Congressional Reauthorization & PHMSA Rulemakings

Pipeline Safety Trust Conference

November 17, 2011

Andy Black, President and CEO
Perspective on Pipeline Safety Reauthorization

• PHMSA programs should be reauthorized
• Changes to the laws should be balanced and thoughtful
• Reauthorization is an opportunity to improve:
  – Damage prevention
  – Incident notification
  – PHMSA enforcement processes
• Laws and regulations already cover the major causes of releases
Perspective on Congressionally Mandated Rulemakings

• Congress should provide flexibility to PHMSA, and not require “one-size-fits-all”
• Congress should not presume new regulations are necessary when requiring study of an issue
• Congress should continue to require rulemakings to be conducted under section 60102 rules
Importance of Section 60102 Rules

- Cost-benefit analysis
- Risk assessments
- Review by government-public-industry Technical Advisory Committee
Incident Notification

• Common goal – prompt notifications
• National Response Center (NRC) procedures need reforming, especially with a hard deadline
  – Volume release estimates cannot be revised later
• H.R. 2937 allows operators to report an initial range of a release, and fill in the numbers later
• Immediate efforts should be on response, not calculating exact release estimates
• Supply an exact estimate later, after the initial notification and response
Damage Prevention

- Common goal – less damage to pipelines
- Excavation damage is the leading cause of injurious pipeline accidents
- Too many States have unnecessary One-Call exemptions or weak enforcement
- Congress and PHMSA must do more to push States
  - Risk of Federal enforcement
  - Risk of loss of damage prevention grant funds
- S. 275, H.R. 2845, H.R. 2937 all remove One-Call exemptions for municipal and State governments
- H.R. 2845 and H.R. 2937 require a study of One-Call exemptions by States/municipalities
PHMSA Enforcement

- Pipeline safety laws and regulations lack many basic procedural rules common elsewhere
- Recent improvements at PHMSA need to be codified
- Pipeline operators deserve the same basic Administrative Procedures Act (APA) protections found at other Federal agencies
- Enforcement actions and penalties have increased
  - 2004-2006, average civil penalty was $57,000
  - 2007-2009, average civil penalty was $183,000
Goals in Enforcement Reform

- Independent hearing officers (found in nearly every branch of Fed. Gov’t)
- Hearing transcripts for formally contested actions
- A right to an expedited review at PHMSA of Corrective Action Orders
- Separation of functions of decisional/ advisory and investigative/prosecutorial staff
- Appropriate standard of judicial review
Items NOT in Enforcement Reforms Provisions

- Delays in issuing orders
- Requirement for Administrative Law Judges
- Specific deadline for reviewing a Corrective Action Order repeal
PHMSA Regulatory Activities

• Control Room Management
  – Significant safety benefits
  – Deadline accelerated
  – Being implemented now

• Low stress Phase II
  – Being implemented now

• Damage prevention
  – NPRM expected late this year or early next year

• Hazardous liquids regulations generally
  – Broad NPRM projected early March
  – Many elements being reviewed
API-AOPL Suggestions in ANPRM

- Require “immediate repairs” outside of High Consequence Areas (HCAs)
- Require updating of HCA designations with population and water intake data
- Require leak detection capability evaluation on all PHMSA-regulated transmission pipe, not just in HCAs
Dramatic Improvement: Liquids Pipeline Industry Onshore Pipe Spill Record

3-Year Averages Ending in Year Shown

Source: Pipeline Performance Tracking System, a voluntary spill reporting system involving 85% of the U.S. liquids pipeline mileage. Percentage decline from 1999-2001 average to 2007-2009 average.
Releases Down for Every Major Category

Source: Pipeline Performance Tracking System, a voluntary spill reporting system involving 85% of the U.S. liquids pipeline mileage
Time-Dependent Failures

- Industry record on “time dependent” causes (those that occur/worsen over time) from 2002-2009:
  - Overall, reduced by 36%
  - Large releases (greater than 50 bls), reduced by 50%
  - On pipe installed before 1950, operators reduced releases faster still by 83%
  - Release causes other than “time dependent” factors fell by 37% over same time period
  - This underscores that operators can and do manage a variety of threats
Final Thoughts

• Industry is doing much to improve
  – Tim Felt, Colonial Pipeline President and CEO to discuss tomorrow

• Goal of zero accidents
  – Not just lip service

• Reauthorization bill will help pipeline safety
  – Useful studies; potential additional regulations
  – Fewer One-Call exemptions

• PHMSA is managing and updating a comprehensive set of regulations