



NATIONAL ASSOCIATION OF PIPELINE SAFETY REPRESENTATIVES RESOLUTION

Resolution 2024-01

A RESOLUTION REQUESTING THAT PHMSA ALLOW STATE AGENCIES TO PARTICIPATE IN PHMSA DRUG AND ALCOHOL INSPECTIONS.

NAPSR has a desire to coordinate all overlapping inspections with states and PHMSA as much as possible to avoid duplication of inspections of operators and ensure consistency in application of the regulations and enforcement. NAPSR understands and appreciates the efforts that it takes by both states and PHMSA to coordinate inspections but believes that those efforts are extremely beneficial to operators, state agencies, and inspectors. The coordination of inspections assists state agencies in their ability to ensure consistent application of the regulations, all operators are being completely inspected, and state/federal guidelines regarding inspection responsibilities are met.

Whereas – PIPES Act 2020, Section 117 titled “Interstate Drug and Alcohol Oversight” states,

(a) In General. - Not later than 18 months after the date of enactment of this Act, the Secretary shall amend the auditing program for the drug and alcohol regulations in part 199 of title 49, Code of Federal Regulations, to improve the efficiency and processes of those regulations as applied to—

(1) operators; and

(2) pipeline contractors working for multiple operators in multiple States.

(b) Requirement. - In carrying out subsection (a), the Secretary shall minimize duplicative audits of the same operators, and the contractors working for those operators, by the Administration and multiple State agencies.

Whereas – 49 USC 60105(a) titled “General Requirements and Submission” states, “Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to

the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.”

Whereas – 49 USC 60106(b) title “Agreements with Certification” states, “(1) In General.— If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.”

Whereas – 49 USC 60106(f) titled “Joint Inspectors” states, “At the request of a State authority, the Secretary shall allow for a certified State authority under section 60105 to participate in the inspection of an interstate pipeline facility.”

Whereas – State agencies have historically not been allowed to participate in the PHMSA drug and alcohol inspections that include both interstate and intrastate facilities.

THEREFORE, BE IT RESOLVED: That NAPSRS requests PHMSA to:

1. Provide all state agencies with a list of all PHMSA planned drug and alcohol inspections (similar to how PHMSA communicates control room management inspections); and
2. Allow state agencies to participate in PHMSA’s drug and alcohol inspections when an associated operator is jurisdictional to the state agency; and
3. Allow interstate agents to participate in PHMSA’s interstate drug and alcohol inspections.