**Federal pipeline oversight agency was troubled from the start**

.

**Joseph Tanfani and Craig R. McCoy** *INQUIRER STAFF WRITERS*

Posted Saturday, December 10, 2011

When it comes to the small federal office charged with keeping U.S. pipelines safe, government auditors have been repeating themselves for more than three decades.

In 1978, federal auditors said the office was reluctant to issue penalties, and simply took companies' word that problems were fixed.

In 1984, they said it wasn't doing a very good job at supervising state pipeline-safety offices.

In September, in a report on a tragic natural gas explosion in San Bruno, Calif., the National Transportation Safety Board called the agency "weak," and its oversight of state safety programs still "ineffective."

The Pipeline and Hazardous Materials Safety Administration, or PHMSA, an agency within the U.S. Department of Transportation, has been a problem child ever since its birth in 1968 - buffeted by industry pressure, perennially short of staffing, a whipping boy for critics in Congress and safety advocates.

Carl Weimer, executive director of the Pipeline Safety Trust, a watchdog group, said the agency has grown more aggressive but often finds itself overmatched by the industry.

"The reality is, it's a small agency that's really spread pretty thin," he said. "And everything they try to do, there is a huge oil and gas industry just wanting to respond."

Cynthia L. Quarterman, the agency's administrator, has acknowledged past problems but says she and Transportation Secretary Ray LaHood have worked hard to mold a tougher, smarter operation.

"The fierceness with which our inspectors are vested in ensuring pipeline safety, I don't think it's weak at all," Quarterman, a lawyer who once represented a pipeline company in an oil-spill case, said in a recent interview.

"We wake up every morning thinking about safety," she said. "We don't sleep at night, thinking about safety."

With a budget last fiscal year of about $192 million and 460 employees, the agency oversees 2.5 million miles of gas and liquid pipelines. It also watches over the shipping of hazardous materials, including explosives and flammable and radioactive substances.

On Thursday, congressional leaders reached agreement on a new bill that would increase the agency's inspectors, double its maximium fines, and toughen some safety rules.

Of the agency workforce, about half of the members are devoted to pipeline safety. Even so, the nation's system of pipeline oversight is thin, leaving the industry itself in charge of ensuring public safety.

Problems begin before pipeline companies even start construction.

One agency, the Federal Energy Regulatory Commission, decides where certain pipelines, mostly interstate ones, can be built. The review, with public hearings, environmental reports, and a rate study, can take years.

Not on FERC's list: the operator's safety record. The agency leaves safety issues to PHMSA.

"We need to have better coordination," LaHood told Congress, calling the system "disjointed."

The agency has struggled with staffing for at least 17 years, according to a March analysis done for Congress. Since 2001, the agency has averaged about 24 unfilled jobs a year.

This year, PHMSA's budget has 137 safety inspector positions - but only 110 are filled. The new bill says the agency can hire 10 more inspectors, but only if it fills the open jobs.

The agency says it has a hard time finding qualified candidates - and once they are trained, often loses them to pipeline companies, a problem exacerbated by the surge of shale gas development. The starting salary for a PHMSA inspector stationed in Western Pennsylvania is about $40,000.

Supplementing the PHMSA force are 400 state safety inspectors. With the millions of miles of pipeline in America, that's about 50,000 miles for each inspector, state and federal.

Hard times and budget cuts are weakening even this stressed workforce. PHMSA has tried to increase its grants to states to help out, but pipeline safety workers in 17 states have been furloughed without pay, some for as long as three weeks.

Peter Lidiak, pipelines director for the American Petroleum Institute in Washington, said he doesn't think the agency tilts toward industry.

"I see PHMSA as a very strong regulator," he said.

In its early days, the agency considered itself more of a partner with pipeline firms than an enforcer. The old Office of Pipeline Safety within the Transportation Department was tagged by critics with the acronym OOPS.

In one period in the 1990s, its staff issued fines in just 4 percent of enforcement actions. Now, the agency takes a somewhat harder line.

Last year, the agency levied the biggest fine in its history. Pipelines giant El Paso Corp. was fined $3.3 million for several violations, later negotiated to $2.3 million, for contributing to an accident that killed a pipeline worker.

Overall, the agency has jacked up penalties over the last decade, from an average of $38,000 in 2002 to $133,000 in 2010.

Still, over the last five years, PHMSA has recommended fines in just 17 percent of all significant pipeline incidents.

"Unless something catastrophic happens and they're in the limelight, it's rare that they take the hard action that any other agency takes," said Rick Kessler, vice president and Washington lobbyist for the Pipeline Safety Trust.

"It's all carrot and no stick."

Some say a revolving door between PHMSA workers and the industry perpetuates a cozy culture.

Quarterman is a lawyer who once represented Enbridge Energy, owner of a pipeline that ruptured last year in Michigan, spilling 819,000 gallons of oil.

The company now wants to build Keystone XL, an oil pipeline from Alberta, Canada, to Texas. After fierce protests about potential leaks and pollution, President Obama announced that he would put off any decisions on the line until 2013.

Quarterman says she is not involved with any decisions involving Enbridge, and says her agency benefits from having workers who know the industry.

"Everybody who comes here takes an oath to be committed to the public good, and I believe people here take that job very seriously," Quarterman said. "I have not met one inspector who sounds like a shill for industry."

The industry itself helps write the oversight rules for pipelines. To figure out how to define a gas "gathering line," for example, PHMSA mandates that "an operator must use API RP 80," a document put out by the American Petroleum Institute. The trade group sells it for $121.

"They depend on the industry to tell them what to do," said Don Deaver, a pipeline safety expert and former engineer with Exxon Pipeline Co.

The Transportation Department and PHMSA have repeatedly proposed tougher rules on safety, only to retreat amid industry pressure.

For example, the agency passed a rule in 1994 that required operators to ensure, when replacing old pipelines, that the new ones could accommodate "smart pigs," mechanical devices that travel through pipelines to assess their condition. But the industry objected and the agency suspended enforcement of the rule, the NTSB said in its San Bruno report.

Paul Metro, the gas safety chief of the Pennsylvania Public Utility Commission who is active in the national association for state pipeline regulators, has watched the industry use its clout with PHMSA.

"Even if we come up with good ideas, that's a very powerful lobby," he said. "So sometimes you can't always get what you want."

Contact staff writer Joseph Tanfani

at 215-854-2684 or jtanfani@phillynews.com.