Resolution on Pipeline Safety

WHEREAS, State pipeline safety personnel represent more than 75 percent of the total State/federal inspection workforce and State programs are responsible for the inspection and enforcement of more than 88 percent of the 2.3 million miles of all gas and liquids pipelines, with 99 percent of all gas distribution pipelines in the United States being under the direct jurisdiction of State programs;[1] *and*

WHEREAS, In the recent past, Congress has adopted legislative mandates resulting in new regulations, technical standards, inspection protocols and training requirements in order to enhance pipeline safety;[2] *and*

WHEREAS, In accordance with federal certification requirements, a State must incorporate these additional requirements into its pipeline safety program, giving rise to an increasing need for resources in maintaining State programs; *and*

WHEREAS, Reauthorization of the pipeline safety law takes place in Congress every four years and is envisioned for 2011 as the 112th Congress addresses the unfinished business of its predecessor; *and*

WHEREAS, Additional mandates affecting State pipeline safety programs are being considered by federal legislators to include: (1) eliminating all government agency exemptions from State One-Call grant requirements;[3] (2) the need for greater transparency of State actions in ensuring compliance with applicable mandates; and (3) expansion of regulatory reach to a growing number of previously unregulated "gathering" pipelines coming from gas and oil field production located near cities and towns; *and*

WHEREAS, Grant funding of States through the Federal Pipeline Safety Program is vital to enabling State inspection activities to ensure the safety of existing pipeline facilities and new pipeline construction projects. These funds form the foundation of the federal-State partnership that makes it possible to carry out the necessary inspection and enforcement work in connection with pipeline systems owned or operated by more than 9,200 gas distribution, transmission, and hazardous liquid companies in the U.S.; *and*

WHEREAS, The FY 2009 and 2010 federal budget appropriations for State grants provided an average federal contribution of approximately 65% of States' total program costs, demonstrating progress toward fulfilling the 2006 pipeline safety law mandate requiring the U.S. Secretary of Transportation to provide up to 80% of the authorized annual State expenditures; *and*

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[1] *See* National Association of Pipeline Safety Representatives (NAPSR) at www.napsr.org.

[2] Amendments to Title 49, U.S.C. Chapter 601 were adopted by Congress in 1996, 2002, and 2006.

[3] PHMSA's Pipeline Safety One Call Grants are authorized by the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006, Public Law 109-468, 49 U.S.C 6106. One Call grants provide funding to State agencies to promote damage prevention, including changes with State underground damage prevention laws, related compliance activities, training and public education

WHEREAS, It is well known that at the present time, States are almost universally experiencing very difficult economic times, with reduced revenues and increasing budget shortfalls leading to across-the-board budget cuts, hiring and travel restrictions, deferred equipment purchases, and other drastic measures to control State expenditures; *and*

WHEREAS, In this environment, it is likely that many States will show reduced expenditures for pipeline safety below the levels they spent prior to 2009; *and*

WHEREAS, The "maintenance of effort" provision in U.S.C. Chapter 601 prohibits the Secretary of Transportation from granting any federal funds to a State pipeline safety program if such program's budget is being cut to the extent that the States' share of the costs is not maintained or growing relative to the rolling average of State funding over the previous three years; *and*

WHEREAS, The Secretary is allowed to waive this requirement and has done so for 2009 and 2010, providing added funding at the request of State programs that have been cut; *and*

WHEREAS, Many States expect their economies to remain weak for a number of years given large current budget shortfalls, mounting debt, and high unemployment; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Winter Committee Meetings in Washington, D.C., urges Congress to authorize and appropriate sufficient federal grant funds for the States to fully satisfy the maximum 80% matching funds requirement in the law and abolish the "maintenance of effort" provision in the law in the forthcoming pipeline safety reauthorization; *and be it further*

RESOLVED, That in the absence of Congressional action, NARUC urges the DOT Secretary to continue granting a waiver from the "maintenance of effort" requirement to the States that accept it, for as long as these States remain in economic distress and unable to collect sufficient revenue to maintain or grow their pipeline safety programs; *and be it further*

RESOLVED, That Congressional oversight bodies considering reauthorization of the pipeline safety law in 2011 be urged to direct the Secretary of Transportation to:

- Conduct a study of the issues associated with government agency exemptions from One-Call laws to determine the specific exemptions that should be eliminated in order to help reduce excavation damage to the nation's pipelines;
- Work with the States to develop feasible and practical transparency provisions in State agency actions to demonstrate to the public that ratepayer dollars and federal grant funds allocated for the express purpose of ensuring pipeline safety in their States are being used as intended; *and*
- Address previously unregulated pipeline systems such as gathering lines, where added regulatory oversight is warranted.

Sponsored by the Committee on Gas
Adopted by the NARUC Board of Directors February 16, 2011