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NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON

COMMUNICATIONS AND POWER

OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

FIRST SESSION

ON

H.R. 5065

A BILL TO AMEND THE NATURAL GAS PIPELINE SAFETY
ACT OF 1968

MARCH 9, 1971

Serial No. 92-1

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NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS

TUESDAY, MARCH 9, 1971

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Torbert H. Macdonald (chairman) presiding.

Mr. MACDONALD. The hearing will come to order.

This morning the Subcommittee on Communications and Power begins hearings on House Resolution 5065, a bill to amend the Natural Gas Pipeline Safety Act of 1968. Introduction of this bill was requested by Secretary of Transportation Volpe, and at this point in the record there will be included Secretary Volpe's letter of February 9, 1971, addressed to the Speaker of the House of Representatives, the Honorable Carl Albert.

(The letter referred to follows:)

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., February 9, 1971.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a proposed bill "To amend the Natural Gas Pipeline Safety Act of 1968".

At present, section 5(a) of the Natural Gas Pipeline Safety Act provides generally that the States may assume responsibility for the enforcement of the Act if the appropriate State agency certifies annually to the Secretary of Transportation that, among other things, State law provides injunctive and monetary sanctions substantially the same as those found in sections 9 and 10 of the Act. The Act further provides that State certifications may be filed without regard to the injunctive and monetary sanctions requirement "... for a period not to exceed two years after the date of the enactment of this Act", i.e., August 11, 1970.

Under the proposed bill, the period in which certifications may be filed without regard to the sanctions requirement would be extended one year, to August 11, 1971. The two-year period provided in the Act simply failed to accommodate the inevitable delay between the enactment of a Federal law designed to encourage the enactment of certain State laws, and the actual opportunity of the State legislatures to pass the appropriate legislation. There was insufficient time, for example, between August 12, 1968, the effective date of the Act, and the 1969 general State legislative sessions to staff the program at the Federal level; to receive, review, and comment on the pertinent State laws; and to have the various State agencies inform their State legislatures of the need for amendatory legislation.

Unfortunately, the majority of States whose statutes required amendments were unable to deal with these problems during 1970 since only 29 States had regular legislative sessions in 1970 and a number of these were restricted to budgetary and fiscal matters. Since 18 States still lack the appropriate monetary sanctions, failure to extend the two-year period has precluded their submitting a certification to cover all of calendar year 1971. This unavoidably places a

major burden for safety enforcement on this Department's Office of Pipeline Safety, which has not been staffed to assume such a workload. The proposed one-year extension would allow the affected States to recertify and continue their enforcement activities while their legislatures pass the legislation necessary to comply with the Act.

The proposed bill also would supplant the present specific appropriations authorizations with general authority to appropriate such funds as are necessary to carry out the purposes of the Act. With this change, annual funding levels for the program can be determined through the normal budgetary process.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JOHN VOLPE.

Enclosure.¹

Mr. MACDONALD: The purpose of the legislation before the subcommittee is twofold:

First, to authorize for the future the appropriation of such sums as may be necessary to carry out the purposes of the Natural Gas Pipeline Safety Act. Present law authorizes specific sums for fiscal years 1969, 1970, and 1971, but does not contain any authorizations beyond fiscal 1971.

Secondly, the purpose of the legislation is to extend for 1 year, from August 12, 1970 until August 12, 1971, the statutory deadline which cuts off the right of a State to certify to the Secretary of Transportation that a State agency has appropriate authority to enforce safety standards although the agency under State law does not have authority to enjoin violators or to impose monetary sanctions. The proposed extension would give the States additional time to amend their present State laws so as to provide authority for their enforcement agencies to impose injunctive and monetary sanctions.

(The text of H.R. 5065 and departmental report thereon follow:)

[H.R. 5065, 92d Cong., 1st sess., introduced by Mr. Staggers (for himself and Mr. Springer) on Feb. 25, 1971]

A BILL To amend the Natural Gas Pipeline Safety Act of 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Natural Gas Pipeline Safety Act of 1958 (49 U.S.C. 1674(a)) is amended by deleting therefrom the words "two years" and by substituting therefor the words "three years".

SEC. 2. Section 15 of such Act (49 U.S.C. 1684) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., March 24, 1971.

HON. HARLEY O. STAGGERS,
Chairman, House Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On February 9, 1971, the Department submitted to the Congress a proposed bill "to amend the Natural Gas Pipeline Safety Act of 1968" (H.R. 5065). That bill contains two provisions. The first provides continued au-

¹ The enclosed proposed legislation is identical to H.R. 5065 as introduced by Mr. Staggers and Mr. Springer on Feb. 1, 1971. See this page for text of H.R. 5065.

thority for appropriations. Under the existing Act, authority for appropriations expires at the end of fiscal year 1971. The second provision allows States an additional year to conform provisions of their statutes respecting the enforcement of gas pipeline safety standards to the provisions of sections 9 and 10 of the Natural Gas Pipeline Safety Act. Such action is prerequisite to their assuming responsibility from the Federal Government for the enforcement of that Act.

We urge your Committee to act favorably on these provisions of our proposal and, in addition, on the enclosed amendment to that proposal which would transfer the decision making authority over liquid pipeline safety matters from the Federal Railroad Administrator to the Secretary. Enactment of the amendment would permit the consolidation of the Department's gas and liquid pipeline safety functions, which have many common aspects, within a single organizational unit within the Office of the Secretary and enable the Department to provide for more orderly and efficient administration of these pipeline safety programs. In addition, it would avoid any necessity of duplicate staffing in these areas.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this letter to the Committee.

Sincerely,

J. THOMAS TIDD,
Acting General Counsel.

Enclosure:

AMENDMENT TO H.R. 5065

Add after section 2 of the bill the following new section:

SEC. 3. Section 6(f)(3)(A) of the Department of Transportation Act (49 U.S.C. 1655 (f)(3)(A)) is amended by deleting the words "and pipeline".

Mr. MACDONALD. Our first witness this morning will be Mr. James Minor, Acting Deputy Assistant Secretary for Safety and Consumer Affairs. Mr. Minor is to be accompanied by Mr. Joseph C. Caldwell, who is acting director of Pipeline Safety.

I trust that, in addition to informing the subcommittee with regard to the pending legislation, you will review briefly the program which has been carried on by the Department of Transportation in enforcing the Natural Gas Pipeline Safety Act of 1968.

STATEMENT OF JAMES B. MINOR, ACTING DEPUTY ASSISTANT SECRETARY FOR SAFETY AND CONSUMER AFFAIRS, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JOSEPH C. CALDWELL, ACTING DIRECTOR, OFFICE OF PIPELINE SAFETY; AND WILLIAM BRODERICK, OFFICE OF THE GENERAL COUNSEL, DOT

Mr. MINOR. Mr. Chairman and members of the committee:

I am James B. Minor, Acting Deputy Assistant Secretary for Safety and Consumer Affairs. Admiral Smith, the head of our office, had hoped to testify before you on this bill. However, a Senate committee hearing dealing with an aviation report recently submitted by Admiral Smith to Secretary Volpe, was rescheduled from Thursday to this morning.

I am accompanied by Joseph C. Caldwell, Acting Director of the Office of Pipeline Safety, and William Broderick of the Department's Office of the General Counsel.

We appreciate the opportunity to present the views of the Department of Transportation on H.R. 5065, a bill to amend the Natural Gas Pipeline Safety Act of 1968.

Section 1 of the bill H.R. 5065 would amend section 5(a) of the Nat-

ural Gas Pipeline Safety Act by changing the words "2 years" where they appear in clause (4) of the first sentence to "3 years."

The provision recommended for amendment is an exception to one of the State certification requirements. Specifically, under section 5(a) of the act a State agency which desires to regulate intrastate pipeline facilities must certify, among other things: "... (4) ... that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as provided in sections 9 and 10; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed 2 years after the date of enactment of this act." The proposed amendment would extend the 2-year period to 3 years, thereby allowing the States an additional year in which to enact conforming legislation.

Shortly after enactment of this law, the Office of Pipeline Safety, recognizing that many States did not have appropriate injunctive and monetary sanctions, called the attention of the State Public Service Commissions to the possible need for appropriate State legislation on this subject. A copy of a letter, dated November 27, 1968, is attached (see p. 5).

Based upon a review of then existing State statutes that were submitted to the Department's Office of General Counsel, and of later State enactments, it appears that when the Natural Gas Pipeline Safety Act became law in 1968 only two States, Missouri and New York, had injunctive and monetary sanctions that were substantially the same as the Federal law.

The November 27, 1968, letter generated a response on the part of 21 State legislatures in 1969, and an additional 11 State legislatures in 1970. The result is that 33 States and Puerto Rico presently have State laws on this subject that are substantially the same as the related provisions of our act, and 17 States and the District of Columbia do not.

Under the Pipeline Safety Act, a State agency that does not have an adequate State statute became ineligible on August 12, 1970, to submit a section 5(a) certificate. In this regard the Department initially decided to have State agency annual certifications submitted on a calendar year basis, and we plan to do so in the future. However, when it became apparent last summer that so many State agencies would be ineligible to continue their active participation in the program in 1971 because needed amendments to State laws had not yet been enacted, the Department decided administratively, as an interim step, to accept certifications from those States—if made before August 12, 1970, to continue for a 12-month period following their submission.

The result is that nine States and the District of Columbia are presently regulating their intrastate pipelines under section 5(a) certifications that expire late in July or early in August of this year. In addition, five States have temporarily entered into section 5(b) agreements with the Department, pending enactment of State laws and their eligibility to certify. Two States—Arkansas and New Jersey—have not yet acted. We are in contact with both States and are hoping either for a State enactment that will permit State certifi-

cation under section 5(a) or for an agreement under section 5(b). Late last year, the State of Louisiana voluntarily withdrew from its section 5(b) agreement.

This problem—the fact that all the States that need amended State legislation have not yet enacted it—points out the timelag between the enactment of a Federal statute calling for Federal-State cooperation, and the enactment of State legislation that permits State agencies to cooperate with the Federal agency. Although the Department has been in constant communication with the States on this matter, the scheduling of State legislative sessions and other priorities within the States has precluded complete success in this matter.

If all of the State legislatures in session this year enact appropriate amendments to State laws, and if Congress also enacts similar legislation applicable to the District of Columbia, all State agencies—except Louisiana—will be eligible to submit certifications on a calendar year basis again. Meanwhile, we need the amendment to assure that the Department and the cooperating State agencies have the needed flexibility to carry out the Federal-State partnership envisioned by the act.

Section 2 of the bill is needed because section 15 of the Natural Gas Pipeline Safety Act authorized appropriations only through fiscal year 1971. It is clear to us that there is a definite need for a continuing program of gas pipeline safety. Section 2 will enable us to plan for a continuing program.

We recommend enactment of the bill as early as possible.

Mr. Chairman, that completes my statement on the proposed bill.

(The letter dated November 27, 1968, referred to, follows:)

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., November 27, 1968.

CHAIRMAN, EACH STATE PUBLIC SERVICE COMMISSION.

DEAR MR. CHAIRMAN: In response to a number of informal requests the Office of Pipeline Safety has received, I am writing to each State agency concerning the injunctive and monetary sanction provisions of the Natural Gas Pipeline Safety Act of 1968.

As you are aware, one of the requirements of the Pipeline Safety Act is that after August 12, 1970, in order to make a certification under Section 5(a), a State must be able to certify "that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under Sections 9 and 10" of the Act.

Apparently, most States will be able to comply with the requirement for injunctive authority. However, we have had numerous requests to furnish States with a model State law that would undoubtedly comply with the monetary sanction requirement. The following language, which is substantially identical with Section 9 of the Pipeline Safety Act, would comply with the monetary sanction requirement of Section 5(a):

"(a) Any person who violates any provision of [insert citation for the statutes of the State governing the safety of pipeline facilities and the transportation of gas] or of any regulation issued thereunder, shall be subject to a civil Penalty of not to exceed \$1,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

"(b) Any civil penalty may be compromised by [insert name of the State agency enforcing the gas pipeline safety statute and regulations]. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the

gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged or may be recovered in a civil action in the State courts."

If the law of your State does not contain substantially the same elements as this model language and your agency desires to certify under Section 5(a) of the Act after August 12, 1970, I suggest that your agency give consideration to seeking promptly an amendment to your law to incorporate the model language. It is not necessary that a State statute use the exact language quoted above. What is important is that the State law contain the essential elements of an administrative penalty provision that is assessed, compromised, and collected by a State agency with resort to the courts only in those cases where the person alleged to have committed the violation refuses to pay.

If you have any questions as to whether the existing statutes of your State, or any proposed amendments, comply with the above-discussed requirements, you may submit your present or proposed language to this Department for review and advice.

Sincerely yours,

JOSEPH C. CALDWELL,
Deputy Director,
Office of Pipeline Safety.

Mr. MINOR. I also have a statement on the history of the program in the last couple of years. I can go on or you may wish to stop at this point. Whatever you desire.

Mr. MACDONALD. I think maybe some questions will implement your statement. If they don't, perhaps you can offer the statement as if read. [See p. 23.] I for one am particularly interested in what is happening now.

Would you say that you are satisfied with how the terms of the bill are being presently carried out?

Mr. MINOR. Well, sir, I would say that considering the time since the bill has been enacted and the problems which I outlined before, of the States getting geared up to this, I think there has been reasonable progress made.

Mr. MACDONALD. What do you mean by "reasonable"?

Mr. MINOR. Only two States had the laws necessary to enter into this 100 percent when the legislation was enacted. The fact is, there has been something over 2 years now of gearing up to this. One of the main jobs which we had 2 years to do under the statute was to get out the Federal regulations to replace the adopted B 31.8 code and many States have had some difficulty in gearing up to this because there has been a requirement that they get legislation enacted.

They have had to hire people. Many have had no safety people on their State staffs and have had to hire them. Some have not gotten permission to do that. State budgetary cycles are sometimes very slow and it has been a great difficulty for them.

I think everything that we could have done to encourage them and to assist them in this was done, but any program of this size—

Mr. MACDONALD. We are not accusing anyone of any dereliction, but, for example, I noticed in your testimony you state that Louisiana, for example, has not complied. It is my understanding that they are one of the largest—

Mr. MINOR. Louisiana has informed us that it does not wish to participate in enforcing or in adopting the Federal standards in the State of Louisiana.

Mr. MACDONALD. What reasons do they give you?

Mr. MINOR. Well, the lack of an organization to do it and I guess the fact that they realize that if they don't, the Federal Government has to do it, and since they don't have the setup to do it, they decided to let the Federal Government do it.

Mr. MACDONALD. My point is that obviously safety is as important in one State as another.

Mr. MINOR. This does not mean there won't be anything in that State.

Mr. MACDONALD. I understand that, but I guess it means that the Federal Government will pick up the tab for doing the inspection, is that correct?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. What if all 50 States said, "Well, since the Federal Government will pay for it and since our tax rate is already high enough, why don't we just turn it back to the Federal Government?"

Mr. MINOR. Well, I think that would be a disaster, because I think this legislation was, in my opinion, well-conceived and the program is one that I think contains all the elements of a good Federal-State relationship. If we cannot get the States to cooperate, I think the program would be in serious trouble.

Mr. MACDONALD. Is this part of the New Federalism that I read about?

Mr. MINOR. I think this is a good example of it.

Mr. MACDONALD. Then I take it that you would say that the State of Louisiana does not believe in the New Federalism concept.

Mr. MINOR. I would hate to characterize it one way or another. I think they have problems in setting up an organization. It does take some money and some of the States are not willing to commit the necessary funds to it. Some have been slower than others.

Mr. MACDONALD. But you think Louisiana will come around in the long run?

Mr. MINOR. We have no indication one way or another.

Mr. MACDONALD. Do you think they could be the starting point of a breakdown for this law?

Mr. MINOR. It does not appear to us that way, because most of the States—I would say, the great majority of the States—have indicated their willingness and their desire to participate in the program. This is the only case so far where we have had nonparticipation. Some of the others have problems and you can imagine with 50 States there are all kinds of problems in this, but this is the only case we know of where there will be no participation, or at least at the present time an indication of no participation.

Mr. MACDONALD. How many Federal employees are under your supervision in seeing that the statute is carried out at the present time?

Mr. MINOR. We have 28 on board today.

Mr. MACDONALD. Total?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. To supervise, to see that the States are doing what they say they are doing?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. Do you feel that is an adequate amount?

Mr. MINOR. No, sir. On a permanent basis that won't be enough and we will be asking for more. We are asking for more in this year's budget. The main problem we had for the first 2 years was to provide and develop a body of regulations.

We completed that phase last year. They were promulgated and they are now in effect.

Mr. MACDONALD. You say you have 28 employees. How much money has been appropriated for these employees and for other facets of the enforcement of this statute?

Mr. MINOR. I can give you the total appropriation for this year.

Mr. MACDONALD. I am not talking about what has been requested. I mean what has been granted to you.

Mr. MINOR. \$456,000 in 1970.

Mr. MACDONALD. Once again I ask the question, do you think this is adequate to insure pipeline safety in the 50 States?

Mr. MINOR. It will not be adequate in coming years, no, sir.

Mr. MACDONALD. How many States do have pipelines?

Mr. MINOR. As far as we know, every State has pipelines.

Mr. MACDONALD. I don't think Maine does.

Mr. MINOR. Yes, it does. We have a map which I could supply for the record, if you wish, that shows the pipeline system.

Mr. MACDONALD. I will appreciate it if you would.

Mr. MINOR. We will get it for the record at this point.

(See map entitled "Major Natural Gas Pipelines as of June 30, 1970," on facing page.)

Mr. MACDONALD. Do you say Maine now has natural gas?

Mr. MINOR. There is a pipeline that goes into Maine.

Mr. MACDONALD. How far up does it go? Maine is a big State.

Mr. MINOR. There are distribution lines that go out from that line.

Mr. MACDONALD. How does it go? I know something about this, even though I am not from Maine, and I have heard nothing about natural gas service in Maine. I have heard talk they are about to prepare a pipeline, but I never heard anything more about it.

Mr. MINOR. Our information is that the line does go into Maine. There are distribution lines.

Mr. MACDONALD. You said that and I accepted that as a fact. I said how far into Maine?

Mr. MINOR. I will have to get that for the record. We will furnish that.

(See letter dated March 22, 1971, on p. 25, this hearing.)

Mr. MACDONALD. My last question. You say the amounts will not be adequate for the years in the foreseeable future. Did I understand you correctly?

Mr. MINOR. Yes, sir.

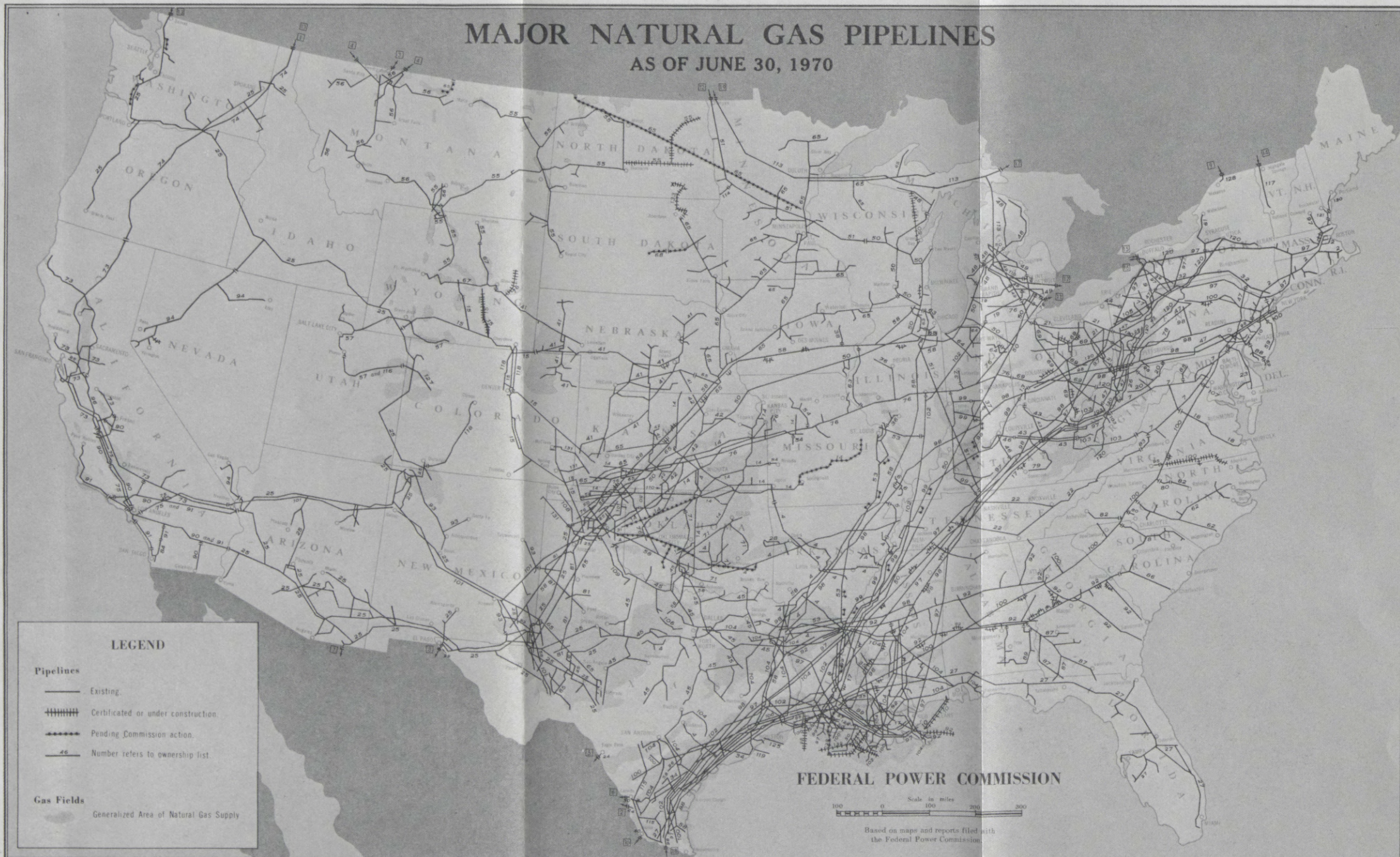
Mr. MACDONALD. Have you made a request of the appropriate authorities for more money?

Mr. MINOR. Yes, sir. In this year's budget as approved and sent to the Hill and which will be appearing at the Appropriations Committee, we asked for a total of 49 positions, \$730,000—I am sorry, that was for 1971—for 1972, 30 positions.

Mr. MACDONALD. Thirty additional?

MAJOR NATURAL GAS PIPELINES

AS OF JUNE 30, 1970



1 *Alabamian-Tennessee Natural Gas Co.
2 *Albuquerque Gas Transmission Co.
3 *American Louisiana Gas Co.
4 *American-Missouri Power Co.
5 *Associated Natural Gas Co.
6 *Atlantic Seaboard Corp.
7 *Cincinnati Gas Co.
8 *Cleveland Pipe Line Co.
9 *Columbia Gulf Transmission Co.
10 *Columbia Pipe Line Co.
11 *Columbia Service Gas Co.
12 *Columbia Interstate Gas Co.
13 *Columbia Gulf Transmission Co.
14 *Commonwealth Natural Gas Corp.
15 *Continental Gas Co.
16 *Cumberland & Allegheny Gas Co.
17 *East Ohio Gas Co.
18 *East Tennessee Natural Gas Co.
19 *Eastern Shore Natural Gas Co.
20 *El Paso Natural Gas Co.
21 *Florida Gas Transmission Co.
22 *Fort Smith Gas Corp.
23 *High Plains Natural Gas Co.
24 *Hoke Gas Company
25 *Houston Pipe Line Co.
26 *Illinois Power Co.
27 *Indiana Gas Co., Inc.
28 *Iowa Gas & Electric Co.
29 *Kansas Gas Corporation
30 *Kansas-Missouri Natural Gas Co., Inc.
31 *Kansas Power & Light Co.
32 *Kentucky Gas Transmission Corp.

33 *Lake Shore Pipe Line Co.
34 *Low Star Gas Company
35 *Louisville Gas & Electric Co.
36 *Manufacturers Light & Heat Co.
37 *Michigan Consolidated Gas Co.
38 *Michigan Gas Storage Co.
39 *Midcontinent Natural Gas Co.
40 *Mississippi River Transmission Corp.
41 *Mississippi Public Service Co.
42 *Missouri Gas Transmission Co.
43 *Missouri-Illinois Utilities Co.
44 *Montana Power Co., The
45 *Montana Fuel Supply Co.
46 *Natural Gas Pipeline Co. of America
47 *New Jersey Natural Gas Co.
48 *New York Gas Corp.
49 *New York State Power Corp.
50 *North Carolina Natural Gas Corp.

51 *North Western Gas Co.
52 *Northern Indiana Public Service Co.
53 *Northern Natural Gas Co.
54 *Northern Utilities, Inc.
55 *Northern Public Service Co.
56 *Ohio Gas Co., The
57 *Oklahoma Natural Gas Co.
58 *Oklahoma Gas & Electric Co.
59 *Oklahoma Gas Transmission Co.
60 *Oklahoma Eastern Pipe Line Co.
61 *Pacific Gas & Electric Co.
62 *Pacific Lighting Service & Supply Co.
63 *Pacific Gas Transmission Co.
64 *PacifiCorp
65 *Pennsylvania Gas Co., The
66 *Pennsylvania Power Co.
67 *Piedmont Gas Pipeline Co. of America
68 *Piedmont Natural Gas Co., Inc.
69 *Piedmont Natural Gas Co.
70 *Public Service Co. of N.C., Inc.

71 *Reno Gas Co.
72 *San Diego Gas & Electric Co.
73 *Shenandoah Gas Co.
74 *South Carolina Electric & Gas Co.
75 *South Georgia Natural Gas Co.
76 *South Jersey Gas Co.
77 *Southern Alabama Gas District
78 *Southern California Gas Co.
79 *Southern California Gas Co.
80 *Southern California Gas Co. of Calif.
81 *Southern Natural Gas Co.
82 *Southern Union Gas Co.
83 *Southern Gas Corp.
84 *Southwestern Natural Gas Co.
85 *Standard Pacific Gas Lines, Inc.
86 *Tennessee Gas Pipeline Co.
87 *Texas Eastern Transmission Corp.
88 *Texas Gas Transmission Corp.

89 *Transcontinental Gas Pipe Line Corp.
90 *Transwestern Pipeline Co.
91 *Trunkline Gas Co.
92 *United Fuel Gas Co.
93 *United Gas Pipe Line Co.
94 *Utah Gas Company
95 *Utah Gas Company
96 *Washington Gas Light Co.
97 *Western Gas Interstate Co.
98 *West Texas Utilities Co.
99 *Zachry Nat. Gas Co.
100 *Great Lakes Gas Transmission Co.
101 *Green Plains Natural Gas Co.
102 *Granddaddy Pipeline Co.
103 *Indiana Gas Systems, Inc.
104 *Texas Gas Transmission Corp.

105 *Blue Bell Gas Pipe Line Co.
106 *Cincinnati Gas Supply Corp.
107 *Columbia Gas Transmission, Inc.
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Mr. MINOR. Yes, sir.

Mr. MACDONALD. Wait. You said 49. Then you said 30.

Mr. MINOR. The 49 was for 1971.

Mr. MACDONALD. And you are going back to 30 for 1972, or is that in addition?

Mr. MINOR. This would be additional.

Mr. MACDONALD. So what does that make a total of?

Mr. MINOR. That would make a total of approximately 58.

Mr. MACDONALD. Not if my addition is correct.

Mr. ROONEY. You say there are 17 States that are still ineligible because their laws do not meet matched Federal regulations, is that correct?

Mr. MINOR. Yes, sir, they will be ineligible after their present certification runs out.

Mr. ROONEY. And you are asking for a 2-year authorization, an extension?

Mr. MINOR. For the act itself we are asking for a permanent authorization. We are asking for a 1-year extension on the right of the States.

Mr. ROONEY. If there are still States that are ineligible that will have to pass laws, and you are dealing with 17 different State legislatures, why can't we get a 2- or 3-year extension?

Mr. MINOR. The indications we have is one more year would give all of them ample time.

Mr. ROONEY. It is going to take Congress several months before it is passed. I can't see why you can't give them an additional year.

Mr. MINOR. I am not objecting to that. I am saying the information we had is that one would be enough. We certainly would not argue with two.

Mr. ROONEY. I have no further questions.

Mr. MACDONALD. Mr. Keith, welcome to the subcommittee.

Mr. KEITH. Thank you, Mr. Chairman.

Do I understand that we do not have the standards for the District of Columbia?

Mr. MINOR. No, sir, we have the standards which the States accept and adopt. The District of Columbia at the present time does not meet two of the requirements for permanent certification. Those are that they have injunctive authority and that they have the authority to assess civil monetary penalties. Congress has not yet given that authority to the Public Utilities Commission for the District of Columbia, as also some of the States have not passed this for their commissions.

That makes a total of 18 including the District of Columbia.

Mr. KEITH. What efforts have you made to make certain that the District of Columbia does comply or that Congress enacts the necessary legislation?

Mr. MINOR. Well, thus far we have written a letter to the District of Columbia and we have also been in touch with them on an oral basis several times, calling their attention to the problem and requesting that they get legislation.

Mr. KEITH. It seems we have a microcosm of a national problem and if we can't proceed now rapidly as an administrative agency and as a Congress here, we are going to have a tough time with the other States.

Mr. MINOR. Legislation has been proposed. I think it has been introduced, but I know it has been proposed and submitted for the District of Columbia.

Mr. KEITH. Does one of your associates know for certain that it has been introduced this year?

Mr. CALDWELL. Yes, sir; it is our understanding it was introduced last year. No action was taken and it either is or has been introduced this year. I cannot say for sure it has been introduced.

Mr. KEITH. Could you put that information in the record? I think it would be essential to the integrity of your effort. Would it come to this committee or would it come to the District of Columbia Committee?

Mr. MINOR. It is my understanding it would come to the District of Columbia Committee because it deals with the local commission.

(See letter dated March 22, 1971, on p. 25, this hearing.)

Mr. BROWN. With reference to the cost of administration of this program, where do we stand on that? Can you advise me?

Mr. MINOR. The appropriation for 1970, \$456,000 plus \$155,000 for research and similar matters. But for personnel, et cetera, it was \$456,000.

Mr. BROWN. Personnel, what all does that cover?

Mr. MINOR. That covers 28 positions.

Mr. BROWN. In the Department of Transportation?

Mr. MINOR. Yes, sir.

Mr. BROWN. What about the per diem costs of your advisory commission? I don't have a copy of the basic enabling legislation.

Mr. MINOR. That would be included. We have a statutory advisory committee. That includes their per diem travel expenses.

Mr. BROWN. What kind of budgeting are you asking for for fiscal 1972 and beyond?

You are budgeted for 1971, is that correct?

Mr. MINOR. Yes, sir; we are under a continuing resolution for 1971. It expires at the end of this month.

Mr. BROWN. Would your budgeting be essentially the same under the Department of Transportation resolution requested for 1971 as it was in 1970?

Mr. MINOR. Yes, sir; the amount of money asked this year, 1971, was \$730,000, and that is under the continuing resolution.

Mr. MACDONALD. Total?

Mr. MINOR. Yes, sir.

Mr. BROWN. And the budget for 1972 and subsequently?

Mr. MINOR. \$676,000. That is the budget request.

Mr. BROWN. This legislation before us, House Resolution 5065, and section 2 amends section 15 to read:

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Ordinarily the Interstate and Foreign Commerce Committee does not authorize on that basis, but rather on a 2- or 3-year basis for the opportunity to review the program undertaken by the Departments. If we were to authorize on a 1- or 2- or 3-year basis, what amount of funds would you recommend to the committee?

Mr. MINOR. Well, I think that for fiscal 1972 it would be the same as we asked, \$676,000.

Mr. BROWN. And since 1971 was \$750,000, is there an inference that this would be leveling off at \$676,000. Would it be returning to \$750,000 on an annual basis or would it be further reduced to some other figure?

Mr. MINOR. I think that the amount would stay in the same neighborhood. Pending a decision on one thing—I would not foresee any dramatic change. A decision will have to be made by this Department eventually on whether we will have some field offices. We now have one experimental field office, and depending on how the program develops, it may be necessary for us to have additional field offices.

Because I have to leave that option open, I cannot answer it.

Mr. BROWN. What would be your time frame with reference to the determination of whether or not the experimental field office proved advantageous and other field offices or another field office might be extended, or the Houston office might be made permanent?

Mr. MINOR. It might take as long as 2 or 3 years, but it will not only depend on how well this office does and whether it works. It will depend on how well the program is carried out by the States, how much assistance they need, how well they have been able to take hold of the program and carry it out.

Under optimum circumstances if every State went into this 100 percent and had all the facilities and personnel they needed, that would be the most advantageous and the least expensive system as far as we are concerned. If, however, the States need a lot of help and there are a lot of problems they cannot handle, then we will have to get people out where they can be of assistance to the States.

So those two elements are going to determine this. It will take 2 or 3 years before we have a full—

Mr. BROWN. At the time this legislation was under consideration initially, some of us argued to the point you just made, that it would be most advantageous in an economical sense to have that program administered at the State level. Could I ask you then, to conclude my questions, would it be fair to say that \$676,000 for 1972, 1973, and 1974 would be an adequate amount insofar as you can see now for an authorization from this committee or would that not be an adequate authorization?

Mr. MINOR. Well, I would hate, of course, to say, because of inflation and other things, that it would be completely adequate. But I would say it would be in a fair neighborhood. We are talking personnel only. Other things might cause us to need more research money or something like that, I would have to try to pass that question for the time being, because we cannot answer it exactly.

But I would say something in this area, so far as personnel is concerned, is approximately what we have in mind, yes, sir.

Mr. BROWN. Could I ask you what the research money is being spent on, what kind of research?

Mr. MINOR. Could I have Mr. Caldwell answer that, because he directs that part of it.

Mr. CALDWELL. It is not pure research. It is in the research and tech-

nology category. This is basically for studies or the collection of data or information that we don't have. One example is the study of corrosion control on pipeline systems. This is one of the major causes of accidents as determined today.

Another early contract we had was to evaluate what type of records and information the operating companies maintained. Based on this information we developed a leak and failure reporting system that is in the process of being put on the computer. This was also done by contract.

So this study money, so to speak, is used to supplement our staff and obtain one-time type information.

Mr. MINOR. Our program in this area has been a very modest one.

Mr. BROWN. I am interested in the item you said you are putting on the computer. The failure at where?

Mr. CALDWELL. Leak and system failure-type information. "Accident information." On certain types of leaks and failures we require they be reported by a certain type of operator. The system became effective on February 9, 1970. We now have in the computer as of the end of the year approximately 11 months of operating experience.

We only took a sampling of the leaks or failures that occurred in order to keep it to a manageable proportion and also we really did not have a feel for how many would be reported.

Mr. BROWN. This is to determine causes or patterns of development of the problem or what?

Mr. CALDWELL. Yes, sir; really it is used for two main purposes. One to try to determine problem areas and their relationships to other elements of operating a system.

Mr. BROWN. Such as soil types?

Mr. CALDWELL. Soil types, specifications of the pipe, the operating pressure, the way that the systems were constructed, when they were constructed and tested and so forth.

Mr. BROWN. And this is in connection with the pipeline safety standards committee jurisdiction?

Mr. CALDWELL. No, sir; it has no relationship. This is an operating thing we have devised in requiring the operating companies to report to us.

Mr. BROWN. Under what section of the legislation are you conducting this effort?

Mr. CALDWELL. Sir, one of our tools for administration—it is actually a reporting system.

Mr. MINOR. Section 12, primarily, would be one of the sections, also 13.

Mr. BROWN. Research and development section under 13?

Mr. MINOR. This is not research in the sense that the Department of Defense might use it. Mostly it is to enable us to get information necessary to structure a regulatory system. In other words, we need to know where the accidents are happening, what is causing them and so forth, so we can structure a regulatory system to prevent these in the future.

Mr. BROWN. Mr. Chairman, I would like to conclude by observing that under the initial legislation which we passed that the authorizations were in amounts not to exceed \$500,000 for the first fiscal year ending June 30, 1969, and \$2 million and \$4 million for the two sub-

sequent fiscal years. I would say the program, even though it has not been fully implemented, has apparently begun to function to a degree and has done so without feeling the compulsion to get your hands on the money and spend it.

I am delighted to see that you at least turned back the opportunity to get some funds and apparently are willing to continue on a somewhat smaller authorization than we initially granted.

Mr. MACDONALD. Sir, I would like to ask—we have been talking about appropriations and so forth, but in going over the act which we passed in 1968, I see what seems to me to be a very essential part of the bill on page 5, if you have a copy of the act. I am referring to paragraph (c), subparagraph (1) about the authorization which we gave to the Secretary to pay funds to the participating States up to 50 percent of their cost.

I was wondering if you have any record of how much money has been granted to the participating States.

Mr. MINOR. The first appropriation under the section was contained in the continuing resolution that the Department is now operating under. It appropriated \$500,000 for this program.

Mr. MACDONALD. We have been over that. I am saying could you give us a breakdown of what you have given by way of grants to the States? I know what we appropriated, that \$500,000.

Mr. MINOR. We have been told by the Office of Management and Budget that, pending a decision and review of the elements to be included in the President's revenue-sharing plan, we should not spend that money. So the answer flatly is so far no money has been given to the States.

Mr. MACDONALD. As the younger generation would say, "You are putting us on." Is that a fact, that you have not granted one cent to any of the 49 participating States?

Mr. MINOR. First, I want to answer your question. We have not granted any money yet. We only got the money—

Mr. MACDONALD. What is the inducement to the States if you don't give them any money? We authorized you giving them up to 50 percent. What in the legislation led you to figure that even though it is here, you don't want to implement it?

Mr. MINOR. I don't think it is a question of not implementing it. I think it is a question of how it is to be implemented and I think that, pending a decision as to how it is to be included in the President's revenue-sharing plan—

Mr. MACDONALD. The President's revenue-sharing plan is not a fact. It is an idea, either a good or bad idea, but it is just an idea. But the authorization by this Congress to give you the authority to grant to the participating States up to 50 percent of their cost is not an idea. It is a fact.

Now what have you done about that fact?

Mr. MINOR. Well, sir, we are in a position right now where we have had the money for 2 months, but we simply have not been able to spend it.

Mr. MACDONALD. Well, let me ask you this, and then I will recognize Mr. Collins. What has happened since 1968 when we passed this bill?

Among a lot of testimony we had was the statement that the safety

of the people of the United States rode to some extent on the passage of this bill, which would insure just what the bill says, pipeline safety. What would be different in 1971 as far as the safety of the pipelines is concerned if this bill had never been passed?

Mr. MINOR. Well, if I understand your question correctly—

Mr. MACDONALD. I don't understand why you don't understand the question. I am saying if this bill had never been passed—what would be different in 1971?

Mr. MINOR. I think there is definitely more safety now than there was if the bill would not have been passed.

Mr. MACDONALD. You mean the States have taken up safety measures on their own, not by inducement by the Federal Government, is that what you are saying?

Mr. MINOR. To some extent.

Mr. MACDONALD. Then that does not answer my question. If the States have seen to it that the pipeline safety going through their jurisdiction has had a better quality environment, then how can the Federal Government take any credit for that?

Mr. MINOR. Well, the Federal Government has provided a regulatory scheme.

Mr. MACDONALD. How much money have you spent in your subdivision of the Department of Transportation since the authorization of this bill?

Mr. MINOR. Well, somewhere in the nature of \$700,000.

Mr. MACDONALD. \$700,000 by your own admission was spent without any correlation as to its value. What did you spend the \$700,000 on? You have not given a cent to any of the States? What have you spent it on?

Mr. MINOR. Maybe we have not given them any money, but we have gone to them. We have met with them. We have given them advice on how to set up a structure.

Mr. MACDONALD. You are not going to say that wining and dining them is going to cost \$700,000. That won't be put in the record, because it is not a fact. But I would like to know what you did spend the \$700,000 on.

Mr. MINOR. The major item we were faced with under the legislation was that we were directed within 2 years to come up with a system of permanent regulations—I use the word “permanent” here in the sense of replacing some interim regulations. This was our major job for the first 2½ years of the Office of Pipeline Safety, and it took virtually every resource we had to get that done, because this is a rather large set of regulations and it covers distribution systems, interstate systems, and everything else.

We had to develop that. There had been no regulations. We did provide them and this does give every State a regulatory basis which many, many of them did not have.

Mr. COLLINS. I was interested in this discussion about Louisiana as a typical State. It is interesting to me they have not availed themselves of this opportunity. But taking some of the neighbor States down there, what is the situation in Texas and Oklahoma and New Mexico?

Mr. MINOR. All those States have certified under section 5(a) with

one exception, Arkansas. And they are in the legislative process down there. They do not have the legislation to enable them to do it yet, but it is up before the legislature this year.

Mr. COLLINS. Those other States meet your requirements under this law?

Mr. MINOR. Yes, sir; they have certified and they are operating the program. They have adopted our regulations and are administering them within their States.

Mr. COLLINS. What are the other major gas-producing States that are involved? Are any of them other than Louisiana, which certainly is a big gas State—are there any other big gas-producing States that have not yet entered in?

Mr. MINOR. No, Louisiana is the only one of those States that is not participating. There are two ways they can participate. They can certify under 5(a), which means they adopt the Federal standards and take over the whole program and administer it as far as intrastate lines are concerned.

There is a section 5(b) under which a State that does not have the authority or the qualifications for certification can enter into an agreement to administer the program to a lesser extent.

Now, every State except Louisiana, Arkansas, and, since a couple of days ago, the State of New Jersey, has either an agreement or a certification. Those are the only three that are not doing something to administer the Federal program, the Federal regulations.

Mr. COLLINS. Let me see if I understand. The way the system works, if gas originated in New Mexico and it was going to Charlotte, N.C., every State, as it goes through the State, is responsible for the lines within its State borders?

Mr. MINOR. No, sir. This is a very complex situation.

Let me explain. In enacting this legislation, Congress followed somewhat the same analogy that they do in the Natural Gas Act administered by the Federal Power Commission. In doing so, they provided that the States could by either this certification or agreement take over all jurisdiction and administer the State or the Federal regulations in their State, insofar as it relates to intrastate lines.

However, the act specifically reserved to the Federal Government the authority over interstate lines. Now we have asked the States to serve as our agents. However, they cannot administer the whole program. But many of the States act as the Department's agent in monitoring the interstate lines.

The way we read the act, and the opinion of our general counsel, is that the sole authority to administer the act, to enforce the act with respect to interstate lines resides with the Federal Government.

Mr. COLLINS. I am still not quite certain in my own mind. Suppose gas originated in New Mexico. Suppose it is going to California because a lot of it feeds west. As it passes through Arizona, does New Mexico keep up with the line or once it goes into California, does California keep up with the line?

Mr. MINOR. No, sir; not with the interstate line itself.

Mr. COLLINS. In other words, the interstate—

Mr. MINOR. Yes, sir; once it gets off the interstate line it becomes part of a distribution system. Then the State assumes jurisdiction.

Mr. COLLINS. As it passes through Arizona on its way to California, you are responsible for maintaining it?

Mr. MINOR. We are responsible for administering the safety program.

Mr. COLLINS. Then you make a contract with Arizona to supplement your program. Is that the way it works?

Mr. MINOR. It never got to the formal contract stage. We publicly asked each State that would do so to be our agent and several of them agreed to be our agent.

Mr. COLLINS. I think this is a desirable program myself. I like it, but let me ask one other thing. Are there many other industries that are handling a product of a nature such as gas that have a comparable safety record?

As I understand it, gas, considering transmission and the nature of the product that is involved, has an excellent safety record. Is that right?

Mr. MINOR. Well, sir, I don't think anybody would say there has been a bad safety record.

Mr. COLLINS. I am talking about before you get to the city limits, going cross-country.

Mr. MINOR. So far as we know, the safety record of the interstate lines is good, yes, sir.

Mr. COLLINS. Thank you very much, Mr. Chairman.

Mr. MACDONALD. Just to be fair, for the record, after I questioned you about the grants and the lack of supplying money, I thought I would be overly fair and ask you, have any of the States requested a grant?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. How many?

Mr. MINOR. We do not have it broken down that way, but 43 of them have indicated an interest. Those are not flat requests, but I think that—

Mr. MACDONALD. How do you indicate an interest without making a request?

Mr. MINOR. Some of them, for example, have furnished information showing how much money they spent on the subject during the preceding year.

Mr. MACDONALD. And the reason for that would be, I would take it, that they know that the act contains the authorization for you to give them 50 percent of their cost, right?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. So you say 43 states have indicated their interest to you?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. And of the 43 you have not given one single cent to the States?

Mr. MINOR. That's right, sir.

Mr. MACDONALD. Then what is the point of this program?

Mr. MINOR. I think the program has—first, it has two angles to it. One is the interstate lines.

Mr. MACDONALD. I understand all that. I understand intrastate-interstate. I am not talking about that. I am talking about the pro-

gram that you are asking us to renew. What has it done to justify us renewing it?

Mr. MINOR. I think that several things have happened. One is that I think the States have, because of the enactment of this act, even without the money, taken an interest in the program and it has provided a unified program across the country that the States will participate in, some of them to a lesser extent.

I cannot say if they had the money, they would not do more. But I would say that getting the money has not been the prime motive of all these States. Many of them have done this because they recognize a problem.

Mr. MACDONALD. Do you recognize the fact that most States have a full-time staff down here trying to get their fair share of Federal funds to help alleviate the State taxes?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. Are you trying to tell me that the gas-carrying States are different, that they do not have any interest in getting their fair share of Federal revenue?

Mr. MINOR. I think they have an interest, but I think they will also do the job to some extent, even if they don't get the money.

Mr. MACDONALD. Having served on the subcommittee, I know a lot of State people came here and said this was a good idea. They were witnesses in favor of this and one of the main reasons they were in favor was uniformity, of course, but also the fact they could share with the Federal Government some of the cost.

Now you represent the Federal Government to them in this area and yet you have testified that you have not given them one red cent, even though 43 of the States have requested it—or if you don't want to use the word "requested," have made inquiry of how they get the money.

How do you explain that? I was one of the supporters of this bill. As a matter of fact, I think I introduced it or cosponsored it, but I am not so sure today that we ought to continue something that has not come up with any results for these States. Can you give me a paragraph as to why the members of this subcommittee—and I am speaking for myself—why should I vote to continue something that has not done what it set out to do?

Mr. MINOR. I would like to say that I cannot agree that it has not done what it set out to do. It might not have accomplished all it set out to do, but certainly it accomplished a great deal.

Secondly, I do not think that the fact that no money has been appropriated is dispositive. Remember that we have had the money for only 2 months. For the first time in history, we received money in late December of last year.

Mr. MACDONALD. You knew the money was coming.

Mr. MINOR. Yes, sir.

Mr. MACDONALD. What plans did you make to distribute it once you got it?

Mr. MINOR. We have a scheme.

Mr. MACDONALD. Don't use the word "scheme." What plan did you use?

Mr. MINOR. We have a formula that was devised but was not final-

ized. The money is not yet dead. I only said the money has been held up pending a decision as to how it fits in the revenue-sharing plan. The States would get some money under the revenue-sharing program, which they can use for this purpose.

I don't mean that the money is gone forever.

Mr. ROONEY. You have given me a good example of what is wrong with the revenue-sharing plan. It has a fancy title, but the States are not getting additional money. It is being camouflaged. We are giving you the authorization to give this money to the States and you have been directed by the Office of Management and Budget to withhold it pending the passage of the revenue-sharing bill. This I never knew. This is what I always suspected, but I never thought I would see the day when a member of the administration would come here and testify to that fact.

Mr. VAN DEERLIN. Perhaps we could get some guidance if we knew what the plans for the future are. What does the President's budget contain for this purpose in the coming fiscal year?

Mr. MINOR. Pending a decision on the same question, it does not include any funds for this purpose.

Mr. VAN DEERLIN. It looks as if we might as well just not do anything until the Ways and Means Committee has disposed of the revenue-sharing proposal. Would you suppose that to be the case, Mr. Chairman?

Mr. MACDONALD. I would say it is not just the Ways and Means Committee. It has to run the gamut of the entire Congress. It is shattering, to overstate the case, to have a witness representing, I take it, the administration come up here and outline a program such as this, which is based on a zero within a cipher.

There is no such thing as revenue-sharing or don't you know that? And if you do know it, how could you have the fortitude to come here and tell us that we ought to renew something on the basis of a bill that may be passed?

It is incredible to me. Just incredible!

My last question before I recognize Mr. Collins again is, inasmuch as you disobeyed—and that is not too strong a word—the Congress by not giving the States their fair due, do you think that it would be well if—and it is a big “if” at this point—this was renewed, that we made it not mandatory on your shop, but just say, “Well, if the Department of Transportation wants to give the money, then they can, but they don't have to if they don't want to.” We don't like to have the power of the Congress flouted, which obviously in this case it has been, by your Department.

Do you think that would help your case any and do you think that the 45 participating States would lend their support to something like that?

Mr. MINOR. May I point out, first, the way we read the present legislation, it says, “The Secretary is authorized to pay . . .” That it is discretionary. There is no flat requirement to pay.

Mr. MACDONALD. You are authorized by the Congress?

Mr. MINOR. Yes, sir.

Mr. MACDONALD. You are saying it is up to the Secretary to say, "Well, the Congress passed this bill, but I am not going to pay any attention to it." Is that what you are telling us?

Mr. MINOR. I would not want to put it in those words.

Mr. MACDONALD. I am putting it in those words. What is your answer to my question?

Mr. MINOR. Giving all consideration, the Secretary would have to make such a determination, yes, sir.

Mr. MACDONALD. I know Secretary Volpe well and I don't think he would make such a determination. He is too practical a man.

Mr. COLLINS. We are all interested in revenue-sharing. This is 2 months. You have 10 months more when you can allocate this money?

Mr. MINOR. No, sir; this would expire at the end of the fiscal year.

Mr. COLLINS. It expires June 30?

Mr. MINOR. Yes, sir.

Mr. COLLINS. So you have March, April, May, June. We still have 4 months that this could be allocated?

Mr. MINOR. Yes, sir.

Mr. COLLINS. It is not a matter of "We did not give it out." It is a matter of determining which way to give it out. Is that the problem?

Mr. MINOR. The resolution of that problem is what we are awaiting, yes, sir.

Mr. MACDONALD. Just a second. But that is not true, is it, because you have already told us that the resolution depends on this pie-in-the-sky revenue-sharing thing?

Mr. MINOR. No, sir; if I did that, I am sorry.

Mr. MACDONALD. I would be glad to hear a correction.

Mr. MINOR. We have been told not to spend the money pending a resolution of the decision.

Mr. MACDONALD. In good conscience do you believe this Congress is going to pass the revenue-sharing bill or defeat it before the end of the fiscal year? It is incredible that you should say that, too.

Mr. MINOR. That is a problem far beyond my competence.

Mr. COLLINS. I think the chairman is right about that. That should have no bearing.

But going back again, did we specify in this law exactly how you would share this money between States? In other words, what you would give to the State of Tennessee or what you would give to Missouri. Is it based on the amount of pipelines they have?

Mr. MINOR. No, sir. It is based on—

Mr. COLLINS. Is it clear in your mind how you would allocate it?

Mr. MINOR. Yes, sir, I would like to read in the statute the formula that is provided there.

Mr. MACDONALD. Before I rule on that, what are you reading? You are going to read a statute now?

Mr. MINOR. Yes, sir, I was going to read into the record the statutory formula.

Mr. MACDONALD. Without objection it is so ordered.

Mr. MINOR. This is section 5(c)(1) of the act: "Upon an application submitted not later than September 30 in any calendar year, the Secretary is authorized to pay out of funds appropriated pursuant

to section 15 up to 50 per centum of the cost of the personnel, equipment, and activities of a State agency reasonably required to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section during the following calendar year. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding the date of enactment of this section."

So what we do is to find out from each State the amount they had been spending and the amount they need and then we would try to apportion it out so that each State would get a somewhat equal share of that amount of money. We have developed a formula which we would use.

Mr. COLLINS. What are your total requests? What does it total, the number of requests you have on hand now?

Mr. CALDWELL. The States—approximately 45 or 46 States have indicated that their estimated costs for their program would be \$1,756,000.

Mr. COLLINS. How much money do you have available now that we have already approved?

Mr. MINOR. \$500,000.

Mr. COLLINS. And you have a request for \$1.7 million?

Mr. MINOR. No, that is our total program.

Mr. COLLINS. So you could give them \$850,000 and we have allocated \$500,000?

Mr. MINOR. Yes, sir.

Mr. COLLINS. And you intend to take that and allocate that to them before this fiscal year is over?

Mr. MINOR. We had a proportional scheme—plan—to give each State a pro rata share of that amount.

Mr. BROWN. I want to go back and pursue subsection (c) (1) of section 5. Now, the limitations placed on the application of the States for funds required that the application must be made by September 30 of this year, I gather.

In item (3) it says the Secretary shall provide for the form of the application by regulation. Has the Secretary issued a regulation on the form by which these applications must be made?

Mr. MINOR. We have a format. It is not quite that formalized that it has been printed in a regulation. But we have advised the States what information we would need and so forth.

Mr. BROWN. In section (3) of subsection (c) of section 5, it provides that he also shall have provided for fiscal procedures. Has the Secretary done that?

Mr. MINOR. Again; yes, sir. Again, not in a highly formalized sense, but we have done it.

Mr. BROWN. Then subsection (2) of subsection (c) of section 5 says that these may be issued either as installments in advance or as reimbursements for funds actually expended by individual States.

Have you determined whether you will issue them as installments in advance or as reimbursements, as a matter of policy, or is that going to vary from State to State?

Mr. MINOR. It might vary some, but I think that first it would have been paid in the installment way.

Mr. BROWN. Installments in advance?

Mr. MINOR. Yes, sir.

Mr. BROWN. Then in order to qualify for this Federal assistance, a State can ask for 50 percent of the cost of personnel, equipment, and activities, if they are under certification or have an agreement with the Federal Government covering their participation in this program?

Mr. MINOR. Yes, sir.

Mr. BROWN. Now once again, how many States are under certification at present?

Mr. MINOR. Forty-two States have filed section 5(a) certification. Seven others—

Mr. BROWN. And that is, has been accepted by the Federal Government, so they are all "copacetic," those 42 States?

Mr. MINOR. Yes, sir; and seven others are operating under an agreement.

Mr. BROWN. So actually you have 49 States that qualify for this; is that correct?

Mr. MINOR. Yes, sir.

Mr. BROWN. And the money for this program became available when, for you to be able to distribute?

Mr. MINOR. It was enacted in late December of 1970, signed by the President before New Year's.

Mr. BROWN. This is under the continuing resolution. Did you have funds available prior to December of 1970 which could have been utilized in this program, or were you in a position where you did not have the States under certification?

Mr. MINOR. We had the States under certification but we had no funds. The first funds ever in history for this program were in December 1970.

Mr. BROWN. And those funds were made available until March 31, as I understand, on the basis of a continuing resolution; is that correct?

Mr. MINOR. Yes, sir; but I think that money could have been used for the entire fiscal year.

Mr. BROWN. How much money did you have available then, at that time?

Mr. MINOR. The amount for payments to the States under this section would have been \$500,000.

Mr. BROWN. So you could have participated within this \$1,756,000 that these 49 States—am I correct?—that 49 States which are either under certification or agreement have indicated they will be spending in the ensuing year. Now what are we talking about here?

Mr. MINOR. That would have been their expenses for this year.

Mr. BROWN. For this fiscal year?

Mr. MINOR. That one million-odd dollar figure was for this year, this fiscal year.

Mr. BROWN. Which ends June 30, 1971?

Mr. MINOR. I am sorry. It was for calendar year 1971.

Mr. BROWN. So it is the \$500,000 that you had available in December for participation in the \$1,756,000 of costs that the States would have expended in calendar 1971?

Mr. MINOR. That is correct.

Mr. BROWN. That you have not yet distributed?

Mr. MINOR. That is correct.

Mr. BROWN. Now what plans, again, what plans have you for the distribution of those funds prior to June 30, and do you have authority under the appropriation after June 30 to distribute, that is, after the end of this current fiscal year, to distribute those funds to the States during the balance of their calendar year of operation?

Mr. MINOR. We would have had to distribute the money before June 30 of this year or lose—

Mr. BROWN. Or lose the funds available for distribution?

Mr. MINOR. Yes, sir, but the States, however, could use it for the entire calendar year.

Mr. BROWN. Do you have a program for—rather than the word “scheme”—do you have a program for the distribution of those funds?

Mr. MINOR. Yes, sir. We have a formula devised that we would have used.

Mr. BROWN. And that distribution is limited by any proscription that might be placed by the Office of Management and Budget?

Mr. MINOR. Yes, sir.

Mr. BROWN. Have you received a formal proscription from the Office of Management and Budget or has your contact with them been informal, or what is this limitation?

Mr. MINOR. So far it has been on an informal basis, pending a decision as to how this fits in with the revenue sharing. There has been no finalization that I know of.

Mr. BROWN. Now, have they given you a time frame with reference to this question?

Mr. MINOR. No, sir.

Mr. BROWN. So what happens if you have not distributed the funds by the 20th of June? Will you be back to the Office of Management and Budget, to make an inquiry as to whether the funds will be distributable at that point?

Mr. MINOR. It is clear they would expire at the end of June. They would revert back to the Treasury. There would be no authority on our part to expend them after June 30.

Mr. BROWN. But do you intend to make another inquiry on that subject or is it “Don’t call us, we’ll call you”?

Mr. MINOR. No, we are in communication with them on this subject. It is a many-faceted decision, as you can understand.

Mr. MACDONALD. The last question on this subject, to follow up something that Mr. Brown raised, which you discussed in your testimony. It was my understanding from your earlier testimony that you indicated that the Bureau of Management and Budget had given you a directive not to make any grants.

Am I correct in remembering your testimony that way?

Mr. MINOR. Yes, sir. There was an oral directive. It was an oral directive.

Mr. MACDONALD. If it was oral, do you remember it well enough to supply for the record the words of the oral directive, because we would be very interested in that?

Mr. MINOR. Sir, I cannot, because it did not come directly to me. It came to me through channels.

Mr. MACDONALD. I don't doubt all that, but as Harry Truman said, "The buck ends here." You are in charge. So whether it went through channels or in a telegram or by an anonymous call, if you feel that somebody has given you a directive and you follow that advice you are stuck with it. I take it you have followed that advice and, therefore, you must know what you are following, I hope.

Therefore, I make a request on behalf of the committee that you furnish this committee with that directive and who gave it to you, and on what date you received it.

Mr. MINOR. I will try to get that information for the record.

Mr. MACDONALD. I hope we don't have to subpoena directives. We have always gotten on well with the people downtown. I think if you search your records you will be able to find such an important directive. I hope so.

(See letter dated March 22, 1971, p. 25, this hearing.)

Mr. MINOR. Sir, do you want me to continue with the second half of my statement?

Mr. MACDONALD. Why don't you incorporate it in the record as if read?

Without objection, it is so ordered.

HISTORY OF THE NATURAL GAS PIPELINE SAFETY PROGRAM FOR PAST 2 YEARS

Mr. MINOR. I would now like to give a brief overview of the administration of the Natural Gas Pipeline Safety program.

Last August, the Secretary of Transportation created the Office of the Assistant Secretary of Transportation for Safety and Consumer Affairs and transferred the Office of Pipeline Safety to it from the Office of the Assistant Secretary for Systems Development and Technology. While the individuals who have served in that Office provided overall guidance to the Office of Pipeline Safety, the nature of the research and technology function is not consistent with the day-to-day supervision of an office that performs essentially regulatory functions. With the creation of an Assistant Secretary who would perforce be devoting a large percentage of his time to transportation safety, it became apparent that his office would provide an appropriate "home" for the Office of Pipeline Safety.

The act required that the Department establish and put into effect no later than 24 months after the enactment of the Act, minimum Federal safety standards for the transportation of gas and pipeline facilities. These basic standards were issued on August 11, 1970.

In keeping with the spirit of the act, we have exerted maximum efforts to establish working relations with the State agencies. This effort has had good results as indicated by the substantial degree of program participation and cooperation on the part of a large majority of the States. As of December 31, 1970, 49 State agencies, including the District of Columbia, had section 5(a) certifications in effect, with

only Hawaii, Louisiana, and Puerto Rico not participating in the program. Also at the close of the year, 22 States were voluntarily serving as agents of the Secretary with respect to monitoring interstate transmission pipeline activities.

At the present time, State agency interest and cooperation continues to be high. Forty-two States have filed section 5(a) certifications. Seven others have filed 5(b) agreements because they are not yet eligible to certify. Twenty-two States continue to serve as agents of the Secretary with respect to interstate transmission lines. Only three States—Arkansas, Louisiana, and New Jersey—are not now participating in the program.

When the act was passed, very few States had a permanent full-time safety program. I am glad to say that many of them have increased their staffing and at present 29 States have at least one technical employee devoting full time to pipeline safety. The total number of technical employees in the 29 States is 70, ranging from 12 in New York to one in several of the States. These 70 technical positions are supported by 18 clerical positions. In a number of States, the pipeline safety work is interrelated with other regulatory and safety functions. Consequently, these States have personnel devoting part time to gas pipeline safety as part of their overall duties.

Recognizing that Congress saw fit to establish this program with the intent of placing the majority of the responsibility for safety regulation at the State level, and consistent with the President's policy for Federal-State relations, we have endeavored to plan and implement our program to gain maximum effectiveness on the part of State agencies to carry out this program. The main problem faced by the States is that many of them need time to establish a basic program and to put it into motion.

We realize it takes time to get money and personnel for these activities. Some States have large, efficient staffs, while others are still trying to get their programs off the ground. The Department's overall approach in this program is to assist each State as much as possible with its individual problems. This assistance takes the form of advice on legislative matters, administrative procedures, and personnel qualifications, as well as training and technical information. The Office of Pipeline Safety also serves as a clearinghouse for information on pipeline safety regulatory matters among the States. In addition, we are preparing technical manuals for use by the State agency staffs in evaluating and monitoring the safety of gas pipelines.

Another indication of State interest in this program is the enactment in 1969 and 1970, of State legislation relating to gas pipeline safety matters. Some of the States, such as Illinois, Indiana, South Carolina, South Dakota, and Texas, enacted statutes based substantially on the Natural Gas Pipeline Safety Act. In 11 States the laws were amended to vest in a State agency safety jurisdiction over municipally owned gas distribution systems. In a total of 32 States, legislation made the State law on monetary sanctions substantially the same as the Federal. Based on informal advice we have received in recent weeks, we know that the legislatures of a number of other States are now considering amendments of State statutes to strengthen State agency capability to cooperate with us.

In administering the act, we have leaned heavily on the Technical Pipeline Safety Standards Committee, established pursuant to the

act, for assistance. Since its establishment in January 1969, nine meetings have been held to give both formal and informal advice and recommendations. We have found this committee to be one of the most valuable features of the act. We shall continue to draw on this body of experts for advice and recommendations.

The Office of Pipeline Safety now has a total of 28 positions. In November 1970 we established a pilot field office with three positions in Houston, Tex. There are plans to establish four additional field offices in other parts of the country when resources are available.

Aside from our State relationship described above, the two most important accomplishments during the past year have been:

(1) The publication of the minimum Federal safety standards on August 11, 1970; and

(2) The establishment of a leak and test failure reporting system that became effective February 9, 1970. This system requires certain operators to report certain leaks or failures and all operators to report annually on their overall operating experience. This information will enable us to detect problem areas that need attention and evaluate the effectiveness of all aspects of our regulatory program.

Our program may be described as having three distinct phases:

(1) To develop and publish minimum Federal standards.

(2) To inform and educate all concerned parties about what is and will be involved in this program.

(3) To monitor gas pipeline operators for compliance in correlation with State agency responsibilities.

We have completed phase (1) and are now basically involved in phase (2), that of communication with those involved in the program. During 1970, the OPS staff participated in some 55 meetings, talking to over 7,500 State, industry and other interested parties.

We are now at the point of "changing gears" from a developmental phase to an operational program. When the program has matured, all three phases will continue to varying degrees.

It is our intent and goal to assist the States in fulfilling their responsibility to the maximum of their capability.

Mr. MACDONALD. Thank you, gentlemen.

(The following letter was received for the record:)

OFFICE OF THE SECRETARY,
DEPARTMENT OF TRANSPORTATION,
Washington, D.C., March 22, 1971.

HON. TORBERT H. MACDONALD,
Chairman, Subcommittee on Communications and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In keeping with your request at the hearings on March 9, 1971, on H.R. 5065, to provide your subcommittee with additional information concerning the administration of the Natural Gas Pipeline Safety Program, I respectfully submit the following:

(1) There is enclosed a map, prepared by the Federal Power Commission, showing existing interstate pipelines in the United States, as requested. [See map facing page 8.]

(2) Our records show that there are approximately 80 miles of interstate pipeline in the State of Maine, running from the New Hampshire border to the Portland area.

(3) The current status of natural gas pipeline safety legislation for the District of Columbia is that on January 29, 1971, Chairman John L. McMillan of the Committee on the District of Columbia of the House of

Representatives, introduced H.R. 2591, a bill that includes provision for amending the laws of the District of Columbia relating to monetary sanctions so that the District of Columbia will be eligible to cooperate with the Department of Transportation under the Natural Gas Pipeline Safety Act. The bill was referred to the House Committee on the District of Columbia and is currently pending before its Subcommittee on Business, Commerce and Fiscal Affairs.

(4) There was a request to furnish the Committee the directive regarding release of the \$500,000 in appropriated funds for State Federal Grant-in-Aid use in Fiscal Year 1971, who issued this directive, and the date it was received. We have now been informed by OMB that, after review of the matter, there is no objection to the obligation of the funds in accordance with the distribution formula devised by our Office of Pipeline Safety. We are proceeding with the distribution as a matter of highest priority.

During the final stages of the hearing reference was made to amendments to the Natural Gas Pipeline Safety Act of 1968 to be proposed by the National Association of Regulatory Utility Commissioners. At this date, we have not received copies of those amendments. However, one of the amendments discussed at the hearing concerned the ability of certain States to assess fees for the inspection of interstate pipelines while acting as agent of the Department of Transportation. The enclosed letter recently sent to that organization provides some clarification on that point.

Please let us know if there is any further information we can furnish.

Sincerely,

JAMES B. MINOR,
*Acting Deputy Assistant Secretary
for Safety and Consumer Affairs.*

Enclosures.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1971.

Hon. GEORGE I. BLOOM,
*Chairman, Pennsylvania Public Utility Commission,
Harrisburg, Pa.*

DEAR CHAIRMAN BLOOM: In the course of your testimony last Tuesday on behalf of NARUC before the House Committee on Interstate and Foreign Commerce, Subcommittee on Communications and Power, you indicated that many State agencies were troubled by certain guidelines set forth in my letter of October 30, 1970. In particular, you stated that the Office of Pipeline Safety had, by administrative decision, prevented the State agencies who were acting as agents of the Secretary with respect to interstate transmission facilities from imposing assessments on the operators of these facilities.

The original pipeline safety legislation proposed by the Department in 1967, and the bill which originally passed the Senate, specifically authorized the Secretary "to require the payment of a reasonable annual fee to him by all persons engaged in the transportation of gas." The House bill contained no such provision and it was deleted in the House-Senate conference on the final bill. In view of this fact, it is quite clear that the Secretary has no authority, either expressed or implied, to impose or authorize fees or assessments on interstate pipeline operators. Following the principle of law that an agent can have no more authority than his principal, it is equally clear that he cannot delegate to State agencies any authority for assessments *when acting under the Natural Gas Pipeline Safety Act as agents of the Secretary with respect to interstate transmission facilities.*

This does not, of course, affect the rights of a State or State agency to impose fees on the interstate operators under any other authority that it might possess. The Secretary cannot restrict the authority of a State agency when it is acting in any other capacity or under any other legal authority. To the extent that our letter of October 30, 1970, may have implied that a State could not, in some capacity other than as our agent, assess fees for their services, it is not controlling and is modified in accordance with the preceding statement.

I hope this will clarify our position with respect to our guidelines on assessments. We look forward to a continuation of the good relations to which you referred in your testimony.

Sincerely,

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

(The following table was received for the record:)

FIVE-YEAR AUTHORIZATION FOR ADMINISTRATION OF NATURAL GAS PIPELINE SAFETY ACT OF 1968—
FISCAL YEAR 1973 THROUGH FISCAL YEAR 1977¹

	Staffing	S. & E.	R. & D.	Total
Fiscal year:				
1973.....	² 182	\$3,000,000	\$800,000	\$3,800,000
1974.....	² 231	4,000,000	1,000,000	5,000,000
1975.....	² 273	5,000,000	1,200,000	6,200,000
1976.....	² 316	6,000,000	1,300,000	7,300,000
1977.....	² 393	7,000,000	1,300,000	8,300,000

¹ Rough preliminary estimates which have not been formally approved.

² Would be reduced proportionately by any amounts appropriated for funding State programs on a 50-50 basis.

Editor's Note: Request for this information was made by Chairman Macdonald on p. 52, this hearing.

Mr. MACDONALD. The next witness will be George I. Bloom. He will be introduced by Congressman Rooney of Pennsylvania.

Mr. ROONEY. Thank you.

I want to welcome Chairman Bloom to this very distinguished committee. Mr. Bloom is the president of the National Association of Regulatory Utility Commissioners, and he is not new to Capitol Hill. He served with Senator Martin for 12 years as his administrative assistant.

Mr. Bloom has been helpful to me in solving my problems with the utility commission in Pennsylvania, and I welcome you here this morning, Mr. Bloom.

STATEMENT OF GEORGE I. BLOOM, PRESIDENT, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS; ACCOMPANIED BY PAUL RODGERS, GENERAL COUNSEL AND ADMINISTRATIVE DIRECTOR; NARUC; AND GEORGE E. BONNER, DIRECTOR, GAS DIVISION, NEW YORK PUBLIC SERVICE COMMISSION

Mr. BLOOM. May I suggest that the representatives of the Office of Pipeline Safety remain so that they may hear some points that I desire to make, and they may want to answer them or you may want to question them?

Mr. MACDONALD. On this point, they have concluded their testimony. This is not a debate; we are taking testimony.

But they have decided on their own initiative, and they are sitting in the rear of the room.

Mr. BLOOM. Mr. Chairman, members of the committee, since I have already been introduced by my good friend, Congressman Rooney of Pennsylvania, I will skip that portion of my statement and I would

ask that my statement in toto, as prepared, be offered in the record, with the appendixes that are attached.

Mr. MACDONALD. Without objection, it is so ordered.

Mr. BLOOM. I will endeavor to shorten this by omitting part of my testimony to save time and give more time for questioning.

We believe that the scope of the bill should be substantially enlarged to improve the functioning of the Federal-State partnership under the act and to reverse two administrative interpretations which jeopardize the public safety.

The Congress, in enacting the Natural Gas Pipeline Safety Act of 1968, intended to establish a viable Federal-State partnership to carry out a national program to strengthen gas safety. Under section 5 of the act, a State agency which adopts the Federal safety standards as a minimum and which has the ability to effectively enforce these standards, is permitted to administer a comprehensive gas safety program within that State with respect to distribution companies and local transmission lines. Any State which adopts and enforces the Federal standards submits annually to the Secretary of Transportation a certificate accompanied by supporting information depicting the State program. If the secretary finds that the State performance is inadequate, he may reject the certificate and assert direct Federal regulation.

COURT IMPOSED MONETARY SANCTIONS

However, one facet of section 5(a)(4) of the act (49 USCA Sec. 1674(a)(4)) has created a conflict of interpretation between the State agencies and the Office of Pipeline Safety of the Department of Transportation. Section 5(a) provides, as one of the conditions for State certification, that:

... the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 9 and 10; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed two years after the date of enactment of this Act.¹

The Office of Pipeline Safety has interpreted the phrase "substantially the same as" to mean that a State agency itself must possess the authority to fix and compromise penalties against gas companies committing safety violations.

Traditionally, many States have reserved such authority for exercise by the judiciary and not regulatory agencies. This certainly appears to be a sound policy decision when we consider that the judiciary is the ultimate guardian of the rights of the people.

Irrespective of the enormous responsibility placed upon the judiciary under our system of government, and the excellent record it has made in meeting this responsibility since the establishment of our Government, the Office of Pipeline Safety has determined that the judicial fixing of penalties is inadequate.

Many States have attempted to change their laws to conform with DOT's interpretation during the 2-year period specified in section 5(a) which expired on August 12, 1970. However, thus far, the Office of Pipeline Safety has determined that the laws of only 33 States

¹ The act was signed by the President on August 12, 1968.

and Puerto Rico satisfy its imaginative interpretation regarding monetary sanctions and other requirements. It has determined that the laws of 18 jurisdictions listed are inadequate, and therefore require amendment. Included in those States is my own State of Pennsylvania. And while we have the authority under our public utility law to impose a penalty, we do not have the authority to impose a penalty of \$1,000 for each offense, and cumulatively up to \$200,000.

But we do have the injunctive power. We do have the authority to seek an injunction from the Commonwealth court, and if the injunction is violated, the court can assess penalties up to any amount, and even imprison the offender.

Even under these circumstances OPS has said that Pennsylvania does not measure up, as they have also indicated with respect to 17 other jurisdictions.

Furthermore, we believe that the legislative history of the Natural Gas Pipeline Safety Act indicates the acceptability of judicially imposed monetary sanctions for certification purposes.

The NARUC takes the following position in footnote 2 of my prepared statement:

Since some of these 18 States are probably disqualified for reasons other than the judicial imposition of sanctions, we support the extension of the initial two-year period during which a State agency may certify without regard to the requirement of injunctive and monetary sanctions under State law. H.R. 5065 proposes the extension of this period to August 12, 1971, but we believe it should be extended at least to August 12, 1972, and preferably to August 12, 1973.

Now if you read this statement and follow the legislative history in all the committee records, I believe that you could come to only one conclusion. And that is, Congress intended that if the State had the power through commission or judiciary to enforce injunctive procedures and sanctions substantially equal to that of the Federal act as provided in sections 9 and 10, that they should qualify to be certified. The Congress did not intend to limit this power strictly to an agency itself like the Public Utility Commission of Pennsylvania having these powers in its own right.

Now on page 10, the NARUC asserts that the interpretation adopted by the Office of Pipeline Safety, which is repudiated by the legislative history, is bad policy because it minimizes the time-honored judicial role and because it will seriously impair the Federal-State safety program intended by the Congress.

I refer at the bottom of page 10 to a resolution that was passed by the NARUC executive committee on July 22, 1970. The text of the resolution is set forth in appendix A, which I have offered as a part of this record.

Now, the States are also concerned over an interpretation that they cannot make assessments on interstate pipelines to defray the cost of safety regulations. Letters from the Office of Pipeline Safety clearly indicate that it is the interpretation of OPS that the States have no authority whatever to assess interstate transmission lines for the purpose of defraying the expenses of inspection and carrying out a safety program. Although the States are requested by the Office of Pipeline Safety to assist in this function, because of the limited OPS staff of

perhaps two or three field inspectors, OPS calls upon the States to use their respective staffs in a safety program apparently reserved in the act for Federal jurisdiction.

And yet we are, according to the Office of Pipeline Safety, prevented from making assessments against the gas pipeline transmission companies when we are working to carry out the purposes of this Act and Federal responsibility.

Mr. MACDONALD. Would you like to have those inserted in the record?

Mr. BLOOM. Yes, I would like to offer these letters in the record.

Mr. MACDONALD. Without objection, it is so ordered.

(See letter dated October 30, 1970, to chairman, each State agency serving as DOT agent in relation to interstate gas transmission facilities, with attachments, p. 40, this hearing.)

Mr. BLOOM. We have had a very pleasant relationship with the Office of Pipeline Safety. We have cooperated fully, and I must be fair and say that they have cooperated with us. Also, we undertook by agreement that we would police the interstate transmission lines in Pennsylvania.

But when we found that they claimed that we have no authority to assess these interstate pipeline companies, and we were getting no money in the way of grants-in-aid to the Commission, and operating with a limited budget and manpower, we had to cancel that agreement and say, "We cannot undertake that responsibility."

I think this is true perhaps of several States, at least one other that I can think of—the State of New York.

We think there should be amendments to the act to alter this interpretation as promulgated by the Office of Pipeline Safety to take care of this very situation.

I want to say to you that in 1969 and 1970, Pennsylvania conducted 168 audits of the records and plant facilities of gas utility companies. I am sure other States are doing as much or more.

We have handled on an immediate basis in excess of 200 gas safety complaints received by letter and telephone.

We have ordered and coordinated the complete shutdown for safety violations of a 500-customer gas utility company.

We have developed and are presently coordinating gas safety improvement programs with five gas utility companies.

We have adopted a new rule making it mandatory for all gas utilities to run periodic tests of service lines owned by residential and commercial customers. (Such lines extend between the utility's main and the customer's house or building, and previously had not been tested by the companies.)

We have adopted new procedures for increasing pressure in gas distribution facilities.

We have established requirements covering disconnection and abandonment of inactive gas service lines.

We have established a 24-hour, 7-day week accident reporting procedure.

Since the letter of October 30, 1970, from the Acting Director of OPS, has denied our traditional source of funding for interstate pipeline safety regulation through assessments, the public is no longer receiving the protection afforded by our safety program in this im-

portant area of public concern. Obviously, no enforcement protection in Pennsylvania is being afforded by DOT with respect to the interstate pipelines.

I say that not in criticism, because I do not think they have adequate personnel to make inspections. The States have never received 1 cent of grant-in-aid to assist them in carrying out a real safety program. So we are doing it on our own out of State funds. We are doing the very best we can, and I think doing a very, very creditable job in my State, and in other jurisdictions.

However, it would be a great help if we had means to support this program from the sources provided by law and through the right of assessment.

Accordingly, I respectfully urge the subcommittee to seek the reversal of this crippling restraint so that Pennsylvania and other States may engage in safety inspection of the interstate pipelines.

We are suggesting here also the modification of the grant-in-aid program. We believe that section 5(c) of the act should be amended to modify the administration of the 50-50 matching grant-in-aid program to assist the State commissions in their safety regulation.

As a result of the timing of the State commission's application for funds and the calendar year basis of the existing grant-in-aid program, most State commissions will not know the amount of Federal funds they are entitled to receive in any year until after their State legislatures have made appropriations for that year.

Under these circumstances, a State legislature could easily fail to appropriate sufficient State funds to fully match the Federal funds apportioned to the State and hence the unmatched part of the apportionment would lapse.

Enactment of the amendment we propose to House Resolution 5065, as set forth in appendix B to this statement, would permit congressional authorization of a specific amount of funds for a given fiscal year to be apportioned among the several States well in advance of such fiscal year.

Now let me say that every State has problems in selling the legislature on getting enough funds to properly man their commission, their gas division, and to carry out all of the functions. But if we were to get the grant-in-aid as the Congress and this subcommittee intended, then there would be an inducement for the legislature to appropriate its matching share so that every commission could augment its staff and do a much better job than they are doing today.

We are concerned because there was, as you pointed out and has been brought up here, an appropriation of \$500,000 for this fiscal year. Yet there has not been 1 cent allocated of those funds to any State. The States have been carrying on this safety program on their own with their own money without 1 cent from the Federal Government, and that is not what you gentlemen intended to happen.

We were seriously concerned because we not only wanted that money released, but we felt there ought to be at least \$1.5 million approved in the budget for this coming fiscal year.

We called on the Office of Management and Budget to find out why this money was being held up and why they could not release these funds. Of course, as you have heard here, it is a question of revenue

sharing with the States, and they felt that they should hold this in abeyance until there is a final determination on this proposed program.

I tried to point out, and Mr. Rodgers, our general counsel, was with me at the time, that in the meantime, this aid is not forthcoming and that safety is being crippled in the various States. We suggested that funds ought to be released, with a later determination whether the money is to come from the "Revenue Sharing Act," if and when it is passed, or by means of existing legislation.

Now, the fourth matter, the State intensification of Federal safety standards:

Section 3(a) of the Natural Gas Pipeline Safety Act requires the Secretary of Transportation to establish minimum safety standards applicable to gathering, transmission, and distribution facilities, and specifically authorizes the States to adopt more stringent standards applicable to all except interstate transmission facilities.

In other words, section 3(a) specifically immunizes interstate transmission facilities from the application of additional safeguards which we believe are necessary to protect the public against unique hazards of local origin.

The NARUC opposed this immunization in 1968 when this legislation was under consideration by the subcommittee.

We respectfully request that the subcommittee reconsider this immunity in the light of the DOT safety standards which became effective on November 12, 1970. The NARUC, assembled in its 82d Annual Convention on November 19, 1970, adopted a resolution stating in part that such "standards were promulgated over the vigorous objection of State agencies, that they were weak and inadequate and fell below the requirements of a number of the States."

One of the States that objected bitterly was the State of New York, because the standards which they had in effect at the time were much more stringent than the ones that were adopted by the Office of Pipeline Safety.

(Mr. Bloom's prepared statement and attachments follow:)

STATEMENT OF GEORGE I. BLOOM, PRESIDENT, NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS

Mr. Chairman and members of the committee, my name is George I. Bloom. I am the President of the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC". I am also the Chairman of the Pennsylvania Public Utility Commission and I have served in such capacity since May 3, 1965.

I am accompanied at the witness table today by Paul Rodgers, General Counsel of the NARUC.

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the *fifty* States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. Our chief objective is to serve the public interest by seeking to improve the quality and effectiveness of government regulation.

The members of the NARUC appreciate the opportunity you have given us as their spokesmen to make their views known on H.R. 5065, a bill to amend the Natural Gas Pipeline Safety Act of 1968.

We believe that the scope of the bill should be substantially enlarged to improve the functioning of the Federal-State partnership under the Act and to reverse two administrative interpretations which jeopardize the public safety.

The Congress, in enacting the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A., Sec. 1671, *et seq.*), intended to establish a viable Federal-State partnership to carry out a national program to strengthen gas safety. Under Section 5 of the Act, a State agency which adopts the Federal safety standards as a minimum and which has the ability to effectively enforce these standards, is permitted to administer a comprehensive gas safety program within that State with respect to distribution companies and local transmission lines. State adoption and enforcement of the Federal standards are reflected by a State agency annually submitting to the Secretary of Transportation a certificate accompanied by supporting information depicting the State program. If the Secretary finds that the State performance is inadequate, he may reject the certificate and assert direct Federal regulation.

COURT IMPOSED MONETARY SANCTIONS

However, one facet of Section 5(a)(4) of the Act (49 U.S.C.A., Sec. 1674(a)(4)) has created a conflict of interpretation between the State agencies and the Office of Pipeline Safety of the Department of Transportation. Section 5(a) provides, as one of the conditions for State certification, that:

... the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions *substantially the same as* are provided under sections 9 and 10; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed two years after the date of enactment of this Act. (Emphasis supplied.)¹

The Office of Pipeline Safety has interpreted the phrase "substantially the same as" to mean that a State agency *itself* must possess the authority to fix and compromise penalties against gas companies committing safety violations.

Traditionally, many States have reserved such authority for exercise by the judiciary and not regulatory agencies. This certainly appears to be a sound policy decision when we consider that the judiciary is the ultimate guardian of the rights of the people.

Irrespective of the enormous responsibility placed upon the judiciary under our system of government, and the excellent record it has made in meeting this responsibility since the establishment of our government, the Office of Pipeline Safety has determined that the judicial fixing of penalties is inadequate.

Many States have attempted to change their laws to conform with DOT's interpretation during the two year period specified in Section 5(a) which expired on August 12, 1970. However, thus far the Office of Pipeline Safety has determined that the laws of only 33 States and Puerto Rico satisfy its imaginative interpretation regarding monetary sanctions and other requirements. It has determined that the laws of the following 18 jurisdictions are inadequate and, therefore, require amendment: Arkansas, Connecticut, Delaware, Hawaii, Indiana, Louisiana, Massachusetts, Minnesota, Mississippi, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Pennsylvania, Rhode Island, Virginia, and the District of Columbia.²

Furthermore, we believe that the legislative history of the Natural Gas Pipeline Safety Act indicates the acceptability of judicially imposed monetary sanctions for certification purposes.

When S. 1166 (90th Cong.) passed the Senate and was referred to the House Committee on Interstate and Foreign Commerce on November 13, 1967, Section 5(a) provided that the primary means of State participation under the Act would be by means of an agreement entered into between a "State agency" and the Secretary of Transportation. Section 5(a) provided in part that "No such agreement may be concluded with any State agency which does not have the authority (i) to impose the sanctions provided under sections 9 and 10 . . .".

¹ The Act was signed by the President on August 12, 1968.

² Since some of these 18 States are probably disqualified for reasons other than the judicial imposition of sanctions, we support the extension of the initial two year period during which a State agency may certify without regard to the requirement of injunctive and monetary sanctions under State law. H.R. 5065 proposes the extension of this period to August 12, 1971, but we believe it should be extended at least to August 12, 1972, and preferably to August 12, 1973.

Section 9 provided for a maximum civil penalty of 1,000 dollars for each day a violation continued with a maximum penalty of 400,000 dollars for a related series of violations.

The NARUC testified before this Subcommittee on S. 1166 and related bills on February 27, 1968. In Appendix B (pp. 7-8) to its written statement filed with the Subcommittee on that day, the NARUC pointed out that:

Section 5(e) further provides that the Secretary cannot contract with a State commission which does not have the authority to impose a civil penalty of \$1,000 per day per violation and to enjoin violations. Most, if not all, of the State commissions do not possess such authority, and it is doubtful if most could be so authorized because State constitutions frequently reserve such judicial remedies for exclusive exercise by the courts.

Consequently, we recommend that Section 5(e) be amended to include sanctions imposed by both State commissions and courts and, further, that where State law does not permit the imposition of such sanctions an agreement may nevertheless be executed with the understanding that the civil penalty and injunctive relief prescribed by S. 1166 would have continued application in the State.

These views were reiterated in a letter of the NARUC General Counsel, dated March 19, 1968, which responded to a letter from the Chairman of the Subcommittee inquiring as to the State agencies, if any, which were empowered to impose the civil penalty sanctions referred to in Section 5(a) (3) (i) of S.1166. The text of this letter is reported in the hearings before the subcommittee entitled "Natural Gas Pipeline Safety," 90th Congress (Serial No. 90-28), p. 336.

The House Committee on Interstate and Foreign Commerce on May 15, 1968, favorably reported S. 1166 with amendments. *House Report No. 1390, 90th Congress*. The Committee version of S. 1166 passed the House without amendment.

The House version of S. 1166 revised Section 5(a) to establish the "certification" concept as the primary means of State participation under the Act. More specifically, the revised Section 5(a) provided that the Act generally would not apply to intrastate facilities within a State when the safety standards applicable to them are regulated by a "State agency" which: submits to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of such pipeline facilities and transportation of gas; (2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification; (3) is enforcing each such standard; and (4) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 12 and the filing for approval of plans of inspection and maintenance described in section 11; and that *the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions.* . . .

(Emphasis supplied.)

Obviously, a comparison of this language with the Senate version of Section 5(a) demonstrates that the House intended that judicially imposed penalties would be acceptable for certification purposes.

This conclusion is supported by the following comment from House Report No. 1390, pp. 28-29:

In the course of the hearings before the committee it was pointed out that whereas a condition precedent to a written agreement was that the State agency has authority to impose the penalties provided under section 9 and seek the injunction relief provided by section 10, most State agencies did not have such authority as to penalties, although most of them could seek enforcement through injunctions (see app. B). It thus appeared that some amendment to section 5(a) must be made if any such State enforcement program were to be initiated. . . .

In the bill as reported, the committee incorporates the results of its consideration of the need to amend the agreement conditions and the alternative proposal.

The language adopted by the committee indicates a reaffirmation of the intent that State law and State enforcement replace the Federal law for local facilities where the State agency has undertaken conscientiously and effectively to adopt and enforce the Federal standards.

Upon consideration of S. 1166 by the Conference Committee (House Report No. 1795, p. 12, 90th Congress) the conferees agreed upon a substitute which:

. . . retain the certification procedure of the House amendment but provides

that there be a condition precedent to State agency certification; namely, that the law of the State make provision for injunctive and monetary sanctions "substantially the same as are provided under sections 9 and 10." The conference substitute also adds a provision that a State agency may file a certification without regard to the requirement of injunctive and monetary sanctions under State law for a period of not more than 2 years after the date of enactment of this legislation.

The substitute version of S. 1166 was enacted by the Congress and signed by the President on August 12, 1968.

Since the Conferees adopted the House language stating that "the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions . . ." (which encompassed the judicial imposition of sanctions), rather than reverting to the original Senate language which required that the State agency itself must possess the authority to impose such sanctions, we believe that the Congress clearly intended that judicially imposed sanctions would be acceptable for certification purposes.

We believe that the language added by the conferees to require that the State sanctions must be "substantially the same as are provided under sections 9 and 10", was merely to insure that the level of penalties between the Federal and State laws would be substantially the same.

If a State agency is to be de-certified under the Act, we believe it should be for substantial cause such as its inability to effectively enforce the Federal minimum safety standards. To de-certify a State agency on frivolous grounds, such as for judicially imposed penalties, could easily mean a loss of effective State programs. Such a loss to public safety would be intolerable under any circumstances, and especially now when the Office of Pipeline Safety has a national field force of only two engineers based in Houston, Texas.

In view of these considerations, the NARUC believes that the interpretation adopted by the Office of Pipeline Safety, which is repudiated by the legislative history, is bad policy because it minimizes the time-honored judicial role and because it will seriously impair the Federal-State safety program intended by the Congress.³

Accordingly, we respectfully urge that the Natural Gas Pipeline Safety Act be amended in the manner proposed in Appendix B to this Statement to clarify the Congressional intent as to the appropriateness of the judicial fixing of penalties for safety violations.

STATE ASSESSMENTS OF INTERSTATE PIPELINES TO DEFRAY COST OF SAFETY REGULATION

In the interim Federal safety standards (49 CFR, Part 190) which were issued by DOT on November 7, 1968, Section 190.6 permitted any State agency that so desired to act as the agent of the Federal government in exercising surveillance over the safety programs of interstate transmission facilities. The new minimum Federal standards which were issued on August 11, 1970, continued this State agency authority.

The need for State agency participation in the enforcement of the Federal standards for interstate pipelines was dictated by the absence of a Federal field staff. At the present time the following twenty-two jurisdictions have agreed to assume this added responsibility:

Connecticut
Florida
Iowa
Kansas
Kentucky
Maryland
Massachusetts
Michigan

Montana
New Hampshire
New Jersey
North Carolina
Ohio
Oklahoma
Rhode Island

Utah
Virginia
Washington
West Virginia
Wisconsin
Wyoming
District of Columbia

However, these State safety programs for the interstate pipelines were dealt a

³ Such an amendment is supported by the resolution adopted by the NARUC Executive Committee on July 22, 1970 (NARUC Bulletin No. 31-1970, p. 5). The text of the resolution is set forth in Appendix A to this Statement.

severe set-back when the Acting Director of the Office of Pipeline Safety, by letter of October 30, 1970, advised the State agencies that they no longer possessed the authority to assess interstate pipelines for inspection or surveillance fees to defray the cost of their agency relationship. A copy of this letter is submitted for the record.

Obviously, State funds are required to defray the cost of the agency relationship and we fail to perceive any significant difference between deriving the funds from the State treasury or from State assessments of interstate pipelines to defray the cost of safety regulation.

Due to the loss of this crucial funding, the Pennsylvania Public Utility Commission has been forced to cancel its agency relationship with DOT and, accordingly, to restrict its regulatory activities to the intrastate systems. Our safety program is an active one.

In 1969 and 1970, the Pennsylvania Commission staff investigated 39 accidents attributable to natural gas. In addition, the staff:

1. Conducted 168 audits of the records and plant facilities of gas utility companies;
2. Handled on an immediate basis in excess of 200 gas safety complaints received by letter and telephone;
3. Ordered and coordinated the complete shutdown for safety violations a 500-customer gas utility company;
4. Developed and is presently coordinating gas safety improvement programs with five gas utility companies;
5. Adopted a new rule making it mandatory for all gas utilities to run periodic tests of service lines owned by residential and commercial customers (such lines extend between the utility's main and the customer's house or building and previously had not been tested by the companies);
6. Adopted new procedures for increasing pressure in gas distribution facilities;
7. Established requirements covering disconnection and abandonment of inactive gas service lines; and
8. Established a 24 hour, 7 day week accident reporting procedure.

Since the Acting Director's letter of October 30, 1970, has denied our traditional source of funding for safety regulation of the interstate pipelines through assessments, the public is no longer receiving the protection afforded by our safety program in this important area of public concern. Obviously, no enforcement protection in Pennsylvania is being afforded by DOT with respect to the interstate pipelines.

Accordingly, I respectfully urge the Subcommittee to seek the reversal of this crippling restraint by the Acting Director so that Pennsylvania, and other States similarly situated, may engage in safety inspections of the interstate pipelines.

MODIFICATION OF GRANT-IN-AID PROGRAM

Also, we believe that Section 5(c) of the Act should be amended to modify the administration of the 50-50 matching grant-in-aid program to assist the State commissions in their safety regulation. As a result of the timing of the State commission's application for funds and calendar year basis of the existing grant-in-aid program, most State commissions will not know the amount of Federal funds they are entitled to receive in any year until after their State legislatures have made appropriations for that year. Under these circumstances, a State legislature could easily fail to appropriate sufficient State funds to fully match the Federal funds apportioned to the State and hence the unmatched part of the apportionment would lapse.

Enactment of the amendment we propose to H.R. 5065, as set forth in Appendix B to this Statement, would permit Congressional authorization of a specific amount of funds for a given fiscal year to be apportioned among the several States well in advance of such fiscal year. Under this concept, the Federal authorizing legislation would be enacted during an even-numbered year, and the apportionment of funds to the States would be made before the close of that even-numbered year, so that the State legislatures (the vast majority of which meet during the odd-numbered years) would know the amount of State funds needed to match the apportioned Federal funds. The Federal-aid highway program is an outstanding example of the application of this concept.

The proposed amendment also contains a "contract authority" provision which

means that when the Secretary of Transportation approves the gas safety program of a State commission, such approval "shall be deemed a contractual obligation of the Federal Government for the payment of its apportioned contribution thereto."⁴

The provision of adequate and timely financial assistance to State agencies, on a matching basis, will reduce the need for establishing a large Federal field staff and thereby permit the Congress to implement its national safety program for far less than what it would otherwise cost for the Federal Government to assume the entire financial burden. In other words, the use of matching funds would in effect pull State money into a Federal program.

In this regard, we solicit the support of the members of this Subcommittee in our efforts to persuade the Administration to authorize the spending of the 500,000 dollars appropriated by Congress last year to fund in part the grant-in-aid program for the fiscal year ending June 30, 1971.

STATE INTENSIFICATION OF FEDERAL SAFETY STANDARDS APPLICABLE TO INTERSTATE PIPELINES

Section 3(a) of the Natural Gas Pipeline Safety Act requires the Secretary of Transportation to establish minimum safety standards applicable to gathering, transmission and distribution facilities, and specifically authorizes the States to adopt more stringent standards applicable to all of these facilities, *except* interstate transmission facilities. In other words, Section 3(a) specifically immunizes interstate transmission facilities from the application of additional safeguards which we believe are necessary to protect the public against unique hazards of local origin.

The NARUC opposed this immunization in 1968 when this legislation was under consideration by the Subcommittee.

We respectfully request that the Subcommittee reconsider this immunity in the light of the DOT safety standards which became effective on November 12, 1970. The NARUC, assembled in its Eighty-second Annual Convention on November 19, 1970, adopted a resolution stating in part that such "standards were promulgated over the vigorous objection of State agencies that they were weak and inadequate, and fell below the requirements of a number of the States, in particular because they failed to require either odorization or cathodic protection. . . ."⁵

The proponents before the Ninetieth Congress contended that the immunity was justified on the ground that the transmission facilities are essentially interstate in character and hence should be subject to only minimum Federal standards, whereas, other pipeline facilities are essentially intrastate in character and hence should be subject to Federal minimum standards plus more stringent State standards where necessary.

We believe this contention is incorrect for two reasons.

First, interstate characteristics attach to the gathering, transmission and distribution segments of the natural gas industry because they comprise a physically integrated system engaged in interstate commerce. Consequently, it is unrealistic to try to devise some kind of artificial dichotomy which subjects those citizens residing adjacent to interstate transmission lines to lesser protection.

Second, pipeline facilities constitute fixed plant which remains where it is constructed. Consequently, it is entirely practical from an engineering point of view, and certainly important to the public interest, to apply varying safety requirements to the construction and maintenance of an interstate pipeline to meet changing safety needs along its route. Furthermore, it should be kept in mind that the interstate transmission utilities have grown to be one of America's major industries under the varying State safety requirements which have been tailored to meet local needs.

The public need for the States to adopt additional standards for interstate pipelines was also advocated by the Federal Power Commission. FPC Chairman

⁴ The proposed amendment, regarding the modification of the grant-in-aid program, formed a part of the NARUC proposed Natural Gas Pipeline Safety Act Amendment of 1969 which was introduced in the Ninety-first Congress as S. 1919 by Magnuson (D.-Wash.) and H.R. 12151 by Rooney (D.-Pa.). Representative Rooney on February 2, 1971, automatically reintroduced this legislation in the Ninety-second Congress as H.R. 3324.

⁵ The text of the resolution is set forth in Appendix C to this Statement.

Lee C. White in testifying before this Subcommittee on December 6, 1967, stated that:

"While we strongly support this proposal to assign comprehensive safety jurisdiction to DOT, we suggest consideration be given to improving S. 1166 in one respect. This is to allow the Secretary and the States more freedom in setting standards."

The bill, as now written, requires the Secretary to adopt in three months, as Federal interim standards for each State, those State standards then in force (generally the B31.8 Code without amendment) and prohibits States from adopting additional standards for interstate pipelines (but allows States to adopt additional consistent standards for all other lines). This creates the anomalous situation whereby States may raise their own standards for those transmission lines under State jurisdiction (50,000 miles) but may not apply similar standards for such lines in that State under FPC jurisdiction (160,000 miles). Functionally and operationally, these lines under State or FPC jurisdiction are identical and may even be part of the same network or even owned by subsidiaries of the same holding company.

Some States have made valuable and worthwhile additions to the B31.8 Code and others may wish to do so. The FPC has supported the concept of minimum standards in its testimony on S. 1553 in the 89th Congress and S. 1166 in the 90th Congress before the Senate Committee on Commerce because it believes the creative efforts of States have proved to be and should continue to be fruitful sources of safety concern. We believe the States should be free to improve their own standards for interstate lines and continue their current jurisdiction.⁶

The prescription of exclusive preemptive Federal standards for interstate pipelines would in many cases subject the public to greater hazards than it previously faced. A staff of safety experts in Washington, no matter how proficient or dedicated, could not possibly fashion a safety code, no matter how classified according to population density or other factors, which would be adequate in all circumstances in a country as diverse and as large as this one.

An overlay of State expertise is required to effectively deal with these unique safety problems if the public interest is to be protected to the maximum extent practical.

Not only would State intensification of standards strengthen the Federal gas safety program, but continued State participation in the study of safety problems engendered by high pressure gas transmission would result in a cross-fertilization of ideas and techniques among the several States and the Federal Government which would further advance safety regulation.

This approach would utilize the States in their well recognized role of "testing laboratories" of the governmental process, whereby innovation and experiment may be undertaken and later retained or rejected as results dictate. The public interest requires the stimulation of these productive resources.

Accordingly, we respectfully request that the Act be amended to permit a State agency to adopt standards more stringent than the Federal standards applicable to interstate transmission lines when the State standards do not create an undue burden on interstate commerce and when they are necessary to protect the public against local hazards.

Thank you for your attention.

APPENDIX A

RESOLUTION RE GAS SAFETY

Whereas, In 1968 Congress enacted the Natural Gas Pipeline Safety Act of 1968, Public Law 90-481, 82 Stat. 720; and

Whereas, By its terms said Act does not apply to facilities and the transportation of gas within a State when the safety standards are regulated by a State agency which annually certified to the Secretary of Transportation the matters and things set forth in the Act; and

Whereas, Many States have been unable to meet certification requirements within the time limits prescribed in the Act; and

Whereas, The Department of Transportation in recognition of said fact is sponsoring legislation (S. 3763 and H.R. 17335) now before Congress which would extend the deadline for State compliance from August 12, 1970, to August 12, 1971; and

⁶ Hearings before the subcommittee entitled "Natural Gas Pipeline Safety, 90th Congress" (Serial No. 90-28), p. 53.

Whereas, A State desiring to preserve its regulatory jurisdiction over safety standards and practices of pipeline facilities and transportation of gas within the State must, among other things, certify that the law of the State makes provision for the enforcement of State standards by way of injunctive and monetary sanctions "substantially the same as" provided in Sections 9 and 10 of the Act; and

Whereas, The Department of Transportation has formulated the legal opinion that in order to meet the substantial similar tests set forth in the Act the State must vest the authority to impose monetary sanctions in the administrative agency charged with regulating gas safety as distinguished from the judiciary; and

Whereas, Certain State regulatory agencies are prohibited, either by constitutional limitations, by statute, or by judicial decision, from fixing and determining monetary sanctions, but instead must resort to the courts for such enforcement; and

Whereas, The opinion of the Department of Transportation would appear to be a forced and erroneous construction of the Act, contrary to the intent of Congress to effect a workable Federal-State partnership in the matter of gas safety enforcement.

Be it therefore resolved, That the Executive Committee of the National Association of Regulatory Utility Commissioners, having reviewed the proposed amendment to the Natural Gas Pipeline Safety Act of 1968 to extend the date for State compliance to August 12, 1971, as contained in S. 3763 and H.R. 17335, 91st Congress, hereby concurs in the objectives of these amendments; and

Resolved further, That by appropriate amendment to S. 3763 or H.R. 17335 or other suitable means, the Natural Gas Pipeline Safety Act of 1968 be further amended to make it clear that judicially imposed monetary sanctions meet the substantial similar standards as set forth in Sections 9 and 10 of the Act; and

Resolved further, That the legal representatives of the Association are hereby authorized to appear before any committee of Congress on behalf of the Association at any hearing held on any bills desired to effect the amendments herein urged and to present the views of the Association as herein expressed; and

Resolved further, That the legal representatives of the Association are hereby instructed to send a copy of these resolutions to each member of the Senate and House Commerce Committees, the same being hereby requested to support these amendments.

Adopted July 22, 1970.

APPENDIX B

PROPOSED AMENDMENT TO H.R. 5065

H.R. 5065, a bill to amend the Natural Gas Pipeline Safety Act of 1968, is hereby amended by adding at the end thereof the following:

SEC. 3. The Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, is amended by inserting the words "by it or the courts of the State," immediately after the words "such State agency" in clause (4) of subsection (a) of Section 5.

SEC. 4. The Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, is amended by striking the first sentence of paragraph (1) of subsection (c) of section 5 and inserting in lieu thereof a new sentence to read as follows: "Upon application, the Secretary is authorized to pay out of funds appropriated or otherwise made available up to 50 per centum of the cost of the personnel, equipment and activities of a State agency reasonably required, during the ensuing fiscal year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary in enforcing Federal safety standards for pipeline facilities or the transportation of gas subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act."

SEC. 5. The Natural Gas Pipeline Safety Act of 1968 is further amended by adding at the end of subsection (c) of section 5 the following:

"(4) On or before January 1 next preceding the commencement of each fiscal year, the Secretary shall certify to each such State agency the funds which he has apportioned hereunder to each State for such fiscal year. As soon as practicable after the apportionment has been made for each fiscal year, the State agency of any State desiring to obtain financial assistance shall submit to the Secretary for his approval the State's safety program for the use of the funds

apportioned for such fiscal year. The Secretary shall act on each State program as soon as practicable after it has been submitted. The Secretary may approve any program in whole or in part. His approval of any program shall be deemed a contractual obligation of the Federal Government for the payment of its apportioned contribution thereto. If a State agency elects not to accept the funds apportioned to it, such funds shall be reapportioned among the other States whose State agencies are eligible to receive Federal funds under this subsection.

"(5) The Secretary may, in his discretion, from time to time as work progresses make payment to a State agency for the annual program costs incurred by it. These payments shall at no time exceed the Federal share of the program costs incurred to the date of the voucher covering such payment. After completion of an annual program and approval of the final voucher by the Secretary, the State agency shall be entitled to payment out of the appropriate funds apportioned to it of the unpaid balance of the Federal share on account of such program. Such payments shall be made to such official or officials or depository as may be designated by the State agency and authorized under the laws of the State to receive public funds of the State."

APPENDIX C

RESOLUTION RE SAFETY OF INTERSTATE PIPELINES

Whereas, The United States Department of Transportation has issued regulations, effective November 12, 1970, establishing nationwide standards concerning the safety of interstate pipelines; and

Whereas, Such standards were promulgated over the vigorous objection of State agencies that they were weak and inadequate, and fell below the requirements of a number of the States, in particular because they failed to require either odorization or cathodic protection; and

Whereas, The Natural Gas Pipeline Safety Act purports to preempt the States from imposing more rigorous standards, despite the fact that such standards are denominated as "minimum standards," and thus raises a grave constitutional question as to the police powers of the States with respect to safety; and

Whereas, The inadequacy of the Federal standards imposes serious risks of catastrophes, especially where pipelines traverse heavily populated areas; and

Whereas, The National Association of Regulatory Utility Commissioners has historically taken the position that the Federal standards should be minimum standards and that the States should be free to impose stricter standards as required by local conditions;

Be it resolved, That the National Association of Regulatory Utility Commissioners recommends and endorses the following actions:

(1) That the Department of Transportation be urged to revise its said regulations so as to protect the public safety, particularly with regard to odorization and cathodic protection;

(2) That NARUC supports the action of any State or States which challenge the validity of the said regulations in depriving the States of the right to require a higher degree of safety protection than afforded by the Federal standards;

(3) That NARUC attempt to secure an amendment of the Natural Gas Pipeline Safety Act which would make clear that the Federal standards do not preempt the States from requiring higher standards of pipeline safety; and

(4) That copies of this resolution be sent to the Secretary of Transportation and to the respective chairmen of the Senate and House Commerce Committees of the Congress of the United States.

Adopted November 19, 1970, by the Eighty-second NARUC Annual Convention.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., October 30, 1970.

To: Chairman, Each State Agency serving as DOT agent in relation to interstate gas transmission facilities.

Attached is a copy of interim guidelines prepared by this Office for use by States serving as agents of the Department of Transportation for interstate gas

transmission facilities. These guidelines are intended to clarify Federal-State-Industry relations and to provide answers to some questions that have arisen recently in this area of gas pipeline safety regulations.

A copy of the guidelines is being sent to each owner or operator of interstate gas transmission facilities.

I hope you will find these guidelines helpful.

Sincerely,

JOSEPH C. CALDWELL,
Acting Director, Office of Pipeline Safety.

Enclosure.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., October 30, 1970.

Subject: OPS guidelines for States serving as agents of the Department of Transportation for interstate gas transmission facilities.

Recent communications with a number of the interstate pipeline companies and several of the State agencies who have agreed to act as our agents with respect to interstate transmission facilities indicate that some clarification is required as to the extent of the State agency authority and responsibility in his area.

These guidelines are intended to clarify Federal/State/Industry relations in connection with agencies of those States listed below, who have agreed to act as agents of the Secretary with respect to interstate gas transmission facilities.

Connecticut	New Jersey	Utah
Florida	New York	Virginia
Iowa	North Carolina	Washington
Kentucky	Ohio	West Virginia
Maryland	Oklahoma	Wisconsin
Michigan	Pennsylvania	Wyoming
Montana	Rhode Island	Dist. of Columbia
New Hampshire		

In the interim Federal safety standards (49 CFR Part 190) which were issued on November 7, 1968, section 190.6 permitted any State agency that so desired to act as the agent of the Federal government in exercising surveillance over the safety programs of interstate transmission facilities. In this regard the preamble contained the following statement:

"The Department of Transportation is not yet staffed to enforce the Federal standards applicable to interstate transmission facilities. To provide for enforcement, the Department intends to authorize the States to inspect and oversee those facilities. Since the certifications and agreements provided for in section 5(a) and (b) of the Act do not apply to such interstate facilities, § 190.6 of the regulation authorizes each State that is willing to perform the service to act as the agent of the Department for this purpose. This action will necessarily be voluntary on the part of each State and, since no funds are presently available, will be on a nonreimbursable basis until appropriations are made for that purpose."

The new minimum Federal standards which were issued on August 11, 1970, continued this agency authority. The preamble to those regulations further explained the extent of that authority as follows:

"The agency authority with respect to interstate pipelines authorizes the State to maintain surveillance over the operation to insure compliance with Federal regulations. State personnel should perform the same function that Federal field personnel perform, inspecting operations and giving informal opinions and approvals as to compliance with the regulations."

"The agency authority does not create enforcement authority in the State. Enforcement actions, except those which the operator voluntarily accepts, will be taken at the Federal level."

"The agency authority does not authorize a State to create new standards or to take any action which would substantively change the Federal standards. The Act requires that standards be prescribed by the Department in accordance with applicable rulemaking procedures."

The following are several areas in which clarification appears to be needed:

Failure and Leak Reporting.

The "Leak Reporting Requirements" in sections 191.1-191.19 of 49 CFR Part 191 require operators, including interstate transmission operators, to file telephonic, individual leak or test failure reports, and annual reports with the Office of Pipeline Safety as required. However, in the interest of expedient and efficient program administration we are suggesting to the interstate operators that, on request of those States acting as our agents, the same reports and information be submitted to those State agencies. Such requests by a State agency should be in writing to the operator with a copy of the request to the Office of Pipeline Safety. If an operator does not respond to a State agency request for such information, the Office of Pipeline Safety will furnish the information to the State agency.

The Office of Pipeline Safety intends to investigate certain pipeline failures with its own personnel. In addition, a State agency, on its own initiative, may investigate any failure of an interstate transmission line in the same manner, and to the same degree, as the Office of Pipeline Safety would conduct such an investigation. If any operator does not comply with a State agency request for information relating to the failure, the Office of Pipeline Safety may ask the operator for the information and furnish it to the State agency.

Inspection and Maintenance Plans

Section 192.17 of the Minimum Federal Standards requires the filing of inspection and maintenance plans by each operator not later than February 1, 1971. Interstate transmission operators are required to file directly with the Office of Pipeline Safety. If any State serving as our agent should desire a copy of these plans, the procedures described above, with respect to failure and leak reporting, will apply.

Construction and Design Plans

In some States, the State safety standards in effect on August 12, 1970, required interstate gas transmission companies constructing pipelines in the State to submit construction specifications, design plans, and related documents to the State agency. This requirement was incorporated into the interim minimum Federal safety standards, issued November 7, 1968, and is specifically covered in 49 CFR 190.6 (b). The preamble to this rule stated in part:

"Federal preemption: Interstate transmission facilities. Section 3(a) of the Natural Gas Pipeline Safety Act of 1968 states that, after the adoption of interim Federal safety standards, a State "may not adopt or continue in force * * * any such standard applicable to interstate transmission facilities." This Federal preemption relates only to State "safety standards" and does not prevent a State from continuing in effect, with respect to interstate transmission facilities, those requirements that may have served an incidental safety purpose in addition to a bona fide State purpose such as zoning or planning. For example, a State requirement that maps of planned construction of interstate transmission facilities must be filed with a State agency before construction may be commenced would continue in effect after adoption of the interim Federal standards; the State would have authority to rescind or amend the requirement."

The minimum Federal safety standards issued August 11, 1970, do not contain any requirement that interstate transmission companies file any construction specifications, design plans, or related documents with the Office of Pipeline Safety. Therefore, for any segment of pipeline replaced, relocated or otherwise changed after November 12, 1970, or for any other segment of pipeline readied for service after March 12, 1971, no State agency serving as an agent of the Secretary with respect to any interstate transmission pipeline may, from the standpoint of gas pipeline safety, require the owner or operator to file such documents with the State agency. However, this statement is only related to safety matters, and is not intended to prevent a State agency from requiring a filing of such documents based on any other bona fide State purpose, such as zoning or planning.

It is contemplated that any State choosing to serve as an agent of the Secretary with respect to interstate gas transmission pipelines will fulfill its agency relationship for surveillance of construction and design in the same manner that the Office of Pipeline Safety would, i.e., on-site inspection and surveillance of construction, and examination of company records at the construction site or at some other Company location.

Assessment of Fees for Inspection Services

The Natural Gas Pipeline Safety Act does not authorize the Department of Transportation to assess interstate transmission operators inspection or surveillance fees. Therefore, in acting as agent of the Department, a State agency will not have authority to assess such fees for their safety services as our agent. In addition, the Federal financial support contemplated under Section 5 of the Natural Gas Pipeline Safety Act is limited to partial reimbursement of State agency expenditures covering personnel, equipment and activities applicable only to intrastate gas facilities. Hence, it is suggested that the State agencies consider their overall capability in establishing program priorities in relation to intrastate gas pipeline safety programs which are subject to partial Federal reimbursement, and interstate gas pipeline safety programs for which Federal funds are not authorized.

State Agencies Role In General

The agency delegation conferred by the Department with respect to interstate transmission lines does not extend to the issuance of regulations, orders, or other legally binding directives. Any additional requirements other than those set forth in the minimum standards imposed by a State agency on interstate operators must be under the authority of State law for some purpose other than those covered by the Natural Gas Pipeline Safety Act. Only the Department of Transportation can establish such affirmative requirements for safety under the Natural Gas Pipeline Safety Act.

JOSEPH C. CALDWELL,
Director, Acting, Office of Pipeline Safety.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., December 21, 1970.

To: Chairman, each State agency serving as DOT agent in relation to interstate gas transmission facilities.

DEAR MR. CHAIRMAN: Enclosed is a copy of a further clarification of our interim guidelines published October 30, 1970, concerning State Agencies serving as DOT agents in relation to interstate transmission facilities.

Sincerely,

JOSEPH C. CALDWELL,
Acting Director, Office of Pipeline Safety.

Enclosure.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., December 18, 1970.

Mr. RICHARD A. SOLOMON,
*Wilner, Scheiner & Greeley,
Washington, D.C.*

DEAR MR. SOLOMON: This is in response to your recent inquiry on behalf of the New York Public Service Commission relating to the recently issued guidelines for State agencies acting as agents of the Secretary with respect to interstate transmission facilities.

You have indicated your concern with that portion of the guidelines which discussed the filing of construction and design plans. We regret that our statements on this matter left some question as to their meaning. It was our intention in these guidelines to delineate the authority of a State agency *when acting under the Natural Gas Pipeline Safety Act as an agent of the Secretary with respect to interstate transmission facilities*. The guidelines do not restrict the authority of a State agency when acting in any other capacity or under any other legal authority it may have.

I hope this will answer your question. If we can be of further assistance, please feel free to call on us.

Sincerely,

JOSEPH C. CALDWELL,
Acting Director, Office of Pipeline Safety.

Mr. BLOOM. I have here beside me Mr. George E. Bonner, Director of the Gas Division of the New York Public Service Commission, and I would like to have Mr. Bonner tell you briefly about their problem.

Mr. MACDONALD. We appreciate hearing from your associates. I would like to point out we have another witness coming in, so I will ask everyone concerned, including myself and the subcommittee, to hurry along as quickly as we can before the House goes in session or there is a call of the House.

Mr. BONNER. The NARUC in the State of New York is asking that the Natural Gas Pipeline Safety Act be amended to remove the purported exemption of interstate transmission facilities.

New York feels strongly about this. In 1968 the Department of Transportation adopted, as its interim standards, the standards of the State of New York. This applied to all pipelines including interstate facilities. As such, we were their agent while these interim standards were effective. We made assessments to the interstate pipeline companies, and this is how we financed our entire program.

I have available approximately 45 or 50 people on gas pipeline safety within the State of New York itself.

On November 12, new DOT standards went into effect. These lowered the standards required for the interstate pipeline companies in the State of New York. These companies operate pressures from 700 to 1,000 pounds, yet we require pipelines which operate at 100 and 125 pounds to maintain more vigorous standards than prescribed by DOT.

We think that the act should be changed to allow us to continue to enforce the standards which we see fit for the State of New York and as the other States see fit in their own jurisdictions. Heavily populated areas require stringent safeguards. We request that you seriously consider removing this immunization of the interstate pipeline companies.

Mr. MACDONALD. Have you concluded?

Mr. BLOOM. Yes, sir.

Mr. MACDONALD. I will try to keep my questions as brief as I can.

I would like to ask you a rather broad question. Has it ever crossed your mind that the Department of Transportation is not particularly in favor of the bill as it now stands? I know they testified in 1968 for the bill. But has it ever crossed the minds of those in NARUC that in some ways while they "lip service" that it is a good thing, that in action, their efforts perhaps have been lacking to such an extent that it might irritate members of this subcommittee and perhaps the Congress itself to say: "Well, we have passed this bill. They spent \$700,000 already. Nothing has come about as a result of this bill and therefore why renew it?"

If you care to answer, I would be delighted to hear. You said your relationships with DOT were reasonably good and I do not want to jeopardize that relationship. But in all frankness, do you think they are killing the bill by lack of enforcement?

Mr. BLOOM. Mr. Chairman, speaking only for Pennsylvania, I cannot say that this relationship was good with all of the other States, but with my own State it happens to be good.

Mr. MACDONALD. I am not talking about personal relationships. I am talking about the effort or lack of effort on the part of DOT to see that the bill carries out the intent of Congress.

Mr. BLOOM. I don't think it is possible to get a good safety program without the active participation at the State level through the State regulatory agencies with their staff. I think that it would just create a huge bureaucracy here in Washington to try to man it and finance it at the national level.

Mr. MACDONALD. That has been made fairly clear. The gentleman from New York indicated he had 50 people prior to the enactment of this bill whereas I think the testimony was that DOT only had something like 70 at the moment. So I think that is perfectly clear, that if there is to be a national act there has to be a very close relationship between the Federal Government and the States. I think that goes without saying.

That is not my question. My question is: Is there any feeling on the part of the people of NARUC that the very lack of effort on the part of DOT to translate the language in this bill into an effective measure indicates that DOT is not all that excited about this bill or the concept of good tight safety legislation throughout the 50 States?

Mr. BLOOM. Mr. Rodgers indicated he would like to comment on that. He is our general counsel.

Mr. RODGERS. I am Paul Rodgers, general counsel for NARUC.

Mr. Chairman, we believe on behalf of the Office of Pipeline Safety that their attitude toward the program has been excellent. As far as we know, they support the concept set forth in the legislation. They have been hampered by very low funding. They have not really had the money to carry out the program.

Now we do have—

Mr. MACDONALD. Just a minute. I understand, and I don't mean to interrupt you, but you are hitting on the very heart of the question I am asking. You say that their intentions are good. How do you explain the fact that they had authorized and appropriated \$500,000 to give to the States and did not give them one cent? Their intentions might be great, but where is their performance?

Mr. RODGERS. That money is being held up by the Office of Management and Budget in the White House, not by the DOT.

Mr. MACDONALD. DOT is authorized to expend this money. As far as I know—and I have been here some 16 years or more, I guess, now—if an agency tells the Bureau of the Budget once they have the authorized money in hand, they do not have to be bothered by the Budget Department, they don't have to be under the thumb of the Budget.

Mr. RODGERS. If that is the case, we would like to have the money released.

Mr. MACDONALD. What is your theory as to why they did not release the money?

Mr. RODGERS. Because the Office of Management and Budget directed otherwise.

Mr. MACDONALD. You heard them testify that it was not to be released until the revenue-sharing plan was passed. At that time, as was

brought out by questioning, the authorization was to end, this fiscal year, June 30. That money would then evaporate or go back in the General Fund.

So how can you say their attitude and intentions are good, when they don't lift a finger to help the States?

Mr. RODGERS. We understand they are trying but they are abiding by the instructions of the Office of Management and Budget.

Mr. MACDONALD. You also heard the testimony that the instructions were anonymous. I don't think that was the phrase used—maybe I used it later—but he said he did not know who it came from. I asked him to supply the memorandum. He does not know who gave it to him, even though he has followed it, according to his testimony here this morning.

What do you think of that?

Mr. RODGERS. I think that is direction from the Office of Management and Budget. DOT, in the last Congress, asked for \$1 million grant-in-aid for the States. Congress approved \$500,000 and now the White House has directed that money not be spent.

But by and large, our relationship is good. We are concerned that their standards are too low for interstate pipelines. We are also concerned about this letter of October 30, because the Office of Pipeline Safety has only two field persons based in Houston, Tex. They asked the States to take over surveillance on interstate pipelines and 22 States have accepted this additional obligation. Then they sent out a letter on October 30—saying that the States could not assess the interstate pipelines to defray the cost of the States' surveillance activities, which dries up the States' efforts. We think that is a crippling directive and it should be reversed.

Mr. MACDONALD. Following my own instruction to myself, do you think we should change the language of the act, section 5, I think, where we authorize the money to be granted to the States? Do you think that should be changed from an authorization to a mandatory requirement?

Mr. RODGERS. Yes, sir. We have in our amendment a contract authority whereby when a State commission's gas safety program is approved by DOT, the apportioned contribution becomes an obligation of the Federal Government. That is in our amendment.

Mr. MACDONALD. My last question, as the bill now stands, are you for renewal of the act?

Mr. RODGERS. Yes, sir; we are for extension of it.

Mr. VAN DEERLIN. Mr. Bloom, you stated that the Office of Pipeline Safety refused to let you assess the cost of inspections on interstate pipelines. I was wondering if they made these assessments themselves, and if so, whether they shared the information with you.

Mr. BLOOM. They did not make any assessments that I know of and I am not sure that under the act they are authorized to make any assessments. And they do not make any assessments against the interstate pipelines. But if the States render that service for the protection of their people, under their police powers, whether or not by agreement with DOT, we think that the States ought to have the authority to assess the interstate pipelines with the cost of that inspection.

In Pennsylvania, at the end of a year we work out the cost of administration and then the public utilities and certificated carriers pay the cost of administration in the form of assessments. But that is done after the appropriation has been spent. It is not fair to the distribution companies operating in the State to make them pay—even if you had a large enough appropriation—for the inspection of the transmission lines and the the service that is rendered in connection with another company.

Mr. MACDONALD. Mr. Keith?

Mr. KEITH. I regret I had to leave and did not hear all of the testimony of the earlier witnesses and yourself, but I understand the hearing did develop some kind of a record with reference to the Louisiana situation in that DOT did say that in spite of their failure to take as much action as they felt was required by statute, they nevertheless were of the opinion that pipeline safety in that State was adequate and that they would come around.

Is that your understanding of that testimony?

Mr. BLOOM. I am not familiar with Louisiana and their reasons why they have not attempted to qualify. I am not familiar at all. Maybe Mr. Rodgers is, but I am not.

Mr. RODGERS. In the case of Louisiana, the Louisiana Commission simply does not have the money to carry out a program. They have not received the money from their legislature, and under the terms of the act, Louisiana automatically comes under the jurisdiction of the Department of Transportation for safety purposes.

Mr. KEITH. It is an awkward situation, to say the least, that if any State fails to take the action, we have by statute the liability and the responsibility, but we have not done anything to exercise it. It makes you wonder what the value of the statute is in the first place.

Mr. RODGERS. I think the statute made a real contribution to the public interest because it filled in the gaps. It is based on the premise that where the States can do a good job, they should do it. DOT determines where a State does a good job, and where they do not, DOT takes over. That conserves Federal funds to the State.

Mr. KEITH. But the New York commissioner has testified that they are not able to enforce standards for the interstate pipelines that they do enforce for the intrastate lines. It seems to me that that reflects either the State's standards are too high or ours are too low.

Mr. RODGERS. That is correct, one way or the other.

Mr. KEITH. What would you recommend that we do?

Mr. RODGERS. In the case of interstate pipelines we believe they should be treated as the other pipelines and that a State should have the right to adopt higher standards which do not create an undue burden on interstate commerce. But in the case of New York, they had the highest standards in the Nation, and the new DOT regulation lowered those standards, which we think is inimical to the public interest.

Mr. KEITH. What has been the experience to justify these higher standards as contrasted to the lower standards and their effectiveness in other States? Has there been some pretty valid evidence to support that contention you just made?

Mr. RODGERS. Yes, sir. Mr. Bonner can answer that.

Mr. BONNER. Of course, since New York is a very heavily populated State, we have completely different requirements than States which have so much open country. We have found through experience that they are necessary. We have been in the safety code business since 1952. We started regulating all lines at that time and have regulated them since.

Mr. KEITH. Have you, to use the military expression, "covered yourself" by communicating this opinion to the DOT?

Mr. BONNER. To cover ourselves, yes. In fact, on November 10, 1970, I verbally withdrew our agreement to act as agent for DOT, one, over the assessment, and secondly, we did not feel we could enforce standards which were below what we thought were necessary, and we were going to try to enforce our own standards, which would probably lead to a court case. I don't know.

But we did inform them of our decision and why we considered the standards inadequate—I am not criticizing DOT, they had to come up with a code for the Nation as a whole, and I think they did a fine job of it. But my problem is, the average code for the Nation as a whole does not fit New York.

I think we should be allowed to continue to enforce the standards that we had prior to November 12.

Mr. KEITH. If it meets with the chairman's approval, I would like to have you communicate to this committee your recommendations as to what legislation could be offered in the way of amendment, particularly to the existing act, to overcome this.

Mr. BONNER. I would be very glad to, sir.

(The following letter was received for the record:)

STATE OF NEW YORK,
PUBLIC SERVICE COMMISSION,
Albany, March 22, 1971.

HON. TORBERT MACDONALD,
Congress of the United States, U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MACDONALD: We welcome the opportunity you extended to us, during the March 9, 1971 hearings on H.R. 5065, to propose amendments to the Natural Gas Pipeline Safety Act of 1968.

I shall not burden you by repeating the testimony of President George I. Bloom for the National Association of Regulatory Utility Commissioners and George E. Bonner for the New York State Public Service Commission, except to say that we in New York intend to take every legal measure to enforce our gas safety regulations, many of which are more stringent than the Federal minimum standards.

We urge that the Natural Gas Pipeline Safety Act of 1968 be amended to make clear that States may impose more stringent gas safety standards than the Federal minimum standards wherever more stringent standards are necessary to protect against the toxic and explosive hazards incident to the transportation of gas. I urge the following amendments to the Act:

Strike the phrase "not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act" in the last sentence of section 3(a), in the last sentence of section 3(b), the first sentence of section 5(a), twice in the first sentence of section 5(b), in the first sentence of section 5(d), and in the first sentence of section 11.

In section 3(a) strike the phrase at the end of the section: "but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities".

In section 3(b) strike the phrase at the end of the section: "but may not adopt or continue in force after the minimum Federal Safety Standards referred to in

this subsection become effective any such standards applicable to interstate transmission facilities”.

In the fourth sentence of section 3(e) insert at the end of the phrase “the Secretary objects in writing to the granting of the waiver” the following: “as incompatible with the Federal minimum standards”.

In section 5(a), item (2), insert after “has adopted each Federal Safety Standard” the following: “or more stringent standards”.

In the second sentence of section 10(a) change “an action” to “a Federal action”.

Sincerely,

JOSEPH C. SNIDLER,
Chairman.

Mr. ROONEY. As I understand Chairman Bloom's position, Pennsylvania is ineligible because the utility commission does not have the right to fix and compromise penalties.

Mr. BLOOM. We can compromise penalties, but we cannot impose a thousand-dollar penalty for each offense. We can accumulate them. If we have a large enough number of days that they are in violation, they might accumulate up to \$200,000; but that will take a lot of days. But we cannot impose a penalty of \$1,000 for each day.

Mr. ROONEY. How many other States that are ineligible are in that same predicament?

Mr. RODGERS. There are 18 States, and we have asked DOT for a breakdown as to the specific reason for ineligibility. We have not yet received that. But DOT presumably would have that information since they have determined 18 States are ineligible to continue certification.

Mr. ROONEY. I think the committee would certainly be very sympathetic with this suggestion.

Mr. MACDONALD. When did you make the request of DOT?

Mr. RODGERS. It was made yesterday.

Mr. BROWN. Mr. Bloom, if I understand, now, the three areas of objection that you have to this legislation, and the amendment that you proposed or that has been presented here this morning, are that the State regulatory agencies or—I am sorry—the Federal Government has determined that when the State regulatory agency itself does not have the right to enjoin or set monetary sanctions against a utility, that they do not consider you qualified under their interpretation of the law.

Mr. BLOOM. Even though the judiciary does have.

Mr. BROWN. Even though the judiciary does have. So they are setting more stringent standards for your participation in the system than you feel is called for under the law.

That is first.

Mr. BLOOM. Yes, sir.

Mr. BROWN. Secondly, that the Federal Government should have a mandatory obligation to pay certified or “agreement” States the 50-percent-inspection costs so that in effect the Federal Government cannot get out of its commitment to pay a portion of the cost of inspection, as the law permits them to do but does not require them to do.

Mr. BLOOM. Yes, sir.

Mr. BROWN. And then third, that the States be permitted to set more stringent regulation of the interstate transmission lines than the Federal Government is setting.

Mr. BONNER. Yes, sir.

Mr. BROWN. I don't find that third point in your proposed amendment, at the end of your testimony.

Mr. RODGERS. We have not prepared language for that amendment, but we can. Mr. Bonner has offered to.

Mr. BLOOM. The clarification of the State assessments on interstate pipeline companies, that was another one we had suggested.

Mr. BROWN. You would like to have that clarified in the law to say that the State regulatory commission that undertakes the inspection in accordance with agreement or certification of the State be permitted to assess a portion of that cost to the regulated pipelines. Is that correct?

Mr. BLOOM. That is correct.

Another, in the grant-in-aid program—

Mr. BROWN. May I ask, before you get into that, may I ask if that amendment is proposed in your testimony? I don't see that in your testimony.

Mr. RODGERS. No; that is not proposed, but we think a request from this committee to reconsider the October 30 letter would probably be sufficient because the interpretation is not required by the statute. It is an administrative interpretation which we believe should be reconsidered by DOT.

Mr. BROWN. So you don't think an amendment to that extent is necessary?

Mr. BONNER. Until the October 30 letter, the State of New York was assessing the interstate pipeline companies as agent for the Department of Transportation, and with no argument whatsoever. Only until the October 30 letter, when the interstate pipeline companies said "No."

Mr. BROWN. I want to get clear on this assessment business.

You would not make money on this? In other words, you would assess them no more than 50 percent of the cost, on the theory that you would get the other 50 percent back from the Federal Government. Is that right?

Mr. BONNER. Now we assess them for 100 percent of the cost because we are not getting anything back from the Federal Government. If the Federal Government does come up with some money, we will cut down on the assessment. But at the present time, we must assess everything.

Mr. BROWN. Mr. Bloom, you started to say something?

Mr. BLOOM. The modification in the grant-in-aid program—we pointed out that the time when they made that allocation is important; that should be changed. If the States can determine the level of the Federal appropriation, then the legislature can appropriate accordingly and they will not find themselves in a position that they have already appropriated but not enough money to cover the grant-in-aid.

But I don't think there is much danger in that at the present time, by the looks of things.

Mr. BROWN. I would like to make two observations.

First, it seems to me there is some difficulty here. If we permit the States to set standards that will vary from State to State, one of the problems that I have observed in service on this committee is that one

of the difficulties that regulated industries have is when the national regulations vary so significantly from State to State, no matter how worthy the purpose in changing those regulations, it does make for considerable difficulty.

And this is why we tend to go toward national standards. We got into this in the case of California setting a different standard of pollution emissions from automobiles. As I say, it may be desirable in the public interest because of localized circumstances, but it does present some specific problems, and I think this ought to be given careful consideration.

Mr. BLOOM. In the part of the act dealing with the States' rights to intensify the regulations, it does provide we can do it. In the railroad safety bill it says where special conditions, local hazards, exist, that they may require special requirements and regulations to meet the local conditions.

Mr. BROWN. I understand that, but I am observing it does present some specialized problems because so many businesses are now interstate all over the Nation, and they would rather have the more stringent standards set federally than have them vary from State to State, because of the difficulty involved in that variation.

The second point I would like to make is that it occurs to me that this whole problem in this area is a dandy argument for revenue sharing, because if I understand what you are saying, you are objecting to the fact that the Federal Government has by interpretation at the administrative level made an interpretation which you do not think squares with the law the way Congress passed it, and that it is unreasonable.

In other words, that the Federal Government has said, "You must do this before you get the money," and you don't like the "You must do this" part in the area of the sanctions and the enjoinder procedures.

Then the other objection is, you are not getting the money anyway, regardless of how they set the regulation, so it seems to me you have the worst end on both ends, the worst part of the categorical grant programs.

The first worst part is making the regulations that are unreasonable in your viewpoint, and the second worst part is you still do not get the money you are looking for out of the Federal Government.

If you had revenue sharing, you would get the money to the State, and the State could determine how it is going to spend that money to do its job in the various areas.

Mr. MACDONALD. I would point out to the gentleman from Ohio we are not here to argue revenue sharing, but what concerns me is this committee authorized the amount of about \$500,000; Congress appropriated it; it was signed by the President; and you still have not gotten a penny.

Now, whether you say that revenue sharing would aid that or not, I don't know. If you have a blank check for \$500,000 and don't get any of it, there is something wrong with that system.

My last question, which I hope Mr. Bonner will listen to and perhaps respond to:

Could you submit to the subcommittee an estimate of funds that you feel would be practical to have a 50-State enforcement or 49-State en-

forcement of the act as written and as amended by your suggestion?

Mr. Bloom. We can do that.

(The following letter was received for the record:)

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS,
Washington, D.C. March 22, 1971.

Re NARUC response to requests on H.R. 5065.

HON. TORBERT H. MACDONALD,

Chairman, Subcommittee on Communications and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

Dear CHAIRMAN MACDONALD: In response to your request of the NARUC witnesses at the hearing held on March 9, 1971, on H.R. 5065, a bill to amend the Natural Gas Pipeline Safety Act of 1968, I enclose a copy of our proposed amendment to the Act to permit State agencies to intensify Federal safety standards when necessary to afford the public greater protection.

A recent precedent for permitting States to intensify Federal Safety standards applicable to the interstate aspects of a business is found in Section 205 of the Federal Railroad Act of 1970, which provides in part that:

"A State may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard and when not incompatible with any Federal law, rule, regulation, order, or standard, and when not creating an undue burden on interstate commerce."

As to your other request submitted at the hearing, the NARUC has not yet completed the development of a State-by-State estimate of the level of Federal grants-in-aid required to achieve optimum enforcement of the Act. I anticipate that another three weeks will be required to complete this study.

In addition to this study, I respectfully suggest that the Subcommittee request the Department of Transportation to promptly prepare a five year projection for an adequate Federal grants-in-aid program under Section 5(c) of the Act.

With warm regards and best wishes, I am,

Sincerely yours,

PAUL RODGERS,
General Counsel.

Enclosure

PROPOSED AMENDMENT TO H.R. 5065 TO PERMIT STATE AGENCY TO
STRENGTHEN FEDERAL SAFETY STANDARDS

H.R. 5065, "A BILL To amend the Natural Gas Pipeline Safety Act of 1968," is hereby amended by adding at the end thereof the following:

SEC.—The Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, is amended by striking:

(a) The words "not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act" from subsections (a) and (b) of section 3 and subsection (b) of section 5;

(b) The words " , but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities" from subsection (a) of section 3;

(c) The words " , but may not adopt or continue in force after the minimum Federal safety standards referred to in this subsection become effective any such standards applicable to interstate transmission facilities" from subsection (b) of section 3;

(d) The words "(not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act)" from subsections (a) and (b) of section 5; and

(e) The words " , not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act," from subsection (d) of section 5.

Mr. MACDONALD. Mr. Minor, I am not calling you back, but could you also do the same thing, please?

(See table entitled, "Five-year authorization for Administration of Natural Gas Pipeline Safety Act of 1968—Fiscal Year 1973 Through Fiscal Year 1977," p. 27, this hearing.)

Mr. KEITH. I would like to have Mr. Minor assure this committee that our regulations and our statutes insofar as the protection against the possibility of earthquake damage have been properly assessed and disseminated to the States.

Can you comment on that, Mr. Minor or Mr. Bloom?

Do your plans for pipeline safety contemplate the problems that come from an earthquake, and is there an interchange of information that you glean as a Federal agency that is forwarded to other States as a result of the experience that you might have had in California?

Mr. CALDWELL. Sir, our regulations as written require that each operator take into consideration at least to the degree possible any anticipated outside forces that would act on a pipeline system.

In the area of earthquake damage, we have only had one severe one and that is the recent one in California. We have taken steps to have the gas operators in that area to do or make a special study as to how their existing systems reacted to the damage.

That is not complete at this time, but when it is completed, we will make it available to other areas that are susceptible to earthquakes.

Mr. MACDONALD. Thank you, gentlemen.

Before you leave, sir; I was not aware of the fact that NARUC was going to introduce some amendments.

I am sure you will be furnished with copies of the amendments suggested by NARUC or maybe they can give them to you directly, and we will keep the record open for a reasonable period of time until you can respond to my letters as to whether you approve or disapprove of the suggested amendments and your reasons for so doing.

Mr. CALDWELL. We will supply that information.

(See letter dated March 22, 1971, p. 25, this hearing.)

Mr. MACDONALD. Thank you very much, Mr. Bloom and your associates.

We appreciate your testimony.

Mr. MACDONALD. The next witness is Mr. Robert Tibbs of the Oil, Chemical & Atomic Workers International Union, AFL-CIO.

Is Mr. Tibbs here?

STATEMENT OF ROBERT TIBBS (BUSINESS MANAGER, ST. LOUIS LOCAL 5-6), OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO; ACCOMPANIED BY COURTNEY GOODMAN, COUNSEL FOR ST. LOUIS LOCAL 5-6

Mr. TIBBS. Whatever I can incorporate into the record by submission, I will do so, Mr. Chairman.

Mr. MACDONALD. Would you like to submit your statement in the record?

Without objection, it is so ordered.

Mr. TIBBS. I am Robert Tibbs, business manager of St. Louis Gas Workers Local 5-6, Oil, Chemical & Atomic Workers International Union. I am accompanied by Courtney Goodman, Jr., our local union's attorney. Mr. Goodman has also represented various utility consumer organizations and municipalities in hearings before the Missouri Public Service Commission.

This is my second appearance before this committee. In February of 1968, I testified in support of H.R. 6551 and S. 1166. On August 12, 1968, portions of these bills were enacted into law, "The Natural Gas Pipeline Safety Act of 1968."

We have maintained a continuing interest in this law throughout the some 2½ years it has been in effect. We appreciate this opportunity to offer our evaluation of its effectiveness and to offer suggestions for its improvement.

I understand these hearings on H.R. 5065 are being held to consider amendments to the act, amendments having to do with its extension and funding.

It is our position that additional amendments are needed, amendments insuring tighter control by the Department of Transportation over the State administrative agencies who will administer the pipeline safety regulation and more stringent enforcement of the act by the State agencies.

In my job as business manager of a 1,500 member gas worker local union, I make almost daily firsthand observations of the pipeline operations of Laclede Gas Co. This company provides gas service to some 450,000 customers. Its pipeline system includes some 4,200 miles of main and 4,000 miles of services.

I am also chairman of a Statewide Conference of Gas Workers which includes workers from Kansas City, Mo.; St. Joseph and other metropolitan areas in Missouri. I have made firsthand observations in these areas. And, as editor of an inter-union newspaper, "Gas Future," I am in continuing contact with the representatives of gas workers in Washington, D.C.; Cleveland, Ohio; Detroit, Mich.; Pittsburgh, Pa.; Dallas, Tex., and some 35 other cities.

Since my previous testimony before your committee, I have advocated more stringent pipeline safety regulations before the Missouri Public Service Commission, the St. Louis Board of Aldermen, and a committee of the Missouri General Assembly.

Since my previous testimony before your committee there has been a series of major disasters caused by pipeline failures. In fact, in just the past few weeks, in Philadelphia, Pa., Lambertville, N.J.; and New Haven, Mo., pipeline failures have cost lives, maimed scores of people, and caused property damage running into millions of dollars.

If I were to go further back in time and talk about each of the pipeline failures which have resulted in major disasters since my 1968 testimony, my comments to you would be an all-day grim, repetitious recital of incidents similar to the three I have mentioned.

I will briefly touch on these three explosions by entering several newspaper items about them into the record. A similar compilation of previous natural gas pipeline disasters has been made by OCAW's legislative director, Anthony Mazzocchi. I also make this available to the committee at this time.¹

Mr. TIBBS. These items, I believe, represent incontrovertible evidence that the Natural Gas Pipeline Safety Act of 1968 has been something less than a success.

¹ The newspaper articles, and compilation, referred to, may be found in the committee's files.

The Pipeline Safety Act has failed to protect people from the dangers inherent in the transportation and use of natural gas for these reasons.

It makes little or no provision for bringing existing pipeline facilities up to reasonable safety standards.

The committee appointed by the Department of Transportation to formulate interim pipeline safety standards was industry-dominated, and simply endorsed the industry B. 31.8 pipeline construction code as a safety standard. The States have failed to enforce the few meaningful standards contained in the DOT version of the B. 31.8 code.

For example, shortly after the passage of the Natural Gas Pipeline Safety Act, the Missouri Public Service Commission adopted the B. 31.8 code as Missouri's pipeline safety regulations. The Missouri PSC called their version of the code "General Order No. 45." I will introduce this document as evidence.

Mr. MACDONALD. I don't understand what you are offering to be put in the record.

Mr. TIBBS. This is actually the pipeline safety law.

Mr. MACDONALD. What is it?

Mr. TIBBS. This is General Order 45, a general order of the Missouri Public Service Commission. It is rules and regulations for gas transmission and distribution piping systems. A similar document has been adopted in every State that is certified by the Department of Transportation.

Mr. MACDONALD. For what purpose do you want it?

Mr. TIBBS. I want to introduce this to point out that even these regulations are not being enforced, that there are specific areas within this law that are being totally ignored. This is the Federal standard. Missouri is certified, one area I would like to get into because it is visible, I would like to talk about meters.

Mr. MACDONALD. I don't know what purpose it will serve, if you say it is a national standard, but without objection, it is so ordered. It will be received for the use of the committee and will be placed in the files.

(State of Missouri Public Service Commission General Order No. 45 rules regulating gas transmission and distribution piping systems issued by order of the Commission, February 27, 1967, and as amended by orders issued August 4, 1967 and February 23, 1968, may be found in the committee's files. Also State of Missouri, Public Service Commission, General Order No. 45A, dated December 28, 1970, may be found in the committee's files.)

Mr. TIBBS. If I can digress for a second, the Department of Transportation appointed a committee to formulate a pipeline safety code to become the regulations, to become the standard. This was adopted by various public service commissions and became a Public Service Commission order. In relation to the Natural Gas Pipeline Safety Act, it actually became a law.

General Order No. 45 is the law in Missouri, and they do very satisfactorily under this law. However, we don't believe State regulations are adequate, even if they do meet the terms of the Federal pipeline safety law because they do contain injunctive provisions, and they do contain monetary sanctions they can bring against a company who violates this law.

One area of this law has to do with the installation of meters. This is attached to the document that you have as an exhibit. It sets forth how meters must be installed. Part B, this is article 848, says:

When installed within a building, the service regulator shall be in a readily accessible location near the point of gas service line, and whenever practical, the meter shall be installed at the same location.

Mr. MACDONALD. Could I interrupt? Are you talking about pipelines, are you talking about distributing lines?

Mr. TIBBS. I am talking about distribution lines. However, this act covers a portion of both. Right now I am talking totally and addressing this testimony to distribution systems.

Mr. MACDONALD. And you say that is covered by the act?

Mr. TIBBS. Yes, sir.

Mr. MACDONALD. What section of the act are you talking about?

Mr. TIBBS. The act itself is General Order 45. This is an order of the Missouri Public Service Commission. In Missouri the Public Service Commission accepted the responsibility of acting as an agent for the Federal Government for the Department of Transportation, the Office of Pipeline Safety.

They said:

We will set standards that under the terms and conditions of the Department—

Mr. MACDONALD. I will let it in, but I don't think it has anything to do with the bill we are hearing today. Pipeline safety we are discussing.

Mr. TIBBS. This has to do with pipeline safety.

Mr. MACDONALD. You are talking about meters put in consumers' homes, aren't you?

Mr. TIBBS. Yes, sir.

Mr. MACDONALD. That is not covered by the act we are discussing.

Mr. TIBBS. It is covered, if I may, by General Order 45.

Mr. MACDONALD. We are not talking about General Order 45.

Mr. TIBBS. If you let me go on for one moment, I will link this together and get back into pipelines. What I am addressing myself to is to demonstrate that the public service commissions are not enforcing existing regulations.

Mr. MACDONALD. You are perfectly within your rights to do so. It is very interesting, but it does not have anything to do with the bill we are hearing this morning.

Mr. TIBBS. But we do intend to offer amendments to the bill, and we would like to point out to the committee that since 1968 when the bill was passed, the Natural Gas Pipeline Safety Act, as written, is not working.

Mr. MACDONALD. I will say it again. We are hearing pipeline safety today. What you are talking about is very interesting, but let us stick to pipeline safety.

Mr. TIBBS. We will get into pipeline safety immediately. But we were talking about continuing noncompliance with order 45. I will forget about the meters for the time being. There are many hazardous conditions and specifications under General Order 45, which is part of the Natural Gas Pipeline Safety Act, in effect, that are not being adhered to.

In those existing facilities is where the problem lies and the Natural Gas Pipeline Safety Act does not address itself to this particular problem. I would like to show you a couple of pieces of pipe very briefly. They were dug up very recently.

Mr. MACDONALD. I have been through this type of hearing about five times now. I say it is very interesting. It is very important. But it has nothing to do with the hearing we have today, unless you are going to show us different pipe than you did last time.

Mr. TIBBS. We are going to show you totally different pipe.

Mr. MACDONALD. Before you start, could I ask you, is this pipeline that you are going to show us?

Mr. TIBBS. Yes, sir.

Mr. MACDONALD. You can physically take a piece of interstate pipeline to this office?

Mr. TIBBS. This act, as I understand it, that we are talking about amending, the Natural Gas Pipeline Act, does not necessarily address itself to interstate pipelines. This is distribution system. Technically it is interstate. The gas comes from Texas or Louisiana and does enter into the city, but distribution is where the main danger lies.

Mr. MACDONALD. If you have an amendment to the act we are talking about, present it and then you can be heard on your amendment. If not—stick to pipeline safety.

Mr. TIBBS. We would like to amend the bill to include this, and I will skip to the end of the testimony and conclude.

We believe the Natural Gas Pipeline Safety Act should require public disclosures of leak records. We believe it should contain a provision holding someone within the gas corporation personally accountable for maintaining accurate leak records. We believe it should contain a criminal penalty provision for willful violation of the act.

We proposed such provisions in our previous testimony. We feel the series of pipeline disasters which have occurred since we initially made these proposals impel their adoption at this time.

Our proposals were as follows:

(See proposals as presented in prepared statement, p. 60, this hearing.)

Mr. TIBBS. The thrust of our testimony is: I see no reason for funding this law unless there are certain conditions made clear in this law so that it will actually do something. It has not in our estimation. We could demonstrate that, and I believe we have, in previous testimony. There is no sense having a complete rerun of testimony on the record, but the point is: the States themselves are not enforcing the law.

As was pointed out, Louisiana has ignored it. There are no real sanctions to take. We think for a law to be meaningful, if you are talking about safety, it has to address itself to bringing all pipelines up to standard.

We are certainly not saying a massive immediate replacement program. We are talking about a reasonable period of time, say, within 10 or 15 years all pipes must be brought up to certain specific standards. We are saying if people fail to comply with the law there should be some criminal sanctions taken against them.

We are talking about personal accountability within the corporate structure—that a person, a corporate officer, should be designated responsible for reporting and should be the person that would be penalized should they fail.

You will note we are talking about willfully and knowingly violating a portion of the act. So we are not just saying for a mistake anyone would go to jail. But we think to have a meaningful law, you have to have an enforcement provision and you have to have someone accountable. When you talk about \$1,000 or \$2,000 a day for a large utility, the fine is not going to affect the company operations all that much and it could be passed along to the consumers.

That is a problem we have in pollution legislation today. It becomes a cost of doing business. We strongly advocate the inclusion of these provisions. Unless the amendments are conditioned to include our amendment in the amendments being considered by this committee here today, we would be against them. Because in 2½ years in my view the DOT and the Natural Gas Pipeline Safety Act have accomplished nothing.

(The prepared statement of the Oil, Chemical, & Atomic Workers International Union, AFL-CIO, follows:)

STATEMENT OF ANTHONY MAZZOCCHI, CITIZENSHIP-LEGISLATIVE DIRECTOR—OIL, CHEMICAL, AND ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO, AND ROBERT TIBBS, BUSINESS MANAGER, ST. LOUIS LOCAL 5-6—OIL, CHEMICAL, AND ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO

Good morning, gentlemen, I am Robert Tibbs, Business Manager of St. Louis gas workers Local 5-6, Oil, Chemical and Atomic Workers International Union. I am accompanied by Courtney Goodman, Jr., our local union's attorney. Mr. Goodman has also represented various utility consumer organizations and municipalities in hearings before the Missouri Public Service Commission.

This is my second appearance before this committee. In February of 1968 I testified in support of H.R. 6551 and S. 1166. On August 12, 1968 portions of these bills were enacted into law. "The Natural Gas Pipeline Safety Act of 1968."

We've maintained a continuing interest in this law throughout the some 2½ years it has been in effect. We appreciate this opportunity to offer our evaluation of its effectiveness and to offer suggestions for its improvement.

I understand these hearings on H.R. 5065 are being held to consider amendments to the Act. Amendments having to do with its extension and funding.

It is our position that additional amendments are needed. Amendments insuring tighter control by the Department of Transportation over the state administrative agencies who will administer the pipeline safety regulation and more stringent enforcement of the act by the state agencies.

In my job as Business Manager of a 1500 member gas worker local union, I make almost daily firsthand observations of the pipeline operations of Laclede Gas Company. This company provides gas service to some 450,000 customers. Its pipeline system includes some 4,200 miles of main and 4,000 miles of services. I am also Chairman of a statewide Conference of Gas Workers, which includes workers from Kansas City, Missouri; St. Joseph and other metropolitan areas in Missouri. I've made firsthand observations in these areas. And, as editor of an Inter-Union newspaper, Gas Future, I am in continuing contact with the representatives of gas workers in Washington, D.C.; Cleveland, Ohio; Detroit, Michigan; Pittsburgh, Pennsylvania; Dallas, Texas and some 35 other cities.

Since my previous testimony before your committee, I've advocated more stringent pipeline safety regulations before the Missouri Public Service Commission, the St. Louis Board of Aldermen and a committee of the Missouri General Assembly.

Since my previous testimony before your committee there has been a series of major disasters caused by pipeline failures. In fact, in just the past few weeks, in

Philadelphia, Pennsylvania; Lambertville, New Jersey, and New Haven, Missouri, pipeline failures have cost lives, maimed scores of people and caused property damage running into millions of dollars.

If I were to go further back in time and talk about each of the pipeline failures which have resulted in major disasters since my 1968 testimony, my comments to you would be an all day, grim, repetitious, recital of incidents similar to the three I've mentioned.

I will briefly touch on these three explosions by entering several newspaper items about them into the record. A similar compilation of previous natural gas pipeline disasters has been made by OCAW's Legislative Director, Anthony Maz-zocchi. I also make this available to the committee at this time.¹

These items, I believe, represent incontrovertible evidence that the Natural Gas Pipeline Safety Act of 1968 has been something less than a success.

The Pipeline Safety Act has failed to protect people from the dangers inherent in the transportation and use of natural gas for these reasons.

It makes little or no provision for bringing existing pipeline facilities up to reasonable safety standards.

The committee appointed by the Department of Transportation to formulate interim pipeline safety standards was industry dominated. And simply endorsed the industry B. 31.8 pipeline construction code as a safety standard.

The states have failed to enforce the few meaningful standards contained in the D.O.T. version of the B. 31.8 code.

For example, shortly after the passage of the Natural Gas Pipeline Safety Act the Missouri Public Service Commission adopted the B.31.8 code as Missouri's pipeline safety regulations. The Missouri P.S.C. called their version of the code "General Order No. 45." I will introduce this document as evidence.²

It is important to note that the Missouri Public Service Commission is powerless beyond the levying of comparatively minor fines, to enforce the provisions of their orders.

Historically Laclede Gas has figuratively thumbed its nose at P.S.C. regulations. In the field of pipeline safety they continue to do so.

As concrete evidence of this I call your attention to the fact that last year Laclede was forced to admit they had been in continual violation of a P.S.C. order concerning the changing of their customers' meters at 120 month intervals for a number of years. Although the P.S.C. ordered compliance it took no sanctions against the company.

As visible evidence of their continuing noncompliance with General Order 45, I direct your attention to page 63 of the document, section 848 part b clearly prescribes the installation of gas meters and regulators in 'inaccessible' and 'confined' places or within 3 feet of a source of ignition. Such installations present a potential serious hazard. Despite the potential hazard and despite the prohibition of such installations by P.S.C. regulations, the company continues to install meters at these prescribed locations.

Even if a gas distribution company rigorously observed the portion of the law dealing with meter installation on every new installation, it would have no effect whatsoever on existing facilities.

Here are only a few locations where such potentially hazardous installations exist in St. Louis.

I mention meter installations because improperly installed meters are the most obvious flagrant violation of the order.

Of course, we couldn't expect a sweeping safety regulation ordering every gas company to bring their existing meter installations up to minimum safety standards immediately.

The order should, however, insure that within a reasonable period of time all existing substandard installations will be corrected.

As I noted previously, gas meters are changed every ten years. If the improperly installed gas meters were correctly replaced at this time in a single decade this unnecessary potential hazard would no longer exist.

I believe any meaningful pipeline safety regulation must also include a similar reasonable timetable for the replacement or repair of all existing pipelines.

¹ The newspaper items and the compilation of previous gas pipeline disasters, referred to, may be found in the committee's files.

² The document "General Order No. 45," may be found in the committee's files.

I've brought along some samples of leaking pipeline dug up by members of our union. Gas pipelines in identical condition are being exposed every day on most gas distribution systems in the country.

All gas companies through their leak surveys know pretty well where such deteriorated pipe exist within their particular system.

We believe the Natural Gas Pipeline Safety Act should require public disclosures of leak records. We believe it should contain a provision holding someone within the Gas Corporation personally accountable for maintaining accurate leak records. We believe it should contain a criminal penalty provision for willful violation of the act.

We proposed such provisions in our previous testimony, we feel the series of pipeline disasters which have occurred since we initially made these proposals impel their adoption at this time.

Our proposals were:

I. RESPONSIBILITY FOR REPORTING

a. Each gas utility company of the United States shall designate a corporate officer responsible for furnishing required reporting data to the Department of Transportation.

b. Each gas utility company in the United States shall designate a corporation officer responsible for compliance with all orders appertaining to pipeline safety issued by the Department of Transportation.

II. REPORTING

a. All gas utilities companies of the United States operating shall immediately upon passage of these amendments submit a duplicate report of all existing leak surveys and submit a duplicate report of the result of all future leak surveys to the Secretary of the Department of Transportation within 30 days after the completion of such surveys.

b. All gas utility companies in the United States shall submit a report of incidents occurring as a result of gas leakage from their pipelines whenever such incident results in property damage or personal injury. Such reports must be filed with the Secretary of the Department of Transportation within 10 days of the incident's occurrence.

c. All gas utility companies in the United States operating shall immediately upon passage of these amendments submit to the Secretary of the Department of Transportation a written report containing the total number of their gas services and miles of steel main which are not properly coated and cathodically protected.

III. INVESTIGATION INFORMATION

a. All gas utility companies operating shall submit a written report to the Secretary of the Department of Transportation of a monthly compilation of all gas leaks reported to them from any source; this report must include the results of the utilities investigation relative to the cause of such leak and the corrective measures taken.

IV. INVESTIGATION CONTROL

a. All gas utility companies in the United States operating must submit to the Secretary of the Department of Transportation a followup written report setting forth corrective measures taken to eliminate leaks previously reported by their leak survey; this report must be submitted within 30 days following their initial leak survey report and contain the results of a resurvey of leaks in the immediate area.

b. All gas leaks reported to or located by a gas utility company operating in the United States must be eliminated within 90 days of their receipt of the initial leak report.

V. EMERGENCY PROVISIONS

a. In the event gas pipeline leakage results in gas collecting in any confined space—that is, manholes, sewers, catch basins, basements, et cetera—upon receiving a report that such a condition exists, the gas utility must forthwith initiate immediate and continuous efforts to locate and eliminate such leaks.

VI. PRESSURE TESTING

a. All gas utility companies operating in the United States must pressure test all customer service lines, by turning off service at curb or corporation cock or pinning service tee, and injecting 15 pounds per square inch of gaged air pressure, such pressure test shall be conducted whenever a meter is installed, or changed, or reported leaking.

VII. PUBLIC INFORMATION

a. All reports concerning pipeline safety made by gas utility companies operating in the United States to the Secretary, Transportation Department, shall be public documents.

VIII. CRIMINAL PROVISIONS

a. The National Gas Pipeline Safety Act should incorporate the following criminal provisions in H.R. 13936 if applicable or immediately pursue legislation to effect such criminal provisions as follows:

1. Any person, firm, or corporation who wilfully violates this code shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

2. Any person who makes a false statement or representation of a material fact, knowing it to be false or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this act, shall be fined not more than \$10,000 or imprisoned for not more than 1 year or both.

3. Any person who wilfully makes a false entry in, or wilfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept on a provision of this act shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

4. Each individual required to sign reports under this act shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

5. Any willful noncompliance of the act or any order of the Department of Transportation shall result in a fine of not more than \$10,000 per day or imprisonment for 1 year, for each day said order is not obeyed.

Unless and until, The Natural Gas Pipeline Safety Act includes provisions to bring existing pipeline facilities up to standards within a reasonable period of time; unless and until stringent enforcement provisions are included, The Natural Gas Pipeline Act will continue to be nothing more than a cynical attempt by industry-dominated state government agencies designed to give the public the impression they have protection where really none exist.

EXHIBIT "A"

GAS TRANSMISSION AND DISTRIBUTION PIPING SYSTEMS

848 CUSTOMERS' METERS AND REGULATORS

848.1 Location for Customers' Meter and Regular Installations

(a) Customers' meters and regulators may be located either inside or outside of buildings, depending upon local conditions, except, that on service lines requiring series regulation, in accordance with 845.53(a), the upstream regulator shall be located outside of the building.

(b) When installed within a building, the service regulator shall be in a readily accessible location near the point of gas service line entrance and when- ever practical, the meters shall be installed at the same location. Meters shall not be installed in bedrooms, closets, bathrooms, under combustible stairways or in unventilated or inaccessible places, nor closer than three feet to sources of ignition, including furnaces and water heaters. On service lines supplying large industrial customers or installations where gas is utilized at higher than standard service pressure, the regulators may be installed at other readily accessible locations.

(c) When located outside of buildings, meters and service regulators shall be installed in readily accessible locations where they will be reasonably protected from damage.

(d) Regulators requiring vents for their proper and effective operation shall be vented to the outside atmosphere in accordance with the provisions of 848.33.

848.2 Operating Pressures for Customers' Meter Installations

Iron or aluminum case meters shall not be used at a maximum operating pressure higher than the manufacturer's rating for the meter. New tinned steel case meters shall not be used at a pressure in excess of 50 per cent of the manufacturer's test pressure; rebuilt tinned steel case meters shall not be used at a pressure in excess of 50 per cent of the pressure used to test the meter after rebuilding.

848.3 Protection of Customers' Meter and Regulator Installations from Damage

848.31 Meters and service regulators shall not be installed where rapid deterioration from corrosion or other causes is likely to occur.

848.32 A suitable protective device such as a back-pressure regulator, or a check valve, shall be installed downstream of the meter if and as required under the following conditions:

(a) If the nature of the utilization equipment is such that it may induce a vacuum at the meter, install a back-pressure regulator downstream from the meter.

(b) Install a check valve or equivalent if

(1) The utilization equipment might induce a back-pressure.

(2) The gas utilization equipment is connected to a source of oxygen or compressed air.

(3) Liquefied petroleum gas or other supplementary gas is used as standby and might flow back into the meter. A three-way valve installed to admit the standby supply and at the same time shut off the regular supply, can be substituted for a check valve if desired.

848.33 All service regulator vents, and relief vents where required, shall terminate in the outside air in rain and insect resistant fittings. The open end of the vent shall be located where, if a regulator failure resulting in the release of gas occurs, the gas can escape freely into the atmosphere and away from any openings into the buildings. At locations where service regulators might be submerged during floods, either a special anti-flood type breather vent fitting shall be installed, or the vent line shall be extended above the height of the expected flood waters.

848.34 Pits and vaults, housing customers' meters and regulators, shall be designed to support vehicular traffic when installed in the following locations:

(a) Travelled portions of alleys, streets and highways.

(b) Driveways.

Mr. MACDONALD. Thank you very much. Does that conclude your testimony?

Mr. TIBBS. Unless you want to see some rusty pipes, sir.

Mr. MACDONALD. Another day, I am sure.

Thank you very much, sir.

With that the testimony is concluded and the hearing is closed.
(Whereupon, at 12:35 p.m. the subcommittee adjourned.)

