

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES**

**COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER**

**TESTIMONY OF THE HONORABLE STAN WISE
COMMISSIONER, GEORGIA PUBLIC SERVICE COMMISSION**

**ON BEHALF OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

ON

“Oversight of Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011”

July 14, 2015



**National Association of
Regulatory Utility Commissioners
1101 Vermont Ave, N.W., Suite 200
Washington, D.C. 20005
Telephone (202) 898-2200, Facsimile (202) 898-2213
Internet Home Page <http://www.naruc.org>**

**Summary for Testimony of the Honorable Stan Wise
On Behalf of
The National Association of Regulatory Utility Commissioners**

Increased Civil Penalties - 19 States have adopted the new mandated Civil Penalty level, some States believe that it is more productive to penalize earnings or rates of return rather than simply levying fines when a violation occurs.

State Damage Prevention – Current law makes States with exemptions to Damage Prevention laws ineligible for State One-Call and State Damage Prevention Grants. NARUC opposed this provision in 2011. This provision has created problems for States as they cannot access grants for damage prevention. This is counterproductive to the goal of preventing damage.

Automatic and Remote Controlled Shut-off valves - PHMSA has not published the required study to date. This study will help us determine whether or not additional State requirements may be in order. States will need to provide a rate structure to our regulated utilities that would provide for the recovery of any additional costs incurred by our utilities that may be required for the installation and maintenance of these facilities.

Integrity Management - PHMSA has not published the evaluation of the current Integrity Management Regulations and whether or not these requirements should be expanded beyond High Consequence areas. Again, NARUC and its members are very interested in the findings of this study. This may also have an upward rate impact on our consumers, but could also lead to safer pipeline infrastructure in the States.

High Consequence Areas (HCA) Mapping - PHMSA has not updated the National Pipeline Mapping System to include the identification of High Consequence Areas. They have updated access to the National Pipeline Mapping System by making it available for the general public, however due to security reasons the system does not provide a level of detail that much of the general public would find useful.

Leak Detection – PHMSA produced a report, has not as of yet published Notice of Proposed Rulemaking.

Maintenance of Effort – Language in 2011 Act has caused financial difficulties in the States and is not working when PHMSA must issue waivers for 36 or more States each year.

Gathering Lines - PHMSA published its study to Congress on May 8, 2015, and suggested gathering lines should be regulated in order to reduce risk to the public. NARUC agrees with this assessment.

Excess Flow Valves – Notice of Proposed Rulemaking released on July 7, 2015. NARUC is currently reviewing the proposal.

Maximum Allowable Operating Pressure (MAOP) – PHMSA has yet to implement regulations. NARUC encourages PHMSA to develop these rules in a prudent and expeditious manner to ensure the public safety of these lines.

Accident and Incident Notification - PHMSA currently has posted on its website a proposed Notice of Proposed Rulemaking (NOPR) requiring one hour notice of the confirmed discovery of accident or incident rather than two hours. NARUC supports the shorter notification period.

Georgia's Pipeline Safety Program - Georgia's Pipeline Safety Program is one of the larger state programs, based on services, miles of mains, inspectors, and budget. Our program has been ahead of the curve on cast-iron replacement (less than 5 miles remaining), vintage plastic replacement, and damage prevention. Georgia is a recipient of PHMSA's base grant, state damage prevention grant, and one-call grant. One issue that continues to cause problems for us is the increasing delays in receiving base grant reimbursements. Like other states, over the past few years, the amount of time Georgia has had to wait to get paid for enforcing federal pipeline safety rules has increased steadily. In years past, our finance department could depend on timely payments, which is very important on tight state budgets. This is an issue that needs resolution.

NARUC Legislative Proposal – We have attached an addendum of legislative language for inclusion in a reauthorization bill. The proposals address the following issues: Maintenance of effort; Indirect Cost Limitation Elimination; NAPSIR Invitational Travel; NAPSIR Administrative Manager Grant; Increasing One-Call Grant; Exemption Requirement for One-Call Grant; Gathering Line Regulation; Design Review Requirement when requested by a State; Transportation of Un-odorized Gas; Interstate Agent Agreements.

Good morning Chairman Whitfield, Ranking Member Rush, and Members of the House Committee on Energy and Commerce, Subcommittee on Energy and Power. My name is Stan Wise and I have the honor of serving as Chair of the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas. I am also an elected member of the Georgia Public Service Commission. My comments today will be reflective of both positions.

NARUC is a quasi-governmental, non-profit organization founded in 1889. Our membership includes the 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 assure the establishment and maintenance of such utility services as may be required by the public convenience and necessity and to assure that such services are provided under rates and subject to terms and conditions of service that are just, reasonable, and non-discriminatory.

Thank you for the opportunity to testify today on the oversight of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. My comments today will focus on those applications and policies that are within the purview of State utility regulators. I applaud the Committee for holding today's hearing so we can discuss both what has occurred since the last pipeline safety reauthorization and what will need to be considered as Congress begins the process for the next reauthorization. For the nation's State economic utility regulators, ensuring safe, reliable, and affordable utility service is our most pressing focus. This has been our

responsibility for the last 126 years, and with the changes confronting the gas and electric sectors, it will only grow in importance in the future.

Today's hearing is timely. Due in part to the 24/7 news cycle, citizens hear about pipeline incidents whenever and where ever they occur, some of which tragically lead to loss of life and/or adverse consequences for the environment. This in turn can lead to the perception that our nation's pipeline and gas distribution system is "inherently unsafe." In my opinion, that perception is a gross exaggeration. While we know that we will always need to be vigilant and continue to upgrade to make the system safer, pipelines are still the safest way to move these commodities.

From an economic and safety regulators point of view, I believe we are facing a "pipeline safety paradox." That being, if we could make the system so absolutely 100 percent safe – no possibility of any accidents – then the system would likely be too expensive for anyone to use it. Conversely, if the system was so unsafe that it was prone to failure more often than not, then even though it would most likely be very inexpensive, no one would **want** to use it. Therefore, it is the job of all stakeholders – government, industry, and advocates – to continue to strive to find the "sweet spot" where we have the safest possible system at a price we can all afford. In other words, utility regulators must utilize a risk-based formula when assessing a rate structure and the needs of our regulated utilities. Consumers come in all shapes and sizes, but their expectation of safe, affordable, reliable utility service does not change no matter who is producing or delivering their gas.

Much has been accomplished since the 2011 Act, and still more is necessary. I would like to spend a few minutes reviewing what has been done and what NARUC members believe may need additional effort since enactment.

Increased civil penalties to \$2,000,000

The Pipeline and Hazardous Material and Safety Administration (PHMSA) adopted the higher penalty in Amendment 190-16, 78 FR 58912, September 25, 2013. While thus far 19 States have adopted the new mandated Civil Penalty level, some States believe that it is more productive to penalize earnings or rates of return rather than simply levying fines when a violation occurs.

State Damage prevention

The 2011 reauthorization required States with exemptions for municipalities from the Damage Prevention Laws to repeal those exemptions or they would no longer be eligible for State One-Call Grants and State Damage Prevention Grants. NARUC opposed this provision because we believe that it is counterproductive to remove eligibility for funds that are meant to assist in improving safety because the federal government does not believe exemptions are safe. This is somewhat analogous to saying “because one is not eating safely enough, their food will be taken away.” PHMSA’s interpretation of the Act requires that this be stated in the States Damage Prevention Laws. There are States that have these requirements in sections of other statutes; however PHMSA has determined these States to be ineligible for these grants because the specific language is not contained within their Damage Prevention Laws. NARUC has provided two proposals, which will be discussed later, to mitigate this situation.

In 1983, when the State Damage Prevention grant was first authorized, it was set at \$1,000,000 and has not increased since its inception. Additionally, One Call Grants are capped at \$50,000 in order to provide funding for eligible activities to as many states as possible. Currently, there are States that would like to participate in the One Call program but due to the limited amount of funding and the time constraints to administer this grant, the amount provided to the states has served as a disincentive.

Automatic and Remote Controlled Shut-Off valves

PHMSA has not published the required study to date. States are very interested in this study, as it will help us determine whether or not additional State requirements may be in order. Since most of the State Pipeline Safety Agencies are part of State Utility Commissions, we will need to provide a rate structure to our regulated utilities that would provide for the recovery of any additional costs incurred by our utilities that may be required for the installation and maintenance of these facilities. These costs will be borne by our State ratepayers resulting in a higher rate impact.

Integrity Management

PHMSA has not published the evaluation of the current Integrity Management Regulations and whether or not these requirements should be expanded beyond High Consequence areas. Again, NARUC and its members are very interested in the findings of this study. The Integrity Management regulations could lead to safer pipeline infrastructure in the States, however, this may also have an upward rate impact on our consumers. This is part of the risk-based assessments I mentioned above.

High Consequence Areas (HCA) Mapping and Updates

PHMSA has not updated the National Pipeline Mapping System to include the identification of High Consequence Areas. They have updated access to the National Pipeline Mapping System by making it available for the general public, however due to security reasons, the system does not provide a level of detail that much of the general public would find useful. PHMSA has started to identify the number of miles of HCA each operator has in each State through its Pipeline Data Mart, but this also does not identify where the HCA's are and is not available to the general public.

Leak Detection

To date, PHMSA has produced the required report. PHMSA has yet to publish a Notice of Proposed Rulemaking for this item.

Maintenance of Efforts Clause

The language in the 2011 Act has caused many financial difficulties for the States during and after the last recession. The law requires that a State must maintain or increase spending on its pipeline safety program based on a rolling average of the previous three years of spending.

PHMSA's response was to grant waivers for 2012 and 2013 to States that could demonstrate an inability to maintain funding due to State economic hardship. In 2014 approximately 36 (this number has been as high as approximately 40) State Pipeline Safety Programs requested and received these waivers—which they greatly appreciated. NARUC has proposes changes to this requirement that I will discuss later.

Gathering Lines

PHMSA published its study to Congress on May 8, 2015, and suggested gathering lines should be regulated in order to reduce risk to the public. NARUC agrees with this assessment and proposes legislative language which I will discuss below. The largest issue in regulating gathering lines is the determination of where production ends and gathering begins. The PHMSA report does not address this issue, while the NARUC proposal provides a clear cut definition of where a jurisdictional gathering pipeline will begin. With the advent of new drilling technologies, gathering lines have become larger – a recent Texas incident for a gathering line involved a 42 inch diameter natural gas pipeline – and some of these pipelines operate at pressures up to 2000 psig. These lines, even if they are located in rural areas, act more like transmission lines than the historic gathering lines. With the higher pressure and larger diameter pipes, and no federally supported regulation, there is a significantly higher risk to life and property. Additionally, the gas transported by gathering lines contains impurities like Carbon Dioxide (CO₂) and Hydrogen Sulfide (H₂S) which can also pose risks to the public. H₂S is fatal at concentrations as low 100 part per million and may be present in gathering lines of any size or operating pressure. These impurities are removed in the processing stage of natural gas; which is then transported in transmission lines to the final end user.

Excess flow valves

PHMSA issued a notice of proposed rulemaking on July 7, as this statement was being drafted. NARUC is currently in the process of reviewing the proposed rule, however we are very interested in the development of these regulations, as they are safety related and also may have

rate impacts to consumers. We also understand the difficulty that PHMSA may have had in developing these rules, especially for small commercial service, which one week may be a small grocery store and the next week a large pizza restaurant. These businesses have extremely different gas volume requirements and developing rules to meet these changing needs is difficult.

Maximum Allowable Operating Pressure (MAOP)

PHMSA has yet to implement regulations for gas transmission line operators to confirm the material strength of pipelines operating at pressures greater than 30 percent of the Specified Minimum Yield Strength of the pipeline material operating in High Consequence Areas. NARUC encourages PHMSA to develop these rules in a prudent and expeditious manner to ensure the public safety of these lines.

Accident and Incident Notification.

Section 9 of the 2011 Reauthorization required PHMSA to clarify that pipeline operators had one hour to report an incident to the National Response Center, instead of the two hours as stated in an advisory bulletin published on September 6, 2002; 67 FR 57060. PHMSA currently has posted on its website a proposed Notice of Proposed Rulemaking (NOPR) requiring one hour notice of the confirmed discovery of accident or incident. In some cases, operators are not reporting incident occurrences until days after the incident occurred. In a recent case in Little Rock, Arkansas, this year, an interstate pipeline erupted on a Sunday afternoon and was not reported by the operator to the National Response Center until the middle of Monday afternoon. As of the writing of this testimony the NOPR has not been published in the Federal Register. NARUC supports the shorter notification period as it will help in getting both State and federal

investigators to the incident in a more-timely manner and aid in determining any additional resources that may be need in the recovery process. The National Response Center notifies several other agencies in addition to PHMSA and the State pipeline program, including individual State Homeland Security offices and Environmental Protection Agencies as well as State Emergency Management Offices. With the quicker reporting, these agencies will have additional time to develop their action plans to respond to the incident or accident.

Georgia’s Pipeline Safety Program

Data:

Number of Services (from street to house/business/meter)	2 million
Distribution Mains	>43 million miles
Transmission Mains	>1,200 million miles
2014 Budget	Approximately \$1.8 million
Number of Inspection Days	950+ days

Georgia’s Pipeline Safety Program is one of the larger state programs, based on services, miles of mains, inspectors, and budget. Our program has been ahead of the curve on cast-iron replacement (less than 5 miles remaining), vintage plastic replacement, and damage prevention. Georgia is a recipient of PHMSA’s base grant, state damage prevention grant, and one-call grant. Although these programs do require some administrative effort on the state’s part, Georgia’s overall experience with these grants has been positive for many years. However, the one issue

that continues to cause problems for us is the increasing delays in receiving base grant reimbursements. Like other states, over the past few years, the amount of time Georgia has had to wait to get paid for enforcing federal pipeline safety rules has increased steadily. In years past, our finance department could depend on timely payments, which is very important on tight state budgets. This is an issue that needs resolution.

Georgia has an excellent working relationship with PHMSA's Southern Region. Our Staffs have collaborated on several issues recently, including a much-needed firefighter/emergency response training program, as well as providing technical assistance on an Operator Inspection/Investigation. The Southern Region stands ready to assist Georgia, and we appreciate all of PHMSA's efforts directing funds to strengthen the regional/state relationships.

NARUC Legislative Proposals

I would now like to turn attention to looking at the 2015 reauthorization process before Congress. As I mentioned earlier, NARUC and its membership is committed to pipeline safety and believes that the current Act needs to be modified and strengthened to enhance pipeline safety for natural gas and hazardous liquids transported throughout the United States.

NARUC has identified sections of the current Act that require enhancements to address deficiencies that could have contributed to a number of pipeline failures and accidents in the U.S. We strongly urge Congress to consider our proposals to strengthen pipeline safety regulations so that PHMSA and State pipeline safety programs have additional tools available to inspect

pipelines and ensure compliance with federal and State regulations. Recently, the country has experienced a number of pipeline failures that have harmed the public, property, and the environment. NARUC believes that its proposed changes to current law would provide for improved inspections and the removal of risky pipe from service.

I have attached, as an addendum, ten proposed amendments to current law that we respectfully request Congress considers when addressing pipeline safety reauthorization legislation. These proposed amendments are listed in no particular order. I will briefly describe each here.

Maintenance of Effort

PHMSA issues pipeline safety base grants to the States as a result of agreement with the U.S. Department of Transportation, (USDOT) – PHMSA. These base grants are defined as reimbursement grants. By default under a reimbursement grant, States have to front the money for the State pipeline safety programs and then subsequently request reimbursement from PHMSA. In our opinion, since the States are funding their pipeline safety programs for more than 12 months without reimbursement, the States have met the maintenance of effort threshold. As such, the States are already committed to a “maintenance of effort (MOE)” standard. Currently, the Act requires, as part of a MOE, the States to spend an average of their three prior fiscal years’ for their program operational costs. Requiring States to spend at an average of three prior fiscal years has caused almost all States to be unable to meet the maintenance of effort standard in the Act. Thus, this situation then required PHMSA to invent the Suspension Funding mechanism in order to facilitate State pipeline safety funding. The States are thankful to PHMSA

for creating a mechanism to transfer State funds back to the States; however, this action is an unnecessary bureaucratic tangle.

If the MOE language from the current Act is kept in place, PHMSA will have to continue the use of the Suspension Funding mechanism and approve additional MOE waivers (PHMSA calls this waiver a “suspension of the MOE”). PHMSA will also need to request that the USDOT Secretary grant these waivers and the Secretary will have to continue to approve said waivers. This is an indication of a flawed system. When language exists that virtually requires all States to annually apply for waivers then that fundamental language needs to be corrected. If a State does not spend an average of three prior fiscal years as required for the MOE, then PHMSA has declared that the State would not be able to attain any grant money for the year and would lose grant eligibility. This PHMSA action may result in a State experiencing greater financial crisis. The NARUC proposal removes the three year base.

Indirect Cost Limitation Elimination

Originally the Pipeline Safety Act had a limitation of 20% on indirect cost reimbursement; but that limitation has since been removed from statute (§60125). Further, the Act does not make a distinction between direct and indirect costs. Additionally, PHMSA continues to limit State reimbursements to 20% of the indirect cost even though the State has a federally approved Indirect Cost plan that is at a higher level than 20%. NARUC is requesting that the current Act language be changed to allow for all federally approved indirect costs claims be allowed to be recovered by the State.

NAPSR Invitational Travel

NARUC has partnered with The National Association of Pipeline Safety Representatives (NAPSR), a non-profit organization of State Program Managers, whose only function is to promote, educate, and speak on pipeline safety issues within the nation. NAPSR works closely with NARUC to promote pipeline safety. This proposed NARUC change to the Act will provide economic savings to the State pipeline safety programs with regards to traveling to meetings, technical committee work, or training. Currently, PHMSA is permitted to grant funds to cover the expenses resulting from State Program Manager's travel to meetings associated with pipeline safety. However, these funds have been limited by PHMSA. NARUC's proposal would allow the State programs to recover more funds for State Program manager's travel requirements. The proposal would also enable State programs to more fully engage in a mentoring program for inspectors and save travel costs to the State programs.

NAPSR Administrative Manager Grant Considerations

NARUC proposes that this language be adopted so that the Act is clear and allows NAPSR to be eligible for funding that originates for State Authorities. The proposed language eliminates the limiting cap language that currently limits funding of the State programs at 80% and allows for 100% funding for NAPSR. Additionally, the proposed language includes a provision to fund the NAPSR Administrative Manager position salary and benefits. The position is necessary to permit PHMSA and NAPSR to coordinate activities, increase communications, perform committee work, and allows program managers to assume NAPSR Board of Director positions. The Administrative Manager position is vital to NAPSR's mission and is currently

funded through a PHMSA grant. The proposed language allows for the automatic funding of the position through the Pipeline Safety Act.

Increasing One-Call Grant Amounts

The One Call grant is vital to ensuring safe operations of underground facilities. The number one safety issue for all State's pipeline safety programs is damage to underground pipeline facilities. The amount of this grant awarded to States has not changed since 1983. Many States do not apply for this grant because of the small amount of money associated with each State's portion of the grant. The last reauthorization of the Act established two newer grants that have higher dollar amounts than the One Call Grant amount. These two new grants are the State Damage Prevention and Technical Assistance Grants (SDPP and TAG respectfully). In the past, many States utilized the One Call grant to recover costs associated with enforcement activities, but the small amount of the grant precludes its usefulness for enforcement.

Exemption Requirement for One-Call Grant

NARUC's proposed change in this section allows for States' eligibility to participate in One Call grants even though their State may not have a specific provision of law addressing one-call program, but may have policies pertaining to the structure, development, and function of a well-organized One Call System elsewhere in statute. If a States' policy directs the One Call System's function, then the State should be eligible to participate in the grant process. This minor change is needed because many States cannot modify their statutes easily. Without this provision, States that have policies that mirror other States' laws would be prohibited from

applying for One Call grants. Essentially, this proposed provision maintains the intent of the current language by including States' policies toward One Call functionality.

Gathering Line Regulation

The current Act does not address or provide for federal or State jurisdiction over Class 1 Gathering Lines. Class 1 Gathering Pipelines are the only pipeline designation not addressed in the current Act. There is no sound basis for having certain Gathering Lines non-jurisdictional to federal government and State governments for pipeline safety. Under current law, new gathering lines at many locations are not required to be part of an underground damage prevention system, do not require odorization, do not require welding or pressure test standards, do not have to be installed at required depths, and do not even have to report locations to either PHMSA or State Authorities. New gathering lines can have pressures up to 2000 psig and pipe size as large as 40+ inch diameter which are far greater than those that are built for transmission pipelines.

Incidents that occur with these gathering lines are not reportable and hence do not require any investigation yet make the news and erode public trust in pipelines in general. Gathering lines are increasingly interfering with existing transmission systems and can interfere with the Corrosion Protection Systems and Public Awareness Plans of transmission operators. Recently, in Sissonville West Virginia NTSB investigated an incident where a 4" diameter gathering line was subject of the local fire chief's bewilderment because he had no idea that the gathering line was located in this area. The gathering lines of old are no longer the gathering lines being installed today and need increased inspection scrutiny. Citizens deserve equal protection with regards to pipeline safety no matter if they reside in rural areas or in urban areas.

Design Review Requirement when requested by State

This proposal seeks to ensure that State pipeline safety regulatory authorities have the ability to request that PHMSA conduct a design safety review. A design safety review is an engineering analysis of the proposed construction project to ensure that the proposed project meets the requirements of the jurisdictional body. Under current statutory wording, there is no standard for when or how PHMSA must conduct such a review. The amendment in paragraph (2) would enable State authorities to receive the design specifications, construction plans and procedures, and related materials prior to initiation of construction.

Transportation of Un-odorized Gas in Gathering and Transmission Lines

The current Act only requires natural gas odorization to those gathering lines that are currently jurisdictional (excludes Class 1 and rural gathering). Gas odorization is the basic foundation for natural gas safety. All pipelines, no matter the location, should be odorized to alert and warn the public in the event of a failure. Currently, there is no federal requirement to odorize natural gas in Class 1 locations and certain areas of Class 2 and Class 3 locations for transmission pipelines. An odorant exclusion in the Act is an unacceptable risk to the public.

Interstate Agent Agreements New and Existing

Currently, States are permitted, under the current Act, to enter into an agreement with PHMSA to inspect interstate pipeline facilities that are located within the State's borders. PHMSA in December 2014 announced that it intended to rescind existing State interstate agent agreements and not allow additional States to become interstate agents. Currently New Hampshire has State law (HB 1224) that requires requesting interstate agent status every year but

has been denied by PHMSA. Kentucky has proposed a State bill that has passed the State House (HB 272) that requires interstate agent status. Maryland has requested interstate agent status but was denied by PHMSA. In Michigan, there are proposals for Michigan to become interstate agents. Pennsylvania has several bills in its legislature that would require PA State program to perform inspections on interstate natural gas pipelines and hazardous liquid pipelines either as interstate agents or as a State inspection.

PHMSA has intentions of hiring more federal inspectors for this purpose, however States can perform the same pipeline inspection duties as PHMSA at a reduced cost, due in part to the State salaries and fringe benefits being less than those of the federal government. Utilizing States who want to perform the interstate inspection function would minimize the need for increased level of federal inspectors, at a lower cost. Increasingly, pipeline transmission operators are running into local opposition for pipeline expansion projects. Allowing for more localized inspections would be beneficial for those projects to be sited, and certificated with the FERC. In December 2014, Washington Utilities and Transportation Commission wrote a response to PHMSA that sternly stated any termination of existing interstate agents will “increase emergency response time of investigators, lose the benefit of local knowledge, and erode public trust”. In May 2015, Citizens Advisory Committee on Pipeline Safety in Washington State listed 6 key reasons why it believes loss of interstate agent status for States will be detrimental. They are :

1. Shorter incident response time. UTC staff are geographically closer to the pipelines being inspected; PHMSA staff are based in Denver, CO. Therefore, UTC response time is faster.

2. Greater “local knowledge.” UTC staff, being closer to the pipelines being inspected, have greater knowledge of the facilities and their operational history.
3. More thorough inspections. The greater proximity of State UTC staff, and little need for travel time, leads to more thorough inspections.
4. Public trust. The UTC makes a significant amount of pipeline information available to the public and works closely with local governments. For example, in a survey of local government planning officials by the Pipeline Safety Trust, 25 percent said they most trusted the UTC to provide them accurate information about pipeline risks. PHMSA scored 4 percent – less than half the trust accorded pipeline operators which rated 10.8%.
5. Better oversight of pipeline construction projects. The UTC also monitors pipeline construction projects. Until recently, PHMSA has not made this an area of focus.
6. Direct integration with other State and local agencies. UTC staff are directly involved with other State agencies and local government operations with pipeline safety concerns or responsibilities.

Mr. Chairman, this concludes my testimony. NARUC and our members stand ready to work with you on this vitally important issue. We believe our minimal common sense enhancements to the current Act’s language will substantially increase pipeline safety across the nation. Thank you very much for your attention and I look forward to your questions.

ADDENDUM

NARUC Proposed Pipeline Safety Amendments

1. Maintenance of Effort Language

Existing Language:

60107 (b) Payments.--After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. For each of fiscal years 2012 and 2013, the Secretary shall grant such a waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that State. For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.

Proposed Amendment:

60107 (b) Payments.--After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary shall ~~[may]~~ pay an authority under this section ~~[only]~~ when the authority ensures the Secretary that it will provide the remaining costs of a safety program. ~~[and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. For each of fiscal years 2012 and 2013, the]~~ The Secretary shall grant ~~[such]~~ a waiver to a State if the State can demonstrate an inability to maintain or increase the remaining costs of a safety program ~~the required funding share of its safety program at or above the level required by this subsection~~ due to economic hardship in that State. ~~[For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.]~~

2. Indirect Cost Limitation Elimination

Existing Language:

60107(a) General authority.--If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 80 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year--

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

Proposed Amendment:

60107(a) General authority.--If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 80 percent of the cost of the personnel, equipment, ~~and~~ activities, and indirect costs at the rate negotiated by the State authority with the cognizant agency, that the authority reasonably requires during the next calendar year--

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or , interstate hazardous liquid pipeline facilities.

3. NAPSR Invitational Travel

Existing Language:

§60107(c) Apportionment and method of payment.--The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

Proposed Amendment:

§60107(c) Apportionment and method of payment.--The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(1) The Secretary may apportion up to one percent of the total amount appropriated for invitational travel for State programs to carry out the purpose of §60102 of this Act.

4. NAPSR Administrative Manager Grant Considerations

Existing Language:

§ 60107. State pipeline safety grants

(d) Additional authority and considerations.—

(1) The Secretary may prescribe--

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may--

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

Proposed Amendment:

(3) The Secretary of Transportation authorized under 60117(k) shall pay the cost of the personnel, equipment, and activities for an organization that is comprised solely of State Authorities from a pipeline safety program grant under section 60107 of this title.

5. Increasing One-Call Grant Amounts

Existing Language:

§ 6107(a) For grants to states.--There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$1,000,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

Proposed Amendment:

§ 6107(a) For grants to States.--There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$5,000,000 [~~\$1,000,000~~] for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

6. Amend Exemption Requirement for One-Call Grant

Existing Language:

§ 6102. Definitions

In this chapter, the following definitions apply:

- (1) One-call notification system.--The term "one-call notification system" means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.
- (2) State one-call notification program.--The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.
- (3) State.--The term "State" means a State, the District of Columbia, and Puerto Rico.
- (4) Secretary.--The term "Secretary" means the Secretary of Transportation.

Proposed Amendment:

§ 6102. Definitions

In this chapter, the following definitions apply:

(1) One-call notification system.--The term "one-call notification system" means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

(2) State one-call notification program.--The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of State law or policies pertaining to the use [in effect in a State that establish the requirements for the operation] of one-call notification systems in such State.

(3) State.--The term "State" means a State, the District of Columbia, and Puerto Rico.

(4) Secretary.--The term "Secretary" means the Secretary of Transportation.

7. Gathering Line Regulation

Proposed Amendment to Regulate Gathering Lines:

§60101. Definitions

(a) General.--In this chapter--

(21) "transporting gas"--

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce but does not include the movement of gas upstream of the boundary of a well site; [but

(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term "transporting gas" includes the movement of gas through regulated gathering Lines];

(22) "transporting hazardous liquid"--

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through--

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(ii) (iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;

§60101. Definitions

(b) Gathering lines.--(1)(A) Not later than January 1, 2017 ~~October 24, 1994~~, the Secretary shall prescribe standards defining the term "gathering line".

~~(B) In defining "gathering line" for gas, the Secretary--~~

~~(i) shall consider functional and operational characteristics of the lines to be included in the definition; and~~

~~(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).~~

~~(2)(A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term "regulated gathering line". In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.~~

~~(B)(i) The Secretary also shall consider diameter when defining "regulated gathering line" for hazardous liquid.~~

~~(ii) The definition of "regulated gathering line" for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.~~

§60102. Purpose and General Authority

(e) Pipe inventory standards.--The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transportation of gas or

hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory--

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title ~~but shall exclude equipment used with the compression of gas~~; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, ~~but shall exclude equipment associated only with the pipeline pumps or storage facilities.~~

§60102. Purpose and General Authority

(k) Low-stress hazardous liquid pipelines.—

(1) Minimum standards.—Not later than December 31, 2007, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. ~~The regulations issued under this paragraph shall not apply to gathering lines.~~

(2) General prohibition against low internal stress exception.—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

(3) Limited exceptions.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

(A) are subject to safety regulations of the United States Coast Guard; or

(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation, until regulations issued under paragraph (1) become effective. After such regulations become effective, the Secretary may retain or remove those exceptions as appropriate.

(4) Relationship to other laws.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

(5) Definition.—For purposes of this subsection, the term ‘low-stress hazardous liquid pipeline’ means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

(6) Effective date.—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.

§60108. Inspection and Maintenance

(c)(8) If, after reviewing existing Federal and State regulations for hazardous liquid gathering lines located offshore in the United States, including within the inlets of the Gulf of Mexico, the Secretary determines it is appropriate, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.

§60109. High-density population areas and environmentally sensitive areas

(a) Identification requirements.--Not later than October 24, 1994, the Secretary of Transportation shall prescribe standards that—

(1) establish criteria for identifying--

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines--

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

§60117. Administrative

(b) Records, reports, and information.--To enable the Secretary to decide whether a person owning or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall--

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

~~The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.~~

§60132. National pipeline mapping system

(a) Information to be provided.--Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines ~~and gathering lines~~) shall provide to the Secretary of Transportation the following information with respect to the facility:

(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines are necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.

8. Design Review Requirement when requested by State

Existing Language:

§ 60117. Administrative

(n) Cost Recovery for Design Reviews.—

(1) In general.—

(A) Review costs.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this paragraph, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this paragraph. The Secretary may not collect design safety review fees under this paragraph and section 60301 for the same design safety review.

(B) Projects to which applicable.—Subparagraph (A) applies to any project that—

(i) has design and construction costs totaling at least \$2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all urban consumers published by the Department of Labor, based on—

(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

(ii) uses new or novel technologies or design, as determined by the Secretary.

(2) Notification.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

Proposed Amendment:

§ 60117. Administrative

(n) Cost Recovery for Design Reviews.—

(1) In general.—

(A) Review costs.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline facility or liquefied

natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this paragraph, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this paragraph. The Secretary may not collect design safety review fees under this paragraph and section 60301 for the same design safety review.

(B) Projects to which applicable.—Subparagraph (A) applies to any project that—

(i) has design and construction costs totaling at least \$2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all urban consumers published by the Department of Labor, based on—

(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

(ii) uses new or novel technologies or design, as determined by the Secretary; or

(iii) a State authority that has submitted a current certification under section

60105(a) of this title has requested a design safety review.

(2) Notification.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and the State pipeline safety authority and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

9. Transportation of Unodorized Gas in Gathering and Transmission Lines

Proposed Amendment:

SEC. ____. ODORIZATION OF GAS IN TRANSPORTATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall establish a requirement that all combustible gas in transportation shall be odorized.

10. Interstate Agent Agreements New and Existing

Existing Language:

§ 60106. State pipeline safety agreements

(a) Agreements without certification.--If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall--

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) Agreements with certification.--

(1) In general.--If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement

of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

(2) Determinations required.--The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that--

(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) Existing agreements.--If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if--

- (A) the State authority fails to comply with the terms of the agreement;
- (B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or
- (C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

(c) Notification.--

(1) In general.--Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(2) Response by Secretary.--If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall--

(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.

(d) Monitoring.--The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(e) Ending agreements.--

(1) Permissive termination.--The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

(2) Mandatory termination of agreement.--The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that--

(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

(3) Procedural requirements.--The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.

Proposed Amendment:

(b) Agreements with certification.--

(1) In general.--If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary shall may make an agreement with a State authority within 60 days authorizing it to participate in the oversight of interstate pipeline transportation unless the Secretary after giving notice and an opportunity for a public hearing to a State authority demonstrates

(A) the State authority fails to comply with the terms of the previous intrastate agreement;

(B) implementation of the interstate agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has an adverse impact on pipeline safety.

Each such interstate agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

(3) Existing agreements.--If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after the date of the State authority's original certification January 31, 1999, to oversee interstate pipeline

transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, ~~or until December 31, 2003, whichever is sooner.~~ Nothing in this paragraph shall prevent the Secretary, after affording the State notice, public hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if--

- (A) the State authority fails to comply with the terms of the agreement;
- (B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or
- (C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.