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U.S. DEPARTMENT OF TRANSPORTATION  
BEFORE THE  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS  
UNITED STATES HOUSE OF REPRESENTATIVES**

**JULY 21, 2010**

Chairwoman Brown, Ranking Member Schuster, members of the Subcommittee, thank you for the opportunity to appear here today. Secretary LaHood, the employees of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the entire Department of Transportation share public safety as their top priority. The Department is committed to preventing spills on all pipelines through regulation, oversight, enforcement, public awareness and education. Public awareness, education, and damage prevention initiatives aim to increase the public's knowledge of the pipelines where they live and work.

PHMSA works with a broad stakeholder community to shape our public awareness, education, and damage prevention initiatives. PHMSA stakeholders include federal, state and local agencies; public advocacy groups; damage prevention organizations; research and development organizations; and first responders. Engaging stakeholders early and making them a part of pipeline safety policy development provides them with a sense of ownership in making their communities safer and strengthens the implementation, evaluation, and enforcement of pipeline safety programs. This shared responsibility is a driving force behind the success of most of PHMSA's public awareness and damage prevention focused initiatives.

Public awareness, education, and damage prevention are interconnected initiatives aimed at increasing the understanding and knowledge of people who work and live near pipeline rights-of-way. Public awareness covers the pipeline operator requirements to inform citizens living along their pipeline rights of way, as well as local government officials and first responders.

Public awareness is also a component of many of PHMSA's non-regulatory programs. For example, many of PHMSA's damage prevention initiatives make specific stakeholders aware of the role they play in keeping themselves and the pipelines safe. Other examples of these non-regulatory initiatives that improve pipeline awareness and understanding is PHMSA's work with the Common Ground Alliance (CGA), in support of the national 811 "Call Before You Dig" program; support of the development of *Pipeline Emergencies 101* training material to educate first responders on pipelines and how to safely respond to a pipeline emergency; and support of the Pipelines and Informed Planning Alliance (PIPA), which is devising recommended practices

to address among many things, land use planning adjacent to pipeline rights-of-way. PHMSA also has dedicated Community Assistance and Technical Services (CATS) representatives, who work with a variety of stakeholders, including the Federal Energy Regulatory Commission, the CGA, states, local government and citizens to keep them informed on matters of particular interest to pipeline safety.

These are only a few of PHMSA’s programs focused on public awareness of pipeline issues. Today’s testimony will further elaborate on these and other initiatives, some completed, others on-going that support public education, awareness and damage prevention. All of these programs are meant to reduce the likelihood of a pipeline incident and mitigate the risks to the public and the environment in the event of such an incident.

**I. IMPROVING SAFETY THROUGH PUBLIC EDUCATION, AWARENESS, AND DAMAGE PREVENTION.**

PHMSA has made significant progress in reducing the number of serious pipeline incidents – those involving death or injury, have declined by 50% over the last twenty years. Yet, over the same period, all the traditional measures of risk exposure have risen – population, energy consumption, and pipeline ton-miles. As indicated in Figure 1 below, PHMSA aims to continue the downward long-term trend in pipeline incidents through public education, awareness, and damage prevention.

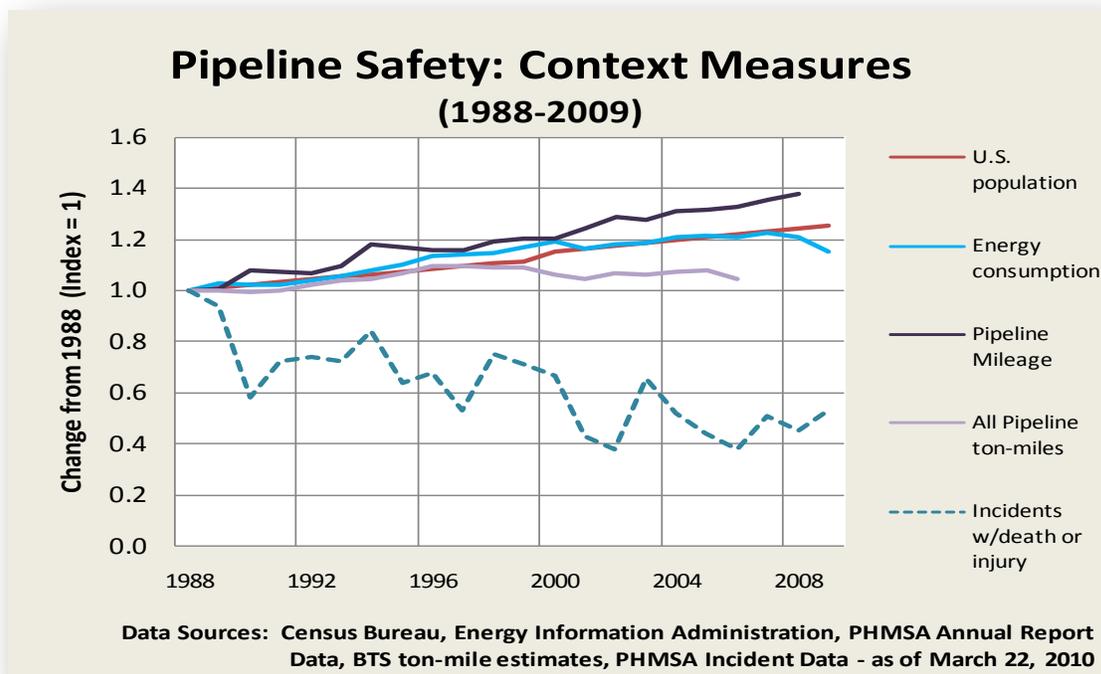
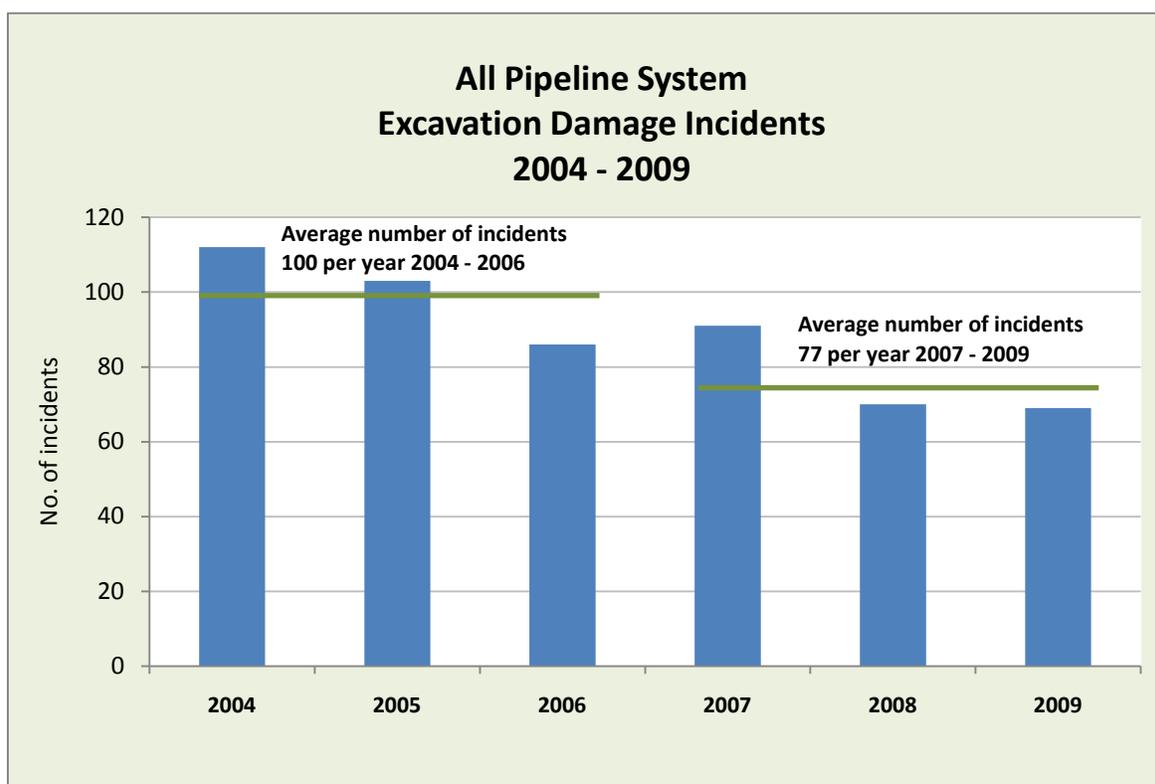


Figure 1: Comparison shows a decrease in deaths and injuries related to pipeline incidents while U.S. population, energy consumption, and pipeline mileage increased over the past 20 years.

**A. PHMSA SUPPORTS DAMAGE PREVENTION INITIATIVES THAT SEEK TO ELIMINATE THE LEADING CAUSE OF A PIPELINE FAILURE.**

The vast majority of America’s pipeline network is underground, making pipelines vulnerable to “dig-ins” by third-party excavators. While excavation damage is 100% preventable, it remains a leading cause of pipeline incidents involving fatalities and injuries. PHMSA’s goal is to reduce excavation damage significantly through strong outreach and public awareness programs. As evidenced in Figure 2 below, PHMSA has already been successful in reducing excavation damage incidents as a result of these efforts.



*Figure 2: PHMSA is seeing a decline in excavation related damages on all pipeline systems.*

PHMSA is proud of its continued and steady leadership in supporting national and state damage prevention and public awareness programs. PHMSA promotes public education awareness with national programs such as the “811- Call Before You Dig” program through the CGA. PHMSA provided over \$2.2 million in funding assistance for CGA’s 811 educational outreach campaign since 2002. In March 2010, PHMSA participated in the CGA’s annual meeting highlighting the importance of the National “811- Call Before You Dig” program. Also this year, the U.S. Senate, House of Representatives, and Transportation Secretary Ray LaHood all promoted the importance of “calling before-you-dig” by designating April as National Safe Digging Month, with the Congress introducing individual resolutions. At PHMSA’s urging,

forty states, including those represented by members of this Subcommittee, also followed suit with Statewide Safe Digging Month Proclamations. The efforts driven and supported by PHMSA involved the CGA, many states, and damage prevention stakeholders from around the country who are advocates for safe excavation practices.

**B. PHMSA ENCOURAGES STATES TO SPREAD THE DAMAGE PREVENTION MESSAGE.**

PHMSA recognizes that protecting communities, the environment and the pipeline infrastructure through public education and awareness is a shared responsibility among all stakeholders. PHMSA has developed grant programs through its One Call Grant program and State Damage Prevention (SDP) grants. PHMSA has awarded SDP grants to fund improvements in damage prevention programs. SDP grants reinforce the nine specific elements that make up the components of an effective damage prevention program:

1. Enhances communications between operators and excavators;
2. Fosters support and partnership of all stakeholders;
3. Encourages operator's use of performance measures for locators;
4. Encourages partnership in employee training;
5. Encourages partnership in public education;
6. Defines roles of enforcement agencies in resolving issues;
7. Encourages fair and consistent enforcement of the law;
8. Encourages use of technology to improve the locating process; and
9. Encourages use of data analysis to continually improve program effectiveness.

Each state has established laws, regulations, and procedures shaping its state damage prevention program. Since 1995, PHMSA has awarded over \$14 million dollars in One Call Grants. PHMSA has also provided over \$4 million dollars in SDP grants to 30 distinct state organizations since 2008. Eligible grantees include state one call centers, state pipeline safety agencies, or any organization created by state law and designated by the Governor as the authorized recipient of the funding. The results of these grants are extremely encouraging and PHMSA commends the states that have received these grants and are working to strengthen their damage prevention laws and programs.

**C. PHMSA ENSURES OPERATORS MAKE THE PUBLIC AWARE OF THEIR OPERATIONS.**

To address public awareness requirements, in May 2005, a Final Rule was issued that required each operator of a gas or hazardous liquid pipeline to develop and implement a written public continuing education program. These programs are required to follow the guidance of the

American Petroleum Institute (API) Recommended Practice (RP) 1162, "Public Awareness Programs for Pipeline Operators." This RP was developed with participation from all relevant stakeholder groups, including PHMSA, and is based on the knowledge and experience of various pipeline safety and communication experts. PHMSA has incorporated this recommended practice by reference, into its regulatory program under 49 CFR 192.616 and 49 CFR 195.440. The public can view and download an electronic copy of RP 1162 by visiting API's website. Pursuant to this requirement, pipeline operators are required to provide the affected public with information about how to recognize, respond to, and report pipeline emergencies. The regulations also address specific outreach requirements that operators must meet in targeting educational messages to emergency officials, local public officials, and excavators.

In June 2005, PHMSA issued Advisory Bulletin (ADB-06-02) requesting pipeline operators to submit their written public awareness programs to the PHMSA Public Awareness Program Clearinghouse for review. A team of PHMSA's CATS representatives compared these programs with the program requirements using criteria developed by PHMSA and its state pipeline safety partners. Since the adoption of the public awareness requirements into the PHMSA regulations, federal and state inspection staff has been reviewing public awareness elements during standard pipeline inspections. These inspections generally include a review of the written programs and/or a review of records verifying program implementation.

In June 2010, PHMSA and its state partners held a public awareness workshop to review the initial four-year public awareness implementation cycle to understand industry's implementation strategies and challenges. In the second half of 2010, state and federal inspection programs are specifically evaluating operator public awareness program effectiveness. The results of these inspections, along with knowledge gained from the public awareness workshop will be used to refine PHMSA's program to evaluate operator public awareness programs. PHMSA will also prepare an advisory bulletin, develop detailed guidance for pipeline safety inspectors, and prioritize inspections of public awareness programs based on pipeline mileage by operator and the type of commodity transported. In addition, PHMSA will ensure that public awareness programs include provisions for outreach to 911 operators.

#### **D. PHMSA ALSO ENSURES STATES HAVE TECHNICAL ASSISTANCE TO PARTICIPATE IN PIPELINE MATTERS.**

PHMSA encourages communities to take part in efforts to develop technical solutions for environmental and emergency planning, zoning, and land use management near pipelines, and to prevent damage to pipelines. PHMSA created the Technical Assistance Grant (TAG) program to provide grants to local communities and organizations for technical assistance related to pipeline safety issues. Technical assistance is defined as engineering or other scientific analysis of pipeline safety issues. The funding can also be used to help promote public participation in official proceedings.

In 2009, PHMSA selected 21 communities and organizations to receive funding through the agency's TAG program. Grants totaling \$1 million were used to foster open communication

between the public and pipeline operators on pipeline safety and environmental issues and perform other important tasks. Examples of such projects include the use of geographic information systems for enhanced pipeline monitoring and technical aspects of public awareness campaigns to promote the sharing of information between pipeline operators and landowners.

Each technical assistance grant recipient must provide a report to PHMSA within one year of its award demonstrating completion of the work as outlined in its grant agreement. PHMSA is thoroughly overseeing this process and will evaluate the expected outcomes of each grant recipient. PHMSA's CATS representatives will offer their technical support to communities and organizations as well to address pipeline safety questions that may arise during the course of the grant agreement period.

**E. PHMSA IS ALSO TRYING TO HELP LOCAL COMMUNITIES MAKE WISE LAND USE PLANNING DECISIONS RELATING TO PIPELINES.**

PHMSA has also taken steps to promote recognition of land use planning issues related to development near transmission pipelines. In 2000 to 2001, PHMSA undertook research and solicited input on how to communicate pipeline risks to communities. From this came the idea of developing guidance for communities regarding land use and development near transmission pipelines. PHMSA initiated a cooperative agreement with the Transportation Research Board (TRB) of the National Academies to undertake the study. That agreement was later modified to meet the Pipeline Safety Improvement Act of 2002 requirements for PHMSA to address pipeline encroachment. The results were published in TRB Special Report 218 in October 2004 and included several recommendations for PHMSA related to the development of risk-informed land use guidance. PHMSA initiated PIPA to address the TRB recommendations. Similar to the 1999 Common Ground Study that later resulted in the establishment of the CGA, PIPA is a collaborative effort by stakeholder representatives utilizing a consensus process to identify and recommend practices related to "risk-informed" planning for land use and development around transmission pipelines. PIPA consists of approximately 130 stakeholder representatives of the pipeline industry, local city and county governments, the public, developers, fire marshals, and state and federal regulators. PHMSA anticipates the stakeholders will complete their recommended practices at the time of the publication of the PIPA Final Report which is expected in August 2010.

PHMSA has conducted other activities to inform the public and engage interest and participation in all of its initiatives. PHMSA funded publicly accessible internet broadcast viewing of two pipeline events sponsored by the Pipeline Safety Trust, including a focus on safer land use planning. PHMSA has entered into multiple cooperative agreements with professional associations of county and city government officials to represent their communities and the public interest in PIPA.

**F. PHMSA MAKES PIPELINE INFORMATION READILY AVAILABLE TO THE PUBLIC.**

A companion effort is helping communities understand where pipelines are located, who operates them, and what other information is available for community planning. PHMSA works with the Department of Homeland Security's Transportation Security Administration to resolve concerns about sensitive security information. Vital information that communities need for land use, environmental, and emergency planning around pipelines is now publicly available through PHMSA's National Pipeline Mapping System (NPMS). The NPMS is a geospatial dataset containing the nation's hazardous liquid and gas transmission pipelines, liquefied natural gas facilities, and a partial dataset of breakout tanks. NPMS data is used for regulatory support, inspection planning, trending and analysis, mapping, emergency response support, and to allow the general public to view pipelines in their area. PHMSA continues to work with states, industry, and other stakeholders to make the NPMS information more accurate and useful.

PHMSA is improving efforts to reach the public by providing local officials with public education resources within communities so citizens can learn how they can protect themselves and pipelines. PHMSA CATS representatives provide pipeline safety information to citizens and advise local officials who then are able to make informed decisions about local land use. PHMSA also utilizes the Internet to give citizens and other stakeholders instant access to community specific pipeline information on our stakeholder communications website. Stakeholders can view incident, accident, and enforcement data to help ensure pipeline safety in their communities. PHMSA has used its website and databases to provide on-the-spot enforcement information to stakeholders. The web site provides public access to a variety of incident and accident data and reports and information about the pipeline safety enforcement program. The site provides year-by-year reports on cases initiated and closed, the status of different types of enforcement cases, and reports on civil penalty cases showing the amounts proposed, assessed, and collected. Information and documents on individual cases are also provided. These documents include the initial notices that allege operator violations or inadequacies; operator responses to these allegations; and the orders documenting PHMSA's final determinations. In addition, PHMSA updates enforcement information on a monthly basis. Use of the enforcement transparency web site has climbed steadily since its inception in May 2007 and averaged more than 1,500 hits per day in 2009. In 2010, PHMSA expanded and improved the information on civil penalty cases and began displaying enforcement data from state pipeline safety agencies as well.

**G. PHMSA PREPARES FIRST RESPONDERS FOR PIPELINE FAILURES.**

Finally, in the event of a pipeline incident, PHMSA takes its relationship with the first responder community seriously. PHMSA provides training material to assist responders to safely and effectively handle a pipeline emergency. PHMSA has supported the National Association of State Fire Marshals (NASFM) and the first responder community through the development and dissemination of *Pipeline Emergencies 101* training materials for firefighters. In addition, PHMSA has worked with the International Association of Fire Chiefs and NASFM

to address gaps in knowledge so that emergency responders know which tools are most effective, including responses to biofuel incidents. PHMSA is currently working with NASFM to revise the curriculum of *Pipeline Emergencies 101*.

## **II. RESPONDING TO CURRENT CHALLENGES.**

While PHMSA is gearing up to deal with the new challenges, the agency is continuing to exert vigilant and visionary leadership to remain steps ahead of the pipeline safety issues it is faced with today. PHMSA has accomplished many goals with its state partners. At the same time however, it is important that states continue to recognize the role that effective and fair enforcement plays in reducing excavation damage to underground infrastructure. Strong, balanced, and effective enforcement needs to be a part of all damage prevention laws. Some states are lacking when it comes to state damage prevention laws by not specifically addressing enforcement or by not permitting civil penalties for violations of state laws. The continued usage of exemptions in state one call laws is another area of concern. In order for one call laws to be truly effective and fair, all underground utilities, one call centers, locators and excavators must play by the same rules. The use of exemptions allows for preferential treatment to a group of stakeholders and allows them to play by separate rules. To address these issues, PHMSA is developing a rulemaking to pursue administrative civil penalties against excavators who violate damage prevention requirements and damage a pipeline in the absence of effective enforcement by the state where it occurred. The hope is that this rulemaking, along with all the other current public awareness, education and damage prevention initiatives, will highlight the importance for all stakeholders to call 811 before digging, respect the marks identifying the locations of underground utilities, and practice safe digging techniques.

In closing, PHMSA looks forward to increasing its public awareness and damage prevention programs as they mature and yield results. With this in mind, PHMSA will continue to look at performance measures and ways it can improve the data that it collects. While PHMSA's expanded partnerships with state and local officials are helping to strengthen the effectiveness of safety and prevention efforts, we look forward to working with Congress to further enhance public education, awareness, and damage prevention for pipelines.

Thank you. I would be pleased to answer any questions you have.

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