Safe Pipelines

Something a little different...

Y ou're in for a treat this fall. Usually Pipeline Safety Trust staff write all of the articles for the newsletter, focusing on current issues and pending regulations regarding pipeline safety. This issue, we've decided to turn some of our board members loose, asking them to write about some of the things they care most about when it comes to pipeline safety.

Our board is made up of 10 people from across the country (and Bonaire, Netherlands Antilles). All of them have personal experience with pipelines and pipeline safety. Aside from being board members for the Trust, many of them engage in pipeline issues in their own community or serve on federal pipeline safety committees. We're pretty proud to have such a passionate board and we are grateful for their service to the Trust. We hope you enjoy what they have to say!

Pipeline Safety Policy Paradox: A Preview

Sara Gosman, Vice President, Pipeline Safety Trust Board

S ara Gosman, an assistant professor of law at the University of Arkansas School of Law in Fayetteville, Ark. She also serves on the Trust's board as vice president and has been active in pipeline issues since 2011 when she conducted scholarly research on the threats to the Great Lakes from oil and gas development and transportation. Since joining the Trust Board, she has also agreed to serve on two federal committees, PHMSA's Gas Pipeline Advisory Committee and a committee of the National Academy of Sciences studying the regulation of small propane systems.

Her service on the Trust Board and these committees has expanded her academic interest in topics that are of critical importance in considering how to move pipeline safety efforts forward: 1) the efficacy of risk communication in the context of information being provided to the public or particular subsets of the public by regulatory agencies or regulated industries; and 2) understanding how the structure and goals of the mid-1990s reform of the pipeline safety regulatory scheme continues to affect the debates we have today, decades later, about how pipelines should be regulated. Below is an abstract for her upcoming article to be published in 2018.

In 1994, House Republicans stood on the steps of the Capitol and signed the Contract with America, promising to revolutionize government by imposing "rationality" on environmental, health, and safety regulation. When the 104th Congress adjourned two years later, just one regulatory program had been remade in the rationalist image: the program governing the risks of energy pipelines. The pipeline safety program, like the millions of miles of pipelines underground, has operated out of sight. The scholarly debate over rationalism has largely failed to recognize the importance of the reforms to risk regulation. Once unearthed, however, the program provides a new lens through which to view the broader tension between rationality and democracy in the administrative state.

Twenty years later, the pipeline safety program is a policy paradox. It has not delivered the benefits predicted by rationalists: better decision making, more efficient regulation of risk, and improved democratic governance. Meanwhile, the results confirm many of the warnings of scholars who viewed the reforms as a threat to democratic process and values. The bargain offered by rationalists—better regulation in return for less direct democracy—has in practice resulted in political dysfunction. This Article contends that the rationalist experiment has not been successful because the rationalists' faith in technocratic decision making obscured the real political struggle over risk. Instead of attempting to protect the administrative state from a fearful public, reformers should seek better regulation through deliberative processes that harness public concern.

In This Issue:

Mission of the Trust

The Pipeline Safety Trust promotes pipeline safety through education and advocacy, increased access to information, and partnerships with residents, safety advocates, government, and industry, resulting in safer communities and a healthier environment.

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National Academies Study Different Regulatory Approaches

Lois Epstein, President, Pipeline Safety Trust Board

To better understand different regulatory approaches, PHMSA funded the Transportation Research Board (TRB), part of the National Academies of Sciences, Engineering, and Medicine, to analyze the advantages and disadvantages of "performance-based safety regulation." In mid-2016, I joined this TRB committee of academics, consultants, ex-government staff and an international member to study different regulatory approaches to reduce incidents in high-hazard industries. My role was to represent the public interest community's perspective.

Committee members had backgrounds in pipelines, offshore oil and gas, nuclear power, risk assessment, regulatory development in general and industrial safety. I am an engineer familiar with both pipeline and offshore oil and gas regulation, oversight and policies.

After five in-person meetings that included many presentations to, and discussions with, the committee, as well as a visit to the Netherlands by a subcommittee to better understand European oversight of offshore oil and gas operations, the committee and TRB staff synthesized what we learned in a five chapter document published in late 2017. Presentations to the committee were by federal and state pipeline regulators and the federal government of Canada, U.S. and Canadian pipeline company representatives, U.S. and North Sea offshore oil and gas regulators and industry representatives, and safety managers and regulators of airlines, railroads, marine transportation, chemical manufacturing, and occupational health and safety. Additionally, the committee spoke to experts on federal rulemaking and regulatory development and enforcement, a labor union representative whose members are directly impacted by safety regulation, and a journalist/local official of a coastal community in the North Sea with a keen interest in a safe-performing offshore oil and gas industry.

Some key findings that are applicable to pipeline regulation:

- The committee developed and utilized a consistent terminology to describe different regulatory approaches, in part because the term "performance-based" is often used to describe "management-based" approaches such as PHMSA's integrity management programs.

- Most oversight of high-hazard industries consists of a mix of different regulatory approaches. The committee learned that even regulatory regimes perceived as flexible and performance-based such as the "safety case" approaches of Norway and the United Kingdom for offshore oil and gas development are underlain by highly prescriptive industry standards.

- Choosing among different regulatory designs requires selecting those that will best meet the desired policy result given: 1. the nature of the problem being addressed (e.g., reducing releases), 2. the characteristics of the regulated industry (e.g., operators that can perform and justify sophisticated risk analyses vs. operators that cannot; uniform facility design vs. variable designs), and 3. accounting for the capabilities and resources of the regulator (i.e., regulatory staff must be capable of effective enforcement of the approach chosen).

- Management-based approaches, including PHMSA's integrity management programs, seldom are accompanied by mandates that compliant programs achieve certain outcomes, such as reducing incidents by a particular percentage over time.

- It is very difficult to demonstrate the effectiveness of different regulatory approaches for infrequent, high-consequence events.

- Commonly held views of the pros and cons of different regulatory approaches can be overly generalized and often misleading for choosing regulatory tools.

Communicating With Decision Makers; Or How Not To Be A Jerk

By Alexis Bonogofsky, Pipeline Safety Trust Board Member

It is no secret that politics in America these days is extremely polarized. In fact, according to political scientists, Congress hasn't been this polarized since the era preceding the Civil War. Polarization, whether it is in Congress or in our communities, promotes politics centered on the maintenance of power instead of good public policy. What does this mean for safer pipelines? It means we have a big job in front of us.

It is the responsibility of those of us who want to see safe pipeline infrastructure in the U.S. to learn how to be more effective advocates and make pipeline safety an issue that transcends politics. We can either be cynical and ineffective or we can have a clear-eyed and realistic view of our democracy and act accordingly. Change takes persistent, smart and patient long-term thinking and acting.

After years of working with communities and citizens on energy issues I've realized that many people are uncertain of how to effectively engage with elected officials and other decision makers in government and industry. Because of this I've started holding democracy trainings in my home state of Montana to help people develop the skills necessary to become effective advocates for the issues they care about. To date, I've completed five trainings with more scheduled for this fall. The people who show up are mostly political newbies, just starting to dip their toes into the chaotic political waters of our times.

The first thing I tell them is the only thing that we can control is ourselves so it is up to all of us to become better communicators and reach out to people that have different points of views. One of the skills that every citizen should develop is how to effectively communicate with decision-makers and elected officials.

1. Don't be a jerk. Name-calling, vitriol and angry self-righteousness have become a common form of political speech these days, both on social media and in public meetings and town halls. One surefire way of making yourself dismissible in the eyes of a politician or decision maker is to call them a name, attack them personally or go on a long diatribe about their fitness to be in office. It may make you feel better at the moment but it is an ineffective way to communicate if you want to accomplish something positive. You might respond skeptically but there are still many politicians and decision-makers who are open to hearing well thought out and compelling arguments. It's true. However, if you are mean or rude to them, whether it is on social media, at a public hearing or a face-to-face meeting, all that person is thinking is, "wow, you're a jerk." Although, you have succeeded in one thing: they will now dismiss everything you have to say, even if you are making good points. Any chance for actual dialogue or positive outcome is completely lost.

2. Be patient and calm. A conflict resolution expert colleague of mine recommends that when you engage in a conversation with someone you don't know you should approach the conversation like you would approach a stray dog. You don't just walk up to a dog, grab it by the collar and start dragging it where you want to go, do you?

3. Treat everyone as an individual, not as part of a group. Your job isn't to categorize people or to assume things about them; it is to influence them. You won't know how to influence them if you are using stereotypes and pre-conceived ideas about who they are and what they believe.

4. Be fair, firm and friendly. Although people seem to think this is impossible, you can be kind and friendly without sacrificing your values or your beliefs. Having strong opinions doesn't give any of us the right to treat people poorly.

5. Tell them what you want them to do and why you want them to do it. When you are communicating with a decision maker or elected official, it is extremely important to be as specific and local as possible. Many decision makers get countless emails and calls that express general opposition or support on an issue. To stand out, you need to provide personalized and local information. Always include relevant studies and data to support your position.

6. Know what you are talking about. Take the time to learn about the issue you are advocating for. Know the facts and know your opponents argument better than they do. You will be easily dismissed if your entire argument rests on how you feel about something.

7. Work on developing a relationship with the decision-maker and their staff. Thank them when they do something you like, challenge them when they do something you don't. Ask them for help when you need it.

8. Prepare your testimony if you are speaking at a public hearing. When you find yourself at a public hearing or meeting, it is important to speak and share your thoughts. Public hearings are foundational to our democracy. Most people think they can wing it. I have been to hundreds of public hearings and watched thousands of people speak and I'm here to tell you that most of us can't wing it. Write your testimony down and keep it short, sweet and focus on the most essential points. You can always provide written testimony that goes into more detail.

Pipeline safety advocates should see pipeline safety as an issue that has the potential to transcend political polarization. And remember, being a good communicator is essential to promoting good public policy and safe pipelines so let's get to work!

Working Group on Safety Management Systems (SMS)

Bruce Brabec,
Treasurer, Pipeline
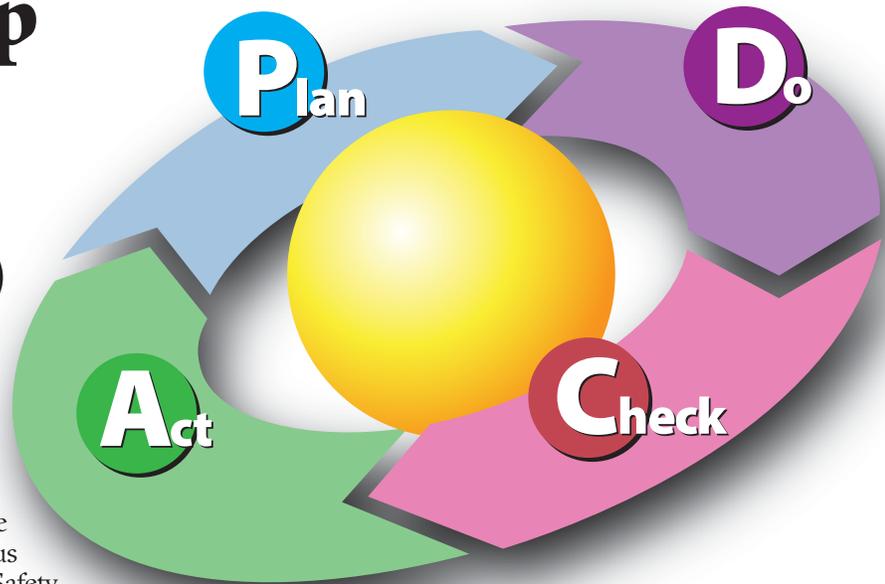*Safety Trust Board*

The Pipeline and Hazardous Materials Safety Administration (PHMSA) convened a Working Group on Safety Management Systems (SMS) in the fall of 2016. The working group was created to provide support for the adoption and implementation of SMS, specifically the adoption and implementation of American Petroleum Institute (API) Recommended Practice (RP) 1173 – Pipeline Safety Management Systems.

The working group is made up of members from the Liquid Pipeline Advisory Committee and the Gas Pipeline Advisory Committee. It includes a number of invited subject matter experts from outside the advisory committees. As a board member of the Pipeline Safety Trust, I am interested in the promise of SMS for improving pipeline safety. I was invited to be an SME on the working group and joined it this spring.

In July 2012, the National Transportation Safety Board (NTSB) released its report on the 2010 Enbridge pipeline rupture in Marshall, Michigan. In this report, the NTSB concluded that "pipeline safety would be enhanced if pipeline companies implemented SMSs" and it recommended that API develop a pipeline safety management system standard. API started on this task in December 2012 and the first edition of API RP 1173 was published in July 2015. In February 2016, API published an "Implementation Spreadsheet and Guide" to help companies review their current systems against the metrics in API RP 1173.

Many industries, including aviation and chemical manufacturing, are successfully using SMS to improve their safety performance. The general intent behind a SMS is to continuously and systematically identify hazards and control risks. SMS may similar to the pipeline integrity management (IM) standards that are already in place, but it takes a different approach. The IM standards require pipeline operators to identify risks to certain pipeline segments, to physically inspect on an ongoing basis those sections of their pipelines, and to mitigate those identified risk factors. The new SMS standards apply a plan-do-check-act cycle to 10 elements and processes, and add aspects missing from the IM regulations, including the Commitment of Leadership and Management, internal and external stakeholder engagement, and safety culture.

PHMSA is proactively fostering the adoption and implementation of SMS. The purpose of this working group is to share lessons learned, best practices, and challenges from industry's experiences in adopting and implementing SMS. Specific topics to be addressed include:

- Analysis and sharing of safety data;

- Hazard identification and risk mitigation through application of SMS;

- Safety culture experiences;

- Measurement of safety performance and effectiveness of SMS; and

- Leadership commitment and employee engagement.

Since its beginning last November, the working group has followed several tracks to move forward on its charge. The group discussed how to monitor and assess the adoption and implementation process, and what data would be needed to demonstrate progress. It looked at surveys regarding implementation that were already being done by the trade associations (API, AOPL, AGA, INGAA).

While the information from these surveys was of interest, it was agreed that it would be better to have a set of common questions that could be used across the liquid and gas pipeline industries. A survey was developed for this purpose and distributed to the trade associations. Early results from this survey indicate that good progress is being made with regard to the voluntary implementation of RP 1173. Of those responding, many companies have made a commitment to implement RP 1173 (approx. 77 of 85); and many stated that they have completed a gap analysis (approx. 74 of 85). One long-term strategy of the working group is to periodically gather information by survey to assess the industry's progress with SMS implementation.

Safety Management Systems

Continued from previous page

A training simulator of the Oil Control Center at Enbridge. (Courtesy Photo, via http://netnebraska.org)

The working group has been focused on measuring SMS implementation, but it also intends to focus on the measurement of safety performance and the effectiveness of SMS. The initial survey results show that at this time only a few companies (approx. 24 of 85) have identified key performance indicators (KPIs) for measuring the effectiveness and benefit of their SMS. KPIs will be necessary to properly assess the effectiveness of SMS, and will be useful to companies to help with their continuous improvement planning and activities. Some KPIs will need to show safety trends over time, so the public can see if safety is improving or declining for industry sectors and for specific companies.

In addition, the working group is considering a maturity model being developed jointly by the liquid and gas trade associations. This is a tool that provides a simple five-level evolutionary description of the implementation process and will be another method for assessing the implementation

and performance for individual companies and the various industry sectors. It is expected that as companies reach a higher level of SMS maturity that there will be corresponding improvements in safety trends.

I am optimistic that the ongoing adoption and implementation of SMS, especially with its emphasis on safety culture, can significantly improve pipeline safety. Safety culture has long been mentioned as one of the reasons for the improving safety record of the airline industry; and I have wanted this brought to pipeline safety. I often look at the causes of pipeline incidents and have come to understand that we can't regulate for every relevant factor. I think SMS holds more promise for significantly improving pipeline safety and for truly getting us to our shared goal of zero incidents. Because of this, I look forward to both supporting and monitoring SMS implementation with my continued participation on the working group.

I will be moderating a session on SMS at the Pipeline Safety Trust conference in New Orleans November 2-3. The session, entitled *SMS – Does Implementation Change Behavior or Performance?* will feature a discussion of the role of safety culture and will provide an overview of what is happening with the adoption and implementation of RP 1173. We plan to address many questions we know you have about SMS and hope to see you there!

# Welcome New Board Members: Bob Rackleff and Alan Rathbun

Having a diverse and knowledgeable board is one of the keys to the Trust's effectiveness. Our board members hail from across the globe, as far north as Alaska and as far south as the island of Bonaire off the coast of Venezuela. Most of them have direct experience with a particular pipeline, pipeline incident, or the regulatory structure surrounding pipelines. Our new board members — Bob Rackleff and Alan Rathbun — further expand the breadth and depth of our board.

Bob lives in Tallahassee, Florida and is a returning board member, having gotten his start in pipelines in the 1990s. He left the board in 2012 to work as a speechwriter at the Export-Import Bank, and the Departments of Energy and Housing and Urban Development. Prior to that, Bob was a speechwriter for former secretaries of the Treasury and Labor, Senator Edmund Muskie, and President Jimmy Carter. He's former active duty Navy and a retired Lieutenant Commander in the U.S. Naval Intelligence Reserve.

Alan is an engineer who just retired from the Washington Utilities and Transportation Commission where he was the Pipeline Safety Director for a total of six years. The state's program

has regulatory jurisdiction over intrastate gas and hazardous liquid pipelines together with serving as interstate agents for PHMSA inspecting all interstate pipelines within Washington. Alan lives in Olympia, Washington.

We look forward to all Alan and Bob's experience will add in the coming years. If you see them at the conference, be sure to say "hello!"
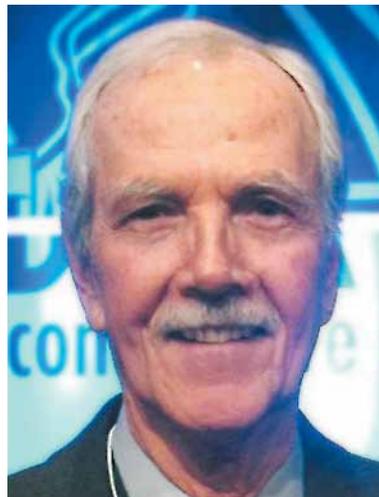
Bob Rackleff and Alan Rathbun join the board of the Pipeline Safety Trust.

There's A Time And A Place For Pipelines. There Are Also Places We Shouldn't Put Them.

Beth Wallace, Secretary, Pipeline Safety Trust Board

In 2010, when Michigan was dealt the blow of having one of the largest inland oil spills in US history, I was working for the Midwest Regional office of the National Wildlife Federation, and in that capacity, I got my introduction to the world of pipelines, along with thousands of other concerned Michiganders. Once that Enbridge spill from Line 6B ended our ability to ignore the network of large pipelines crossing the region, it didn't take long for people to recognize the threat to the water quality of the Great Lakes from a potential spill from Enbridge's Line 5. That recognition has sparked a conversation across Michigan, and inspired me to learn all I can about Line 5 and how it's operated, maintained and regulated. It's also inspired my continuing involvement in pipeline safety: as a concerned resident, as a consultant for the National Wildlife Federation, and as a member of the Pipeline Safety Trust's Board of Directors.

While the pipeline is subject to PHMSA's jurisdiction, Line 5 has become a leading issue across Michigan because the State currently holds an easement agreement with Enbridge for Line 5 to cross the submerged lands of the Straits of Mackinac. It's that easement agreement that was one of the reasons for the Governor's creation of a Pipeline Safety Advisory Board.

It should not take the State of Michigan developing a Pipeline Safety Advisory Board for the public to have the most basic questions answered about how a pipeline anchored on public lands is being operated and maintained. The process of gathering that information has had its own drama, from contractually prohibited conflicts of interest on the part of consultants, to ensuring that risk assessments are sufficiently robust, to belated disclosures of gaps in the pipeline coating.

The full extent of the damage to the coating is unknown, as is the fate of Line 5. The work of the Advisory Board, the elected leaders of Michigan, and its residents isn't yet complete.

Through this process, some factors have become abundantly clear to me:

- Transparency protects the public and our natural resources – we can and need to do better.

- State involvement in pipeline safety is crucial – without the State of Michigan stepping in and requiring transparency, some major safety concerns around Line 5 would have likely gone unnoticed and possibly unaddressed.

- Some locations need to be off the table for pipelines.

- Discussions of pipeline safety need to explicitly include public awareness of the risks of aging pipelines, the risks associated with construction of their replacements, and public involvement in decisions about where pipelines should and shouldn't go.

And, as my good friend Carl Weimer has taught me, you can trust, but always verify. Public engagement with pipelines is not going away so pipeline operators need to find a way to better engage in conversations and build trust within communities. ◻
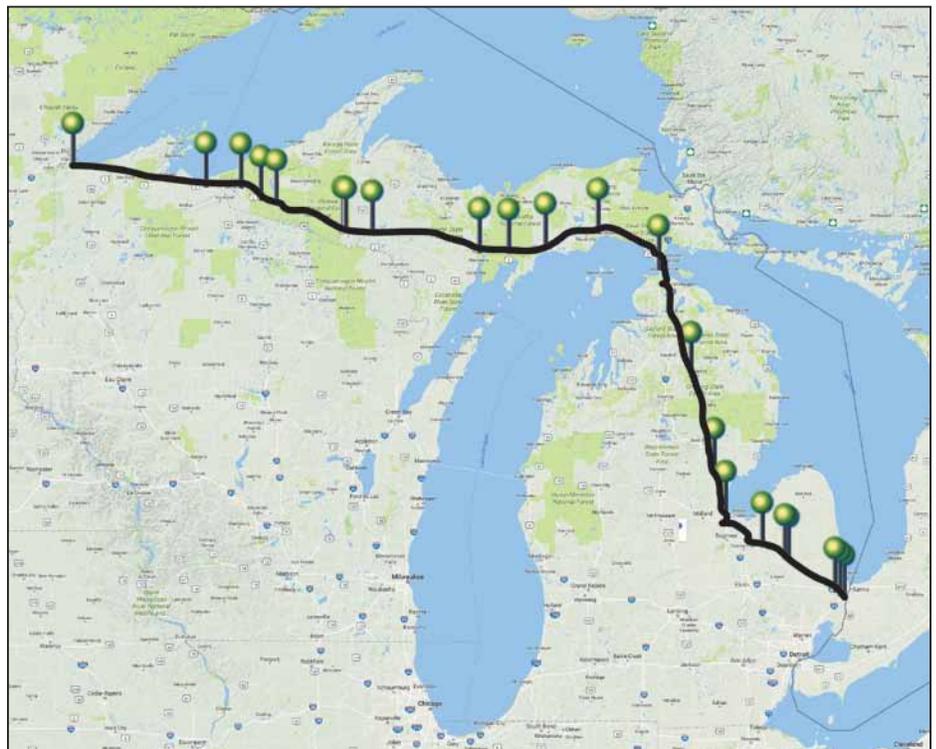
Map of inland releases from Line 5, produced by Beth Wallace for the National Wildlife Federation. *Map data © Google*

Transparency Review of Pipeline Safety Websites

The Trust has surveyed state pipeline safety agency websites since 2011, and scored them based on the ease of finding what an interested citizen might want to find. Nearly all states have a regulatory body focused on some aspect of pipeline safety within their state, though the specifics vary a great deal.

We use scoring criteria to review state agency websites on the transparency of their pipeline safety information. Our seventh annual review is presented here, and is on our website under "Transparency of Pipeline Information."

This year we again have a three-way tie for first place with perfect scores from Arkansas, Nevada and Washington. But New Hampshire Public Utilities Commission (PUC), California PUC, and Colorado PUC deserve special recognition. All three agencies made a genuine effort to improve their websites since the last update by implementing recommendations the Trust made as part of our pipeline safety website auditing program. They now join Minnesota in our "good" website category. Want to improve your state's score next year? Contact Kate Blystone (kate@pstrust.org) for tips!

	Finding agency web site	Contacts for agency staff	Access to statutes, regulations	Describe what state regulates	Transmission pipeline maps	Pipeline company contact info	Inspection records	Incident data	Enforcement data	Excavation damage data	Siting & routing info	Total Score
Arkansas	3	3	3	3	3	3	3	3	3	3	3	33
Nevada	3	3	3	3	3	3	3	3	3	3	3	33
Washington	3	3	3	3	3	3	3	3	3	3	3	33
New Hampshire	3	3	3	3	3	3	1	2	3	3	3	30
Minnesota	2	3	3	3	3	3	2	2	2	2	3	28
California Gas*	0	2	2	3	3	3	3	2	2	2	3	25
Colorado	3	3	2	3	3	2	3	2	2	2	0	25
Maine	3	3	2	3	3	3	1	2	2	0	2	24
West Virginia	3	3	3	3	3	3	0	2	2	2	0	24
Connecticut	3	3	3	3	3	2	1	1	2	2	0	23
South Dakota	3	3	3	3	3	2	1	2	3	0	0	23
Mississippi	2	3	3	2	3	2	1	2	2	2	0	22
Louisiana	3	2	2	2	3	1	1	2	2	2	1	21
Illinois	2	3	3	3	3	1	3	0	1	1	0	20
Kentucky	3	0	3	2	3	2	0	2	2	2	0	19
Oregon	3	3	3	2	0	1	1	2	2	2	0	19
Texas	2	0	3	3	3	2	0	2	2	1	1	19
Georgia	3	3	0	2	0	1	3	2	2	2	0	18
Iowa	3	1	1	2	3	1	3	1	1	0	2	18
North Carolina	2	3	2	1	3	1	0	2	2	2	0	18
South Carolina	3	3	1	1	3	1	0	2	2	2	0	18
California Liquid*	3	3	3	2	3	1	0	0	0	0	0	15
New York	2	0	3	3	0	1	0	2	2	2	0	15
Utah	3	3	1	2	0	0	0	2	2	2	0	15
Indiana	3	3	2	1	0	3	0	0	1	0	1	14
Nebraska	2	3	1	2	3	2	1	0	0	0	0	14
North Dakota	2	0	2	2	0	0	0	0	3	3	2	14
Missouri	2	0	1	0	3	1	0	2	2	2	0	13
Ohio	2	1	0	1	0	1	0	2	2	2	2	13
Arizona	2	1	1	3	2	2	1	0	0	0	0	12
New Mexico	2	3	2	2	3	0	0	0	0	0	0	12
Rhode Island	2	3	1	0	3	1	0	0	2	0	0	12
Oklahoma	2	1	3	2	3	0	0	0	0	0	0	11
Tennessee	3	3	2	2	0	1	0	0	0	0	0	11
Pennsylvania	2	3	2	1	0	1	1	0	0	0	0	10
Massachusetts	3	1	1	2	0	0	0	2	0	0	0	9
Michigan	0	1	1	0	3	2	1	0	0	0	1	9
Virginia	2	1	3	2	0	1	0	0	0	0	0	9
Alabama	3	3	1	0	0	0	1	0	0	0	0	8
Idaho	3	2	1	0	1	1	0	0	0	0	0	8
Kansas	3	2	1	0	0	2	0	0	0	0	0	8
Maryland	2	1	0	2	0	1	1	0	0	0	0	7
Wisconsin	0	1	2	1	0	0	1	1	0	1	0	7
Vermont	0	2	1	1	0	1	0	0	0	0	1	6
Montana	3	0	2	0	0	0	0	0	0	0	0	5
Puerto Rico	1	2	1	0	0	0	1	0	0	0	0	5
Wyoming	2	0	0	2	0	0	1	0	0	0	0	5
DC	2	0	2	0	0	0	0	0	0	0	0	4
Florida	2	1	0	0	0	1	0	0	0	0	0	4
New Jersey	3	1	0	0	0	0	0	0	0	0	0	4
Delaware	2	0	0	0	0	1	0	0	0	0	0	3
Alaska **	0	0	0	0	1	0	0	0	0	0	1	2

0	1	2	3

* California is the only state that has different agencies for natural gas and liquid pipelines. ** Hawaii and Alaska do not have PHMSA certified pipeline safety programs. We are not including PHMSA in this review in anticipation of the rollout of their new website.

Save the dates! October 18-19, 2018

Pipeline Safety Trust 2018 Conference

We will once again gather at the historic Hotel Monteleone in New Orleans to share news and ideas about improving pipeline safety.

In the meantime, feel free to send us ideas for panels or possible speakers!

Thanks!

We would like to thank the American Gas Association, Enbridge, Marathon Pipeline, and the Canadian Energy Pipeline Association for their generous donations over the past year to our Citizen Travel Fund. These donations provide money to cover the costs of travel so more members of the public can participate in our annual conference and other important pipeline safety meetings. We believe that greater public involvement in pipeline safety discussions leads to better outcomes and builds trust in the nation's pipeline system. Thanks again to these companies for supporting our public involvement efforts.

If you or your company would also like to support greater public participation, visit our website at: http://pstrust.org/travel-assistance-donations.

AGA
American Gas Association

CEPA
canadian | association
energy | canadienne
pipeline | de pipelines
association | d'énergie

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