

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION

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TECHNICAL PIPELINE SAFETY
STANDARDS COMMITTEE
(GAS POLICY ADVISORY COMMITTEE)

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MEETING

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THURSDAY
JULY 12, 2012

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The Committees met in Ballroom D,
Marriott Metro Center, 775 12th Street, NW.,
Washington, D.C., at 10:30 a.m., The
Honorable Jeff C. Wright, Chair, presiding.

PRESENT:

JEFFREY C. WRIGHT, Federal Energy Regulatory
Commission

DENISE M. BEACH, National Fire Protection

MICHAEL BELLMAN, City of Richmond

J. ANDREW DRAKE, Spectra Energy

RICHARD E. FEIGEL, Hartford Steam Boiler

SUSAN L. FLECK, National Grid

THE HONORABLE WAYNE E. GARDNER, Pennsylvania
Public Utilities Commission

RICHARD F. PEVARSKI, Virginia Utility
Protection Services, LLC

DONALD J. STURSMAN, Iowa Utilities Board

RICHARD H. WORSINGER, City of Rocky Mount

ALSO PRESENT:

LINDA DAUGHERTY, Deputy Associate

Administrator for Policy and Programs,

Office of Pipeline Safety

MIKE ISRANI, Senior Technical Advisor,

Office of Pipeline Safety

CAMERON SATTERTHWAITTE, Pipeline and

Hazardous Materials Safety

Administration

CHERYL WHETSEL, Technical Advisory Committee

Manager, Office of Pipeline Safety

C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

10:37 a.m.

MS. DAUGHERTY: Good morning.

Let's go ahead and get started and call the meeting to order. I think we have one person that will be joining us here in a few moments.

My name is Linda Daugherty. I'm with the Pipeline and Hazardous Materials Safety Administration Office of Pipeline Safety and I am the designated government official for this meeting of the Technical Pipeline Safety Standards Committee and will serve today as the presiding official.

I would like to introduce the committee chairman, Jeff Wright, who is the director of the Office of Energy Products with the Federal Energy Regulatory Commission. And in a moment I would like to go around and have people introduce themselves for the record and for the recording.

1 In regard to audience
2 participation I would ask that the folks in
3 the audience hold your comments until we
4 open the floor. Jeff will be handling that
5 for discussion. If you have remarks please
6 keep them brief and no longer than 15
7 minutes. And I will forewarn you that Jeff
8 may cut you short if we run long and if he
9 needs to keep the agenda moving.

10 Also, I would like to note that
11 this meeting is being recorded and will be
12 made publicly available. If you do have
13 comments please introduce yourself each time
14 you speak so that your comments can be
15 acknowledged in the meeting transcript. The
16 meeting transcript serves as the official
17 record and it will along with any
18 presentations today be available on the
19 PHMSA website and on the eGov docket at
20 www.regulations.gov. I also need to mention
21 the docket number is PHMSA -- P-H-M-S-A -- -
22 2009-0203.

1 Just a logistic item, two
2 logistic items. Would ask everybody to put
3 their cell phones on vibrate so we can all
4 watch you jump when they go off.

5 The other item, Jeff asked me to
6 let everyone know that the IBR workshop
7 tomorrow starts at 8 o'clock. So
8 registration I think is at 7:30 and
9 everybody will have to get through security.
10 So be thinking about that if you plan to
11 attend.

12 So with no further ado I will
13 turn it over to Mr. Wright.

14 CHAIR WRIGHT: Good morning.
15 Just for the record this is a meeting of the
16 Technical Pipeline Safety Standards
17 Committee. There are no published rules to
18 consider or vote on at this meeting. As
19 Linda said, turn off your cell phones. I
20 would also direct you if you wish to speak
21 please turn your tent card on its side and
22 state your name before you speak for the

1 record. And as Linda mentioned before we'll
2 go around once more and have everyone
3 introduce themselves. If we could start
4 with the Commissioner.

5 MEMBER GARDNER: Wayne Gardner,
6 Pennsylvania Public Utility.

7 MEMBER BEACH: Denise Beach,
8 National Fire Protection Association.

9 MEMBER DRAKE: Andy Drake with
10 Spectra Energy.

11 MEMBER PEVARSKI: Rick Pevarski,
12 Virginia 811.

13 CHAIR WRIGHT: Jeff Wright, FERC.

14 MEMBER FLECK: Susan Fleck,
15 National Grid.

16 MEMBER BELLMAN: Michael Bellman,
17 city of Richmond.

18 MEMBER STURSMA: Don Stursma,
19 Iowa Utilities Board.

20 MEMBER WORSINGER: Rich
21 Worsinger, Rocky Mount Public Utilities,
22 Rocky Mount, North Carolina.

1 MEMBER FEIGEL: Gene Feigel,
2 Hartford Steam Boiler.

3 CHAIR WRIGHT: Okay, with that,
4 our first agenda item. The agenda has been
5 a little rejiggered to meet the joint
6 committees we did do. So the first
7 presentation will be by Mike Israni. It
8 will be a briefing on the EFV rulemaking
9 survey. Mike?

10 MR. ISRANI: Thank you. I'm Mike
11 Israni. I'm senior technical advisor at
12 PHMSA and I'm going to brief you on the
13 excess flow valve multiple applications.

14 In late nineties we had two
15 excess flow valves regulations, one on
16 performance standards and one on customer
17 notification. Then in 1998 there was an
18 incident in South Riding, Virginia and NTSB
19 came up with new recommendation that's what
20 you're seeing on this slide here they issued
21 in June 2001. And that requires EFVs on all
22 new and replacement service line, all

1 customer classifications.

2 Now, we have had NTSB
3 recommendations in the past for single-
4 family homes which we took care of in 2006
5 act which also made it mandatory requirement
6 for single-family homes. So when the DIMP
7 was issued -- DIMP was the Distribution
8 Integrity Management Program -- regulation
9 was issued in 2009 we also took care of
10 excess flow valves for single-family homes.

11 But we also started concentrating
12 on multiple applications after NTSB, when
13 they commented on the DIMP rule that yes,
14 you took care of 2006 act but you have not
15 worked on the multiple applications of the
16 rule.

17 So our first goal was to form a
18 team. And we had all kind of stakeholders.
19 We had EFV manufacturers, federal agencies
20 like NTSB and state people also
21 participated. We had trades. We had
22 industry and public members in that group.

1 And we had that first meeting with them in
2 June 2009 and these are the findings of that
3 meeting.

4 We wanted to learn on excess flow
5 valves all that we can learn, their
6 availability, their sizes, their issues. So
7 this is what we gathered. Mainly we learned
8 that these valves are available up to 5,400
9 standard cubic feet per hour and up to
10 pressures 1,000 pound. So it kind of pretty
11 much gave us idea on these valves available
12 for all applications.

13 We asked manufacturers if they
14 have supply to any of the operators and they
15 said yes, they have, but they were not sure
16 if they had been used. So we also learned
17 that one of the biggest concerns that
18 industry raised was the load changes,
19 customer load changes going to be the
20 biggest issue for excess flow valves for
21 multiple applications, mainly going for
22 commercial entities, sizing up these valves

1 and the inadvertent closing of these valves.

2 So we also learned during that
3 meeting that DIMP rule and the damage
4 prevention requirements have been just
5 placed so we should wait for it to see the
6 results before we indulge into EFVs for
7 multiple residence and commercial entities.

8 And we started -- we wanted to
9 collect some data on EFVs beyond the single-
10 family homes and we were told from this body
11 of our stakeholders that there's not much
12 data available beyond single-family homes.
13 And we also kind of figured out that going
14 all applications whether to categorize,
15 whether to go with single-family homes
16 branch service lines which are not covered
17 in the DIMP rule because we covered single-
18 family homes only stand-alone service line
19 going to those homes. Branches we were not
20 covering. So those were to be picked up.

21 We had to kind of consider
22 duplex, you know, triplex and four-plex

1 basement-type apartments, and the big
2 apartments, office buildings. And on the
3 commercial side we were to look at shopping
4 centers, individual stores as well as bigger
5 commercial entities. And then industrial
6 customers, manufacturers, Nike and all
7 those. So kind of broad application. And
8 NTSB recommendation was too broad to
9 consider. We thought we could just group
10 and collect information on those.

11 Group also said that, you know,
12 with OneCall notification and the DIMP rule
13 and the damage prevention laws we should not
14 approach this especially for larger
15 commercial and industrial applications at
16 this time. So this is what we learned
17 during our meetings with the stakeholders.

18 We had one public -- one joint
19 meeting and one conference call with the
20 same group. And based on that information
21 with our state partners we developed an
22 approach, our action plan, how we're going

1 to go about developing these recommendations
2 for excess flow valves large application.

3 So the first thing was we needed
4 to collect the data. You know, any of the
5 rules that we do, first we have to collect
6 the data. What service lines are candidates
7 for this? Who is using it? What issues are
8 there? You know, we learned some things
9 from the meetings but we had to collect more
10 information.

11 Second item was to assess the
12 technical feasibility of this, the cost
13 associated with these applications and the
14 safety issues, whether we'll achieve safety
15 that we are trying to achieve in this
16 rulemaking.

17 And then finally from those
18 findings we are to prepare a report which is
19 now required in the 2011 act that we had to
20 prepare a report. You might have noticed
21 that on excess flow valve we have an interim
22 report which is already in the docket.

1 This slide shows you the interim
2 report that we prepared. This was after we
3 had meetings with the stakeholders and
4 meetings with our state partners and within
5 our own PHMSA. In the interim report we try
6 to get a little more information on the
7 existing incidents that we have had. We
8 were trying to filter through from our own
9 incident data where the incidents might have
10 occurred on the commercial entities. So
11 that we had general item which are the
12 candidates we are going for.

13 So we had applied a lot of these
14 different buckets to come up with which
15 service lines are really servicing these
16 commercial entities which are a pretty
17 laborious process. And we can see why
18 industry is complaining now about the survey
19 which I'll come back later.

20 But in our incident data we knew
21 certain things that these excess flow valves
22 requirements are going to have is the

1 minimum 10 psig pressure. And so we could
2 bring up only those service lines where the
3 pressure is 10 or above but not below 10
4 psig. So with the elimination process of
5 that and service lines which are going,
6 finally we had to kind of bring it down and
7 have a Google search with the Google Earth
8 to find out which entities were commercial
9 and which were residential areas.

10 It was pretty long process but we
11 did that in-house and came up with from the
12 incidents of 5-6 years time period that
13 there were close to about 150 or so places
14 where incidents had taken place. I don't
15 have the exact number but it was close to
16 that out of some 300 or 400 incidents that
17 had taken place in that time frame on all
18 the service lines. So based on that data we
19 found out, okay, these are the candidates.

20 Then we thought industry would
21 approach the same way. They may have better
22 idea because they have the maps. They know

1 which service lines are going where. We
2 prepared this interim report and then we
3 came up with the Advanced Notice of Proposed
4 Rulemaking to inform all the stakeholders
5 that, okay, here's interim report. Interim
6 report which is in the docket, you comment
7 on it.

8 We have done this work based on
9 our meetings and our interim discussion.
10 What is lacking, what things we need to do
11 more? Is there any cost data that, you
12 know, you can provide us? So we threw a
13 number of questions on these. Can we use
14 curb in lieu of excess flow valves in
15 certain applications? For example, places
16 like hospitals and other entities where it's
17 very essential not to lose the gas supply
18 because of inadvertent closing of the
19 valves. And so we wanted opinion from all
20 those entities.

21 Interim report also mentioned
22 about these -- if there are any regulations

1 outside USA. We looked at if there are any
2 foreign countries where they have these
3 excess flow valve requirements. In Europe
4 they do have general requirement but it's
5 not very clear. We asked some other EFV
6 manufacturers if they have supplied to these
7 foreign countries and they said they have.
8 Our U.S. manufacturers of EFVs have supplied
9 some valves overseas but they were not sure
10 if they were used or not used. They had no
11 knowledge of that.

12 We also wanted to look at
13 commercial availability of these valves. So
14 all of that information we put in the
15 interim report where we received some
16 comments. So next slide.

17 So we came up with the Advanced
18 Notice of Proposed Rulemaking where we had
19 solicited comments from everybody on the
20 report as well as some more information that
21 they can provide. We got 19 comments from
22 industry, trade associations.

1 And those next two bullets tell
2 you the gist of what the comments are on
3 this advanced notice. They said there's an
4 expansion beyond the single-family residence
5 for new and replaced service lines. It
6 should be limited. You know, the majority
7 felt that we should just restrict to only
8 apartments and small commercial, and not go
9 beyond that because it would be difficult to
10 do that and also will have complications.
11 They even suggested that we should limit it
12 up to 1,000 standard cubic foot per hour
13 which includes small commercial entities,
14 but it will not include these hospitals,
15 hotels and other larger commercial
16 buildings.

17 Some of the commenters on the
18 advanced notice told us that -- we are asked
19 a number of questions. You know, if there
20 is something lacking in our report. Some of
21 them said that our report was not fully
22 addressing all the challenges industry

1 faces. For example, changing of the gas
2 loads and snap loads we have not really
3 emphasized. These are the -- and also we
4 have not emphasized on critical supply that
5 goes to hospitals and schools and other
6 facilities so we should not even consider
7 excess flow valves in those.

8 And our mention of curb valves in
9 some of these facilities was -- there were
10 some commenters who say that that could be a
11 good approach for those facilities. We
12 received some comments that although we had
13 federal agency, mainly NTSB and some other
14 federal agencies who said that -- NTSB was
15 in favor of excess flow valves everywhere
16 because they came up with this
17 recommendation. But other federal agencies
18 and state members say that we should be
19 careful on how we approach this, especially
20 for larger commercial entities. Because
21 those are complex systems and we'll have
22 issues. Private citizens, they support

1 expansion of excess flow valves. So this is
2 how the comments were divided.

3 On the issues of curb valves,
4 also again industry and trade associations
5 feel that we could have maintenance issues
6 with that. We could have issues about
7 location of these valves, curb valves. If
8 the curb valve is located close to where the
9 fire is they won't be able to shut it down.
10 And some industry members commented that
11 squeezing the pipe and shutting off the
12 supplies is more effective than having curb
13 valve because the maintenance issues and
14 other things which may make the valve non-
15 functional. So there are some good comments
16 on the advanced notice.

17 About the cost associated with
18 these we didn't get much help on that. You
19 know, none of them came forward to tell us
20 how much it cost. We've been in touch with
21 the manufacturers also to find out and they
22 said depending on the size of the valves.

1 They were not able to give us exact number
2 they say. We asked them how do you size the
3 valve for certain applications where the
4 loads are varying. Manufacturers mentioned
5 that they go by the meter rating so whatever
6 the meter capacity is that's how they size
7 the valve. And we felt that large capacity
8 valve may not be as effective. So there are
9 a number of issues we are looking at before
10 we even move further in the rulemaking. So,
11 that's the gist of what the comments we
12 received on the advanced notice.

13 Commenters also mentioned that we
14 should provide some general guidance on
15 sizing and installation of these. And we
16 feel that guidance and other things on these
17 valves would restrict the design part of it.
18 It would be harder for us to kind of tell
19 you how -- this particular design is
20 suitable for this application. That should
21 be left to the, like GPTC or other
22 organizations who write the guidance for

1 these distribution systems.

2 So, what is the next step after
3 this? We have recently issued the 60-day
4 Federal Register notice for collecting more
5 comments. This is the comments not on the
6 rulemaking but information that we want to
7 collect for cost-benefit study because
8 that's the next step we are to do. We have
9 to figure out for different categories how
10 much it's going to cost us to install these
11 valves, what are the candidates, what are
12 the issues. So we issued this 60-day
13 Federal Register notice that goes to OMB.
14 It got published on May 15th and we'll have
15 comments by July 16th on that.

16 And then we have the, you know,
17 group preparing what we call the survey
18 questions. And what we're calling here is a
19 census instead of survey because census is
20 broad, it goes to all entities instead of
21 survey which is sent to limited number of
22 operators. And since we learned from

1 previous meetings that there's not much data
2 available we thought we want to go across
3 the board to get any kind of information we
4 can.

5 And pilot we are calling it
6 because we decided that before we make this
7 available to everybody and take everybody's
8 man hours we should try nine entities which
9 we officially can go without paperwork
10 burden. So we chose nine operators large
11 and small. We got some information from AGA
12 and APGA and we have gone forward with the
13 pilot survey.

14 We have not heard from everybody
15 yet on that. That will give us some more
16 idea. And this is going to be all
17 electronic-based. It will not be paperwork,
18 actual writing down information and mailing
19 us, it will be all electronically done. We
20 have created -- not we but our economist
21 Volpe Center was doing this survey. They
22 have created electronic version of

1 collecting all the information.

2 Based on this survey then after
3 we get comments here and those are
4 summarized we are to go with a 30-day notice
5 to the Federal Register. So if you look
6 from now it would be probably September
7 before we go with the 30-day notice
8 publication. And then 30-day notice will
9 tell what comments we received on this and
10 what is our final version of survey going to
11 look like.

12 And then we'll issue the census
13 out which will be close to somewhere end of
14 this year. So we will not be able to even
15 work on this rulemaking until early next
16 year after we have all the information on
17 this to perform the cost-benefit study and
18 then respond to NTSB to prepare the final
19 report on this. So that's what steps we
20 have in line currently.

21 So I'm ready for questions.

22 CHAIR WRIGHT: Thank you, Mike.

1 Does anyone on the committee have questions
2 for Mike? Don?

3 MEMBER STURSMA: First of all,
4 confirm industrials are off the table for
5 the time being. Is that correct?

6 MR. ISRANI: For the survey part
7 we are collecting information, yes. Because
8 the NTSB recommendation is across the board
9 and we had to respond to NTSB.

10 MEMBER STURSMA: So industrials
11 are still not off the table then.

12 MR. ISRANI: That is correct. At
13 the moment we are not.

14 MEMBER STURSMA: And are you
15 still looking at commercially available
16 excess flow valves only?

17 MR. ISRANI: The valves are
18 commercially available only, the ones we are
19 looking. And we noticed that the valves,
20 the capacity, those are applicable to most
21 applications.

22 MEMBER STURSMA: The reason I ask

1 that, at one time a list of incidents that
2 excess flow valves supposedly would have
3 prevented included an 8-inch flow pressure
4 line. And I asked Charlie Batten at that
5 time what do you do about a line like that
6 and he said -- because if there's nothing
7 commercially available. And he said well,
8 that will be a special product development.
9 Like you know, he expected somebody to come
10 up with something anyhow. So I still like
11 to see things limited to commercially
12 available.

13 Also, I just wanted to mention,
14 you talked about design guidance on this.
15 And you've got a tradeoff because one of the
16 concerns about especially commercials but
17 also some of the other customers is
18 variability and load. And I've seen that
19 some of the possible guidance so far has
20 been you size the excess flow valve based on
21 full severance of the service line. Well,
22 what you lose there is things like what

1 happened at South Riding where it was
2 actually a small hole from a short from the
3 electrical service line and NTSB calculated
4 that the flow through it would have been
5 enough to trip the excess flow valve based
6 on an EFV design that was based on
7 anticipated customer load rather than full
8 severance of the line. So if you do design
9 for full severance of the line yes, you may
10 eliminate some inadvertent closures but you
11 also lose the ability to control some of
12 these events where there's a significant
13 leak but it's short of full severance. And
14 I don't know, I don't have an answer for
15 that but I'm saying there is -- whichever
16 way you go there's definitely an engineering
17 tradeoff.

18 CHAIR WRIGHT: Susan?

19 MEMBER FLECK: Susan Fleck,
20 National Grid. I don't have a specific
21 question but I just want to support AGA's
22 comments on this one, that I believe a lot

1 of the data that you are trying to get
2 through the census is not readily available.
3 And the effort and cost for companies to try
4 to pull that together I think is going to be
5 a burden. And the data will have some
6 accuracy issues. So I just wanted to
7 support AGA's comments publicly.

8 CHAIR WRIGHT: Richard?

9 MEMBER WORSINGER: Rich
10 Worsinger, Rocky Mount. Which Richard? Was
11 it me?

12 CHAIR WRIGHT: He's Gene. You're
13 Richard.

14 MEMBER WORSINGER: Okay. Mike,
15 first let me say I don't envy you in your
16 herculean task to put together all this
17 information when, as Susan states and I'll
18 state also for APGA, it's just not out
19 there.

20 And I'm concerned that the
21 manufacturers are telling you that they have
22 manufactured these and have sold them but

1 don't know that anybody has used them and
2 they can't tell you how much they cost. I
3 mean that really raises a red flag in my
4 estimation. Did you want to respond there?

5 MR. ISRANI: Yes. And there are
6 a couple of manufacturers like the ones
7 which are famous ones, you know, who
8 participated on the stakeholders group. And
9 I called him directly and I told him that
10 they said that they can provide us
11 information on this but it's -- they were
12 not very open on how much it cost but they
13 were saying it's not as expensive as you may
14 think. So that's all.

15 (Laughter)

16 MR. ISRANI: Yes. So you know.
17 But information --

18 MEMBER WORSINGER: Were they
19 thinking of the \$600 toilet seats as a
20 reference?

21 (Laughter)

22 MR. ISRANI: Well, they say that

1 it depends on the size and capacity, the
2 loads and everything.

3 MEMBER WORSINGER: And the
4 quantity that they would sell.

5 MR. ISRANI: So say you know,
6 like when we had the excess flow valves for
7 single-family homes and word across the
8 board was these are only \$25 valves, but the
9 actual cost to the operator was a lot more
10 than that because of all the factors they
11 consider for excess flow valves, for
12 inventory and what goes on, sizing, design,
13 everything. So here also they said that,
14 you know, for small entities the valves
15 could be less than \$100 but it could be a
16 lot more for other entities. So those are
17 the -- how they were not describing how much
18 it was going to cost for large applications.

19 MEMBER WORSINGER: The
20 questionnaire you're sending out, I think
21 that's the one, John, you shared with us.
22 How many questions is on that?

1 MR. ISRANI: We do have a lot of
2 questions. We started with a small set of
3 questions and economists who are doing the
4 cost-benefit study, they want information,
5 more and more information on categories of
6 stores and shops and all, whether they have
7 space heaters, they don't have space
8 heaters. And also category, they came from
9 five to seven large commercial, small
10 commercial and large commercial with these
11 space heaters and quick loads and things.
12 And that's without it. So they can break it
13 down. So total we have 127 questions.

14 MEMBER WORSINGER: I hope you
15 realize and I think you do because you've
16 been around for awhile, the utilities in
17 general have not been capturing that
18 information especially when you break it
19 down to space heaters and individual
20 customers. It's just -- you're going to put
21 utilities through a lot of time to try to
22 answer this 100-plus question questionnaire

1 when the data does not exist. And that's
2 why I said you've got a herculean task in
3 front of you. And I think you're going to
4 come back with very, very little data at the
5 end of this. That's all for now.

6 CHAIR WRIGHT: Gene?

7 MEMBER FEIGEL: Gene Feigel.

8 Mike, in lieu of any in-field experience, or
9 maybe not in lieu of but in addition to, are
10 any of the manufacturers willing to share
11 any of their R&D or production testing?

12 MR. ISRANI: Yes.

13 MEMBER FEIGEL: And not just it's
14 this size and it works. I mean something a
15 little more robust than that.

16 MR. ISRANI: Yes. You know, in
17 this interim report and also during our
18 meetings with the manufacturers and industry
19 they do follow two standards. They have MSS
20 standards which is a manufacturers standards
21 body which writes these standards for the
22 excess flow valves. They also have ASTM

1 standards for testing of these valves. So
2 they build these valves to those two
3 standards. So yes, they do have some
4 standards that they follow.

5 MEMBER FEIGEL: Knowing that,
6 Mike, I mean can you back out any useful
7 information from the fact that they have met
8 those standards in terms of their testing?
9 I mean, is it quantifiable enough to be
10 useful to even maybe begin to address some
11 of the issues with, you know, complexity of
12 loads like in hospitals or is that sort of a
13 fruitless task?

14 MR. ISRANI: One of the things is
15 that, as I mentioned, in the 2011 act
16 Congress has mandated which requires --
17 which has asked DOT to require excess flow
18 valves after the study for small commercial
19 and apartment buildings. So that's what we
20 were focusing mainly on. And although we
21 are collecting all information because of
22 NTSB's recommendation which is from 2001

1 with us and they've been insisting that we
2 have to kind of look at all these
3 applications.

4 But we are weighing in all the
5 factors. We would also look at if we are
6 putting the rule out do we mention about the
7 standards to follow for these valves.
8 Currently we have performance standards
9 under 192.381. We can add their standards
10 requirement for these multiple application
11 valves. So we are considering all of these
12 factors.

13 CHAIR WRIGHT: Mike?

14 MEMBER BELLMAN: Mike Bellman,
15 city of Richmond. Just a couple of points.
16 To reiterate Sue and Rich that we support
17 the AGA and APGA comments on this. But you
18 know, for the first time you're looking for
19 data downstream of the meter. And I'm
20 wondering what the regulatory aspect of that
21 is because really you don't regulate that.
22 Would it come under building codes and other

1 requirements and how you're justifying even
2 asking for that kind of information.

3 And then I guess the other thing
4 is on the pricing issue, I'll make an offer
5 here. As a municipal operator we're subject
6 to the Virginia Freedom of Information Act
7 and all of our purchasing things are totally
8 open to the public. Send me a written
9 request and I'll tell you what city of
10 Richmond pays for the excess flow valves.

11 But that's just the payment of
12 the valve. When we install those if we use
13 a contractor they have a unit-priced
14 installation. So what that means is as long
15 as a service is less than 100 feet long we
16 pay a flat rate for that installation. And
17 we don't care what they run into for dirt or
18 for rock or trees or anything else. It's
19 not time and material. And so to capture
20 what does it cost to install an excess flow
21 valve would be almost impossible as well.
22 But you just send me a written request and I

1 can tell you what we pay for an excess flow
2 valve.

3 MR. ISRANI: Thank you, duly
4 noted.

5 CHAIR WRIGHT: Susan?

6 MEMBER FLECK: I had a follow-up
7 question. When you're looking at even the
8 small/medium-size industrial-type loads, are
9 you factoring in or is anywhere in your
10 survey taking account of the unintended
11 shutoff consequences? In certain kinds of
12 operations, wax cartons, light bulbs, those
13 kind of things if you interrupt the flow we
14 have to pay for the entire product in the
15 entire process back to the customer. So is
16 that being factored in, one consideration
17 for these?

18 MR. ISRANI: Well, one of the
19 reasons why our survey is so long is because
20 we had all of these questions.

21 MEMBER FLECK: Okay.

22 MR. ISRANI: We have --

1 MEMBER FLECK: You have a lot of
2 applications.

3 MR. ISRANI: Right. And we
4 realize that. Knowing, you know, from the
5 pilot inspection which has gone to nine
6 entities and even they were unable to come
7 back and give us some input. They asked --
8 at least one or two of them have asked for
9 extension for even them to come up with all
10 these numbers to fill out the survey.

11 We are considering in-house to
12 revise the survey or census to make it much
13 easier by -- there are some questions we can
14 ask right in the front so they can jump all
15 the way to the end and give us only
16 information on those. And so it's a little
17 work on our side, our economist's side when
18 they are preparing to minimize the burden on
19 the operators.

20 So we are working on that, to
21 minimize the number of questions first of
22 all. Also to see where we can get the

1 maximum input having to skip a lot of
2 questions. Cut down really work on some of
3 the operators. If they -- if we go up front
4 and ask them if they even have installed in
5 commercial entities and they say no they
6 don't have to fill out all the information.
7 So although our economists were saying that
8 they still need to know which are
9 candidates, you know. So that's how the
10 survey became. But we can work on it, see
11 how we can minimize this.

12 MEMBER FLECK: The reason I ask
13 that, one of the reasons I ask that question
14 is because we've talked to the manufacturers
15 of excess flow valves and said can you, you
16 know, do you have a product that you can
17 stand behind in these applications and they
18 all say no. So to greatly fluctuating
19 loads, small/medium-size commercial
20 industrial. So you know, they say they have
21 products available and that's theoretical in
22 some cases. It hasn't been proven that they

1 can work.

2 MR. ISRANI: Well, we do have
3 record of these three large manufacturers of
4 excess flow valves who participated in our
5 meeting and they say they have up to 5,400
6 standard cubic foot per hour which covers
7 pretty large application. But that's the
8 largest they have gone they say. But when
9 we ask them have they supplied those and
10 they say that they have -- some operators
11 have asked for it but not the large kind.
12 But they have supplied for commercial
13 entities but they were not sure whether they
14 have been used.

15 CHAIR WRIGHT: Rich?

16 MEMBER WORSINGER: Rich
17 Worsinger, Rocky Mount. John reminded me of
18 a discussion we had at breakfast this
19 morning. Our hospital in Rocky Mount I
20 believe has a 6-inch plastic service to it.
21 I would be very concerned and I'm sure they
22 would be also about false shutdowns as

1 opposed to what this would do for them.

2 Also, in a situation like a
3 hospital or a school the people that are
4 there are very aware of somebody's going to
5 be out there digging with a backhoe because
6 that's what you're really talking about to
7 actually rip up a 6-inch plastic line. And
8 even if you did you're more likely to put a
9 tooth into the plastic line and cause a leak
10 right there and that would not trip that
11 excess flow valve if it was sized for the
12 total flow.

13 The other option would be you
14 need to have some kind of track hoe, some
15 enormous piece of equipment out there that
16 if it did hit the 6-inch service it's more
17 likely to pull it out of its connection with
18 the main than sever it right there.

19 And then just another comment,
20 just as I've dealt with our field people
21 where we've come across contractor damages
22 and stuff like that. They typically are

1 going to quickly dig up and squeeze off as
2 opposed to try to find a distribution valve
3 to shut down a line. It's just quicker
4 response.

5 Now, I realize in Rocky Mount we
6 don't have as much paving, it's not wall to
7 wall paving like you find in a lot of urban
8 environments. But our guys are going to
9 quickly decide what's the quickest way to
10 shut it off and more times than not that's
11 to dig it up and squeeze it off as opposed
12 to find, you know, a 2-inch valve in a
13 subdivision.

14 MR. ISRANI: Thank you.

15 CHAIR WRIGHT: Any more comments
16 from the committee? Okay, hearing none are
17 there comments from the public?

18 MS. SAMES: One, if I may.

19 CHAIR WRIGHT: Sure.

20 MS. SAMES: Christina Sames,
21 American Gas Association. The path forward
22 I would say is a fabulous path forward for

1 almost every single you've been doing except
2 in this instance. And the only reason it
3 doesn't work in this instance is because of
4 the lack of data.

5 The AGA has put out a number of
6 surveys, reached out to its members and we
7 are hearing is not available. So you can
8 put out the survey and what you will receive
9 is at best very limited data that's
10 questionable. It will delay what we think
11 can be moved forward.

12 We actually believe working with
13 the manufacturers that we've come up with a
14 solution to move this forward into
15 regulation and we support that. What we
16 have in our comments would actually cover
17 90-92 percent of all new installations,
18 whether it be -- everything all the way up
19 to industrial. Industrial doesn't work.
20 The huge concern is the fluctuating load and
21 because of the liability on operators if
22 that inadvertently trips it's huge. It's

1 just absolutely huge. And we believe that
2 the safety consequences for these larger
3 facilities is such that it just doesn't make
4 sense from a safety aspect.

5 So because of that, because we
6 think there's a solution AGA and its members
7 would support PHMSA moving forward with a
8 proposed rulemaking. Forget the survey.
9 Thank you.

10 MR. ISRANI: In response to
11 Christina's comment here, you know, we
12 appreciate that. And we would also like to
13 move forward with a rulemaking to save time
14 and also. But you know, for any rulemaking
15 we need to have cost-benefit study done.
16 And the only way we can do cost-benefit
17 study is if we find out where these are used
18 and what factors are involved for economists
19 to do analysis. Otherwise OMB will not
20 release this rulemaking before -- without
21 seeing numbers justifying this rulemaking.
22 So you know, anything what committee

1 recommends will help us decide what more
2 could be.

3 CHAIR WRIGHT: Any more comments
4 from the public? Any comments from the
5 committee on that? Richard? Oh Don, I'm
6 sorry.

7 MEMBER STURSMA: On industrial
8 customers, maybe some of the operators in
9 the room can confirm or deny this but
10 generally they will have a delivery tap
11 station that's fairly close to a town border
12 station with aboveground equipment and
13 especially an aboveground valve which can be
14 quickly accessed and turned, something quite
15 a bit different than trying to find the curb
16 valve or whatever, buried curb valve for a
17 residential, small commercial, everything in
18 between customer. So for industrial
19 customers you may have an alternative in
20 excess flow valve if it's common practice
21 that there is an aboveground valve that
22 could be quickly operated if there was a

1 problem with the service line to that
2 customer.

3 MR. ISRANI: Thank you, Don.

4 MEMBER WORSINGER: Mike, just one
5 other thing you could consider although it
6 would slow it down. Require -- request
7 industry to -- operators to start collecting
8 this data now. Because we don't have it.
9 We haven't been collecting it. But that is
10 going to slow the process down. You figure
11 you've got 2 years to gather data and then
12 another year to analyze it and come up with
13 what you're doing. But just merely wanted
14 to throw that out in case you hadn't thought
15 of it.

16 CHAIR WRIGHT: Okay, seeing no
17 more comments that brings a close to this
18 agenda item and we'll move onto the next
19 agenda item which is a briefing on the state
20 action plan and that will be Linda Daugherty
21 as opposed to Zach Barrett.

22 MS. DAUGHERTY: I get to channel

1 Zach. So, I'm checking our time. I know
2 our goal is to shoot for getting out of here
3 not after the noon time so I'm going to go
4 through this pretty quick.

5 We were asked to provide just a
6 general brief on the state program and our
7 action plan. Real quickly I'm going to give
8 you a high-level view of our state programs.
9 Then I'm going to talk about the action
10 plan.

11 So we have state programs that we
12 work with in all of our states except for
13 Alaska and Hawaii. We do the inspections
14 there ourselves. So it's kind of ironic,
15 our Alaska inspectors get to go to Hawaii to
16 thaw to do the inspections there. I think
17 that's kind of cool. They won't let me go
18 for some reason. But, anyway.

19 The states are responsible for
20 inspection enforcement of 80 percent of the
21 nation's pipeline infrastructure. I think
22 that's really important to think about

1 because 80 percent is a lot and is also
2 where the people live. So the states, Don
3 Stursma and his team and Massoud and their
4 team, they're responsible for oversight of
5 pipeline systems right in high-population,
6 high-consequence areas when you're talking
7 about people. And so they're a very
8 critical component of the big national
9 pipeline safety program.

10 An estimate is that we have
11 approximately 300 state inspectors. We have
12 in comparison about 135 federal inspectors.
13 So the feds, 135 across the country, the 300
14 spread out through the 50 states. And I
15 would also mention that it varies state by
16 state. Texas probably has quite a few more
17 inspectors than, say, Utah or Nevada. I'm
18 guessing that, I could be wrong. But the
19 next slide.

20 You know, I mentioned we're state
21 partners. We provide support to our states
22 and we do that in a number of ways. We have

1 a grant certification problem that's about
2 \$40 million. That's a lot of money. And
3 when any federal agency provides grant
4 dollars to any entity or entities you have
5 to go through all sorts of hoops because
6 you're doling out federal funds. So we have
7 the grant program.

8 We do have training where federal
9 and state inspectors are side by side in
10 Oklahoma City. We also provide technical
11 support for inspections and investigations.

12 A lot of times we work directly
13 with states. A new rule comes out, we go out
14 with them and do joint inspections. So we
15 learn from the states and the states learn
16 from us. You know, it's a joint learning
17 exercise.

18 Also, we try our best to support
19 NAPSRS initiatives. NAPSRS, National
20 Association of Pipeline Safety
21 Representatives. And those are the problem
22 managers throughout the country of the state

1 pipeline safety programs. So when they have
2 ideas and thoughts we try to get out there
3 and support them. Some states, you know,
4 have challenges with legislative attempts.
5 They want to change a law, maybe a damage
6 prevention law. And we are willing to go
7 out and try to help them as much as we can.
8 They also have test teams.

9 But overseeing that entire group
10 of functions, all that support, we have 10
11 people. Zach Barrett who is supposed to be
12 speaking here but he's at a NAPSRS meeting in
13 Kentucky at the moment. But we have 10
14 people that oversee that entire problem
15 which is the grant and the evaluation and
16 supporting the states. Next slide.

17 So you probably knew most of what
18 I just said if not all of it. And why am I
19 here? Because every time you have a problem
20 that is that critical you have to
21 continually learn and improve it. It's
22 continuous improvement. It's learning about

1 risks within the problem and it's about
2 addressing those. And before some of the
3 recent incidents we had actually started an
4 internal audit not because we thought there
5 were problems, and we have a very strong
6 state programs division. Don't get me
7 wrong. But we believe that we need to
8 occasionally go through our programs and
9 take a harsh, introspective look and say
10 hey, is there an area we need to improve.
11 Are there weaknesses that could be a
12 vulnerability?

13 So we did internal reviews on the
14 grant management system and then we also did
15 a general program review. And that came out
16 with a couple of different internal reports
17 that said we needed to look at some issues
18 and maybe make some changes.

19 When you couple that with some of
20 the events leading out of San Bruno and
21 other major pipeline events we get a lot of
22 recommendations from NTSB, the OIG which is

1 the Office of Inspector General. People
2 look at our programs and they say hey, why
3 are you doing this this way. You need to
4 change this. Or maybe your oversight of the
5 grant certification program is not
6 appropriate. Maybe you need to be a little
7 bit more stringent. So we get a lot of
8 ideas that we have to evaluate and consider
9 implementing.

10 And the third one I put up there,
11 the public and the media. You had to be
12 living under a rock if you were in the
13 pipeline business and were not aware of the
14 criticism we got coming out of San Bruno and
15 some other incidents. So as a federal
16 agency we are accountable to the public and
17 unfortunately that's often reflected in the
18 media. And we have to be responsive to some
19 of those issues. We need to have public
20 confidence in what we do.

21 So we developed a state program
22 action plan that covered three basic areas.

1 And I'm not going to go over it in a lot of
2 detail but I'm going to hit some highlights.
3 They covered the program oversight.
4 Basically how do we oversee the general
5 program -- let me back up for a second.
6 When states enter into a certification
7 agreement we basically say we are giving you
8 this amount of money to carry out oversight
9 of intrastate pipeline operators or pipeline
10 operators in your state. In return the
11 states say yes, we will inspect, enforce,
12 we'll do all these things to make sure that
13 pipeline operators operate safely in our
14 states. So it's an agreement. It's a
15 certification agreement.

16 And the program oversight
17 recommendations are where we have to take a
18 look at that, make sure that we are asking
19 the states to do the right things and that
20 they're agreeing to do the right things.
21 And that when they -- when the states do
22 something different how do we nudge them

1 back to the national plan. How do we learn
2 and maybe make adjustments to our oversight
3 program?

4 The second one has to do with
5 grant management. Dealing with federal
6 grant funds is a very challenging task.
7 There are a lot of hoops you have to go
8 through and using the right words are so
9 important we've found out over the last few
10 years. We do not have any accountants in
11 our state program division. We do work with
12 them that are elsewhere in the Agency but
13 what it means is we have to be attuned to
14 certain things and certain word use and make
15 sure we are meeting all of the requirements
16 for appropriate grant usage.

17 The third item has to do with
18 transparency and data-sharing. That comes
19 from basically two issues which I'll go into
20 a little bit more which has -- it's about
21 are we transparent to the public so they
22 know how we, both federal and state, are

1 overseeing pipeline safety. Can the public
2 take a peek into what we do and say yes, I
3 think you guys are doing a good job, or you
4 know, you guys are not doing what I as a
5 member of the public would like to see
6 happen and I'm going to have input through
7 one way or the other.

8 Transparency is important. Data-
9 sharing I believe is just as critical if not
10 more important. We determine what we do as
11 oversight agencies by looking at emerging
12 trends and items that are important. For
13 example, right now I can tell you if there
14 is a particular regulation that a lot of
15 pipeline operators are violating. I can
16 look across the country and look at all of
17 our inspection records and say gosh darn it,
18 you know, almost all the inspections we do
19 result in a violation of X. That means we
20 need to do more guidance. We need to check
21 into that issue.

22 I can't tell you the same thing

1 for the states. I don't know what the
2 emerging issues are. And we believe that we
3 need to share some of that information
4 better.

5 So, I'm going to go over -- I
6 mentioned the three different bullets, the
7 program oversight. I am not going to read
8 through every one of these but I am going to
9 talk very briefly about the ones I have
10 highlighted, for various reasons want to
11 emphasize them.

12 You heard Jeff I think say
13 yesterday that 17 states have never issued a
14 civil penalty in the last 10 years. That
15 has caught a lot of attention because people
16 look at it and say how can somebody be
17 enforcing pipeline safety requirements if
18 they're not using civil penalties.

19 We know that there are
20 alternative enforcement mechanisms. We know
21 that if an operator has a problem a state
22 may choose to use a compliance order and say

1 hey, you need to fix this by this time.

2 They may use rate mechanisms. There are
3 other ways.

4 But when the public sees that
5 they get a very different view. What is
6 your initial reaction? Think about it. If
7 you were to tell someone that 17 states have
8 no speeding laws or never get a speeding
9 ticket in these states I mean, because, you
10 know, you can drive through them. Will
11 people speed in that state? Probably.
12 Would I do that? Of course not, I work for
13 DOT. But, anyway.

14 But the point is is that there is
15 a perception issue. Maybe it's about
16 educating everyone to alternate enforcement,
17 but maybe it's also trying to get the states
18 that don't use enforcement or civil penalty
19 to start using it.

20 There is also a requirement in
21 the grant certification program that says
22 that states should use -- have substantially

1 the same enforcement levels. Not all states
2 do. So that's another area we need to work
3 on.

4 The next one I wanted to talk
5 about is the focus on state enforcement
6 actions and state follow-up to resolution.
7 I don't know if I mentioned but early on
8 when I talked about all those internal
9 audits they looked at how we followed up on
10 state oversight. And they came back to us
11 and said you know what? You all, PHMSA, are
12 not doing a very good job of making sure
13 that states follow up on their enforcement
14 actions to resolution. So that was a
15 recommendation to us to improve our system
16 to do that and we are. So like I said,
17 these are just a number of items. I'm going
18 to move faster.

19 I think you heard Cynthia talk
20 about acceleration of high-risk pipe
21 replacement programs, or repair, or
22 requalification. That is an item that was

1 put in our action plan by the
2 administration. They want us to continue to
3 encourage that.

4 The next one, the increase
5 federal-state communication through
6 quarterly conference calls with state
7 program managers, it's important we learn
8 from states. Too often the communication
9 direction tends to be one way. We get on a
10 phone call, we give information out, we also
11 need to listen. And that is part of that
12 attempt to be better listeners. Let's go
13 onto the next one.

14 We talk about a federal-state
15 mentoring program. This is an item where we
16 are -- when we have new feds or new state
17 inspectors or even program managers we're
18 trying to match them up. So we may have a
19 federal inspector and a state inspector go
20 out. We may have states from different -- I
21 mean state inspectors from different states
22 work together on an inspection, try to help

1 each other to have a more level playing
2 field as far as learning.

3 By the way, these slides will be
4 available so if you want to reach out to us
5 about some of these items I'm just skipping
6 over.

7 One thing that was really
8 interesting was discussed by one of our
9 program evaluators. He did an analysis of
10 states that receive grant funding and then
11 he looked at incident rates. He was trying
12 to see if the states that have more people,
13 more inspectors have a resulting fewer
14 incidents. In other words are the number of
15 inspectors related to the overall
16 performance to operators? It's an
17 interesting concept and that's something
18 we're looking at. So do operators perform
19 better if they get inspected more? I don't
20 know. We ought to find out. That would
21 also have repercussions at the federal
22 level.

1 Grant management. Okay, this is
2 one of those little poonanny things that
3 have big impact. See the update names of
4 grant documents to be consistent with
5 typical grant terms? For years we had said
6 we made payments. You know, we called them
7 different things and they kept getting
8 bounced back. When we'd go through the
9 processing all the financial people would
10 bounce them back and hold them up for weeks.
11 We couldn't figure out what it was. We
12 finally found out we were using the wrong
13 terms. We needed to say somewhere in our
14 documentation that we were making payments.
15 By simply making simple name changes we were
16 able to get through a lot of hoops. I point
17 that out because it's a minor item but in an
18 action plan sometimes the minor items can
19 have huge impact.

20 Yesterday you saw me fumble
21 really bad on the questions about indirect
22 cost. I will tell you that I went back and

1 did some homework last night and I talked to
2 Zach about the 20 percent cap. And I will
3 tell you that that came out of a
4 recommendation from one of the internal
5 audits that we reinsert it. I think the
6 comments that were placed in the record
7 yesterday were valid and something that we
8 do need to consider.

9 Let's see. I'm going to -- oh.
10 One thing we found out also is including the
11 certification with the grant application
12 package. We actually found that there was a
13 period of time in which states were not
14 authorized to inspect. There was a gap in
15 timing between when they applied to be in
16 the program and when it was actually
17 granted. And there was a gap in which the
18 coverage did not apply. So we've gone back
19 and fixed that so operators have -- or
20 states have authority to inspect and oversee
21 the states all year. I'm almost done.

22 Transparencies and data-sharing.

1 We are planning to post state scoring
2 documents and grant payments, a lot of
3 information up on the website. It has --
4 that all goes back to the public's ability
5 to look in and see how we're doing, how
6 states are scoring and how we are evaluating
7 various performances. And I already
8 mentioned sharing of information, inspection
9 and enforcement information between the
10 states and the feds, continue to work on
11 that.

12 You know, we have a state action
13 plan and we've had a lot of criticism, a lot
14 of criticism. And sometimes we have to step
15 back and say you know what? Let's look at
16 the data. Right there are just a couple of
17 quick statistics. The number of
18 distribution incidents under state safety
19 authority has declined by half over the last
20 25 years. If you look at the last few years
21 you'd say oh my goodness, there's been some
22 horrible tragedies and there have been.

1 But when you look at the long-
2 term trend, you know what? States are doing
3 a great job. You know, pipeline operators
4 too. It's not just the states. It's the
5 pipeline operators as well, but the states
6 are a critical component. And you combine
7 that with the fact that you've increased
8 your miles of main by 60 percent and your
9 services by 50 percent, it's huge.

10 So it's come up yesterday and it
11 came up today. We realize everybody has a
12 very full plate and we would like to see the
13 programs grow. We consistently ask for more
14 money for states. We always go in with a
15 hey, let's give more money to states. We
16 are right now -- I could get in trouble.
17 But I'll say this. The -- thanks, Cameron.
18 Cameron said go ahead and get in trouble.

19 (Laughter)

20 MS. DAUGHERTY: I will say that
21 if you look at our funding requests we are
22 looking at providing grant funds potentially

1 at the 75-77 percent level for this year.
2 That's a lot of money. Our cap is 80
3 percent. So we would be looking at
4 providing 75 to 77 percent of funding
5 towards state programs.

6 We have money we want to put in
7 the states but a lot of times the states are
8 constrained by internal issues. They can't
9 grow. And that was actually our last slide.
10 Critical partners.

11 CHAIR WRIGHT: Okay. Thank you,
12 Linda. I don't think any issue there was a
13 little new panny -- whatever you said thing.

14 MS. DAUGHERTY: Poonanny.

15 CHAIR WRIGHT: Poonanny, okay.
16 Questions from the committee? I know
17 Richard had his sign up awhile ago.

18 MEMBER WORSINGER: Rich
19 Worsinger, Rocky Mount. Linda, you shared
20 with us that 17 states have had no civil
21 penalties in the last 10 years and you asked
22 the question what is our reaction. I think

1 you meant that maybe as a rhetorical
2 question but I'm going to answer it anyway.
3 And you used the analogy of what would you -
4 - how would you react if a state wasn't
5 issuing speeding tickets. In fact Gene said
6 he's going to move to that state.

7 And of course the one reaction I
8 think you're looking for is there is -- the
9 enforcement is not happening there, that
10 things might be being overlooked. I have to
11 offer the other opinion that maybe all -- in
12 some of those states what they're finding
13 are only minor inconsistencies that are
14 being quickly corrected and they're not
15 worthy of a penalty. Because I think you've
16 got operators who take these regulations
17 seriously and are doing what the regulations
18 require. In fact, do above and beyond what
19 the regulations require. And I've just got
20 to point that out that that has to be
21 considered also, why some of those states
22 have not been issuing penalties.

1 CHAIR WRIGHT: Susan, then Don.

2 MEMBER FLECK: I was actually
3 going to comment on the same thing. You
4 have to wonder how the public is going to
5 perceive this. When I look at a driver that
6 has no tickets I assume that's a good
7 driver. I do not assume that's a lousy
8 police department. Right? And if the
9 public is looking at, you know, National
10 Grid doesn't get any fines in New York I
11 don't think they're thinking the New York
12 regulators are doing a lousy job. They're
13 thinking National Grid is doing a good job.
14 So just another way to think of it similar
15 to where Rich came from.

16 My question is are you
17 considering any way of giving credit to
18 states and companies where they develop an
19 alternate to a fine. Say in lieu of a fine
20 we will agree to spend a quarter of a
21 million dollars more on a service
22 replacement program, or on increased

1 inspections or something like that, instead
2 of just a fine that goes to a general fund
3 that pays for something totally unrelated to
4 pipeline safety. You see where I'm coming
5 from?

6 MS. DAUGHERTY: I think it's a
7 valid question. We've had a lot of states
8 that have come back to us and said look, we
9 don't issue civil penalties but we do show
10 cause orders and we do have these programs
11 to address the safety issue. It's one of
12 those things that we have had a lot of
13 discussion on. So I wouldn't say we are
14 saying no. I would say that we recognize
15 every state has a different authority under
16 which they operate and have different
17 requirements.

18 Some states do not -- their
19 legislation, their state laws do not allow
20 them to collect -- issue or collect civil
21 penalties. Okay, New York. Okay. So we
22 understand that there are some issues there.

1 Giving credit for alternative types of
2 actions seems like a reasonable approach as
3 long as we can make it clear how it benefits
4 the public.

5 Now, there are different kinds of
6 violations in my opinion. There's the
7 violation where an operator is trying to do
8 the right thing. There's a safety issue
9 that's identified and they're all over it.
10 They jump on it, they're showing good faith
11 and they're trying to fix things and they're
12 right there.

13 There's the other type of
14 operator that says I'm going to do this and
15 hope I don't get caught. And for those type
16 of operators you do need to have some type
17 of a punitive measure. Just bringing
18 yourself into compliance when you have been,
19 you know, getting by with a violation and
20 putting the public at risk is not
21 acceptable.

22 I think there's a lot of gray

1 area and I think there's a lot of
2 opportunity for further discussion with the
3 states on how we can address some of these
4 issues.

5 MEMBER FLECK: And I'll give you
6 a specific example in self-reporting. So I
7 find a problem. We missed some corrosion
8 inspections over the last 2 years so I put
9 together an improvement plan, fully identify
10 everything that went wrong, why it went
11 wrong and all the things that I'm going to
12 put in place to make it go away. And I
13 correct all the missed inspections. I go to
14 my regulator, I give them all of this and
15 then I get a penalty? There's no value to
16 that fine as far as changing the way I'm
17 going to do things or penalizing me for
18 making a mistake.

19 I already, I've already done
20 that. I've already taken all the corrective
21 actions. I've spent the money, I've fixed
22 the problems. What value does a fine have

1 in that kind of a situation? And that's
2 sort of a rhetorical question but you know,
3 just something to think about as you look at
4 the enforcement programs. It's not always
5 how much money a company is fined but it's
6 their willingness to do the right thing, to
7 partner with the regulators, to identify
8 these problems and fix them.

9 Think about how discouraging it's
10 going to be to a company when the only way
11 the state's performance is evaluated is by
12 how much money they charge companies. We
13 could never achieve zero. It's not going to
14 be possible in this kind of a world because
15 no matter how good we get, you know, the
16 start regulator is going to be judged by how
17 many tickets they write. So they'll start
18 to get more and more nitpicky and less and
19 less value will be going back to the people
20 who pay the bills.

21 MS. DAUGHERTY: Just a point of
22 clarification. I think you've got some

1 really good points. A point of
2 clarification. We do not anticipate
3 evaluating the states saying, you know,
4 here's a certain ticket number. Here's a
5 ticket quota. That's not what we're talking
6 about. What we're talking about is having
7 the ability to use a fine if you do find an
8 operator who is being grossly negligent and
9 putting people at risk. So there is the
10 ability to use it and then there's the
11 willing to use it if needed. Not saying
12 that we would say you must use it, it's just
13 the ability.

14 MEMBER STURSMA: You've been
15 dreading this, haven't you? No, I'll keep
16 it short.

17 First of all, that is the first
18 organized coherent presentation I've ever
19 seen on how a lot of the PHMSA policy
20 towards states is developed. And I would
21 request that you have Zach give that at the
22 Grant Allocation Committee meeting next

1 month for the benefit of that committee.
2 And I think to the extent that it raises
3 issues that PHMSA and states needed to work
4 on that would be the appropriate forum to
5 get into those issues. But like I said,
6 it's nice to see this actually laid out. I
7 learned a lot from it.

8 Second, I would say in terms of
9 IA, states don't like it, don't need it,
10 don't want it, want it to go away, don't
11 understand why PHMSA is pressing it so hard.
12 We prefer the systems we developed that look
13 at the issues in our state. Yes, I think --
14 mostly kind of an attitude about that.

15 And the other thing is on the
16 whole issue of, you know, states being
17 perhaps -- you've sort of I think said that
18 it's really not your position that you want
19 to see states start issuing more fines, but
20 at a recent state safety seminar I did tell
21 the operators that PHMSA was interested in
22 seeing states assess fines, that I was

1 preparing a schedule and I would let them
2 each know when it was their turn.

3 (Laughter)

4 MEMBER STURSMA: You know, you
5 laugh. They didn't.

6 CHAIR WRIGHT: Jeff Wright of
7 FERC. I'd like to just jump in on the
8 enforcement thing. I think probably maybe a
9 beneficial example is FERC's enforcement
10 authority which \$1 million per violation per
11 day. And I don't think we've ever had an
12 instance where anyone was charged that much.
13 What it does is it encourages settlements,
14 constructive settlements like you were
15 talking about where it's just not collection
16 of money, it's are you going to change the
17 program, are you going to put money in a
18 constructive place.

19 And then I think like Sue said we
20 have a fairly robust program of self-
21 reporting where, you know, you notice. You
22 made a mistake, you goofed up. Somebody

1 erred. But you came back and you recognized
2 it and you want to correct it. And
3 modifying behavior through penalties at that
4 point is not constructive.

5 But I would encourage you if you
6 want something to go by go to the FERC
7 website and go to the enforcement section.
8 And also various gradations of what are
9 violations. So things don't get priced out
10 at \$1 million per violation per day.

11 Would anyone else on the
12 committee have another comment? Oh, I'm
13 sorry. Don, I didn't see you.

14 MEMBER STURSMA: Forgot to take
15 my sign down but I did have one more thing.
16 I know that for the benefit of operators
17 PHMSA wants states to have enforcement or
18 penalty levels that are consistent with the
19 federal levels. But they're still working
20 off the \$100,000 to \$1 million level even
21 though they've got doubled from the last
22 legislature. And we are talking to our

1 legislature about increasing our Iowa levels
2 to the federal levels. And the consistent
3 attitude we get is that well, you can't fine
4 people that much, especially small
5 operators. They can't afford it.

6 Just to assure you that if states
7 are moving to increase their penalty levels
8 it doesn't mean they're out to nail you.
9 We're just trying to keep PHMSA happy and
10 just because we have those penalties doesn't
11 mean we have to use them at that level.

12 MS. DAUGHERTY: I would
13 completely agree, Don. That is one concern
14 that I have heard expressed, people saying
15 look, you have a very small company that
16 just cannot stand up to a federal-sized
17 enforcement action.

18 The truth of the matter is when
19 you have a very large company, you know, I'm
20 thinking like the nature of -- and I'm not
21 saying they're negative, but like Exxon or
22 these huge oil corporations. You cannot

1 compare them -- or Spectra. You cannot
2 compare them to the city of Rocky Mount as
3 far as the ability to absorb a civil
4 penalty.

5 You know, a \$45 million fine
6 against a city of, you know, that would not
7 work. We recognize that. It's not about
8 that. It's about having the ability if it's
9 needed. So we agree that there is scaling
10 of civil penalties but there needs to be an
11 ability if the case presents itself.

12 MEMBER STURSMA: I'll let you
13 explain that to our legislators because they
14 don't believe it when they hear it from me.

15 CHAIR WRIGHT: Okay, did we have
16 any more comments from the committee? All
17 right. Seeing none, do we have any comments
18 from the public? Yes, we have one.

19 MR. BENNETT: Phil Bennett,
20 American Gas Association. A quick comment
21 on oversight. And we believe oversight by
22 the regulatory bodies is very important.

1 One thing that we should mention
2 is there are really three different legal
3 structures in the gas pipeline industry.
4 You have the interstate operators that are
5 really common carriers and so they're
6 regulated financially by FERC and safety by
7 PHMSA. So you have that structure.

8 The gas utilities really are
9 chartered by the states and the state
10 commissioners have safety and regulatory
11 authority for -- so financial and safety in
12 one body and you have to operate under those
13 state charters.

14 And then the third structure is
15 really municipalities. So the pipeline
16 companies are really the government already.
17 So while PHMSA may have this federal
18 oversight structure that they gear towards
19 the interstate operators it may be wholly
20 inappropriate when you start looking at the
21 legal relationship that you have on the
22 other bodies because the state charters

1 really give the commissions a lot more power
2 than PHMSA has over the common carriers. So
3 oversight is important but PHMSA really does
4 have to look at the structures that they
5 have in their oversight programs and tailor
6 it to the different entities. So thanks.

7 CHAIR WRIGHT: Any more from the
8 public? Okay, thank you. Any comments
9 based on that? Andy?

10 MEMBER DRAKE: Andy Drake,
11 Spectra. I was actually going to go onto
12 another issue but I can wait till we close
13 this one.

14 CHAIR WRIGHT: Well, we will have
15 like an open discussion forum right after
16 this. So, given that if no one has anymore
17 question we can move directly to the open
18 discussion. And Andy.

19 (Laughter)

20 MEMBER DRAKE: Not trying to push
21 the agenda, but I really think before we
22 close it would be helpful if we could pick

1 up some -- communicate I think a need to
2 have a separate session to discuss fitness
3 for service and those kind of -- how this is
4 going to fit together inside integrity
5 management and how you're going to put some
6 of these things to ground.

7 I sense from some of the comments
8 that we've had that that's a bit of a --
9 there's a lot of misunderstanding there.
10 And I think a little -- we were going to
11 have a panel discussion here about it. I
12 think it was good, we just ran out of time
13 which is understandable.

14 But we probably need to put that
15 on an agenda soon because it is germane to
16 what's going on. And I don't think it's
17 appropriate to have members of this
18 committee not understanding how that issue
19 will help move us forward.

20 MS. DAUGHERTY: Completely agree
21 with you. And as a matter of fact we had
22 the fitness for service session planned for

1 the joint committee because we believe it
2 applies to both natural gas and liquid.

3 Now, it's interesting. When I've
4 talked to some of the liquid folks they
5 don't see the application. But I think it's
6 really important that we get the group
7 together and discuss. And then Jeff had
8 mentioned that we definitely need to do
9 that.

10 It also became very apparent to
11 me that it's not something you can cover in
12 30 minutes. It's something that you really
13 need to discuss. People need to understand
14 and be able to ask thoughtful questions
15 about. So the idea of having a separate
16 session to me seems like a very good idea.

17 CHAIR WRIGHT: Commissioner?

18 MEMBER GARDNER: My takeaway from
19 this morning's session was that that was
20 going to be an action item for the November
21 face-to-face. But I mean maybe I didn't get
22 the right takeaway. So if you could be

1 clear about that for me?

2 MS. DAUGHERTY: Yes, it will be.
3 I believe that it -- yes, I agree. We will
4 have a designated time to discuss the issue.
5 And if there are changes -- I don't know
6 what they would be, but if there are changes
7 we'll communicate it well in advance.

8 CHAIR WRIGHT: Any other
9 discussion items anyone would like to bring
10 up? Commissioner?

11 MEMBER GARDNER: I'd just like to
12 commend PHMSA for a very informative
13 program. I didn't expect to walk away quite
14 as informed or as pleased but I am actually
15 very happy to have been a part of this
16 session.

17 MS. DAUGHERTY: Thank you, Wayne.
18 And I would also like to express, you know,
19 the dialogue that we've had is so critical.
20 You know, we learn a lot when we have these
21 discussions and we walk away from it. So I
22 think Jeff mentioned that yesterday. Thank

1 you.

2 CHAIR WRIGHT: Open discussion
3 for the public. Did the public want to
4 bring up any issues at all? Okay, hearing
5 none we'll go to Linda kind of for a wrap-
6 up.

7 MS. DAUGHERTY: Again, thank you
8 all for participating.

9 MEMBER STURSMA: Yes, I know,
10 it's always me. I just wanted to first
11 express my condolences for all the missions
12 that Congress has given you. You have one
13 hell of a task ahead of you and good luck.
14 And I guess the states are willing to I
15 think help but we're a little bit afraid
16 that your problems are going to become our
17 problems.

18 (Laughter)

19 MEMBER STURSMA: We're not really
20 looking forward to that part of it.

21 But I also wanted to comment, I
22 know several speakers this last day or two

1 is the issue of priorities, about
2 prioritizing some of this stuff. I think we
3 understand that sometimes you're not in
4 control of your priorities, that your
5 priorities are established by others. And
6 again, my condolences.

7 MS. DAUGHERTY: But we're a happy
8 family, Don. So I want to thank everyone
9 for participating today in our meeting. I
10 think as I just mentioned I think the 2 days
11 have been profitable definitely to PHMSA and
12 hopefully to everyone.

13 You know, I think you're seeing a
14 move as we try to pull the advisory
15 committee into some more policy issues,
16 trying to get your advice and insight on
17 emerging issues and how we deal with some of
18 these prioritized action items.

19 So I do appreciate it and I think
20 we've met our target. I get you out early,
21 3 minutes early to my credit, right? Or to
22 Jeff's credit. Thank you very much. This

1 meeting is adjourned.

2 (Whereupon, the foregoing matter
3 went off the record at 12:56 p.m.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: TPSSC Meeting

Before: Jeffrey C. Wright

Date: 07-12-12

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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