent processes across the industry.
11 Providing tools to assist the operators. I'll
12 get into a little more of that later on in the
13 presentation. First, conformance. Then,
14 effectiveness. Making sure that we're getting
15 people again performing those initial steps and
16 making sure that they're entering into a
17 management system. And then the effectiveness
18 comes along as part of that.

19 Number 8: voluntary implementation
20 equals unlimited results. So being engaged,
21 being involved. Again, I spoke a minute ago
22 about the operators really taking ownership of

1 this, and you see that. It becomes theirs -- it
2 becomes something that they're excited about.
3 Their leadership is engaged, their employees are
4 engaged. We're going to end the presentation
5 with a video that an operator did that really
6 shows the engagement and the involvement of the
7 folks in their organization.

8 So really, moving the needle as an
9 industry. And then proactive versus reactive,
10 making sure that we're on the front end
11 recognizing the risks and putting the processes
12 and structure in place to correct that before
13 there's an accident.

14 So there's really kind of three pieces
15 to an effective organizational structure that
16 leads you to zero incidents, we believe. The
17 first of those is conformance with the API RP
18 1173, following the tools and things that are
19 provided in order to support that journey.

20 Some other tools are the evaluation
21 tools. So that's how -- what practices and
22 programs do you have in place, and what keeps you

1 progressing in your maturity? How are you able
2 to continuously improve, learning not only from
3 yourself, but from others in the industry, as
4 well? So part of those evaluation tools are
5 shall statements, if you will. So you've got
6 1173, but then behind that, we've created tools
7 that operators can look at these shall statements
8 and determine how effective they are, relative to
9 those statements. So a gap assessment that will
10 ask an operator a question, and they have the
11 opportunity to respond with how well they think
12 they're doing on a one-to-four scale.

13 The second pillar of that is company
14 culture. So we believe that you can have an
15 effective SMS, but you're not going to get the
16 effectiveness that you want unless you have a
17 strong safety culture, and vice versa. So those
18 two things are integral in the success: culture
19 supports your SMS, and SMS drives your safety
20 culture. So having those two things intertwined
21 is critical to the overall success of the
22 program.

1 And then, lastly, the key performance
2 indicators. Results matter. So not only do we
3 have KPIs in place at an industry level that show
4 us where we are from a results standpoint, each
5 operator has KPIs in place that are more leading
6 KPIs that are really critical to their success.
7 So one operator might want o focus on MOC, while
8 another one needs to focus on asset integrity,
9 for example. So their KPIs might look a little
10 different internally, but, at the end of the day,
11 there's really a set of results-focused KPIs that
12 we compare across the industry.

13 So across the top of this slide it
14 will give you an overview of the liquid side on
15 how we measure effectiveness. So these are the
16 three KPIs that we feel like are critical.
17 Again, results-based, lagging indicators to
18 indicate that results matter as an industry.
19 Across the bottom I mention the effectiveness
20 tools. That's how you assess your maturity score
21 for safety management systems. So are you
22 conforming? Doing the maturity assessments,

1 doing the things the systems and the tools that
2 SMS provides to you? But then how effective are
3 you, in addition to that? Gives you your overall
4 maturity score. So an organization has an
5 opportunity to reach a maturity score of five
6 when you combine those two together.

7 And again, the principle behind that
8 is we need to make sure we're improving and
9 getting better on every process that exists in
10 our organization to drive safety, but we also
11 need to demonstrate results behind that. So
12 that's how we tied those two pieces together.

13 So the industry really has four kind
14 of pillars or four things that we're working on
15 as a team to help move the needle for the
16 implementation of safety management systems. And
17 I'll go into each of these, a little more detail,
18 later.

19 The first one is increase industry
20 participation. So that's getting people to the
21 door. The second is increasing external
22 engagement, so being here today is an example of

1 that, and we're committed as an industry team to
2 continue to provide updates to this group and
3 PHMSA in general. NTSB as well. Support for
4 operator journeys is the third pillar of this.
5 And that's for the operators that are already in
6 the game, and what tools can we continue to give
7 them? So we want to make sure that we're
8 providing that support that they need as they get
9 further involved.

10 So again, the first pillar is foot in
11 the door. This pillar is, now that you're here
12 and you're invested, what tools or what other
13 support do you need to continue your journey?
14 And then the last piece for the Industry Team is
15 providing that governance and oversight just to
16 make sure that 1173 is up and functioning
17 properly, that the Industry Team is alive and
18 thriving, and we're accomplishing our objectives.
19 So obviously, to -- for SMS implementation to be
20 successful, one of the most important pillars for
21 us getting the word out.

22 So the list on the screen are events

1 that have transpired over the last couple of
2 years, where we've been able to present to
3 companies, to operator companies, and help
4 support that engagement from them. So things
5 like AGA workshops and the API annual conference
6 that already existed -- we've found a significant
7 role in those conferences to help support this
8 program. Same with pipeline conferences. The
9 APGA Ops Conference, so that's one I mentioned I
10 spoke at a couple weeks ago. Pipeline Leadership
11 Conference.

12 We're also completing an annual survey
13 each year that gives the data that you'll see
14 coming up in the presentation. So we just rolled
15 that out for '19, so we're in the process of
16 completing that right now. But that's a really
17 strong touchpoint in how we get the data to
18 deliver the results that I'll talk about here in
19 a minute. The annual report is also driven from
20 that survey data -- we get a lot of good input
21 from that.

22 The last bullet on there is SMS

1 workshop. We have another one coming up,
2 December 4 and 5, I believe, in Fort Worth. So
3 that's a dedicated two-day workshop, just to
4 implementation of SMS, and we're seeing operators
5 really get engaged in that workshop. And again,
6 from the progress of SMS implementation, you
7 really see it play out in the workshop like that.

8 We're not talking about we need you to
9 participate anymore. We're talking about this is
10 how you move the needle, so you see that
11 transition in conversation. People are already
12 at the table, and now the conversation has
13 evolved to here's how you really continuously
14 improve. And they're learning from each other.
15 Breaking that workshop down by elements really
16 allows to get deep dives into each of those and
17 help support operators.

18 So a little more on '18
19 accomplishments. I know it's been a while since
20 the Industry Team came to the table, so I thought
21 I would spend a little bit of time on '18 and
22 '19. But in '18, the mission of the team was

1 making it real. So again, tying it back to what
2 operators already know, and then helping them to
3 support how they continue to go forward. So we
4 did a webinar series, we did workshops, started
5 to develop a third-party assessment program
6 that's still under development today. And then
7 hit hard -- or hit home the metrics that make it
8 real for organizations. So I mentioned that we
9 did the survey at the end of '18. So this data
10 comes from that survey. So again, we're in the
11 process of the '19 now, so this data is about a
12 year old. We anticipate these numbers to be
13 significantly higher on this survey that's going
14 on right now, but this is progress. So 50 -- on
15 the '18 survey, 50 more leadership commitments.
16 So this is leaders of organizations saying, "I'm
17 in. I'm invested. We're going to implement
18 SMS." Twenty-six more safety culture surveys, 43
19 more gap assessments. So gap assessments mean
20 not only is your leader committed, but we're now
21 doing something. We have performed a gap
22 assessments that tells us areas that we need to

1 continuously improve in. And then 47 people
2 doing -- or more people doing closure plans. So
3 those closure plans are -- how do I address the
4 gaps that were identified?

5 So here's a little bit more a deep
6 dive into some of those accomplishments, and I
7 won't spend a whole lot of time here. But when
8 you think about, from a standpoint of how do you
9 show that you're moving the needle, you've got 71
10 percent more people that have done a gap
11 assessment. So if nothing else, they're at least
12 having the conversation that says, "here's the
13 areas that we need to improve in, and we're
14 finding them before an incident finds us."
15 Timeframe to close -- people are thinking about
16 that, putting in their closure plans relative to
17 their gap assessments. Safety culture surveys --
18 88 percent of their respondents said yes. So
19 again, we're performing this survey right, and I
20 suspect that the data for the survey will
21 significantly increase this year, particularly on
22 the gas side.

1 So onto '19 accomplishments: so
2 continuing that effort or that mission to make it
3 real for the operators, continuing the one
4 industry, one goal, with the cross-industry
5 implementation team. We've done a webinar series
6 this year -- so two separate webinars that were
7 very specific on different elements of SMS and
8 how operators can implement them. So you see
9 even an increase in participation just between
10 the first one and the second one, but you're
11 talking about 171 operators that are now having
12 routine conversations about safety management
13 system.

14 We did a workshop in 2019: 87
15 attendees, presenters, and facilitators. Between
16 the APGA and API Conference, we've had about 200
17 plus attendees in that room. And again, when I
18 spoke at the APGA Conference a couple weeks ago,
19 the engagement, the involvement, people were
20 excited to hear about it. Gave them some
21 analogies back to the airline industry. They're
22 challenging each other. It's just a -- it's a

1 new day and a new approach, the excitement level
2 around this. So I was really, really happy to
3 see that.

4 We're looking at the voluntary third-
5 party assessment process that API is
6 facilitating. So this will be a standardized
7 approach to an assessment of your safety
8 management system program. They did two pilots
9 already this year. They have another coming up
10 at the end of this year that will allow us to
11 assess maturity of organizations and their SMS.
12 Implemented the metrics.

13 And then I mentioned already that we
14 have the annual survey going on right now. So,
15 looking forward to 2020, the plan for the
16 Industry Team is sticking with the four pillars
17 that I mentioned earlier. We have the annual
18 survey. We're looking at developing annual
19 awards for SMS. So I know API, for example, has
20 implemented SMS as an element or a framework for
21 their annual awards, specific to API, so that you
22 have to demonstrate implementation of an SMS and

1 effective program as framework to even submit for
2 their annual award. In addition to that, we're
3 looking at doing SMS-specific awards that would
4 be a cross-industry award to drive that
5 participation and bring operators to the table.

6 The last bullet on there is barrier to
7 entry determination, and that's really trying to
8 understand -- if an operator hasn't gotten
9 involved in SMS, why not? What is keeping you
10 from coming to the table, and what can we do to
11 help solve that problem? So we've catered some
12 of the questions in the implementation survey
13 this year to help us figure out what those
14 barriers to entry might be. So it's no longer
15 "are you participating in SMS," and the answer's
16 no, and you're done with the survey. You still
17 have a number of questions to answer, even if you
18 say no.

19 The second pillar: ensuring proactive,
20 external engagement. So we were joined by Alan a
21 couple weeks ago at one of our meetings. We want
22 to continue that conversation -- same with

1 Pipeline Safety Trust. We have the newsletter
2 that goes out. We have the annual report that
3 goes out -- that's a result of that survey. For
4 this year, we're looking at a website enhancement
5 to, again, refresh that and bring folks back to
6 the website if it's been a little while since
7 they've been there.

8 And then supporting PHMSA
9 reauthorization. On the ongoing support side, as
10 we talked about earlier, SMS needs culture and
11 culture needs SMS. We want to provide operators
12 with a tool to do a culture survey across their
13 organization so they have a better idea or a
14 better sense of what their safety culture, and
15 provide them a mechanism to do that, and then
16 we'll be able to kind of compare across industry,
17 too, on the results of that survey.

18 I already talked about the third-party
19 assessment through API. And then the education
20 front: we'll continue those workshops that I
21 mentioned earlier. The goal is to have three for
22 next year -- or sorry -- one workshop and three

1 webinars for next year. So again, continuing
2 that cadence of communication with operators and
3 giving them the tools that they need to learn.

4 And then the last pillar is again just
5 ensuring that the Industry Team continues to
6 function properly and that we have the structure
7 and membership and the folks in place to help
8 drive this, going forward.

9 Okay. So while we're pulling up the
10 video, I thought I would give you kind of an idea
11 of the thought behind this. So this video was
12 put together for Marathon and Shawn was nice
13 enough to share it with us here today. So
14 essentially the idea behind this video is an
15 internal communication for their employees to
16 help understand what a safety management system
17 is. So a lot of operators fall into the trap of
18 trying to teach their employees how all of this
19 works, but it's really hard to explain unless you
20 put it in context of an actual event or
21 preventing an event. So a number of operators
22 like Marathon use tools like this to help their

1 folks really rally around a safety management
2 system and how it can help -- again, make it
3 real, so they understand the context between
4 continuous improvement and driving to zero.

5 So again, appreciate Shawn letting us
6 share this video today. So thank you.

7 (A video was played.)

8 MS. KOLAR: Do we have time for
9 questions?

10 MR. DANNER: Yeah, we have time for
11 questions. Are there questions for Angie? Okay.
12 Do you want to start with a comment before we
13 start questions? Okay.

14 MR. MAYBERRY: Wow. That was awesome.
15 Thanks, Shawn and Angie.

16 Like Angie had mentioned, I've
17 recently been updated by the group that's working
18 jointly to measure implementation, among other
19 things, and I was quite impressed. I'm glad to
20 see that. You know, when we were talking earlier
21 about R&D, it's also our intent to bring SMS
22 before, before both committees to really keep you

1 informed on how things are going with
2 implementation. And also it will help us -- it
3 will be one of the ways we measure and track the
4 success of implementation of SMS. So look
5 forward to that in future meetings, along with
6 the R&D update as well.

7 MR. DANNER: Okay. Great. Well, we
8 have some questions. Start with Sara, and then
9 Chuck.

10 MS. LYLE: Thank you. Thank you so
11 much for that presentation, but there was one
12 thing that I wanted to point out: that I think
13 that, you know, it's really important --
14 particularly when we consider the public and
15 public perception on these things, which is this
16 was a systematic failure, not a one-piece
17 failure, and I just think that that's worth
18 thinking about.

19 You know, when we talk about damage
20 prevention, you know, we often divide the world
21 up into pieces. But this one -- you know, there
22 were a series of things that went wrong that

1 added up to almost, you know, a catastrophic
2 situation. Luckily, it didn't, but you know,
3 when we think about public perception and public
4 impact, we also have to remember that everybody,
5 right, is part of a process, and to think, you
6 know, to think more globally about it. Right?
7 Everybody did sort of, you know -- was operating
8 in their own lane, and sometimes you have to
9 think about the entire road, not just your piece
10 of the puzzle. Thank you.

11 MR. DANNER: Angie, do you want to
12 respond to that?

13 MS. KOLAR: That's actually one of the
14 things that I'm most excited about with SMS and
15 some of the conversations that are happening now,
16 is that co-company interaction -- so when we have
17 things like the PIX Conference that we just had a
18 few weeks ago -- the opportunity to learn from
19 each other and engage with each other.

20 So I know at Colonial what we brought
21 back from that was a series of action items that
22 we learned from hearing about ... of other

1 operators, this video included ... to say, "what
2 can we do differently as an organization to learn
3 from them and create action plans associated with
4 that immediately -- again, learning from others,
5 not just our own incidents?"

6 MR. DANNER: Okay. Chuck?

7 MR. LESNIAK: This is Chuck Lesniak
8 with this committee. This was great stuff. The
9 numbers that you put on the 2018 percentages, I
10 assume those were year-over-year changes?

11 MS. KOLAR: Correct. Year-over-year.

12 MR. LESNIAK: And so do y'all have a
13 sense of what the penetration in the industry by
14 sector, and sort of overall by the industry as a
15 whole, and then by the -- you know, the different
16 sectors?

17 MS. KOLAR: We don't for '18, but we
18 will for '19. So when they structured the survey
19 -- the '19 survey that's out right now -- the
20 questions are much more in line. So some of
21 these questions were not asked across all types
22 of industries in previous years, but they were in

1 '19, if that makes sense. So we'll be able to
2 compare across the different faces when we get
3 the results from the '19 survey.

4 MR. LESNIAK: Do y'all have a sense for
5 just kind of across all sectors? Are y'all at
6 five percent of the operators out there? Or
7 you -- and I know it's early in adoption of SMS.
8 It's just -- you know, it's just kind of coming
9 together. But do you have a sense of where
10 you're at? One percent? Five percent?

11 MS. KOLAR: Definitely significantly
12 more than that. I would -- I don't have good
13 numbers for you, though. We will after we have
14 the '19 survey. But it's significantly higher
15 than one or five percent in all sectors.

16 MR. LESNIAK: Okay.

17 MS. KOLAR: Do you have a number?

18 MR. LYON: Yeah. I'll just show it to
19 you. I think, Chuck, on the liquid side, we're
20 at about 97 barrel miles are committed to SMS,
21 and on the gas side, that momentum and commitment
22 to it is greatly raising. I don't have an exact

1 number, and that's what Angie is referring to on
2 the survey. But I can tell you it -- the
3 momentum is greatly increasing on the gas side.

4 MS. KOLAR: So back to the APGA
5 Conference that I mentioned that I spoke at, even
6 just -- the room was literally full. I mean, it
7 was standing-room only in there, and Aaron took
8 kind of an unofficial poll of the folks in the
9 room that are implementing -- or that this was
10 the first time that they had heard of this, and
11 the numbers were very low on the hands that went
12 up as far, you know, kind of we're not doing
13 this yet. So, informal results, but I don't have
14 a percentage today.

15 MR. DANNER: A follow-up to that: are
16 you tracking this? I mean, so when you talk
17 about 97 percent yes, we know that's 3 percent
18 no. And you know who they are, so that even
19 though this is voluntary we can help them
20 volunteer?

21 MR. LYON: Do you want a list?

22 MR. DANNER: Well, I don't, but I

1 just -- you know, I'm just wondering what the
2 outreach to make sure, because it sounds like 100
3 percent should be the target, and it would be
4 great if it were.

5 MS. KOLAR: The survey does ask for
6 operator name.

7 MR. DANNER: Okay. Sara, your card?
8 Oh, do you have another question? Oh, okay,
9 okay. Ron?

10 MR. BRADLEY: Ron Bradley from PECO,
11 and thank you for the presentation -- it was
12 excellent. And I don't have the exact answer,
13 but I will tell you this -- that the American Gas
14 Association member companies, at the most recent
15 board of directors' meeting, all agreed to
16 implement pipeline safety management systems
17 across the board. So there's a 3-year march.
18 People are moving in a pretty good -- so it's not
19 a blank -- we'll get there when we get there.
20 There's a 3-year march. My challenge is to do it
21 much sooner than that. So we'll get there. It's
22 a really strong commitment across the industry.

1 I wanted to share that.

2 MS. KOLAR: And I mentioned this
3 earlier, but I think it's worth mentioning again.
4 In those rooms when those conversations come up,
5 you're seeing the operators challenge each other
6 to do it now, and supporting them and saying,
7 "Yeah, we did our gas assessment. It's really
8 not as bad as you think it is. Just do that as a
9 starting point." So it's not just the industry
10 trade association or the Industry Team pushing.
11 They're pushing each other, and I think that's
12 critical.

13 MR. LYON: Yeah. Mr. Chairman, may I
14 just comment on that? I can tell you, the
15 association participation and the team and
16 support has been outstanding across all the --
17 the logos you see up there. It's not just a
18 check the box. They're really invested in that,
19 and the members that are part of those
20 associations are definitely coming along in
21 different formats. And that's the flexible ...
22 scalable of what fits for purpose for each of

1 those segments, and it's inspiring when you're at
2 some of those meetings.

3 MR. DANNER: Great. Thank you. Sara?

4 MS. GOSMAN: So you had a slide with
5 some metrics, and one of them was -- said IPE on
6 it. I wonder if you could go back to that slide,
7 because I wasn't sure what that was?

8 MS. KOLAR: I'll let PHMSA elaborate,
9 but it's essentially the incidents that have an
10 impact to the public or environment. It's a
11 PHMSA metric that we use to track release data.

12 MS. GOSMAN: Great. Okay. And then
13 the second question for you is: is any of this
14 data available to the public, or have you thought
15 about that? Because I think part of what you're
16 trying to do here is obviously manage risk
17 internally to the industry --

18 MS. KOLAR: Uh-huh.

19 MS. GOSMAN: -- right -- and part of
20 it is explaining to the public why this might
21 work.

22 MS. KOLAR: Specific to what? Which

1 pieces of data? The effectiveness scores or just
2 generally speaking?

3 MS. GOSMAN: So you're measuring
4 effectiveness with all three of these. Right?

5 MS. KOLAR: Uh-huh.

6 MS. GOSMAN: So yeah. All three pieces
7 of data.

8 MS. KOLAR: So the row across the top,
9 where we get the 3-year average information -- a
10 lot of that data is already available on the
11 PHMSA website. It's just not tied back to SMS,
12 per se. The conformance score across the bottom
13 is a company's internal assessment of its
14 maturity score, so those are not released
15 publicly.

16 MS. GOSMAN: Okay. Can I ask a follow-
17 up question, too? So the green in the bottom is
18 not related to the green at the top?

19 MS. KOLAR: Correct.

20 MS. GOSMAN: Okay, okay. That helps
21 me.

22 MS. KOLAR: Yeah. That is a little

1 deceiving, looking at it in this near format. So
2 those are independent things: the three across
3 the top, the right-of-way incidents, the PHMSA
4 IPE and the OSHA injury rate. Those metrics
5 combine to give you your effectiveness score on
6 the bottom.

7 MS. GOSMAN: Okay. Yeah.

8 MS. KOLAR: Does that make more sense?

9 MS. GOSMAN: Yeah. So just back to the
10 point I think I was trying to make earlier: I
11 feel like maybe this data independently is out
12 there, but --

13 MS. KOLAR: Uh-huh.

14 MS. GOSMAN: -- if part of what you're
15 doing is trying to create a score that measures
16 the effectiveness of this particular program, I
17 think that data would be helpful to explain the
18 program to the broader public.

19 MS. KOLAR: Okay. So publishing the
20 effectiveness score. Okay. I'll take that back.

21 MS. GOSMAN: Yeah. I mean, if you
22 think that score -- if you can pull out the other

1 possible causal factors.

2 MR. DANNER: Okay. Alan?

3 MR. MAYBERRY: Your intent is to have
4 this reported out at each meeting, really to --
5 for that very purpose, Sara, to really see the
6 implementation. I thought that was very
7 important, you know, to be able to show.

8 We're promoting this as voluntary.
9 You know, people are really taking it to heart.
10 I'm really heartened to see that that is -- it
11 seems to be happening. But the metrics will
12 really show that, and I think for them to be
13 meaningful will be very helpful, and to use this
14 form, really, to -- where the public is invited,
15 you know, to really demonstrate. Because I keep
16 saying, and people know this -- we're one bad
17 accident away from probably mandating something
18 like this. In fact, there's been a lot of
19 discussion related to mandating it, even in the
20 aftermath of Merrimack Valley.

21 But yeah, I think, you know, we're
22 really trying to hold steadfast at -- hey, let's

1 don't create a minimum federal standard for SMS.
2 It's just too soon. We need to really enable
3 this to be implemented rather than creating a
4 minimum standard that people, you know, stoop to,
5 if you will. So we'll keep measuring it and
6 bringing it back to you, and you know, just to
7 show you that. And I think that work is going to
8 be important -- you know, as things do happen --
9 that we show that, you know, the industry can
10 show that, you know, they've taken this to heart.

11 MR. DANNER: All right. Thank you.

12 Mary?

13 MS. PALKOVICH: Mary Palkovich,
14 Consumers. Just a plug for Angie and the entire
15 industry working group. Well done, good job.
16 I've just joined that working group, and as we
17 get better, more effective, and more
18 knowledgeable, and get more companies moving on
19 the path, it will be leaders like Marathon, that
20 put out that nice video, and then also
21 transparency and people being willing to share
22 near-misses, and that speaks to the VIS, and how

1 this is all starting to tie in quite nicely.

2 But I was also going to just add there
3 is some other publicly available information, and
4 that is on the pipeline SMS, which is public.

5 So --

6 MR. DANNER: All right. Thank you. I
7 had a question about the third-party
8 verification. Who -- how do you vet the third
9 parties? How do you identify the third parties
10 and fund them? Can you give us a little more on
11 that?

12 MS. KOLAR: So this is a program that's
13 under development via API. Very similar, I would
14 say, to the process safety assessment programs
15 that they currently have in place. So it would
16 be funded by the operator, the operator would pay
17 for the assessment for API to come out and
18 perform this assessment. And the way API is
19 vetting their assessors, again, very similar to
20 what they would do for their process safety
21 programs.

22 I pointed out that they've done two

1 pilots. Colonial was one of them, Marathon was
2 one of them. They've got a third coming up very
3 soon, and what we're trying to make sure that the
4 program provides is the right level of
5 effectiveness review, not necessarily a tactical
6 audit approach. And somebody mentioned this
7 morning, making sure that you're actually
8 auditing the effectiveness or assessing the
9 effectiveness of a program, as opposed to
10 checking the paperwork. So that's the type of
11 assessor that they're looking for as part of
12 their program -- is to come in and help a company
13 mature in their SMS implementation at the same
14 time that they're measuring effectiveness.
15 That's the need for the ongoing pilots that API
16 is performing, is to make sure that that
17 structure is right and that we're striking the
18 right balance and providing support for operators
19 as we're all beginning this journey.

20 MR. DANNER: All right. Thank you very
21 much. Are there any other questions for Angie,
22 any other comments?

1 (No response.)

2 MR. DANNER: All right. Thank you very
3 much. We are at 5 minutes after 3:00. We're
4 going to take a short 10-minute break, and come
5 back for our last agenda item, Number 7, on
6 public awareness and engagement. So see you back
7 here in 10 minutes.

8 (A short recess was taken.)

9 MR. DANNER: Okay. Welcome back,
10 everybody. So now we're going to move to Agenda
11 Item 7, and this is a briefing on public
12 awareness and engagement. And Dr. Christie
13 Murray, who is the Director of Outreach and
14 Engagement at the Office of Pipeline Safety, is
15 here this afternoon, and she is going to lead off
16 the discussion. So Dr. Murray, I'll turn it over
17 to you.

18 DR. MURRAY: Thank you very much.
19 Again, I'm Dr. Christie Murray, and I oversee our
20 Office of Outreach and Engagement. We work a lot
21 with areas, externally phased work for the Office
22 of Pipeline Safety, a lot of communicative work.

1 You may have heard of our community liaison
2 program. We go out and we interface with a
3 number of stakeholders on a number of pipeline
4 safety matters.

5 What brings me here today -- and I do
6 realize that I am probably the difference between
7 separating you and getting off to enjoy the rest
8 of your evening, so I want to make sure that I
9 move and share things in a manner that will help
10 you to do that. But I want to talk a little bit
11 about public awareness and engagement and talk a
12 little bit about what PHMSA has been up to, and a
13 little bit about the industry and where we're
14 going with some of these activities.

15 And then toward the end, I want to
16 leave a little bit about Carl Weimer and the
17 Pipeline Safety Trust. They are an engagement
18 group they stood up with the technical assistance
19 grant earlier this year. And several of your
20 committee members -- I know Chuck and Shawn both
21 participated on that with me, and I want to give
22 them an opportunity -- and if Carl is on the

1 phone at that point -- to share some key
2 takeaways from that engagement effort.

3 So one, I want to just talk a little
4 bit about public awareness. I'm going to start
5 with public awareness, and then I'm going to move
6 into engagement briefly. Well, first, if you
7 think back over our industry -- and, way back in
8 2003, the industry published the API Recommended
9 Practice 1162 regarding public awareness so that
10 pipeline operators understood how to develop and
11 implement and measure effectiveness of their
12 public awareness programs. That RP was
13 incorporated into our gas and liquid regulation
14 around 2005 timeframe, and, at that point,
15 operators really ramped up their efforts to
16 develop and implement a program, and disseminate
17 and share a lot of useful pipeline safety
18 information and messaging.

19 And then, roughly around 2010 -- a
20 little bit before 2010 -- NTSB had a
21 recommendation for PHMSA to specifically go out
22 and take a targeted look at pipeline companies'

1 public awareness programs. So operators ... it
2 was right around the time they were measuring
3 their programs for effectiveness, and then PHMSA
4 put together a program -- and so did the states -
5 - and targeted public awareness and went out and
6 looked at a lot of programs. So roughly from
7 2011 to 2015 that happened, and it's still going
8 on today. Those same protocols are used for
9 inspections across the country, so it's an
10 ongoing and continuous effort to look at
11 compliance with public awareness.

12 But what really came out of all that
13 work for industry, for regulators, and for others
14 was an opportunity to learn how well public
15 awareness was taking place across the industry
16 with continuous improvement. And around
17 2015/2016, PHMSA led an effort -- really an
18 industry-wide effort -- to get stakeholders
19 together to look at public awareness, what we
20 learn from inspections, what did operators learn
21 from their effectiveness evaluations of their
22 programs, and to really come together and talk

1 about what are the strengths, weaknesses,
2 opportunities, and threats regarding public
3 awareness. And out of that effort, a SWOT
4 Analysis Report was produced and it's still
5 published on PHMSA's website today. And from
6 that effort ... so just ... I'm going to pause
7 and say, if you notice the first edition -- I
8 mentioned the first edition was incorporated by
9 reference into PHMSA's regulation. And, in a
10 minute, I'm going to talk about the third
11 edition. But what I didn't say was that the
12 second edition was published by API; however,
13 PHMSA made a conscious decision not to adopt it.
14 We hadn't gotten to the point where we had
15 conducted those targeted inspections. We thought
16 that there was some opportunities already to
17 improve public awareness, and we wanted to wait
18 until we got further down line to really
19 understand how some of those improvements could
20 fit into what we're doing now.

21 And so we're actively working -- API
22 is actually teeing up right now. We are

1 rewriting the third edition, and PHMSA is
2 certainly at the table, participating and sharing
3 some of the items of interest for our agency as a
4 part of that process. And we've pretty much been
5 working over the last year or so, and will be
6 working into 2020, drafting and refining the
7 third edition of the RP. We always get this
8 question when we come out and speak: will PHMSA
9 adopt the third edition? It's, like, one of
10 those reality shows where you're waiting to see
11 what happens with the next episode. And the
12 question is -- the answer to that question is
13 maybe. And I know that's probably what you were
14 expecting.

15 And we're really reserving our overall
16 decision to adopt or not adopt based on the final
17 output of the RP, some of the concerns we've
18 raised being addressed, and, ultimately, it will
19 be PHMSA's decision on what that process will
20 look like next. So I want to just go ahead and
21 answer that question up front. But if you look
22 at this diagram, it really just shows you that

1 it's an evolutionary process with public
2 awareness.

3 We certainly want to improve,
4 collectively, for safety purposes, and to make
5 sure that we are building in those lessons
6 learned back into the process. And some of the
7 conversations we've heard earlier today certainly
8 tie back to public awareness, and even Mr. Hall's
9 NTSB conversation around emergency responders,
10 sharing information, listening -- you know,
11 differently -- about some of those things as we
12 were taking on this work.

13 So more is to come with 1162. I'm
14 going to share toward the end of my presentation
15 some of the considerations we have noted, and we
16 would like for the rewrite team to take a look at
17 and consider as a part of the work that they're
18 doing.

19 So there has been a lot of focus, as
20 you can tell, on public awareness over the years.
21 And PHMSA, certainly, and the industry has
22 certainly spent a lot of efforts reaching out to

1 the public, the excavator community, emergency
2 response officials, and local public officials in
3 many different ways. Most of the public
4 awareness initiatives that I've previously talked
5 about this afternoon were really around pipeline
6 operators' requirements to comply with federal
7 regulations. What is it you have to do to really
8 inform these stakeholders of how to identify and
9 recognize hazards and risks -- and, equally
10 important, what actions they should take to stay
11 safe around pipelines? So that's really been
12 where a lot of focus has been.

13 I can tell you that, as we move into,
14 you know, the conversation around engagement,
15 there have been some noticeable gaps between
16 public awareness and engagement. At times --
17 I've been with PHMSA for about almost 10 years --
18 we've almost used public awareness and engagement
19 synonymous for each other. And what we've
20 learned through a lot of robust discussions is
21 that they are related and complementary, but
22 there are some clear distinctions between

1 awareness and engagement, and I'll talk a little
2 bit about some of those distinctions.

3 Next, I'll just share that, earlier
4 this year -- this summer -- PHMSA did host a
5 public awareness and engagement workshop in
6 Washington, D.C., back in June. And I wanted to
7 share just -- I'm not going to read all of these
8 considerations, but these were some of the key
9 takeaways from that workshop, and I thought it
10 was important to circle back around to say we
11 listened. There were some great discussions that
12 took place, and then talk about some of the
13 actions that have come out of what we heard
14 back -- from back in June.

15 So there was a general consensus that
16 there are some gaps between public awareness and
17 engagement, as I just mentioned. Public
18 awareness, generally speaking, is really about
19 how do you provide information around safety to
20 those who may not be informed or need additional
21 information? And the distinction with the
22 engagement part is stakeholders want more

1 involvement. They want more two-way dialogue.
2 They want to know that their input and their
3 perspectives matter, is being heard, and possibly
4 even factored into the decision-making process.
5 So those are the key two distinctions. There was
6 a lot of conversation around the need to have
7 constructive but difficult dialogues. You can't
8 just shut down the dialogue because it's, you
9 know, it's not information that's comfortable to
10 talk about. It's all important when it comes to
11 safety.

12 And then there was a sentiment that
13 there was a strong us-versus-them power
14 imbalance. And we hear that periodically in our
15 industry, where some stakeholders who are not
16 pipeline operators will say that, you know,
17 there's a predominate of pipeline operators
18 represented or their interests represented, but
19 we want to make sure that the other interests of
20 other key stakeholders have an equal voice in
21 those conversations. So we definitely heard that
22 sentiment.

1 And then we heard from not just our
2 public workshop from this year, but from the past
3 few years, there's been a lot of interest in
4 having an annual forum where you can get together
5 and talk about awareness and engagement issues
6 each year. So that's something that I think
7 PHMSA is certainly thinking about doing in the
8 future.

9 And then I'm going to break out public
10 awareness ... some of the things that came out
11 regarding, you know, operators. Some operators
12 generally look at public awareness as, you know,
13 being more compliance-focused, but certainly
14 we've seen a lot of examples of operators going
15 over and beyond just the minimum compliance
16 requirements in their programs. We talked at --
17 I think it was Massoud and Alan who talked at the
18 workshop about damage prevention and how just
19 calling 811 and putting in One Call tickets is
20 not enough to move the needle to reduce
21 excavation damages -- that we need to look at the
22 52 percent of the damages that happen after

1 notifications submissions have been made. And
2 what does that point to? And we're seeing
3 indications certainly related to safe digging
4 practices and sufficient practices taking place
5 or not taking place that should. Locate tickets:
6 are folks coming out and actually locating in
7 areas? And seeing an uptick in areas where
8 ticket locates are not happening and they should
9 be. So we're, you know, taking that sentiment
10 back in our public awareness and engagement
11 efforts to try to understand how to influence
12 change with those. We also want to consider
13 expending our 811 messaging.

14 Someone mentioned, at the workshop, to
15 consider a national non-emergency pipeline safety
16 number -- just food for thought. And again, we
17 talked a little bit about the 1162 third edition
18 that's underway. From an engagement standpoint,
19 a lot of great sentiments. One that resonated
20 was engagement is situational. It may not need
21 to happen every day, but there certainly needs to
22 be an opportunity by all -- specifically pipeline

1 operators -- to engage with stakeholders who need
2 additional information and want to have a two-way
3 dialogue.

4 There is a lot of conversation
5 around -- there's a lot of different definitions
6 or what could be considered engagement versus
7 awareness, and how there may be an opportunity to
8 have a common definition and a common scope
9 around what engagement is for the pipeline
10 industry.

11 There's also a sentiment that
12 engagement should cover the entire pipeline
13 lifecycle -- something to think about. Public
14 awareness, and the RP 1162, for those who may not
15 be as familiar, it actually -- that scope of the
16 1162 in our regulation really focuses on active
17 pipelines and normal operations, but it doesn't
18 cover the level of engagement or communications
19 that could or need to happen as new projects are
20 being proposed, sited, constructed, are coming
21 into service, or changes with existing
22 infrastructure and operations. So I think that's

1 the sentiment of the full lifecycle of what
2 happens when a pipeline is being abandoned or
3 decommissioned. So looking at engagement more
4 specifically from the entire lifecycle
5 perspective.

6 There was a sentiment that there
7 definitely needs to be a willingness to engage.
8 Right now, the conversations have been around a
9 non-regulatory, non-mandated sort of initiative.
10 So not necessarily saying that engagement needs
11 to be a requirement like public awareness
12 currently is, but certainly an opportunity. And
13 I think it aligns well, and to my last bullet,
14 you know, with SMS where, you know, it certainly
15 highlights the stakeholder engagement
16 principle -- is really the essence of what I
17 think was intended with that. And then learn
18 from a lot of the successful and unsuccessful
19 examples of engagement. BP shared their culture
20 of care, which was a positive example of how
21 engagement worked for their organization. And I
22 think it was the gentleman from BP who spoke and

1 said engagement is relational, not transactional,
2 and that really resonated.

3 And then, lastly, differentiating
4 between PHMSA's role with engagement and FERC's
5 role with engagement. If you go out and you hear
6 somebody from a local community -- a landowner, a
7 homeowner, a resident -- who has questions and
8 concerns about any aspects of pipelines or
9 safety, they really don't generally care if it's
10 PHMSA's jurisdiction or authority or if it's
11 FERC's. They don't care if it's -- their issue
12 is siting, and PHMSA doesn't do siting. We're --
13 you know, our jurisdiction starts more with the
14 design construction requirements and operational
15 aspects of it. They really want to make sure
16 that they get -- we want to, you know, try to
17 help to make sure that -- and facilitate them
18 getting their questions answered nevertheless.
19 And so, looking at different ways in which PHMSA
20 and FERC can better explain our roles, figure out
21 where there are gaps, and as an industry,
22 identify how best to close some of those.

1 And then we talked about a concept at
2 the public meeting around possibly standing up an
3 awareness and engagement group. Purely
4 conceptual. There's still a lot of conversations
5 that will need to take place about how that could
6 work, but some of the sentiments from the public
7 meeting was that it should be shared control or
8 leadership. I think we had provided a draft of a
9 charter that specified that PHMSA would help to
10 shape and stand up the group, and then there was
11 certainly sentiment we heard quite eloquently
12 that it should not be a PHMSA-controlled group,
13 however this transpires in the future. Whatever
14 the group does, it needs to have a clear scope
15 and focus on pipeline safety matters, and
16 leveraging this group as an opportunity to take
17 on policy matters.

18 For example, we talked about the
19 upcoming RP that is API is working on. How do
20 you use these kind of environments where -- and
21 forums where you really want to get more public
22 involvement -- public input and others -- and to

1 some of the policy work that we all do, and have
2 that fed into it? And even if there's a need to
3 create new practices, making sure that maybe this
4 is a concept this group could look into more as
5 it pertains to engagement.

6 We also heard sentiment that the group
7 should be diverse, balanced. I talked a little
8 bit about that power dynamic, and I think this
9 certainly speaks to that. And considering how
10 public participants can participate and get
11 funded for travel to be able to participate in
12 these kind of activities. And I think we hear
13 that sentiment -- we take that sentiment back
14 with us.

15 So, with that being said, those were
16 some of the key takeaways from that public
17 meeting. Coming out of that meeting, PHMSA's
18 certainly working to expand our damage prevention
19 efforts and messaging, and looking at things
20 strategically, and figuring out how we can make a
21 greater impact. We're still considering -- and
22 Alan may touch on this a bit more -- about how

1 this concept of an engagement group could work.
2 And there's certainly others, even outside of
3 PHMSA, who's thinking about and may have some
4 ideas. And we are certainly still thinking about
5 holding an annual public awareness meeting, and I
6 think some of the feedback we'll be getting over
7 the next few months will help us to really shape
8 what that looks like in 2020. We're providing
9 input in the 1162 -- the third edition.

10 And I'm going to talk about these last
11 two bullets just briefly. And then we have the
12 opportunity this summer to participate.

13 And Carl Weimer, is that you who just
14 beeped in? Soon? He's coming soon, but I'll go
15 ahead and put a plug in for him. Carl Weimer
16 with the Pipeline Safety Trust used one of our
17 technical assistance grants to fund getting
18 together a group of diverse stakeholders across
19 the industry, including FERC, PHMSA, et cetera,
20 to come together and talk about engagement
21 holistically in the pipeline community. And I
22 want to talk and make sure that we give some of

1 the committee members a chance to talk about
2 their experiences with that.

3 One -- I'm not going to get into all
4 of the considerations, but I mentioned earlier
5 that PHMSA did sit down with API and the rewrite
6 team leadership and talked a little bit about
7 some of the things that were of importance and
8 interest as we're participating in the rewrite
9 efforts. And I just want to call about a few key
10 ones. The second bullet -- and the first and
11 second edition of 1162 is really silent on how do
12 pipeline operators address asset and operational
13 changes, particularly not just for the sake of
14 addressing them in communications with public
15 awareness, but, more importantly, if hazards
16 associated with changes to operations occur, how
17 do you make sure that you're accounting for and
18 communicating with those affected stakeholders?
19 And then what time periods are the minimum
20 requirements to be able to say, "Hey, we're
21 reversing a line or there's a new pipeline about
22 to start up soon or has just started up?" What

1 kind of communications need to take place? And
2 this is a new area where operators -- and across
3 the industry, you'll see discussions, and
4 hopefully, it will make it through the final
5 versions of the RP.

6 I'm going to jump down to the fourth
7 one. There's been a lot of talk across the
8 industry with collaborative efforts that's taken
9 place. The first two editions of 1162 really
10 didn't address how operators could do that
11 effectively. What are practical and appropriate
12 ways to do it, and what could be useful? And so
13 we certainly wanted to make sure that was part of
14 the dialogue, to give operators more insight into
15 useful and appropriate ways to go about
16 collaborating. Particularly with messages that
17 are repeatable, that are across the industry or
18 across multiple sectors, how can they leverage
19 that so that their affected stakeholders don't
20 have information overload with the same type of
21 messaging?

22 Let's see ... I want to jump down to

1 the second-to-last bullet, clarifying behavioral
2 change and intent and ways to measure it. The
3 first edition talked a lot about behavioral
4 change and how to measure it as a part of bottom-
5 line results for public awareness. You give
6 information to affected stakeholders, and how do
7 you know if it's actually changing behavior?
8 Operators struggle with this, because one of the
9 clichés we always hear is, "You can lead a horse
10 to water, but you can't make them drink."

11 But you want to make sure you get the
12 information and you shared how they should
13 respond and act, but if there's an opportunity to
14 measure behavioral change, continue to do so.
15 But what you'll see in the third edition is
16 a kind of a migration from behavioral change to
17 more focused on behavioral intent, which seeks to
18 still gauge how likely a stakeholder would
19 respond in a particular way based on information
20 that was shared, as opposed to having operators
21 on the hook or measuring or knowing that for
22 sure. It's very difficult to measure the change

1 unless you have some specific bottom-line results
2 that organically come out of your program that
3 they can speak to. So those are just some of the
4 key changes or at least considerations that PHMSA
5 has mentioned.

6 Some of the other ones that I didn't
7 talk about are direct reflections of things that
8 we saw from our public awareness inspections.
9 The only other one I wanted to mention was the
10 one that talks about improving guidance on
11 program evaluation and effectiveness. If I
12 recall back to all of the state and federal
13 inspections conducted in this area, this was
14 probably one of the weaker areas that operators
15 struggle with. How are they measuring whether
16 their programs are effective and the intended
17 results with their stakeholder groups have been
18 met? So there's been a lot of effort to focus on
19 measurement in the third edition of the RP.

20 Carl, are you on?

21 ***MI STOP**

22 MR. WEIMER: I finally made it.

1 DR. MURRAY: Well, perfect timing. So
2 last up, I want to circle back around. Carl, I
3 did tee up just briefly a little bit about your
4 engagement group, but I'm going to turn it over
5 to Carl to kind of give a little bit more
6 background on what happened with that group, and
7 then I'll just open it up for the committee to
8 share any takeaways they have. Thank you.

9 MR. WEIMER: Great. Afternoon. I
10 think I mailed all the committee members kind of
11 the...in kind of a nutshell for the past 6
12 months, through a TAG grant from PHMSA, the
13 Pipeline Safety Trust brought together
14 stakeholders from regulatory agencies, the
15 industry, and a variety of public stakeholders
16 that kind of talk about the gaps in public
17 engagement.

18 While public awareness is a good
19 effort at pushing out lots of important
20 information that the public needs to know about,
21 there's also lots of things the public wants to
22 know about, and we haven't really filled that

1 void yet. Even within SMS, there's a section
2 about public engagement that hasn't really been
3 well-defined yet. So we put a bunch of smart
4 people in a room from all those different
5 stakeholder groups and asked them to help us
6 define what public engagement really is, and
7 identify, you know, barriers to public
8 engagement, and then a list of issues that the
9 public's really interested in engaging on. And
10 that's kind of what is summarized in that next
11 step document that you should all have.

12 You know, Shawn, there around the
13 table, and Chuck, there at the table, and
14 Christie attended most of those meetings, so they
15 can fill you in if you can hear them better than
16 you can I, but that was our effort. And one of
17 the recommendations that came out of that effort
18 after those meetings was, you know, how to move
19 this forward. And our best thinking on that was
20 kind of a combination of things.

21 One was that for PHMSA to take some
22 leadership in forming some kind of workgroup --

1 either a subcommittee, these technical
2 committees, or working group of the technical
3 committees -- to start working on some of the
4 issues that really pertain to PHMSA and make
5 recommendations that then perhaps could be handed
6 off to somebody that's trying to populate the
7 recommended practice that would go along with the
8 safety management system, this part on public
9 engagement. So that's what we were hoping we
10 could get the technical committees to talk about
11 today: whether there's any interest in that and
12 how we could probably move forward on forming
13 such a group. I'm glad to answer any questions.
14 That's it in a nutshell. And, like I said, Shawn
15 and Chuck were very involved with that, so they
16 can certainly weigh in, too, if they have some
17 thoughts.

18 MR. DANNER: Shawn or Chuck, do you
19 want to weigh in?

20 MR. LESNIAK: Sure. I'll go first,
21 although I'm normally very shy about speaking out
22 on anything. The engagement group was really

1 good, and this is something that, you know, I've
2 thought a lot about over the years and it's
3 something that, in my career, I've done a lot of
4 public engagement in sort of controversial
5 situations where risk communication was involved.

6 And you know, sort of the takeaway for
7 me was the -- on the public engagement group --
8 is that we really did a good job of kind of
9 nailing down key issues. Who were the key
10 stakeholders that were involved?

11 One of the things that was really,
12 really clear is that a lot of this -- FERC needs
13 to be at the table, and whatever comes out needs
14 to include FERC as -- with a role for them. I
15 think that was crystal clear. And that
16 obviously, issues with gas pipelines. But they
17 just have such a significant role, particularly
18 on siting. It's just -- you know, and that's
19 where I think one of the big areas that
20 engagement process is broken.

21 But also what was clear to me is that
22 we had a lot of bright people in the room. We

1 had, you know, pipeline experts, government
2 folks, lay people -- is -- but what was clear to
3 me is that this is not rocket science. And that
4 engagement process -- engagement in these kind of
5 situations on -- for pipeline development,
6 pipeline operation, post-incident engagement, in
7 all of those areas, we're really falling down at
8 the job, and in an area that we shouldn't be,
9 because this is not developing an RP for
10 something that's new to the world, that's new to
11 this industry.

12 There are people in this industry that
13 do it well. There are organizations that aren't
14 pipeline-related at all that have already
15 developed best practices for public engagement
16 and how to do that, and those can, I think,
17 easily be fitted for this industry. And so I
18 think, you know, my takeaway was that, in
19 relatively short order, that -- or my opinion is
20 that, in relatively short order, that we should
21 be able to put together best practices and
22 guidance for the industry.

1 My suggestion is that, out of this
2 public engagement group we saw, I think, three
3 separate processes, but one is -- there's sort of
4 a primary process for the pipeline industry that
5 will cover most areas. And I think that ought to
6 be PHMSA-led. I think that there's a couple of
7 ways to do that. I think that PHMSA can stand up
8 a working group, kind of on the PIPA model, not
9 that big and bulky -- that was a very unwieldy
10 process. I think we had 100 people on that
11 committee. There were -- I chaired a
12 subcommittee and there were, like, 30 people on
13 that. Let's not do that.

14 Alternatively, I think it could be a
15 subcommittee of these PACs -- the two PACS --
16 that we could bring people together that way.
17 We've got all -- we've got most of the
18 stakeholders on these two committees. And I
19 think, coming out of that, I think that if -- I
20 know how this industry works. The RPs carry a
21 lot of weight, and that's how it gets sort of
22 implemented, non-regulatory initiatives get

1 implemented across the industry. And I think
2 that could be turned -- whatever comes out of
3 that working group or subcommittee or whatever it
4 is could be turned over to be developed into an
5 RP and adopted by the industry associations
6 pretty quickly, particularly if those member
7 organizations are part of that working group.

8 You know, I think it's a little
9 reversed from how we normally do things. Things
10 usually come out as an RP. They get adopted by
11 the industry...later on they get adopted by PHMSA
12 or FERC or whoever is either, you know, guidance
13 or regulation. You know, I think we ought to
14 turn that around on this, because what we're
15 trying to do here with engagement is build public
16 trust. That's what this is all about, is -- the
17 general public does not trust the industry to a
18 certain extent. They don't trust FERC. They
19 don't trust PHMSA. And so what we're trying
20 to -- but I think they trust the regulators more
21 than they trust the industry. So let's not have
22 an industry-led initiative. Let's start this

1 with a PHMSA-led initiative, and then the
2 industry adopt it and incorporate it into their
3 normal processes, which I know is a little
4 different than how things are normally done. But
5 I think that we get buy-in from the public better
6 that way.

7 And then, the last thing -- and this
8 is just to reiterate what Christie said -- is
9 that also part of this is we're trying to level
10 the playing field. That in making sure the
11 public has a robust level of participation in
12 this process is important, and removing barriers
13 to that participation is really, really critical.
14 And you know, it will be one of the things that
15 are in the best practice for public engagement,
16 so let's make sure we include that in our public
17 engagement development process.

18 So those are the main points that I
19 wanted to make. But just to give some kudos to
20 Carl for leading this, and to Christie who kind
21 of kicked this off earlier in the summer. You
22 know, I think most -- we've already had a lot

1 of -- we did a deep dive on this, and this is --
2 we can do this pretty quickly. This should not
3 be a 3- or 4-year-long process, you know. If it
4 wasn't for the bureaucracy, you could do this in
5 6 months. If this takes 2 years, we failed, in
6 my opinion. So I think somewhere between 6
7 months and 2 years this ought to be able to be
8 done.

9 MR. DANNER: Shawn, did you want to
10 weigh in?

11 MR. LYON: Yeah. Just real quick. So
12 Shawn Lyon, Liquids. So Carl asked me to be on
13 this team and, interesting, when they literally
14 lock us in the room, and we talk about public
15 engagement.

16 A couple of things that came away from
17 this: it took us a while to divorce public
18 engagement from public awareness, and they're two
19 separate things. Now, they're complementary to
20 each other, but they're two separate things. And
21 the reason that fact is important, I think, as
22 operators, and this goes to Chuck's point -- we

1 think of tens of thousands of landowners. Right?
2 Geography. You get lots of mileage. You get
3 lots of landowners. So we think of programs.
4 Engagement is completely different. First of
5 all, not everyone wants to engage, and if you
6 look at the data, and we've surveyed some of our
7 landowners, only about 30 percent want to engage
8 in different forms.

9 And then you break that down further.
10 We all have the data of which ones do you need to
11 go and engage with by risk or higher priority.
12 You have that, we have that. So it's more
13 simplistic than actually a public awareness when
14 you send it out, and it's, like, boy, it's so
15 big. I just can't imagine knocking on everyone's
16 door. That's not what we're doing. I think
17 that's what we all as a group finally got to. So
18 that's the first thing.

19 The second thing I think that came out
20 is -- you saw the importance of how, when we all
21 do get in a room and really listen and talk to
22 each other, you come to a good spot. And after

1 three 1-day sessions, we came to a good spot.
2 Did everyone get exactly what they wanted? No.
3 But for pipeline safety, we came to a spot where
4 we say, you know what? This is moving in the
5 right direction. It's a journey, not a
6 destination. And that's really why, I think, one
7 of the recommendations is to develop a
8 recommended practice that fit under SMS -- like
9 what Angie talked about -- that builds that out,
10 because the goal of SMS is drive to zero,
11 pipeline safety. It's not about compliance.
12 It's about doing the right thing, and that's
13 what, really, the collaborative group came to in
14 a very, you know -- three 1-day meetings. It
15 didn't -- it wasn't all that long. And so I
16 think it's going the right way and we've just got
17 to keep -- what's the next step to make that
18 become where it's very achievable?

19 The other thing I would say: it
20 involves -- you know, there was liquids. There
21 was gas, distribution, transmission there. So it
22 was all the industry there, because anyone you

1 asked -- hey, I've got a piece of steel in my
2 backyard. They don't necessarily know what it's
3 carrying or not, and they just want a chance to
4 either be aware or be engaged. So that's it.

5 MR. DANNER: All right. Alan?

6 MR. MAYBERRY: I'd just like to say
7 thanks, Carl, for, you know, proposing this
8 project. And I was involved in the prior project
9 on a panel discussion. I thought this very
10 helpful as you look to find ways to engage and
11 educate the public.

12 I know Christie's heard me say this,
13 and Massoud: we really intend to lead in this
14 area. I know it's been a bit of a controversy
15 over, you know, who develops the standard, and
16 you know, making sure that it addresses the
17 concerns of the public, and that isn't our
18 intent. We intend to lead in this area. We have
19 options, as you well know. We will either adopt
20 a new standard or we won't, or we'll adopt it
21 with changes. That's the flexibility we have.

22 Plan A is typically to adopt a

1 standard. Plan B is to adopt it and maybe add
2 tweaks to, you know, regulatory language if it's
3 needed, you know, to address some of the
4 shortcomings that might see in it. Or altogether
5 just develop regulatory language, but I think it
6 will be some combination of the standard and
7 language to make up for the differences. That's
8 just some policy side of how we move forward with
9 adopting this. And of course we will bring it to
10 these committees to vet that, whatever, you know,
11 way we end up with.

12 Regarding just the topic in general,
13 I know Christie and Carl have done a good job of
14 summarizing some of the options, and Chuck. And
15 you know, we're looking at that right now. There
16 are constraints, if you will, and really, adding
17 committees, and we're looking at options for
18 engaging and getting the input we need. And I
19 was thinking maybe focusing on these two bodies
20 to really be the clearinghouse, similar to the
21 other topic of SMS and R&D. And we're probably
22 piling on your assignments, but I think we'll --

1 our plan is to find a way to engage these two
2 bodies to really inform the process and get the
3 input of the public. But we're looking at that
4 right now, and there are a number of issues that
5 we have to look at that -- and so we've taken the
6 input of either developing a subcommittee or
7 developing a standalone committee, or other ways
8 just to engage and make sure we have transparency
9 and communications across all the stakeholder
10 groups. So stay tuned on that, but it's fair to
11 say that we will be bringing this back to this
12 committee periodically.

13 Anyway, that's -- I think that about
14 covers it. So thanks. But yeah, I just wanted
15 to add a thanks to Christie, and you know, your
16 effort and engagement in this area. I appreciate
17 the leadership you've provided on it.

18 MR. DANNER: All right. Thank you.

19 Sara?

20 MS. LYLE: Thank you. Thank you, Dr.
21 Murray, and thank you to the PST for all this
22 great information. You know, to Shawn's point

1 about awareness versus engagement -- I'd actually
2 like to add another piece on there. There's the
3 awareness. I know about it. I know that the
4 pipeline company wants to reach out to me or I
5 know that I should call 811, right? There's the
6 engagement piece, which is okay. I know they're
7 going -- they're there, so I'm going to go talk
8 to them or I'm going to engage. But there's
9 the -- you know, the use piece. Particularly for
10 damage prevention, it's the use piece, right?
11 You know, there are certain parts of this where
12 awareness is a part of a strategy of engagement.
13 But the end-use piece is what seems to be missing
14 a lot -- on a lot of these fronts, right?

15 You know, we focus a lot on safe
16 diggings and, you know, what happens after the
17 811 call is made? There are a lot of other
18 things just besides the excavator in that piece
19 of the puzzle that we have to think about. Are
20 they getting accurate records? Who's their
21 locator? Are they on site on time? Before we
22 even get to putting anything in the ground. And

1 so, you know, are they going to use the tools
2 they're aware of? And I think that is just
3 something that, you know, we -- you know,
4 certainly -- you know, 811 is something that all
5 of us have an interest in making sure people are
6 aware of, but there's a different tack we have to
7 take to get people to end use these things, use
8 the engagement opportunities they have, but use
9 the safety processes they have at their
10 fingertips.

11 And so I just think that's something
12 that, you know -- as we go down this road of
13 increasing, you know -- how are we going to do
14 that? The end use. Are people going to do it?
15 And, unfortunately, what a lot of our research
16 says is, you know, those who have been affected
17 are the ones that are going to do it, right? My
18 guess is the gentleman in Marathon's video will
19 double-check every number he ever sees for the
20 rest of his time at the company, because --
21 right? I mean, we're humans -- we're reactive.
22 But we can't just say, okay, well, we've put this

1 stuff out there and now they know about it.
2 That's a tactic -- that doesn't complete the
3 strategy.

4 MR. DANNER: So, you know, I head up an
5 agency in the state that has a lot of services
6 and a lot of messaging that goes out in a lot of
7 different industries, and one of the things that
8 confounds me a lot is not that our message isn't
9 clear or that our message isn't compelling. It's
10 just that it's fighting for space and time with
11 so many other messages. I mean, I'm going up
12 against get your flu shot and don't get use dope
13 and buckle your seatbelts. And you know, it is
14 very hard to get a message out on something,
15 unless you can get everyone else to agree that
16 this is the most important message out there.
17 And that is something that, to me, is the biggest
18 challenge that I have with the industries that I
19 regulate and the messages we're trying to get
20 out. And so I hope that we can be thinking about
21 how to target messages, or how to make the case
22 that this is a very important message compared to

1 all the others that are out there.

2 I also agree on the end use. I mean,
3 we've got counties that aren't doing timely
4 locates, and there's nothing that's worse than
5 when someone calls 811 and nothing happens and,
6 you know, so that's another part of it. If
7 you're going to advertise a service, the service
8 better be pretty darned good. Those are my
9 comments. Chuck?

10 MR. LESNIAK: So the...you know,
11 that...for one of the things that we talked about
12 -- and I think, Dave, what you're talking about -
13 - is awareness versus engagement. Engagement is
14 where somebody's coming to you and asking for
15 information, and that's where -- and the
16 awareness part is, right, because you're
17 competing against all these other people that
18 want awareness, and -- but that's the challenge,
19 is -- we've got an industry that has been really
20 focused on awareness for the last 10 or so years,
21 15 years, in doing that, and shifting gears to
22 engagement is hard.

1 And I think also one of the things
2 that I learned when my son, who is currently
3 majoring in civil engineering -- I looked at the
4 curriculum for what he was learning at Colorado
5 State, and there was no social sciences in it.
6 There was almost no liberal arts in it at all.
7 It's all technical stuff. And so I think -- and
8 this is an engineer-dominated industry. Not to
9 cast aspersions on engineers, but they're not
10 trained that way. And so when you ask a bunch of
11 engineers to go have creative, constructive
12 engagement with the general public who are
13 laypeople in a situation that they're scared of,
14 and that we're setting ourselves up for failure.

15 And I think we need to -- so part of
16 us is how do we train engineers to do something
17 they've never been educated or trained to do in
18 their lives? And how do we encourage companies
19 to hire people that are maybe not engineers that
20 are -- but are technical people? And that's a
21 real -- I mean, there are people in this room
22 that are really good at it. Shawn is really good

1 at it; there are others that are really good at
2 it. But it's -- you know, I would say that's the
3 exception rather than the rule. And so it's that
4 engagement piece that we fail at a lot, and, as
5 Christie said, it needs to cover the whole
6 lifecycle. It needs to cover siting, it needs to
7 cover O&M, it needs to cover post-incident
8 engagement. And every one of those things are
9 very, very different.

10 MR. DANNER: All right. Graham?

11 MR. BACON: Yes. Graham Baker,
12 industry. Going back to what Alan and even Chuck
13 alluded to: is PHMSA taking the lead on
14 engagement? And I've heard discussion of where
15 does engagement begin? Chuck had mentioned
16 siting, and I believe I heard, from a PHMSA
17 perspective, it didn't begin there. In siting,
18 there's other various state regulation on
19 eminent -- you know, regarding eminent domain
20 that may come into play. How do you -- I mean,
21 there's probably more stakeholders the further
22 you go in that process, and how do you integrate

1 those stakeholders into this engagement process?
2 Or do you -- from a PHMSA perspective, do you
3 define where engagement begins?

4 DR. MURRAY: That's a great question.
5 And I think that was one that was talked about in
6 a lot of length in Carl's engagement group. And
7 one of the key things that I valued from that was
8 the -- even though PHMSA or FERC may not have
9 jurisdictional authority over some of those
10 issues, being in the same space and talking
11 through some of the complexities that exist
12 across our entire footprint was helpful from an
13 awareness standpoint just among those who were in
14 the room. It gave us an opportunity to have a
15 better and a different appreciation for the
16 limitations and the opportunities that might
17 be -- exist.

18 And so, while -- and we also talked
19 about one group may not solve all those issues.
20 For example, if PHMSA stood up a group, it would
21 likely focus on pipeline-safety-related matters.
22 But it's not to say that you wouldn't want to

1 inform the conversation by having other
2 stakeholders with complementary work that they're
3 doing to come and hear some of the concerns and
4 be a part of the engagement conversation, though
5 some of the solutions that comes out of one body
6 wouldn't be a begin-all, end-all for across the
7 entire industry.

8 But we also talked a lot about
9 recognizing that some of the issues that came out
10 of Carl's engagement group need to be categorized
11 in a way that they are placed with groups and --
12 that can best influence getting them
13 accomplished. So if it's pipeline safety, then
14 that maybe some sort of a PHMSA-involved group.
15 If it's related to eminent domain, that may look
16 different and it may be a different avenue that
17 needs to be talked about, but certainly led in a
18 different environment.

19 So we recognized and had a lot of
20 conversations about the dynamics of the
21 engagement, and the level of, you know,
22 interactions that could take place.

1 MR. DANNER: All right. Drue?

2 MS. PEARCE: Thank you, Mr. Chairman.

3 Excuse me. I think this a great conversation,
4 and I think that the group is headed in a
5 direction that is important for us at PHMSA, also
6 important for the public who we serve. And --
7 but I would just like to remind everybody that
8 all politics are local. Every state has its own
9 culture, and I can't tell you the number of times
10 that I have said to people from the industry,
11 some of whom -- some of the companies are
12 represented here today. But they've said to me,
13 well, that's not the way we do it in Texas, or
14 that's not the way we do it in Oklahoma. And I
15 say, no, but that's the way you're going to do it
16 in Alaska, if you're going to do business here.

17 So the states have cultures. And
18 there's not a one-size-fits-all way to engage
19 with the public. If all of your states had a
20 permanent fund like ours does, we wouldn't be
21 having a part of this conversation, because
22 everybody would be very involved, and they would

1 know what was -- they would be very aware. That
2 doesn't happen in the lower 48, but I think we
3 should bring, kind of, both the local but also
4 the state cultures into the discussion and
5 understand that there's only so far that the
6 federal government can go; and, frankly, should
7 go. I think we can lay the groundwork for the
8 engagement to happen. We can encourage the
9 states, but I actually think that the PUCs in
10 particular, and the -- our Alaska Oil and Gas
11 Conservation Commission and others and people
12 like Sara -- that engagement starts at home, and
13 we really should be mindful of that.

14 MR. DANNER: All right. Thank you very
15 much. Shawn?

16 MR. LYON: Just a couple comments. One
17 of the -- let me just expand on the RP
18 recommendation. The RP is not prescriptive --
19 1173 is not prescriptive. It's qualitative, it's
20 guidelines. It's -- and Drue, to your point,
21 there isn't a silver bullet. Each -- it's got to
22 be flexible, scalable. What makes sense? And so

1 much of this, once you boil it down to -- it's
2 just common sense, that all of us as landowners,
3 as human beings, would want to be treated how we
4 wanted -- we should treat others. And I think,
5 if you, if we have some guidance there, and
6 hopefully others who maybe aren't understanding
7 that commonsense approach could use it to help
8 raise their public engagement, I think that's a
9 start.

10 But the other thing I want to mention:
11 the phenomenon we went through in this workgroup,
12 Carl's group, is at the -- near the end of day
13 one, we went around and almost all of us in the
14 room said, this is deja vu. Do you know how many
15 times we've talked about all this same issue?
16 And honestly, people are like, "I don't want to
17 go through that again. I'm tired of talking
18 about the same stuff. Are we going to move the
19 ball down the field or not?" And I think that's
20 the question. Because if you keep talking about
21 it, I guarantee you'll do nothing. But it's a
22 journey, not a destination.

1 And are we going to do in the best
2 interest of what just is doing the right thing?
3 Again, not a program, not a regulation, but
4 setting that bar for all of us, across
5 regulators, across public, and across operators
6 to do the right thing? Because again, we've -- I
7 bet no one -- none of the discussion so far is a
8 surprise to anyone. We've all heard this. We've
9 all talked about it, but what are going to do
10 next? That's what's before us.

11 MR. DANNER: All right. Thank you.
12 Alan?

13 MR. MAYBERRY: I've actually used the
14 public awareness as an example -- public
15 awareness and engagement -- talking in the
16 context of incentives program. You know, you
17 heard Paul: the list of proposals for reauth was
18 to possibly set up an incentives program to
19 reward in non-monetary yet public ways best
20 practices, if you will. It hasn't been designed,
21 but it's just another creative way that's non-
22 regulatory. But it's an incentive for

1 creativity, because this is -- it's -- it can be
2 very difficult, and there isn't a one-size-fits-
3 all approach, as we also learned earlier.

4 But I think there's opportunity for
5 that here as a creative way to, you know,
6 encourage best practices. You know, we saw this
7 when we posted publicly the cast iron and wrought
8 iron and bare steel webpages. We saw the numbers
9 -- the inventory -- go down a bit quicker when
10 there was that public recognition, that
11 competition, if you will, between the states in
12 that case, to incentivize that kind of thing.
13 But I think there's opportunity there.

14 MR. DANNER: All right. Real good.

15 Other comments?

16 (No response.)

17 MR. DANNER: Okay. Looks like we all
18 agree.

19 MR. MAYBERRY: If I -- as I said, we
20 have a couple irons in the fire, as I mentioned,
21 so we'll -- stay tuned. And Carl, I appreciate
22 the suggestions. You know, this is one the areas

1 we've taken input from the committee under
2 advisement, and we'll be coming back to you with,
3 you know, what we'll be -- what we can go forward
4 with, but appreciate the good input on that.

5 MR. WEIMER: Yeah. Glad to provide it,
6 and I hope we can move forward. I didn't -- it
7 wasn't clear from listening from afar whether
8 there's lots of heads nodding and the committee
9 is ready to take this on, or whether it's
10 something we'll still be talking about 2 years
11 from now?

12 MR. DANNER: So this is Dave, Carl, and
13 I think, yes, there were heads nodding. I think
14 we all agree on the challenges ahead, and I think
15 that there was a sense that we wanted to keep
16 this issue alive. All right.

17 MR. WEIMER: Great.

18 MR. DANNER: Great. If there are no
19 other questions, we have come to the end of the
20 agenda, and I know that Deputy Administrator
21 Pearce wanted to make some comments before we
22 closed shop today. I think I'll turn it over to

1 Alan and let Alan start before he turns it over
2 to Drue.

3 MR. MAYBERRY: Well, actually, why
4 don't we just turn it over to Drue, and then --
5 yeah.

6 MR. DANNER: Oh, yes, we do.

7 MR. MAYBERRY: Oh, that's right. Yeah.

8 MR. DANNER: We did --

9 MR. MAYBERRY: Yeah.

10 MR. DANNER: -- commit to that. So
11 this is the point. If there are -- if there's
12 anyone in the audience who wishes to ask
13 questions or comment on anything we've discussed
14 since our lunch break, now is an opportunity to
15 do it. So if you have anything you'd like to
16 share with the committees, then please stand and
17 be recognized.

18 (No response.)

19 MR. DANNER: Okay. We -- it looks like
20 we have no one in the audience who has anything
21 to say this afternoon. So, Alan, I'm going to
22 turn it over to you.

1 MR. MAYBERRY: Yeah. Before I turn it
2 over to Drue, I just wanted to mention, you know,
3 thank you for coming to this meeting today. I
4 know it's -- you know, we took a lot of your time
5 to put you in front of us, and, you know, take
6 this much time to go through the things that are
7 going on at PHMSA.

8 As you can see, there's a lot going
9 on. You know, we're a different agency from the
10 agency that was created out of the Natural Gas
11 Pipeline Safety Act of 1968. There's a lot more
12 going on. We're much bigger -- for crying out
13 loud, we're doubled only 4 years ago. You know,
14 and it took that relative step up to the large
15 mission that we have and the importance that, you
16 know, the public places on the role that we play
17 in pipeline safety.

18 So -- and your role -- you know, thank
19 you so much for being here. You know, there are
20 topics we wanted to bring in -- there was one on
21 security that I really was looking forward to
22 talking with you about. We'll save that one, but

1 word to the wise: please focus on that. And
2 there are obviously others who have the lead role
3 in that area, namely Department of Homeland
4 Security and TSA, but I would encourage you to
5 focus in that area, and we'll come back with you
6 a little bit later on that.

7 There are obviously other areas we
8 could have covered as well. If you have input to
9 that end -- on other, you know, future updates
10 that you receive -- we try to make this agenda
11 relevant. You know, when we talk about just
12 things that are going on, it's relevant to
13 current events and things you need to know about
14 that help you to carry out your role as a member
15 of the advisory committee. But if there are
16 other topics you'd want to hear about, you know,
17 let us know. You know, in the future, I'm sure
18 we'll be bringing up the propane study that the
19 National Academies did for us that was concluded
20 recently. That's probably more a focus for the
21 Gas Committee, but stay tuned on that. But any
22 input would be welcome. But with that, I will

1 turn it over to Drue, or Deputy Administrator
2 Drue.

3 MS. PEARCE: First, I wanted to say
4 that Skip and Paul and that guy from Virginia
5 that you mentioned earlier - Massoud -- and some
6 of our staff have been this afternoon at the
7 Secretary's annual awards ceremony. She
8 considers that very important, and we also had a
9 number of PHMSA teams and individuals who were
10 getting awards. So they weren't dissing you,
11 they were making sure that they were there for
12 the Secretary to make awards to our own folks who
13 have worked so hard -- partly to get these rules
14 out -- and on a number, any number, of other
15 things. So you're seeing some new faces at the
16 table, I think, today from the staff, and that's
17 part of the reason. I wanted to make sure you
18 understood that.

19 We had an offsite yesterday for the
20 political team at DOT. If any of you have ever
21 wondered -- you probably have wondered where do
22 these people come from. But the Secretary pulls

1 her team together at least twice a year. We do a
2 full day offsite and spend the day talking about
3 priorities and what we expect to manage to
4 accomplish in the next 6 months, and then out
5 further. We have 88,000 employees at DOT that --
6 PHMSA has less than 580. So we're one of the
7 smallest of the modes in terms of the number of
8 people, but for those 88,000 and for all the
9 things that DOT does, there are only 101
10 political appointees at DOT. It's a small number
11 when you look at the numbers that some of the
12 other departments have, so we can fit in a fairly
13 small room. We were in a smaller room than this
14 and we all fit in very cozily all day yesterday.

15 But the important thing that came from
16 yesterday is that the Secretary affirmed her
17 commitment that to the fact that it's safety
18 first. It's safety first in aviation, safety
19 first in rail, safety first in highways -- that's
20 what NHTSA does all day long. It's safety first
21 in hazardous materials transportation as well as
22 in pipelines -- that's our marching orders. And

1 we all believe in it, and that's the only reason
2 we got hired was because we do believe in it. So
3 safety first is the mantra that we all follow on
4 a daily basis.

5 I did want to tell you about something
6 that's happening completely outside the two PACs
7 and somewhat outside of PHMSA. Those are you who
8 are familiar with the National Petroleum
9 Council -- I know a number of you are. The
10 Council was actually organized originally by
11 President Truman in 1946. It now resides at the
12 Department of Energy, and whomever is secretary
13 of the Department of Energy can ask the NPC to do
14 studies for him or her on particular subjects.
15 Obviously, because it's the National Petroleum
16 Council, it's usually energy, but it's always
17 energy-related.

18 Secretary Perry asked the NPC during
19 this term to do an energy infrastructure study
20 and to look at what we presently have in our
21 country and what's going to be needed both in the
22 short term and the long term. And the way these

1 things are set up -- a company that's a member of
2 the NPC comes forward and says, we will be the
3 lead company for this study; and, in this case,
4 the Williams Companies came forward and is the
5 lead. Amy Shank, who was here earlier -- I don't
6 think she's still in the room -- she is the
7 private sector industry co-chair of the
8 coordinating subcommittee, and Shawn Bennett from
9 fossils at the Department of Energy is the
10 federal co-chair. I'm serving on the
11 coordinating subcommittee, and PHMSA, along with
12 other federal agencies, play more of a resource
13 role than any other sort. We provide
14 information.

15 We also have an opportunity to look at
16 the sort of recommendations that are going to be
17 brought forward and comment on those. And it's
18 the study that we have completed -- and we'll be
19 meeting next week to put the final touches on it
20 -- but it will be made public on the 12th of
21 December at the NPC's annual meeting. It's about
22 this thick. Lots of great recommendations, but

1 also lots of underlying information about the
2 industry -- not just pipelines, but also rail,
3 highway, all the ways that energy is produced and
4 also transported and what infrastructure in
5 place.

6 You can imagine there was a focus,
7 this time, on LNG, since we're seeing the huge
8 growth in LNG export after thinking for many -- a
9 number of years -- that we were going to have a
10 huge influx of imported LNG into our country.
11 But it's a study that you should watch for -- I
12 think every person on our two committees will be
13 very interested in the results of the study.

14 I remember when Stacey Gerard called
15 me and asked me if I'd join the Liquids
16 Committee. I was working at the Department of
17 Interior at the time. PHMSA has come a long way,
18 as Alan said. There's much still to do, though,
19 as we've talked about today. But we are active
20 listeners, and I'm an excellent note-taker. I
21 heard -- and we heard -- your interest in R&D, in
22 knowing more about what we're doing, and helping

1 us figure out better ways to collaborate, where
2 we should be collaborating more. So stay tuned.
3 You'll be hearing from us, probably before the
4 March meeting.

5 And I just want to say that, after
6 some quiet months, as you've heard John talk
7 about, I -- this is my cheat sheet for rules.
8 It's pretty full, as you can see. My count,
9 there are at least six rulemakings that we're
10 going to want to share with you and get your
11 input on coming up before the end of 2020. We
12 hope we can fit them all in. We may not able to,
13 but that's what we're attempting to do. So we
14 look forward to seeing you in March and then
15 again both on the phone, but in a couple of more
16 meetings. Things are going to heat up and you're
17 going to be busy.

18 Skip calls us the best little federal
19 agency you never heard of, and unfortunately I
20 think sometimes he's right. We are in our own
21 little bubble, and the public...I say I work at
22 PHMSA, and people look at me blankly. Christie's

1 team does a great job. They're a very small
2 team, spread across the country. There's only so
3 much they can do because there are so few of
4 them, but they are working with you, but also her
5 teams is working on a variety of ways to engage.
6 And I can promise you that we will not just
7 continue to engage, but figure out ways to engage
8 even more, because that's what both Skip and I
9 think is important. It will help people
10 understand the culture that we are bringing
11 forward, and that's safety first. And we hope to
12 help people want to engage and understand what
13 all of you do and what your interests are.

14 We're also doing it internally. We
15 have a number of process improvement initiatives
16 going forward -- we call them PIIs. They're
17 helping us determine how we can more efficient
18 and effectively internally. These are all groups
19 that are our staff from across the country that
20 have said I'm interested in serving on that one.
21 They have been working together for a number of
22 months, and each of them are championed by one of

1 our senior SES members. It's been very
2 gratifying to see the great ideas coming forward
3 from our staff, but also the ways in which they
4 have said, you know, what we're doing is good,
5 and here's how we can do more of it. So we also
6 are seeing that the staff is very engaged and
7 understands where we're trying to head. We
8 continue to develop our own strong safety culture
9 inside PHMSA and our own SMS inside PHMSA.

10 I want to thank you again. We do
11 appreciate your willingness to serve. And I want
12 to thank the audience. You know, all of these
13 people come to these meetings and sit and listen
14 to us for a day or 2 days, or however many days
15 it takes. They put a lot of time and effort into
16 it to. So we are also appreciative to them. And
17 with that, I'll see you in March. Happy
18 holidays, and be safe.

19 MR. DANNER: All right. Thank you so
20 much. Since I have to officially adjourn, I also
21 get the opportunity to say something, and I just
22 want to say thank you. I am also impressed by

1 the quality of the PHMSA team and the way that
2 they engage with the committee members. I've
3 been working with the Gas Committee for the last
4 many, many months, and that has been great. It's
5 been great to get to know you today, and see you
6 at work. The LPAC is also a great team. So
7 thank you all for your work today. Thank you,
8 Drue. Thank you, Alan. We're adjourned.

9 (Whereupon, at 4:33 p.m., the meeting
10 of the joint committees was adjourned.)
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In the matter of: Joint Committee Meeting

Before: Liquid Pipeline Advisory Committee

Date: 11-14-19

Place: Washington, DC

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