

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES**

**COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY AND AIR QUALITY**

**TESTIMONY OF THE HONORABLE DONALD L. MASON
COMMISSIONER, PUBLIC UTILITIES COMMISSION OF OHIO
ON BEHALF OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

ON

**“The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006:
Implementation Review and Discussion of Safety Reassessment Intervals for Natural Gas
Pipelines”**

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Summary of Remarks by
The Honorable Donald L. Mason
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Before the
U.S. House of Representatives
Energy and Commerce Committee, Subcommittee on Energy and Air Quality

- Since 1968, States have been active partners in assisting the U.S. Department of Transportation Secretary in implementing the nation's pipeline safety programs. State pipeline personnel represent more than 80% of the State-federal inspection workforce and are the first line of defense in promoting pipeline safety, preventing underground utility damage, educating the public, and raising awareness regarding pipeline safety issues.
- After the passage of the PIPES Act of 2006, States have been working closely with the Pipelines and Hazardous Materials Safety Administration to fulfill the law's mandates.
- State pipeline safety program managers are essential to this relationship and are working with PHMSA on key elements of the pipeline safety program. These elements include excavation damage prevention, gas distribution, transmission and liquids management, public awareness communications, control room management, safety performance data collection and analysis, national consensus standards development, risk-based and integrated inspections, and planning for pipeline right-of-way encroachment.
- There are four key elements of pipeline safety: Minimizing excavation damage to pipelines; System integrity; Operator compliance with safety requirements; and Fiscal responsibility
- Programs mandated by the last three pipeline safety reauthorizations require extensive additional State efforts to address. Because oversight of these programs results in more inspection hours, State program managers are often short-staffed, and federal grant monies have not kept pace with the costs of providing the level of safety and compliance activities necessary.
- This issue was recognized in the PIPES Act, which authorized PHMSA to reimburse a State up to 80% of its personnel, equipment and activities costs required to carry out its responsibilities. PHMSA's current proposal to fund these programs at 60% should be supported, as it moves us closer to the congressionally mandated 80% number. Additional funding will lead directly to more inspectors on the ground and reduce the risk of pipeline accidents

Good morning Mr. Chairman, Ranking Member Upton, and Members of this Subcommittee. My name is Donald L. Mason. I am a member of the Public Utilities Commission of Ohio (PUCO). I am testifying today on behalf of the National Association of Regulatory Utility Commissioners (NARUC), where I am the immediate Past Chair of the Committee on Gas, and the National Association of Pipeline Safety Representatives (NAPSR). My testimony also reflects the views of the PUCO. Thank you for the opportunity to discuss our important role in supporting pipeline safety as it relates to The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (“PIPES Act”). This Act contains the necessary protections our nation depends on to safely maintain its energy pipeline network. The membership of NARUC and NAPSR appreciate this Subcommittee’s interest in pipeline safety and I am pleased to provide testimony in support of the U.S. Department of Transportation (DOT) Secretary’s efforts to fulfill the mandates of the PIPES Act and thus enhance the nation’s pipeline safety.

NARUC is a quasi-governmental, non-profit organization founded in 1889. Our membership includes the State public utility commissions serving all States and territories. NARUC’s mission is to serve the public interest by improving the quality and effectiveness of public utility regulation. Our members regulate the retail rates and services of electric, gas, water, and telephone utilities. We are obligated under the laws of our respective States to ensure the establishment and maintenance of such utility services as may be required by the public convenience and necessity and to ensure that such services are provided under rates and subject to terms and conditions of service that are just, reasonable, and non-discriminatory.

I ask that my testimony be made a part of the record and I will summarize our views.

Mr. Chairman, I will briefly describe to you the role of the States, where our efforts are currently focused, and what it takes in terms of State programs to support our partnership with the federal government.

Role of the States

Since 1968, when the Pipeline Safety Act was signed into law, the States have been active partners with the U.S. DOT Secretary in implementing the nation's pipeline safety program. In fact, State pipeline-safety personnel represent more than 80% of the State/federal inspection workforce. State inspectors are the "first line of defense" at the community level to promote pipeline safety, prevent underground utility damage, educate the public, and raise awareness of pipeline safety issues.

The resulting federal/State partnership is essential for ensuring the safe transportation of gas and hazardous liquids. At the State level, the responsibility for pipeline safety programs is carried out by approximately 325 qualified engineers and inspectors in the lower 48 states, District of Columbia and Puerto Rico. This number is approximately 3½ times the federal inspector workforce. Importantly, States have direct safety jurisdiction over 96% of regulated intrastate gas, and 32% of hazardous liquid systems and carbon dioxide facilities in the United States. Recent statistics indicate that States are responsible for pipeline safety covering more than 92%

of the 1.9 million miles of gas distribution piping in the nation, 16% of the 300,000 miles of gas transmission and 32% of the 166,000 miles of hazardous liquid pipelines.

Enhancing Pipeline Safety

Since passage of the PIPES Act, States have been working with the Pipelines and Hazardous Materials Safety Administration (PHMSA) in fulfilling the mandates of the Act. This is being accomplished in a two-pronged approach: (1) On mandates that are simple to carry out, processes are put in place that can yield immediate safety benefits (e.g., beefed-up enforcement); and (2) On multi-faceted mandates (e.g. excavation damage prevention), the States join federal-State task groups, and where appropriate, the industry as well, to concentrate on developing practical, effective and affordable solutions to implement the various aspects of such mandates. Although such efforts take more time, the result is a carefully crafted, sensible approach that is more likely to achieve the stated goal of the legislative mandate.

Essential to this partnership are the pipeline safety program managers in each of the 52 State agencies that are members of NAPSRS. In addition to their intensive inspection oversight work schedules, many take extra time to address areas of concern dealing with existing challenges or new initiatives in pipeline safety. NAPSRS currently has members on 19 task groups, with representatives from 30 States working with PHMSA on key safety elements of the pipeline safety program. These include, but are not limited to, excavation damage prevention, gas distribution, transmission and liquids integrity management, public awareness communications, control room management, safety performance data collection and analysis, national consensus

standards development, risk-based and integrated inspections, and planning for pipeline right-of-way encroachment. With their knowledge and experience about conditions in their States, the NAPSRS members provide unique expertise to the task groups.

Four Key Elements

One of the four key elements in pipeline safety is minimizing excavation damage to pipelines. NAPSRS members have been working with PHMSA in developing the necessary implementation steps for the nine elements specified in the PIPES Act, while also carrying out projects each year which help promote One-Call programs and taking steps to put into practice other components of the nine-element program.

Another key element of pipeline safety is system integrity. Through NAPSRS, States worked with recently a stakeholder group to develop the foundation of the soon-to-be-released Distribution Integrity Management Program rule. They are now working with PHMSA to plan the implementation steps of this rule which will add integrity management coverage of almost two million miles of distribution pipelines under State jurisdiction. In anticipation of the rule, many NAPSRS members are already overseeing installation of excess flow valves on residential service lines in their States. Also, State inspectors are overseeing existing pipeline integrity management programs under way in their respective States. It must be remembered that many States have long had integrity management programs in the form of additional and accelerated operating and maintenance activities, as well as planned replacement programs. These programs have been very effective in addressing the local needs of the individual distribution systems throughout the

country, and are based on the actual circumstances affecting the individual systems. However, the new requirements are likely to increase the workload significantly, particularly in the area of written procedures and ongoing data collection and analysis.

The third key element to pipeline safety is continuing inspection efforts for operator compliance with the long-standing safety requirements that cover design, installation, initial testing, corrosion control and many operating and maintenance functions. While new sets of regulations have been developed to address recently identified needs, the enforcement of the original code requirements is essential to maintaining the basic levels of safety in our pipeline systems. Properly installed new facilities should minimize future integrity issues.

Finally, a fourth and critical key element in dealing with pipeline safety in practice is fiscal responsibility. Being responsible and directly accountable to our States' residents, we are sensitive to program costs to our ratepayers. As such, we consider practical ways of enhancing safety, which may include risk-based approaches to pipeline safety to allow the operators under our jurisdiction to focus their resources to where they are most needed, while enhancing or maintaining safety.

Through forums at NARUC and efforts of NAPSR, we work with our federal partner, PHMSA, to identify such areas. This also requires ensuring that proper data are collected by our operators and compiled by our program offices so that risks can be properly identified and assessed. Here again, our NAPSR members are engaged in an ongoing effort with PHMSA to collect reliable, high quality, relevant data on the characteristics and safety performance of the nation's gas and

liquid fuel delivery systems. Part of fiscal responsibility is the federal government living up to its original promise from the Pipeline Safety Act of 1968 of 50% funding of State expenditures for pipeline safety (currently the level is approximately 40%) and expanding it toward the recently authorized 80% maximum funding allowance contained in the PIPES Act of 2006.

Transmission Pipeline Integrity Reassessment Interval

Transmission pipeline operators have stated that with the fixed seven-year integrity reassessment interval, their resources and the associated services will not necessarily be focused where they are most needed and will undergo a peak demand during the period from year eight through year 10. This occurs because of the overlap between the 10-year baseline assessment period and the 7-year reassessment period. Since there will be a peak workload in assessments during the overlap period, there will also likely be a peak integrity inspection workload for the States during that period. However, unlike industry, States do not have the resources to hire additional help if needed. This means that in some States where such workload is high, the ability to carry out the necessary pipeline safety compliance inspections within the required time intervals will be hampered during the three years of overlapping assessments. Flexibility in the reassessment interval, subject to the necessary safeguards, would help mitigate this problem.

Concluding Remarks

In summary, programs mandated by the last three pipeline safety reauthorizations require extensive additional State efforts to address safety in areas that include operator qualification

requirements, gas transmission and liquids pipeline integrity, public awareness communications, excess flow valve installation, pipeline control room management distribution integrity, and excavation damage prevention. Because State oversight of these programs translates into more inspection-hours, State Program Managers are finding it increasingly difficult to carry out all of their responsibilities with current inspector staffing levels. As our staffs have had to grow so we can administer and enforce the new requirements, federal grant monies have not kept pace with the costs of providing the level of safety and compliance activities necessary. The States have had to assume a larger and larger share of the costs of providing for pipeline safety.

This was recognized in the PIPES Act, which authorized PHMSA to reimburse a State up to 80% of the cost of the personnel, equipment, and activities reasonably required to carry out pipeline safety activities in that State. For FY 2008, PHMSA has funds for reimbursing only 40% of State expenditures. The current PHMSA proposal to fund State programs at 60% is appropriate and should be supported. Now Congress must provide adequate funding for State pipeline safety grants and move toward the 80% federal funding level—as authorized under the PIPES Act—for State costs associated with the congressionally mandated expansion of pipeline safety programs. Additional funding for State programs will put more inspectors on the ground, resulting in more frequent inspections of pipeline operators and a reduced risk of pipeline accidents.

Like you, we understand the importance of our mission to the safety of our citizens, energy reliability and continued economic growth of our Nation.

Thank you for your attention. For your review and information, I have attached two policy resolutions approved by NARUC in February addressing some of the issues discussed here today and respectfully request that they be included in the record. I would be pleased to answer any questions you may have.

ATTACHMENTS



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R E S O L U T I O N

Resolution on Congressional Appropriations for Pipeline Safety

WHEREAS, Since the Pipeline Safety Act was signed into law in 1968, States have been very active in assisting the U.S. Department of Transportation (DOT) Secretary to carry out the nation's pipeline safety program, State pipeline safety personnel represent more than 80 % of the State/federal inspection workforce and State inspectors are the "first line of defense" at the community level to promote pipeline safety, underground utility damage prevention, and public education and awareness regarding pipelines; *and*

WHEREAS, States have direct safety jurisdiction over 96% of regulated intrastate gas and 32% hazardous liquid systems and carbon dioxide facilities in the United States, and States are responsible for pipeline safety covering over 92% of 1.9 million miles of gas distribution piping in the nation, 15% of 320,000 miles of gas transmission and 33% of 160,000 miles of hazardous liquid pipelines; *and*

WHEREAS, Adequate funding is necessary to enable the States to conduct the required inspections of the existing pipeline facilities, new pipeline construction projects, and to encourage compliance with current and pending pipeline safety regulations; *and*

WHEREAS, Added programs mandated by the Accountable Pipeline Safety and Partnership Act of 1996 and the two pipeline safety reauthorizations that followed include, but are not limited to, operator qualification requirements, gas transmission and liquids pipeline integrity, public awareness communications, excess flow valve installation, pipeline control room management and distribution integrity management; *and*

WHEREAS, As a result of the shortfall in past Congressional appropriations, the federal matching grants to States have not been commensurate with the growth in pipeline safety program expenditures covered by State funds to carry out the above mandates; *and*

WHEREAS, The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (PIPES Act) authorized PHMSA to reimburse a State up to 80 % of the cost of the personnel, equipment, and activities reasonably required to carry out pipeline safety activities in that State; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened in its 2008 Winter Meetings in Washington, D.C., urges Congressional appropriations bodies to adjust the Fiscal Year 2009 appropriations to DOT for State pipeline safety grants so that States are given the opportunity to recover at least 80% of the costs of the congressionally mandated expanded gas safety programs.

Sponsored by the Committee on Gas

Adopted by the Board of Directors February 20, 2008



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R E S O L U T I O N

Resolution on Excavation Damage Prevention

WHEREAS, The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (PIPES Act), which was signed into law in December 2006, established a new pipeline safety program focused on improving existing State “excavation damage prevention” programs; *and*

WHEREAS, Excavation damage is the number one cause of serious accidents to pipelines and other underground utilities; *and*

WHEREAS, This new pipeline safety program encourages States to enhance their damage prevention programs by incorporating nine "Elements" into their pipeline safety regulations and/or laws; *and*

WHEREAS, A group of excavation damage prevention stakeholders (composed of excavators, underground facility owners, operators, safety advocates, State regulators, and the public) participated in a three-year collaborative effort, drawing on their expertise and experiences in underground facility safety, operations, and excavation, to craft the nine “Elements”; *and*

WHEREAS, A stakeholder group formed the Excavation Damage Prevention Initiative (EDPI) in the summer of 2007 and produced a document titled “Guide to the Nine Elements” to provide guidance to stakeholders, State legislatures, and State commissions, working to incorporate the nine “Elements” into their States’ existing State damage prevention programs; *and*

WHEREAS, State legislatures and State commissions are being asked to use the EDPI’s “Guide to the Nine Elements” as a baseline for improving their current programs; *and*

WHEREAS, The PIPES Act requires that the Department of Transportation make grants available to States that undertake to incorporate the nine “Elements” into their damage prevention programs; *and*

WHEREAS, The Elements themselves contain processes and goals that when incorporated into State damage prevention programs, will enhance their effectiveness; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened in its 2008 Winter Meetings in Washington, D.C., urges State commissions to review their current excavation damage prevention programs and to consider the EDPI’s “Guide to the Nine Elements” document in making revisions and improvements, where necessary, in order to incorporate fully the nine “Elements” of the PIPES Act of 2006.

Sponsored by the Committee on Gas

Adopted by the Board of Directors February 20, 2008