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U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE**

November 16, 2006

Chairman Stevens, Co-Chairman Inouye, members of the Committee, thank you for the invitation to appear today to discuss your proposal to reauthorize the federal program our nation depends on to maintain safety in its energy pipeline network. I very much appreciate the Committee's interest in pipeline safety and I am pleased to provide my testimony on your proposal and the need to pass a reauthorization bill this year.

I believe your bill embodies key concepts that will help us reach our goal of eliminating pipeline safety incidents. It provides a solid foundation for the energy transportation infrastructure we need to continue our strong economic growth into the future.

Your bill addresses the most important safety concern we face -- the growing rate of construction-related pipeline accidents, driven by a growing economy. These accidents, the leading cause of pipeline-related injuries and deaths, can and must be prevented. To do so, we need to strengthen the ability and authority of the states and ourselves to address these safety issues. That is why we need reauthorization now.

In the past few years, PHMSA has taken a hard look at incidents, their causes and what can be done to prevent them. Issue number one is crystal clear-- the leading cause of incidents in which people are hurt or killed is construction-related activities that cause an immediate rupture or damage which later grows to failure.

Construction related damages on gas distribution systems has increased at a rate of 50 percent from 1996 to 2005 and will continue to get worse if we don't do something about it. These gas distribution systems run through the neighborhoods where people live and work and, even more concerning near our children's schools. Just last week a residential developer using earth moving equipment, struck a natural gas pipeline and caused the evacuation of an elementary school in Oklahoma. Over 14,000 schools nationwide, including elementary and secondary schools, are located in the vicinity of pipelines. Fortunately, this school and its community experienced only an evacuation and a temporary

suspension of natural gas service. It could have been worse. Reducing the frequency and community impacts of incidents such as this receives the foremost attention of PHMSA and our closest partners in public safety, state pipeline safety agencies. The natural gas pipeline distribution network is almost entirely under the jurisdiction of states.

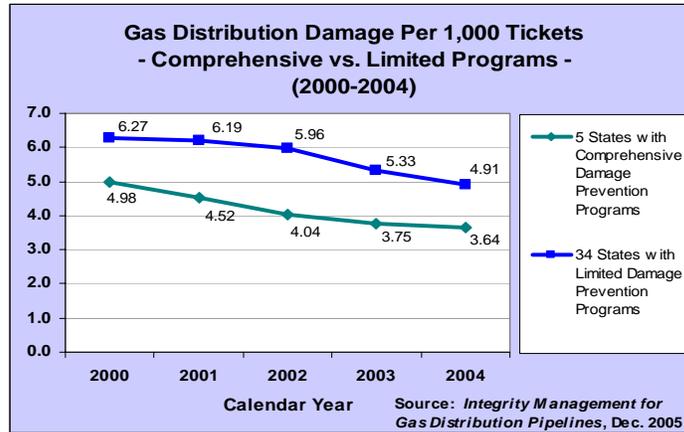
Where operators are improving their pipeline safety performance, the gains come because operators are managing pipeline safety based on system risk. Clearly, to make a difference in saving lives, we must minimize damage to pipelines and other underground utilities, associated with construction related activity. Construction damage is almost always preventable and we have worked to find practices that will eliminate this problem. The challenge is managing this activity without damaging a very crowded underground infrastructure – one that gets more crowded everyday, not just with pipelines but new telecommunications, electric, water and sewer, and other infrastructure.

The photo below is a depiction of this crowded infrastructure and the very problem we're continuing to face. The photo shows an instance in which an operator discovered newly installed fiber optic lines directly over its natural gas pipeline. In this case, One-Call was not contacted and the operator was unaware of construction taking place in the vicinity of its pipeline.



Several states including Virginia and Minnesota have led the way with strong damage prevention programs and have seen up to 50 percent reductions in this and other construction-related damages. We need to prioritize the resources for pipeline safety to be sure that our state partners have sufficient resources to share responsibility with us in getting this job done. The Committee's proposal recognizes this need by adopting important concepts which the Administration forwarded, including new civil enforcement authority, incentives for states to improve their damage prevention programs, technology grants to advance the safety and efficiency of the one call notification process, and more funding for state pipeline safety programs.

The following chart from a PHMSA report gives a picture of the progress possible with a strong enforcement program. There are degrees of success with enforcement and two model states, Virginia and Minnesota both have fewer than 3 damages per 1,000 one call tickets by enforcing the practice of calling before digging. (A 'One-Call' ticket is a record of receipt by a state agency of a notice of the caller's intention to excavate.)



Issue number two is helping states more. We need new authority to address this concern by establishing a grant program to encourage states to develop effective damage prevention programs. State agencies and PHMSA would also gain authority to conduct civil enforcement actions against anyone who fails to contact “One-Call” prior to digging. Our focus, however, will continue to be placed on state enforcement.

Ensuring the safety of 2.3 million miles of pipelines is an enormous task. Our state partners oversee 90 percent of operator compliance with pipeline safety regulations. We seek to raise the cap on grants provided to state pipeline agencies over 6 years from 50 percent to 80 percent to offset the increasing cost of the programs they execute, consistent with the programs of the Department. State agencies do utilize PHMSA’s national regulatory pipeline safety standards to inspect the majority of the pipeline infrastructure and we increasingly invest in state training and decision support as we function as a coordinated workforce. We need them, and they need our help to be most effective.

Your proposal incorporates the Administration’s proposed core safety improvements to address these top two issues -- additional authority to extend effective enforcement of state “one-call” laws to any violator and improve damage prevention programs through greater incentives, and additional authority to strengthen state oversight of distribution pipelines generally.

Your proposal also addresses a third issue, the importance of a strong and resilient energy transportation infrastructure. Americans depend on pipeline transportation for the safe movement of the vast majority of critical energy supplies. Over 97 percent of the nation’s transportation energy needs are met by petroleum products, and 64 percent of these energy products are moved through America’s pipeline networks. The system is near capacity all the time.

Your proposal would authorize the Administration’s proposed petroleum transportation capacity study, intended to identify limitations in the pipeline network that could adversely affect supply. This is important to improving our understanding of how to protect strategic energy supplies, a question that has been of increasing concern in recent months.

In times of emergencies, a lack of redundancy and system capacity makes it important for PHMSA to work along with our state partners and other federal agencies to assure that energy product transportation is not interrupted. Last year's devastating Gulf Coast storms taught us lessons about the vulnerability of pipelines to natural and man-made disasters. We believe we can help minimize pipeline system disruption while maintaining safe operations. To clarify our objective, we sought authority in the statute to address the need for PHMSA coordination within the federal family to assist with recovery of the energy infrastructure. In the years to come, we hope to contribute to increasing the resiliency of this infrastructure.

Your committee's proposal reflects significant bipartisan collaboration on a range of proposals, some of which have been offered by the Administration and some which have not. We believe that the Administration's interests would be best served by passage of a bill this year, and we do not believe that any one or the combination of provisions we did not propose presents a serious concern. Some of the provisions are welcome additions.

We support the initiative on executive certification of integrity management performance. This places an increased emphasis on the importance and accuracy of performance reporting. To get the results we want out of pipeline operators, we need to increase management's accountability and place additional attention on the importance of having more precise information to target safety risks.

We strongly favor a systems-based approach to assessing and managing safety related risk, especially as the risks to large infrastructure systems, like pipelines, often change over time. We expect to see increasing results from our effective systems risk management approach, which this committee helped devise. For integrity management programs to be effective, operators must be free to focus on making the best use of information as it becomes available. This must be a dynamic process in which the operator is able to deploy attention and resources against the greatest risks, worst first.

In keeping with this approach, we urge the Committee to grant the Secretary broader authority to adjust the inspection intervals for natural gas pipelines on the basis of risk factors. Reliance on prescribed seven year retest intervals as established in current law goes against this process. It seems a disincentive to the continuous evaluation and readjustment of a dynamic systems approach that is a basic element of an ongoing "whole-health" review of a pipeline system. The goal is to regularly and systematically utilize the most current information about the pipeline system so that it may be maintained to operate safely in the best condition for the longest amount of time. We believe that if the Secretary determines that pipeline safety will be enhanced by establishing risk-based reassessment intervals, the Secretary should be able to issue rules establishing criteria for reassessing natural gas pipeline facilities on shorter and longer intervals not exceeding 10 years.

In issuing such rules, the Secretary should be able to consider all significant risk factors, including, but not limited to, design, fabrication, and environmental and operating conditions. The Secretary should be able to determine the pipelines to which these rules apply. For a pipeline to be subject to a reassessment interval in excess of 7 years, we would

consider as a prerequisite that the pipeline is operating under an integrity management program that has been reviewed by the Department or an authorized state agency and a determination is made that the operator is providing appropriate risk analysis and control.

Your proposal would also require DOT to impose standards for low-stress liquid transmission lines. Although we already have a notice of proposed rulemaking on this subject, we have not determined yet whether covering more pipeline mileage and imposing more requirements can be justified by cost/benefit analysis. We have this matter under consideration and would appreciate having flexibility for the Secretary to make an appropriate decision to maximize protection of public safety, the environment and the reliability of energy supply.

Another provision would require DOT to develop standards to address risks associated with pipeline control operations and would require some limitation on hours of service. In keeping with our systems risk management philosophy, we believe operators should have flexibility to develop their own systems plans to assess pipeline control management risks associated with human factors. We find this provision limits the development of risk control measures to certain prescribed solutions. We believe the Secretary should have more flexibility to consider the need for procedures, processes and other system measures to ensure effective performance in pipeline control functions, communication, information exchange, warning, or management of controller schedules and rest periods.

We appreciate the Committee's leadership in recognizing the importance of several other issues, such as pipeline security and incident recovery; corrosion research; the advancement of national consensus standards; and inspection and enforcement staffing. These provisions can each strengthen the Department's hand in meeting the growing challenges of pipeline safety. The Administration is making progress in pipeline security and incident recovery through the Department's and Department of Homeland Security's Memorandum of Understanding (MOU) and PHMSA and TSA's recently implemented annex to the MOU. We appreciate the concern about the need to plan to build a workforce for building pipelines in the future, and we will be happy to work with the Congress on making use of existing programs within the government.

We would be concerned that the added costs of the provisions significantly exceed that of the Administration's proposal. We would be pleased to work with the Committee to ensure appropriate fiscal controls and accountability are provided in any mechanism for recovering extraordinary inspection expenses. Perhaps the Congress also should consider providing for a more equitable distribution of cost over the entire pipeline industry, instead of limiting the burden to the transmission industry. The vast majority of the benefits of this proposal, if authorized, accrue for the first time to the distribution segment of the pipeline industry.

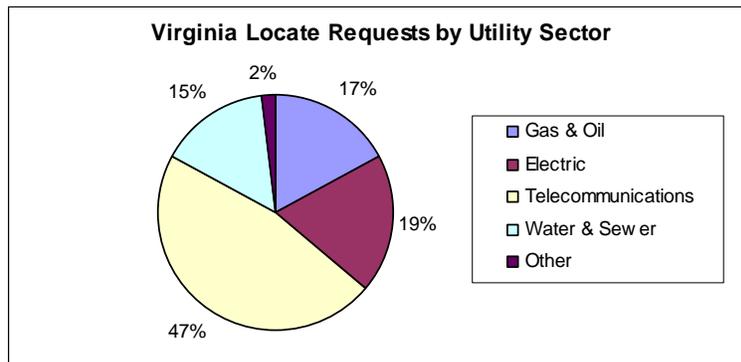
Over the past five years we have seen a steady decline in the leading causes of pipeline failures, with the exception of construction damage in distribution systems. We need step up our efforts to address this problem. Each of the authorizing committees with jurisdiction over the pipeline safety program has developed a proposal for reauthorizing the

program for the years 2007-2010. Each of the proposals incorporates the Administration's core safety reforms – strengthening the ability of states to address our most serious safety concerns. The similarities are much more significant than the differences.

We understand that some efforts are being made to reconcile differences among the bills at the committee level, with the hope that a single proposal could be voted on in both houses before the end of the session. We ask Congress to pass a reauthorization bill this year, focusing on the key similarities among the bills.

As important as a reauthorization bill will be for the enhancement of pipeline safety, especially natural gas distribution lines, benefits of a final bill would extend far beyond pipelines. Indirectly, additional customers of a reauthorized pipeline safety program include other stakeholders in America's underground infrastructure, the electric, telecommunications, water and sewer and other industries.

The following chart shows the rate of which one of our leading states in underground damage prevention receives locate requests from utility sectors not related to pipelines - - over 80 percent. Strengthening the nation's pipeline safety program to include increased resources for states will ensure the safety of not only pipelines, but the underground infrastructure owned and operated by these utilities as well.



I assure the members of this committee, that the Administration, Secretary Peters, and the dedicated men and women of PHMSA share your strong commitment to improving safety, reliability, and public confidence in our Nation's pipeline infrastructure.

Like you, we understand the importance of our mission to the safety of our citizens and the energy reliability and continued economic growth of our great Nation. I would be pleased to answer any questions you may have.

Thank you.

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