

U.S. Senate Committee on Commerce, Science and Transportation
Given at a Full Committee Hearing:
Oversight Hearing on Pipeline Safety
Tuesday, June 15 2004 - 9:30 AM - SR – 253

**The Testimony of
The Honorable James L. Connaughton
Chairman, Council on Environmental Quality**

Good morning Chairman McCain, Ranking Member Hollings, and Members of the Committee.

I am pleased to appear before you today to describe our efforts to implement the provisions of the Pipeline Safety Act of 2002 by developing an efficient process for expedited pipeline testing and repair while ensuring environmental stewardship.

The Nation's existing pipeline infrastructure, much of which is over 50 years old, requires regular safety and environmental reviews to ensure its reliability.

Timely testing and repair of both natural gas and hazardous liquid pipelines is essential to protect human life and property, and to facilitate the sufficient availability and use of natural gas and liquid fuels for our energy needs.

At the same time, many natural gas and hazardous liquid pipelines run through "High Consequence Areas": areas that are highly populated, are unusually sensitive to environmental damage, or are located along or near commercially navigable waterways.

Effecting timely repairs of these pipelines, while enabling effective environmental protection, is a critical challenge we are tackling as directed by Congress in Section 16 of the Pipeline Safety Act of 2002.

Our work is ongoing, and I am pleased to report to you today on our results thus far.

Implementation of the Pipeline Safety Act of 2002

Through Executive Order 13212, issued on May 18, 2001, President Bush directed Federal agencies to expedite reviews of authorizations for energy-related projects and to take other actions necessary to accelerate the completion of projects that will increase the

production, transmission, or conservation of energy, while maintaining safety, public health and environmental protections.

The Executive Order also created a Task Force, chaired by CEQ, to monitor and assist Federal agencies in carrying out this directive.

Following pipeline ruptures in Bellingham, Washington in June 1999 and Carlsbad, New Mexico in August 2000 which caused loss of life and significant property damage, Congress enacted the Pipeline Safety Improvement Act of 2002 (PSIA), which was signed into law by President Bush on December 17, 2002.

Section 16 of the PSIA directed the President to establish an Interagency Committee to implement a coordinated environmental review and permitting process enabling pipeline repairs within the time periods specified by DOT regulations called for in other sections of the PSIA.

To implement Section 16 of the PSIA, the President issued Executive Order 13302 on May 15, 2003, adding these pipeline safety functions to the charge given the Task Force authorized under Executive Order 13212. Therefore, CEQ has coordination responsibility for efforts to implement Section 16 of the PSIA, and that is why I appear before you today.

MOU Development

During the summer and fall of 2003, a working group of the Task Force evaluated Federal permitting requirements, identified best management practices (BMPs), and developed a memorandum of understanding (MOU) to provide for a coordinated and expedited pipeline permit review process. The text of the MOU is attached to my written testimony.

The process envisioned under the MOU would expedite the ability of pipeline operators to obtain the necessary permits or authorizations prior to making repairs in a High Consequence Area when a "time-sensitive" repair is indicated by testing: that is, when the pipeline's physical condition is such that repair is mandated within a certain period of time as directed by the PSIA and DOT's implementing regulations.

The MOU enhances coordination of the processes through which agencies with environmental and historic preservation review responsibilities under various statutes -- such as the Clean Water Act, or the Endangered Species Act -- meet those responsibilities in connection with the authorizations required to repair natural gas and hazardous liquid

pipelines that have been identified by pipeline operators as in need of repair on a timely basis to protect life, health or physical property.

The MOU recognizes that early planning, notice, and consultation among pipeline operators and Federal agencies can result in a structured process that facilitates timely decisions and enables critical repair actions to go forward, within the context of resource conservation.

The MOU supports the development of a comprehensive, “one-stop” information system to allow pipeline operators and agencies alike access to the best available information on pipeline testing and repair schedules, agency official contact information, natural resource conservation needs, and recommendations on management practices for testing and repair.

Further, the MOU recognizes that the identification and use of best management practices (BMPs) to avoid, reduce, or mitigate impacts to resources of concern can be one means of implementing specific measures to protect affected resources and encourage increased environmental stewardship.

Further Actions

The Task Force working group continues to consult on specific steps and agency actions to implement the process envisioned in the MOU.

First, we are working with industry to encourage early notification by operators of their testing schedules, so as to enable early consultation on issues that arise, and coordinate pipeline testing so that energy supply and price impacts are minimized.

Second, interagency discussions are well along in attempting to consolidate existing sequential permitting processes into a single, concurrent permitting process for general repairs that is triggered by the operator upon finding of a time-sensitive repair need.

Third, we are considering the potential for proposing categorical exclusions under the National Environmental Policy Act for instances where repairs can occur entirely within an existing right-of-way, or where minimal additional access is required, so long as consensus Best Management Practices are used to minimize impacts. Issuance of a categorical exclusion would mean that the specific category of actions described in the categorical exclusion do not individually or cumulatively have a significant effect on the human environment, and therefore, neither an environmental assessment nor an environmental impact statement would be required.

Finally, we are working with pipeline operators to identify those instances where specific issues and additional authorizations may have in the past prevented repairs in a timely manner (e.g., threatened or endangered species, navigable waterways, private lands, etc.). Once these instances are identified, we will work to develop specific procedures that will avoid these issues in the future and allow for timely completion of time-sensitive repairs in each case while allowing Federal agencies to carry out their resource protection responsibilities.

Conclusion

Given the state of our Nation's aging pipeline infrastructure, we are working to ensure that timely repairs can be made, accidents can be avoided, and human life and property is protected. At the same time, we are working to minimize negative impacts on the surrounding environment, and on our Nation's energy supply.

I will be glad to take any questions you may have. Thank you.