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PIPELINE SAFETY ACT OF 1979

GOVERNMENT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON

PUBLIC WORKS AND TRANSPORTATION

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 2207: TO IMPROVE THE PROTECTIONS AFFORDED
AGAINST ASSOCIATED WITH THE TRANSPORTATION OF
HAZARDOUS COMMODITIES BY PIPELINE

AND

H.R. 51: TO AMEND THE NATURAL GAS PIPELINE SAFETY ACT
OF 1968 TO PROVIDE FOR THE SAFE OPERATION OF PIPE-
LINES TRANSPORTING NATURAL GAS AND LIQUEFIED PETRO-
LEUM GAS, TO PROVIDE STANDARDS WITH RESPECT TO THE
SITING, CONSTRUCTION, AND OPERATION OF LIQUEFIED
NATURAL GAS FACILITIES AND FOR OTHER PURPOSES

MAY 1, 1979; JUNE 8, 1979

Printed for the use of the Committee on Public Works and Transportation



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PIPELINE SAFETY ACT OF 1979

TUESDAY, MAY 1, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2253 Rayburn House Office Building, Hon. James J. Howard, chairman of the subcommittee, presiding.

Mr. HOWARD. The Subcommittee on Surface Transportation will come to order.

This morning the subcommittee will be hearing views on H.R. 2207, a bill to improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline. The bill, among other things, amends the Natural Gas Pipeline Safety Act, and establishes a new law for the transportation of hazardous materials by pipeline. In addition, it authorizes appropriations for carrying out the provisions of both acts.

[The text of H.R. 2207 follows:]

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96TH CONGRESS
1ST SESSION

H. R. 2207

To improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 1979

Mr. MARKEY (by request) introduced the following bill; which was referred jointly to the Committees on Interstate and Foreign Commerce and Public Works and Transportation

A BILL

To improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Pipeline Safety Act of
4 1979".

TITLE I—NATURAL GAS

SHORT TITLE

7 SEC. 101. This title may be cited as the "Natural Gas
8 Pipeline Safety Act Amendments of 1979".

DECLARATION OF POLICY

1
2 SEC. 102. The Congress finds that more effective real-
3 ization of the purposes of the Natural Gas Pipeline Safety
4 Act of 1968, especially as it relates to the transportation of
5 liquefied natural gas, requires that Act to be amended to ex-
6 pressly provide the Secretary of Transportation with precon-
7 struction design approval authority for pipeline facilities, to
8 improve the investigation and enforcement powers of the
9 Secretary, and to clarify and update existing provisions of the
10 Act.

11 REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT OF
12 1968

13 SEC. 103. Except as otherwise expressly provided,
14 whenever in this title any reference, amendment, or repeal is
15 expressed in terms of a reference or amendment to, or repeal
16 of, a section or other provision, it shall be considered to be
17 made to a section or other provision of the Natural Gas Pipe-
18 line Safety Act of 1968, as amended (49 U.S.C. 1671 et
19 seq.).

20 DEFINITIONS

21 SEC. 104. (a) Section 2(2) is amended by inserting "(in-
22 cluding liquefied natural gas)" immediately after "natural
23 gas".

24 (b) Section 2(4) is amended to read as follows:

8 (c) Section 2(8) and 2(9) are amended by striking out
9 "Federal Power Commission" and inserting in lieu thereof
10 "Federal Energy Regulatory Commission".

12 SEC. 105. (a) Section 3 is amended to read as follows:

14 GAS AND PIPELINE FACILITIES

15 "SEC. 3. (a) GENERAL.—The Secretary shall issue, in
16 accordance with the provisions of section 553 of title 5,
17 United States Code, including an opportunity for informal
18 oral presentation, Federal safety standards for the transpor-
19 tation of gas and pipeline facilities. The standards shall apply
20 to each person who engages in the transportation of gas or
21 who owns or operates pipeline facilities. The standards shall
22 be practicable and designed to meet the need for safe trans-
23 portation of gas and may govern any safety aspect of that
24 transportation and of pipeline facilities which the Secretary
25 considers necessary or appropriate.

1 “(b) CRITERIA.—In prescribing standards under this
2 section, the Secretary shall consider—

3 “(1) relevant available pipeline data;

4 “(2) whether the standards are appropriate for the
5 particular type of pipeline transportation or facility;

6 “(3) the reasonableness of any proposed stand-
7 ards; and

8 “(4) the extent to which the standards will con-
9 tribute to public safety.

10 “(c) PRECONSTRUCTION APPROVAL.—In prescribing
11 standards under this section, the Secretary may require, in
12 his discretion, that any construction associated with a new or
13 existing pipeline facility not begin until he approves that con-
14 struction, and then only to the extent that the construction is
15 in accordance with the applicable standards prescribed under
16 this section and such other terms and conditions as the Sec-
17 retary determines are appropriate to assure that the facility
18 will be constructed and operated in compliance with those
19 standards.

20 “(d) EXISTING FACILITIES.—Except as provided under
21 section 10(b) of this Act, any standard issued under this sec-
22 tion affecting the design, installation, construction, initial in-
23 spection, and initial testing shall not be applicable to pipeline
24 facilities in existence on the date it is adopted.

5

1 “(e) PREEMPTION.—Any State agency may adopt addi-
2 tional or more stringent safety standards for intrastate pipe-
3 line transportation if those standards are compatible with the
4 Federal standards issued under this Act. No State agency
5 may adopt or continue in force any safety standards applica-
6 ble to interstate transmission facilities.

7 “(f) WAIVERS.—Upon application by any person en-
8 gaged in the transportation of gas or the operation of pipeline
9 facilities, the Secretary may, by order, after notice and op-
10 portunity for hearing and under such terms and conditions
11 and to such extent as he deems appropriate, waive in whole
12 or in part compliance with any standard established under
13 this Act, if he determines that waiver of compliance with
14 such standard is not inconsistent with gas pipeline safety.
15 The Secretary shall state his reasons for any such waiver. A
16 State agency, with respect to which there is in effect a certi-
17 fication pursuant to section 5(a) or an agreement pursuant to
18 section 5(b), may waive compliance with a safety standard in
19 the same manner and under the same conditions as the Sec-
20 retary: *Provided*, That such State agency gives the Secretary
21 written notice at least sixty days prior to the effective date of
22 the waiver. If, before the effective date of a waiver to be
23 granted by a State agency, the Secretary objects in writing
24 to the granting of the waiver, any State agency action grant-
25 ing the waiver will be stayed. After notifying such State

1 agency of his objection, the Secretary shall afford such
2 agency a prompt opportunity to present its request for
3 waiver, with opportunity for hearing, and the Secretary shall
4 determine finally whether the requested waiver may be
5 granted.

6 “(g) COOPERATION AND CONSULTATION.—(1) When-
7 ever the establishment of a standard or action upon applica-
8 tion for waiver under the provisions of this Act, would affect
9 continuity of any gas services, the Secretary shall consult
10 with and advise the Federal Energy Regulatory Commission
11 or State commission having jurisdiction over the affected
12 pipeline facility before establishing the standard or acting on
13 the waiver application and shall defer the effective date until
14 the Federal Energy Regulatory Commission or any such
15 commission has had reasonable opportunity to grant the au-
16 thorizations it deems necessary.

17 “(2) In any proceedings under section 7 of the Natural
18 Gas Act (15 U.S.C. 717f) for authority to establish, con-
19 struct, operate, or extend a gas pipeline which is or will be
20 subject to Federal or other applicable safety standards, any
21 applicant shall certify that it will design, install, inspect, test,
22 construct, operate, replace, and maintain the pipeline facili-
23 ties in accordance with Federal and other applicable safety
24 standards and plans for maintenance and inspection. Such
25 certification shall be binding and conclusive upon the Federal

1 Energy Regulatory Commission unless the relevant enforce-
2 ment agency has timely advised the Commission in writing
3 that the applicant has violated safety standards established
4 pursuant to this Act.

5 “(3) Upon request, the Secretary shall furnish to the
6 Federal Energy Regulatory Commission any information he
7 has concerning the safety of any materials, operations, de-
8 vices, or processes relating to the transportation of gas or the
9 operation of pipeline facilities.

10 “(4) The Secretary is authorized to advise, assist, and
11 cooperate with other Federal departments and agencies and
12 State and other interested public and private agencies and
13 persons, in the planning and developing of (1) Federal safety
14 standards, and (2) methods for inspecting and testing to de-
15 termine compliance with Federal safety standards.

16 “(5) The Secretary is authorized to consult with, and
17 make recommendations to, other Federal departments and
18 agencies, State and local governments, and other public and
19 private agencies or persons, for the purpose of developing
20 and encouraging activities, including the enactment of legis-
21 lation, to assist in the implementation of this Act and to im-
22 prove State and local pipeline safety programs.”.

23 (b) The Act is amended by striking out sections 7 and
24 13.

1 ADVISORY COMMITTEE

2 SEC. 106. The Act is amended by striking out section 4.

3 Section 4 is reserved.

4 STATE SAFETY PROGRAMS

5 SEC. 107. (a) Section 5(a) is amended—

6 (1) By striking out “Except for the fourth sen-
7 tence of section 3(b), section 12(b) and except as other-
8 wise provided in this section, the provisions of this
9 Act” and inserting in lieu thereof “Except for section
10 10(b) and except as otherwise provided in this section,
11 the authority of the Secretary under this Act to pre-
12 scribe safety standards and enforce compliance with
13 such standards”.

14 (2) By striking out “excavation” in clause (4) and
15 inserting in lieu thereof “demolition, excavation, tun-
16 neling, or construction”.

17 (3) By striking out, in clause (5), “sections 9 and
18 10” and inserting in lieu thereof “sections 8(a) and
19 10(a)”.

20 (4) By striking out, in clause (5), “; except that a
21 State agency may file a certification under this subsec-
22 tion without regard to the requirement of injunctive
23 and monetary sanctions under State law for a period
24 not to exceed five years after the date of enactment of
25 this Act”.

9

1 (5) By amending clause 5(ii) to read as follows:
2 "all accidents or incidents reported during the preced-
3 ing twelve months by each such person involving per-
4 sonal injury requiring hospitalization, fatality, property
5 damage exceeding \$5,000 (whether or not sustained by
6 a person subject to the safety jurisdiction of the State
7 agency) and any other accident which the State agency
8 considers significant;"

9 (b) Section 5(b) is amended by striking out paragraphs
10 (3) and (4).

11 (c) Section 5 is further amended by striking out subsec-
12 tion (f); redesignating subsections (c), (d), and (e) as (d), (e),
13 and (f), respectively; and adding a new subsection (c) to read
14 as follows:

15 "(c) The Secretary is authorized to conduct whatever
16 monitoring may be necessary of any State program estab-
17 lished by certification or agreement under this section to
18 assure that such programs are being carried out in compli-
19 ance with such certification or agreement. State agencies
20 shall cooperate fully in a system of Federal monitoring of
21 their programs."

22 ENFORCEMENT POWERS

23 SEC. 108. (a) The act is amended by redesignating sec-
24 tion 8 as section 7; by striking out sections 9 and 10; and by
25 adding new sections 8, 9, and 10 to read as follows:

1 "PENALTIES

2 "SEC. 8. (a) ASSESSMENT OF CIVIL PENALTIES.—Any
3 person who is determined by the Secretary of Transportation
4 to have violated any provisions of this Act or any regulation
5 or order issued thereunder including any order issued under
6 section 9 or 10(b) of this Act, shall be liable to the United
7 States for a civil penalty of not more than \$1,000 for each
8 violation for each day that violation persists, except that the
9 maximum civil penalty shall not exceed \$200,000 for any
10 related series of violations. The amount of the penalty shall
11 be assessed by the Secretary by written notice. In determin-
12 ing the amount of the penalty, the Secretary shall consider
13 the nature, circumstances, and gravity of the violation and,
14 with respect to the person found to have committed the viola-
15 tion, the degree of culpability, any history of prior violations,
16 the effect on ability to continue to do business, any good faith
17 in attempting to achieve compliance, and such other matters
18 as the Secretary believes justice may require.

19 "(b) COLLECTION OF CIVIL PENALTIES.—Except as
20 provided by subsection (c), a civil penalty assessed under sub-
21 section (a) may be recovered in an action brought by the
22 Attorney General on behalf of the United States in the ap-
23 propriate district court of the United States or, prior to refer-
24 ral to the Attorney General, it may be compromised by the
25 Secretary. The amount of the penalty, when finally deter-

1 mined (or agreed upon in compromise), may be deducted from
2 all sums owed by the United States to the person charged.
3 All penalties collected under this subsection shall be deposit-
4 ed in the Treasury of the United States as miscellaneous re-
5 ceipts.

6 “(c) When a civil penalty of not more than \$1,500 has
7 been assessed under subsection (a), the matter may be re-
8 ferred for collection of the penalty directly to the Federal
9 magistrate of the jurisdiction wherein the person liable may
10 be found, for institution of collection procedures under super-
11 vision of the district court, if the court has issued an order
12 delegating such authority under section 636(b) of title 28,
13 United States Code.

14 “(d) CRIMINAL PENALTIES.—

15 “(1) Any person who willfully violates a provision
16 of this Act or a regulation or order issued thereunder
17 including any order issued under section 9 or 10(b) of
18 this Act, shall, upon conviction be subject, for each of-
19 fense, to a fine of not more than \$25,000, imprison-
20 ment for a term not to exceed five years, or both.

21 “(2) Any person who willfully injures or destroys,
22 or attempts to injure or destroy any interstate trans-
23 mission facility, shall, upon conviction, be subject for
24 each offense, to a fine of not more than \$15,000 or im-

1 prisonment for a term not to exceed fifteen years, or
2 both.

3 "COMPLIANCE ORDERS

4 "SEC. 9. The Secretary may issue orders directing com-
5 pliance with this Act or any regulation issued thereunder.
6 The district courts of the United States shall have jurisdic-
7 tion, upon petition by the Attorney General, to enforce such
8 orders by appropriate means.

9 "SPECIFIC RELIEF

10 "SEC. 10. (a) GENERAL.—(1) The Attorney General, at
11 the request of the Secretary, may bring an action in an ap-
12 propriate district court of the United States for equitable
13 relief to redress or restrain a violation by any person of a
14 provision of this Act or a regulation issued thereunder. Such
15 district courts shall have jurisdiction to determine such ac-
16 tions and may grant such relief as is necessary or appropri-
17 ate, including mandatory or prohibitive injunctive relief, in-
18 terim equitable relief, and punitive damages.

19 "(2) In any proceeding for criminal contempt for viola-
20 tion of a mandatory or prohibitive injunction issued under this
21 subsection, which violation also constitutes a violation of this
22 Act, trial shall be by the court or, upon demand of the ac-
23 cused, by a jury. Such trial shall be conducted in accordance
24 with the practice and procedure applicable in the case of pro-

25 SEC. 109. Section 12 is amended to read as follows:

1 "POWERS AND DUTIES OF THE SECRETARY

2 "SEC. 12. (a) GENERAL.—The Secretary is authorized,
3 to the extent necessary to carry out his responsibilities under
4 this Act, to conduct investigations, make reports, issue sub-
5 penas, conduct hearings, require the production of relevant
6 documents, records, and property, take depositions, and con-
7 duct, directly or indirectly, research, testing, development,
8 demonstration, and training activities.

9 "(b) RECORDS.—Each person who engages in the
10 transportation of gas or who owns or operates pipeline facili-
11 ties shall establish and maintain such records, make such re-
12 ports, and provide such information as the Secretary may
13 reasonably require, and shall submit such reports and shall
14 make such records and information available as the Secretary
15 may request, to enable him to determine whether such person
16 has acted or is acting in compliance with this Act and the
17 standards or orders issued under this Act.

18 "(c) INSPECTION.—Officers, employees, or agents au-
19 thorized by the Secretary, upon presenting appropriate cre-
20 dentials to the person in charge, are authorized to enter
21 upon, inspect, and examine, at reasonable times and in a rea-
22 sonable manner, the records and properties of persons to the
23 extent such records and properties are relevant to determin-
24 ing whether such persons have acted or are acting in compli-

1 ance with this Act and the standards or orders issued under
2 this Act.

3 “(d) PUBLIC AVAILABILITY OF ACCIDENT RE-
4 PORTS.—Accident reports made by any officer, employee, or
5 agent of the Department of Transportation shall be available
6 for use in any civil, criminal, or other judicial proceeding
7 arising out of such accident. Any such officer, employee, or
8 agent may be required to testify in such proceedings as to the
9 facts developed in such investigations. Any such report shall
10 be made available to the public in a manner which need not
11 identify individuals. All reports on research projects, demon-
12 stration projects, and other related activities shall be public
13 information.

14 “(e) PROTECTION OF TRADE SECRETS.—All informa-
15 tion reported to or otherwise obtained by the Secretary or his
16 representative pursuant to subsection (a), (b), or (c) which
17 information contains or relates to a trade secret referred to in
18 section 1905 of title 18 of the United States Code shall be
19 considered confidential for the purpose of that section, except
20 that such information may be disclosed to other officers or
21 employees concerned with carrying out this Act or when rel-
22 evant in any proceeding under this Act. Nothing in this sec-
23 tion shall authorize the withholding of information by the
24 Secretary or any officer, employee, or agent under his con-
25 trol, from the duly authorized committees of the Congress.”.

1 APPROPRIATIONS AUTHORIZATION

2 SEC. 110. Section 15 is amended by redesignating it as
3 section 14 to read as follows:

4 "APPROPRIATIONS AUTHORIZED

5 "SEC. 14. (a) There are authorized to be appropriated
6 \$4,206,000 for the fiscal year ending September 30, 1980,
7 and such sums as may be necessary for the fiscal year ending
8 September 30, 1981, for the purpose of carrying out the pro-
9 visions of this Act and the Hazardous Liquid Pipeline Safety
10 Act of 1979, except that the funds appropriated pursuant to
11 this subsection shall not be used for Federal grants-in-aid.

12 "(b) There are authorized to be appropriated
13 \$2,820,000 for the fiscal year ending September 30, 1980,
14 and such sums as may be necessary for the fiscal year ending
15 September 30, 1981, for the purpose of carrying out the Fed-
16 eral grants-in-aid provisions of section 5(d) of this Act."

17 CLERICAL AND CONFORMING AMENDMENTS

18 SEC. 111. (a) Section 14 is amended by redesignating it
19 as section 13; by striking out "March 17" and inserting in
20 lieu thereof "June 15" and; by striking out "3(e)" in para-
21 graph a(13) and inserting in lieu thereof "3(f)".

22 (b) Sections 16 and 17 are amended by redesignating
23 them as sections 15 and 16, respectively.

24 (c) Section 16(f), as redesignated, is amended by striking
25 out "minimum".

1 (d) The Mineral Leasing Act of 1920, as amended (30
2 U.S.C. 185) is amended by striking out sections 28(w)(3) and
3 28(w)(4).

4 TITLE II—LIQUID PIPELINE SAFETY

5 SHORT TITLE

6 SEC. 201. This title may be cited as the "Hazardous
7 Liquid Pipeline Safety Act of 1979".

8 DECLARATION OF POLICY

9 SEC. 202. It is declared to be the policy of Congress in
10 this title to improve the ability of the Secretary of Transpor-
11 tation to protect the Nation adequately against the risks to
12 life and property which are inherent in the transportation of
13 hazardous liquids by pipeline in or affecting interstate or for-
14 eign commerce.

15 DEFINITIONS

16 SEC. 203. As used in this title:

17 (1) "person" means any individual, firm, joint
18 venture, partnership, corporation, association, State,
19 municipality, cooperative association, or joint stock as-
20 sociation, and includes any trustee, receiver, assignee,
21 or personal representative thereof;

22 (2) "hazardous liquid" means a substance or ma-
23 terial which is in liquid form (excluding liquefied natu-
24 ral gas) when transported by pipeline facilities and
25 which, as determined by the Secretary, may pose an

1 unreasonable risk to life or property when transported
2 by pipeline facilities. For the purpose of this title "haz-
3 arduous liquid" includes but is not limited to, petroleum,
4 petroleum products, and any other liquid that is flam-
5 mable, corrosive, or toxic;

6 (3) "transportation of hazardous liquids" means
7 the movement of hazardous liquid by pipeline or its
8 storage in or affecting interstate or foreign commerce;

9 (4) "pipeline facilities" includes, without limita-
10 tion, new and existing pipe, rights-of-way and any
11 equipment, facility, or building used or intended for use
12 in the transportation of hazardous liquids or the treat-
13 ment of hazardous liquids during the course of trans-
14 portation, but rights-of-way as used in this title does
15 not authorize the Secretary to prescribe the location or
16 the routing of any pipeline facility;

17 (5) "interstate pipeline facilities" include pipeline
18 facilities that, either on their own or by connection
19 with other pipeline facilities, are used to move hazard-
20 ous liquids in interstate or foreign commerce;

21 (6) "intrastate pipeline facilities" means pipeline
22 facilities which are not interstate pipeline facilities;

23 (7) "interstate or foreign commerce" means com-
24 merce between any point in a State and any point out-

1 side thereof, or between points within the same State,
2 but through any place outside thereof;

3 (8) "State" includes each of the several States,
4 the District of Columbia, and the Commonwealth of
5 Puerto Rico; and

6 (9) "Secretary" means the Secretary of Transpor-
7 tation.

8 REGULATIONS GOVERNING TRANSPORTATION OF
9 HAZARDOUS LIQUIDS AND PIPELINE FACILITIES

10 SEC. 204. (a) GENERAL.—The Secretary shall issue, in
11 accordance with the provisions of section 553 of title 5,
12 United States Code, including an opportunity for informal
13 oral presentation, Federal safety standards for the transpor-
14 tation of hazardous liquids and pipeline facilities. The stand-
15 ards shall apply to each person who engages in the transpor-
16 tation of hazardous liquids or who owns or operates pipeline
17 facilities. The standards shall be practicable and designed to
18 meet the need for safe transportation of hazardous liquids and
19 may govern any safety aspect of that transportation which
20 the Secretary considers necessary or appropriate.

21 (b) CRITERIA.—In prescribing standards under this sec-
22 tion, the Secretary shall consider—

23 (1) relevant available pipeline data;

24 (2) whether the standards are appropriate for the
25 particular type of pipeline transportation or facility;

1 (3) the reasonableness of any proposed standards;

2 and

3 (4) the extent to which the standards will contrib-
4 ute to public safety.

5 (c) **PRECONSTRUCTION APPROVAL.**—In prescribing
6 standards under this section, the Secretary may require, in
7 his discretion, that any construction associated with a new or
8 existing pipeline facility not begin until he approves that con-
9 struction, and then only to the extent that the construction is
10 in accordance with the applicable standards prescribed under
11 this section and such other terms and conditions as the Sec-
12 retary determines are appropriate to assure that the facility
13 will be constructed and operated in compliance with those
14 standards.

15 (d) **EXISTING FACILITIES.**—Except as provided under
16 section 210(b) of this title, any standard issued under this
17 section affecting the design, installation, construction, initial
18 inspection, and initial testing shall not be applicable to pipe-
19 line facilities in existence on the date it is adopted.

20 (e) **PREEMPTION.**—Any State agency may adopt addi-
21 tional or more stringent safety standards for intrastate pipe-
22 line facilities and the transportation of hazardous liquids asso-
23 ciated with those facilities, if those standards are compatible
24 with the Federal standards issued under this title. No State
25 agency may adopt or continue in force any safety standards

1 applicable to interstate pipeline facilities or the transportation
2 of hazardous liquids associated with those facilities.

3 (f) WAIVERS.—Upon application by any person engaged
4 in the transportation of hazardous liquids or the operation of
5 pipeline facilities, the Secretary may, by order, after notice
6 and opportunity for hearing and under such terms and condi-
7 tions and to such terms and conditions and to such extent as
8 he deems appropriate, waive in whole or in part compliance
9 with any standard established under this title, if he deter-
10 mines that a waiver of compliance with such standard is not
11 inconsistent with pipeline safety. The Secretary shall state
12 his reasons for any such waiver. A State agency, with re-
13 spect to which there is in effect a certification pursuant to
14 section 205(a) or an agreement pursuant to section 205(b),
15 may waive compliance with a safety standard in the same
16 manner and under the same conditions as the Secretary: *Pro-*
17 *vided*, That such State agency gives the Secretary written
18 notice at least sixty days prior to the effective date of the
19 waiver. If, before the effective date of a waiver to be granted
20 by a State agency, the Secretary objects in writing to the
21 granting of the waiver, any State agency action granting the
22 waiver will be stayed. After notifying such State agency of
23 his objection, the Secretary shall afford such agency a prompt
24 opportunity to present its request for waiver, with opportuni-

1 ty for hearing, and the Secretary shall determine finally
2 whether the requested waiver may be granted.

3 (g) COOPERATION AND CONSULTATION.—(1) The Sec-
4 retary is authorized to advise, assist, and cooperate with
5 other Federal agencies and State and other interested public
6 and private agencies and persons, in the planning and
7 developing of (1) Federal safety standards, and (2) methods
8 for inspecting and testing to determine compliance with Fed-
9 eral safety standards.

10 (2) The Secretary is authorized to consult with, and
11 make recommendations to, other Federal agencies, State and
12 local governments, and other public and private agencies or
13 persons, for the purpose of developing and encouraging activ-
14 ities, including the enactment of legislation, to assist in the
15 implementation of this title and to improve State and local
16 pipeline safety programs.

17 STATE CERTIFICATIONS AND AGREEMENTS

18 SEC. 205. (a) Except for section 210(b) and except as
19 otherwise provided in this section, the authority of the Secre-
20 tary under this title to prescribe safety standards and enforce
21 compliance with those standards shall not apply to intrastate
22 pipeline facilities or the transportation of hazardous liquids
23 associated with those facilities, when the safety standards
24 and practices applicable to same are regulated by a State

1 agency which submits to the Secretary an annual certifica-
2 tion that such State agency—

3 (1) has regulatory jurisdiction over the safety
4 standards and practices of intrastate pipeline facilities
5 and the transportation of hazardous liquids associated
6 with those facilities;

7 (2) has adopted, as of the date of the certification,
8 each Federal safety standard established under this
9 title which is applicable to intrastate pipeline facilities
10 and the transportation of hazardous liquids associated
11 with those facilities or, with respect to each such Fed-
12 eral safety standard established within one hundred
13 and twenty days before the date of certification, is
14 taking steps pursuant to State law to adopt such
15 standard;

16 (3) is enforcing each such standard;

17 (4) is encouraging and promoting programs de-
18 signed to prevent damage to pipeline facilities as a
19 consequence of demolition, excavation, tunneling, or
20 construction activity;

21 (5) has the authority to require record mainte-
22 nance, reporting, and inspection substantially the same
23 as are provided under section 212 and the filing for ap-
24 proval of plans of inspection and maintenance described
25 in section 211 and that the law of the State makes

1 provision for the enforcement of the safety standards of
2 such State agency by way of injunctive and monetary
3 sanctions substantially the same as are provided under
4 sections 208(a) and 210(b). Each annual certification
5 shall include a report, in such form as the Secretary
6 may by regulation provide, showing (i) name and ad-
7 dress of each person subject to the safety jurisdiction of
8 the State agency; (ii) all accidents or incidents reported
9 during the preceding twelve months by each such
10 person involving personal injury requiring hospitaliza-
11 tion, fatality, or property damage exceeding \$10,000
12 (whether or not sustained by a person subject to the
13 safety jurisdiction of the State agency), together with a
14 summary of the State agency's investigation as to the
15 cause and circumstances surrounding such accident or
16 incident; (iii) the record maintenance, reporting, and in-
17 spection practiced by the State agency to enforce com-
18 pliance with such Federal safety standards, including a
19 detail of the number of inspections made of pipeline
20 facilities by the State agency during the preceding
21 twelve months; and (iv) such other information as the
22 Secretary may require. The report included with the
23 first annual certification need not show information un-
24 available at that time.

25

1 (b) With respect to any intrastate pipeline facilities or
2 transportation of hazardous liquids associated with those
3 facilities for which the Secretary does not receive an annual
4 certification under subsection (a), the Secretary may, by
5 agreement with a State agency authorize such agency to
6 assume responsibility for, and carry out on behalf of the Sec-
7 retary as it relates to those facilities or associated transporta-
8 tion, the necessary actions to—

9 (1) establish an adequate program for record
10 maintenance, reporting, and inspection designed to
11 assist compliance with Federal Safety standards; and

12 (2) establish procedures for approval of plans and
13 inspection and maintenance substantially the same as
14 are required under section 211.

15 Any agreement executed pursuant to this subsection shall re-
16 quire the State agency promptly to notify the Secretary of
17 any violation or probable violation of a Federal safety stand-
18 ard which it discovers as a result of its program.

19 (c) A certification which is in effect under subsection (a)
20 shall not apply with respect to any new or amended Federal
21 safety standard established for intrastate pipeline facilities or
22 transportation of hazardous liquids associated with those
23 facilities pursuant to this title after the date of such certifica-
24 tion. The provisions of this title shall apply to any such new
25 or amended Federal safety standard until the State agency

1 has adopted such standard and has submitted an appropriate
2 certification in accordance with provisions of subsection (a).

3 (d) If after receipt of annual certification under subsec-
4 tion (a), the Secretary determines that the State agency is
5 not satisfactorily enforcing compliance with Federal safety
6 standards, he may, on reasonable notice and after opportuni-
7 ty for hearing, reject the certification or take such other
8 action as he deems appropriate to achieve adequate enforce-
9 ment including the assertion of Federal jurisdiction. When
10 such notice is given by the Secretary, the burden of proof
11 shall be upon the State agency to show that it is satisfactori-
12 ly enforcing compliance with Federal safety standards.

13 (e) Any agreement under subsection (b) may be termi-
14 nated by the Secretary if, after notice and opportunity for a
15 hearing, he finds that the State agency has failed to comply
16 with any provision of such agreement. Such finding and ter-
17 mination shall be published in the Federal Register and shall
18 become effective no sooner than fifteen days after the date of
19 publication.

20 (f) The Secretary is authorized to conduct whatever
21 monitoring may be necessary of any State program estab-
22 lished by certification or agreement under this section to
23 assure that such programs are being carried out in compli-
24 ance with such certification or agreement. State agencies

1 shall cooperate fully in a system of Federal monitoring of
2 their programs.

3 JUDICIAL REVIEW OF STANDARDS AND ORDERS

4 SEC. 206. (a) Any person who is or will be adversely
5 affected or aggrieved by any standard or order issued under
6 this title may at any time prior to the sixtieth day after such
7 standard or order is issued file a petition for a judicial review
8 with the United States Court of Appeals for the District of
9 Columbia or for the circuit wherein such petitioner is located
10 or has his principal place of business. A copy of the petition
11 shall be forthwith transmitted by the clerk of the court to the
12 Secretary or other officer designated by him for that purpose.

13 (b) Upon the filing of the petition referred to in subsec-
14 tion (a), the court shall have jurisdiction to review the stand-
15 ard or order in accordance with chapter 7 of title 5 of the
16 United States Code and to grant appropriate relief as pro-
17 vided in such chapter.

18 (c) The judgment of the court affirming or setting aside,
19 in whole or in part, any standard or order of the Secretary
20 shall be final, subject to review by the Supreme Court of the
21 United States upon certiorari or certification as provided in
22 section 1254 of title 28 of the United States Code.

23 (d) Any action instituted under this section shall survive,
24 notwithstanding any change in the person occupying the
25 office of the Secretary or any vacancy in such office.

1 (e) The remedies provided for in this section shall be in
2 addition to and not in substitution for any other remedies
3 provided by law.

4 COMPLIANCE

5 SEC. 207. (a) Each person who engages in the transpor-
6 tation of hazardous liquids or who owns or operates pipeline
7 facilities shall—

8 (1) at all times after the date an applicable safety
9 standard established under this title takes effect comply
10 with the requirements of such standard;

11 (2) file and comply with a plan of inspection and
12 maintenance required by section 211; and

13 (3) permit access to or copying of records, and
14 make reports or provide information, and permit entry
15 or inspection, as required under section 212.

16 (b) Nothing in this title shall affect the common law or
17 statutory liability of any person.

18 PENALTIES

19 SEC. 208. (a) ASSESSMENT OF CIVIL PENALTIES.—
20 Any person who is determined by the Secretary to have vio-
21 lated any provisions of this title or any regulation or order
22 issued thereunder including any order issued under section
23 209 or 210(b) of this title, shall be liable to the United States
24 for a civil penalty of not more than \$1,000 for each violation
25 for each day the violation continues, except that the maxi-

1 mum civil penalty shall not exceed \$200,000 for any related
2 series of violations. The amount of the penalty shall be as-
3 sessed by the Secretary by written notice. In determining the
4 amount of the penalty, the Secretary shall consider the
5 nature, circumstances, and gravity of the violation and with
6 respect to the person found to have committed the violation,
7 the degree of culpability, any history of prior violations, the
8 effect on ability to continue to do business, any good faith in
9 attempting to achieve compliance, and such other matters as
10 the Secretary believes justice may require.

11 (b) COLLECTION OF CIVIL PENALTIES.—Except as
12 provided by subsection (c), a civil penalty assessed under sub-
13 section (a) may be recovered in an action brought by the
14 Attorney General on behalf of the United States in the ap-
15 propriate district court of the United States or, prior to refer-
16 ral to the Attorney General, it may be compromised by the
17 Secretary. The amount of the penalty, when finally deter-
18 mined (or agreed upon in compromise), may be deducted from
19 all sums owed by the United States to the person charged.
20 All penalties collected under this subsection shall be deposit-
21 ed in the Treasury of the United States as miscellaneous re-
22 ceipts.

23 (c) When a civil penalty of not more than \$1,500 has
24 been assessed under subsection (a), the matter may be re-
25 ferred for collection of the penalty directly to the Federal

1 magistrate of the jurisdiction wherein the person liable may
2 be found, for institution of collection procedures under super-
3 vision of the district court, if the court has issued an order
4 delegating such authority under section 636(b) of title 28,
5 United States Code.

6 (d) CRIMINAL PENALTIES.—

7 (1) Any person who willfully violates a provision
8 of this title or a regulation or order issued thereunder
9 including any order issued under section 209 or 210(b)
10 of this title, shall, upon conviction be subject, for each
11 offense, to a fine or not more than \$25,000, imprison-
12 ment for a term not to exceed five years, or both.

13 (2) Any person who willfully injures or destroys,
14 or attempts to injure or destroy any interstate pipeline
15 facility, shall, upon conviction, be subject for each of-
16 fense, to a fine of not more than \$15,000 or imprison-
17 ment for a term not to exceed fifteen years, or both.

18 COMPLIANCE ORDERS

19 SEC. 209. The Secretary may issue orders directing
20 compliance with this title or any regulation issued thereun-
21 der. The district courts of the United States shall have juris-
22 diction, upon petition by the Attorney General, to enforce
23 such orders by appropriate means.

SPECIFIC RELIEF

1
2 SEC. 210. (a) GENERAL.—(1) The Attorney General, at
3 the request of the Secretary, may bring an action in an ap-
4 propriate district court of the United States for equitable
5 relief to redress or restrain a violation by any person of a
6 provision of this title or a regulation issued thereunder. Such
7 district courts shall have jurisdiction to determine such ac-
8 tions and may grant such relief as is necessary or appropri-
9 ate, including mandatory or prohibitive injunctive relief, in-
10 terim equitable relief, and punitive damages.

11 (2) In any proceeding for criminal contempt for violation
12 of a mandatory or prohibitive injunction issued under this
13 subsection, which violation also constitutes a violation of this
14 Act, trial shall be by the court or, upon demand of the ac-
15 cused, by a jury. Such trial shall be conducted in accordance
16 with the practice and procedure applicable in the case of pro-
17 ceedings subject to the provisions of rule 42(b) of the Federal
18 Rules of Criminal Procedure.

19 (b) HAZARDOUS PIPELINE FACILITIES.—(1) If the
20 Secretary finds after reasonable notice and an opportunity for
21 hearing, that any pipeline facility is hazardous to life or prop-
22 erty, he shall, by order, require the person operating the fa-
23 cility to take necessary corrective action. Such corrective
24 action may include suspended or restricted use of the facility,
25 physical inspection, testing, repair, replacement, or other

1 action, as appropriate. The district courts of the United
2 States shall have jurisdiction, upon petition by the Attorney
3 General, to enforce orders issued under this subsection by
4 appropriate means.

5 (2) The Secretary may waive the requirements for
6 notice and hearing under this subsection and provide for ex-
7 pedient issuance of an order under this subsection in any
8 case in which he determines that the failure to do so would
9 result in the likelihood of serious harm to life or property.

10 INSPECTION AND MAINTENANCE

11 SEC. 211. (a) Each person who engages in the transpor-
12 tation of hazardous liquids or who owns or operates pipeline
13 facilities shall file with the Secretary or, where a certification
14 or an agreement pursuant to section 205 of this title is in
15 effect, with the State agency, a plan for inspection and main-
16 tenance of each facility used in that transportation and owned
17 or operated by that person, and any changes in that plan, in
18 accordance with regulations prescribed by the Secretary or
19 appropriate State agency. A plan required by this subsection
20 shall be practicable and designed to meet the need for pipe-
21 line safety.

22 (b) If the Secretary or appropriate State agency finds
23 that a plan filed under this section is inadequate to achieve
24 safe operation of pipeline facilities, the Secretary or appropri-
25 ate State agency shall, after notice and opportunity for a

1 hearing, require the plan to be revised. In determining the
2 adequacy of a plan filed under this section, the Secretary or
3 appropriate State agency shall consider—

- 4 (1) relevant available pipeline safety data;
- 5 (2) whether the plan is appropriate for the partic-
6 ular type of pipeline transportation;
- 7 (3) the reasonableness of the plan; and
- 8 (4) the extent to which such plan will contribute
9 to public safety.

10 POWERS AND DUTIES OF THE SECRETARY

11 SEC. 212. (a) GENERAL.—The Secretary is authorized,
12 to the extent necessary to carry out his responsibilities under
13 this title, to conduct investigations, make reports, issue sub-
14 penas, conduct hearings, require the production of relevant
15 documents, records, and property, take depositions, and con-
16 duct, directly or indirectly, research, testing, development,
17 demonstration, and training activities.

18 (b) RECORDS.—Each person who engages in the trans-
19 portation of hazardous liquids or who owns or operates pipe-
20 line facilities shall establish and maintain such records, make
21 such reports, and provide such information as the Secretary
22 may reasonably require, and shall submit such reports and
23 shall make such records and information available as the Sec-
24 retary may request, to enable him to determine whether such

1 person has acted or is acting in compliance with this title and
2 the standards or orders issued under this title.

3 (c) INSPECTION.—Officers, employees, or agents au-
4 thorized by the Secretary, upon presenting appropriate cre-
5 dentials to the person in charge, are authorized to enter
6 upon, inspect, and examine, at reasonable times and in a rea-
7 sonable manner, the records and properties of persons to the
8 extent such records and properties are relevant to determin-
9 ing whether such persons have acted or are acting in compli-
10 ance with this title and the standards or orders issued under
11 this title.

12 (d) PUBLIC AVAILABILITY OF ACCIDENT REPORTS.—
13 Hazardous liquid pipeline accident reports made by any offi-
14 cer, employee, or agent of the Department of Transportation
15 shall be available for use in any civil, criminal, or other judi-
16 cial proceeding arising out of such accident. Any such officer,
17 employee, or agent may be required to testify in such pro-
18 ceedings as to the facts developed in accident investigations.
19 Any hazardous liquid pipeline accident report shall be made
20 available to the public in a manner which need not identify
21 individuals. All reports on research projects, demonstration
22 projects, and other related activities shall be public informa-
23 tion.

24 (e) PROTECTION OF TRADE SECRETS.—All information
25 reported to or otherwise obtained by the Secretary or his

35

1 representative pursuant to subsection (a), (b), or (c), which
2 information contains or relates to a trade secret referred to in
3 section 1905 of title 18 of the United States Code shall be
4 considered confidential for the purpose of that section, except
5 that such information may be disclosed to other officers or
6 employees concerned with carrying out this title or when rel-
7 evant in any proceeding under this title. Nothing in this sec-
8 tion shall authorize the withholding of information by the
9 Secretary or any officer, employee, or agent under his con-
10 trol, from the duly authorized committees of the Congress.

11 ANNUAL REPORT

12 SEC. 213. (a) The Secretary shall prepare and submit to
13 the President for transmittal to the Congress on June 15 of
14 each year a comprehensive report on the administration of
15 this title for the preceding calendar year. Such report shall
16 include—

17 (1) a thorough compilation of the leak repairs, ac-
18 cidents, and casualties occurring in such year with a
19 statement of cause whenever investigated and deter-
20 mined by the National Transportation Safety Board;

21 (2) a list of Federal hazardous liquid pipeline
22 safety standards established or in effect in such year
23 with identification of standards newly established
24 during such year;

1 (3) a summary of the reasons for each waiver
2 granted under section 204(f) during such year;

3 (4) an evaluation of the degree of observance of
4 applicable safety standards for the transportation of
5 hazardous liquids and pipeline facilities including a list
6 of enforcement actions, and compromises of alleged
7 violations by location and company name;

8 (5) a summary of outstanding problems confront-
9 ing the administration of this title in order of priority;

10 (6) an analysis and evaluation of research activi-
11 ties, including the policy implications thereof, complet-
12 ed as a result of Government and private sponsorship
13 and technological progress for safety achieved during
14 such year;

15 (7) a list, with a brief statement of the issues, of
16 completed or pending judicial actions under the title;

17 (8) the extent to which technical information was
18 disseminated to the scientific community and consum-
19 er-oriented information was made available to the
20 public;

21 (9) a compilation of—

22 (A) certifications filed by State agencies
23 under section 205(a) which were in effect during
24 the preceding calendar year, and

1 (B) certifications filed under section 205(a)
2 which were rejected by the Secretary during the
3 preceding calendar year, together with a summary
4 of the reasons for such rejection; and
5 (10) a compilation of—

6 (A) agreements entered into with State agen-
7 cies under section 205(b) which were in effect
8 during the preceding calendar year, and

9 (B) agreements entered into under section
10 205(b) which were terminated by the Secretary
11 during the preceding calendar year, together with
12 a summary of the reasons for each such termina-
13 tion.

14 (b) The report required by subsection (a) shall contain
15 such recommendations for additional legislation as the Secre-
16 tary deems necessary to promote cooperation among the sev-
17 eral States in the improvement of hazardous liquid pipeline
18 safety programs.

19 (c) The Secretary is authorized to submit one annual
20 report in satisfaction of the report requirements of this sec-
21 tion and of section 13 under the Natural Gas Pipeline Safety
22 Act of 1968, as amended.

23 CITIZENS CIVIL ACTION

24 SEC. 214. (a) Except as provided in subsection (b), any
25 person may commence a civil action for mandatory or prohib-

1 itive injunctive relief, including interim equitable relief,
2 against any other person (including any State, municipality,
3 or other governmental entity to the extent permitted by the
4 eleventh amendment to the Constitution, and the United
5 States) who is alleged to be in violation of this title or of any
6 order or regulation issued under this title. The district courts
7 of the United States shall have jurisdiction over actions
8 brought under this section, without regard to the amount in
9 controversy or the citizenship of the parties.

10 (b) No civil action may be commenced under subsection
11 (a) with respect to any alleged violation of this title or any
12 order or regulation issued under this title—

13 (1) prior to the expiration of sixty days after the
14 plaintiff has given notice of such alleged violation to
15 the Secretary (or to the applicable State agency in the
16 case of a State which has been certified under section
17 205(a) and in which the violation is alleged to have oc-
18 curred), and to any person who is alleged to have com-
19 mitted such violation; or

20 (2) if the Secretary (or such State agency) has
21 commenced and is diligently pursuing administrative
22 proceedings or the Attorney General of the United
23 States (or the chief law enforcement officer of such
24 State) has commenced and is diligently pursuing judi-
25 cial proceedings with respect to such alleged violation.

1 Notice under this subsection shall be given in such manner as
2 the Secretary shall prescribe by regulation.

3 (c) In any action under subsection (a), the Secretary
4 (with the concurrence of the Attorney General) or the Attor-
5 ney General may intervene as a matter of right.

6 (d) Nothing in this section shall restrict any right which
7 any person (or class of persons) may have under any statute
8 or at common law to seek enforcement of this title or any
9 order or regulation under this title or to seek any other relief.

10 (e) In any action under this section the court may, in the
11 interest of justice, award the costs of suit, including reason-
12 able attorney's fees and reasonable expert witnesses fees, to
13 a prevailing plaintiff. Such court may, in the interest of jus-
14 tice, award such costs to a prevailing defendant whenever
15 such action is unreasonable, frivolous, or meritless. For pur-
16 poses of this subsection, a reasonable attorney's fee is a fee
17 (1) which is based upon (A) the actual time expended by an
18 attorney in providing advice and other legal services in con-
19 nection with representing a person in an action brought
20 under this section, and (B) such reasonable expenses as may
21 be incurred by the attorney in the provision of such services,
22 and (2) which is computed at the rate prevailing for the pro-
23 vision of similar services with respect to actions brought in
24 the court which is awarding such fee.

1 (f) For purposes of this section, a violation of any safety
2 standard or practice of any State shall be deemed to be a
3 violation of this title or of any order or regulation under this
4 title only to the extent that such standard or practice is not
5 more stringent than the comparable Federal safety standard.

6 CONFORMING AMENDMENTS

7 SEC. 215. (a) Section 112(c) of the Hazardous Materials
8 Transportation Act (49 U.S.C. 1811(c)) is amended by strik-
9 ing out "chapter 39 of title 18, United States Code" and
10 inserting in lieu thereof "the Hazardous Liquid Pipeline
11 Safety Act of 1979 (49 U.S.C. et seq.).

12 (b) Sections 831 through 835 of chapter 39 of title 18,
13 United States Code are repealed.

14 EFFECTIVE DATE

15 SEC. 216. The provisions of this title shall take effect on
16 the date of enactment.

17 SAVINGS PROVISIONS

18 SEC. 217. (a) All orders, determinations, rules, regula-
19 tions, permits, contracts, certificates, licenses, and privileges
20 which have been issued, made, granted, or allowed to become
21 effective under the provisions of chapter 39 of title 18,
22 United States Code, repealed by this title and which are in
23 effect at the time this title takes effect, shall continue in
24 effect as though issued, made, granted, or allowed to become
25 effective under the authority of this title, according to their

1 terms until modified, terminated, superseded, set aside, or
2 repealed by the Secretary, by any court of competent juris-
3 diction, or by operation of law.

4 (b) Suits, actions, or other proceedings pending upon the
5 date of enactment of this title shall not be affected by the
6 provisions of this title and shall be completed as if this title
7 had not been enacted, unless the Secretary makes a determi-
8 nation that the public safety otherwise require.

Mr. HOWARD. The principal body responsible for administering the Federal Government's safety program in the area of pipeline safety is the Materials Transportation Bureau's Office of Pipeline Safety Operations. It is situated within the Department of Transportation.

The pipeline transportation industry is a large one, and one that most likely will expand in the future. Consequently, all facets of it are of great importance. I am sure all will agree that safe operation of the industry is crucial to the well-being of our Nation's citizenry.

As the subcommittee begins its initial examinations of pipeline safety, I am certain that many questions will arise as to how the industry operates and as to what kind of safety record it has. The goal of these hearings will be to make certain that safety record is and will be the best possible one.

I now recognize the gentleman from Pennsylvania, the ranking minority member, Mr. Shuster.

Mr. SHUSTER. I thank our distinguished chairman.

Mr. Chairman, a little known but enormously significant fact is that over one-fourth of the total freight tonnage in the United States is transported by pipelines. By comparison, less than a fifth of our Nation's interstate freight ton-miles moves on highways, and an amount roughly comparable to the pipeline figure is transported by rail.

Nevertheless, pipeline transportation policy, particularly with regard to safety, has not been given proper emphasis in Congress. True, pipeline systems are regulated by the Natural Pipeline Safety Act, the Transportation of Explosives Act, and the Hazardous Materials Act. But pipelines have historically taken a back seat to the other modes, such as highways, rail, air and water, in the degree of interest and the investigation at the congressional level.

With this committee's statutory jurisdiction over all transportation, except railroads, and our request for referral of the Fuels Transportation Safety Amendments of 1979, we hope this will change.

Despite growing energy shortages, projections indicate a steadily increasing demand for energy over the next 15 years. For example, Trends and Choices, the widely respected 1977 DOT Transportation Report, forecast that ton-miles on crude oil trunklines will more than double by 1990, and ton-miles of petroleum products will increase substantially. This will place an additional strain on a pipeline system which includes many older pipelines which may not meet current Federal standards.

Alaskan North Slope gas and offshore petroleum production, resulting in higher pipeline movements, will necessitate a close Federal involvement to insure safety. The greatest investment in pipelines will probably occur in the first half of the next decade, so the policy formulated by this Congress will in large measure shape the safety of the future. This responsibility will not be taken lightly.

Next week, this subcommittee will continue hearings on the movement of hazardous materials in interstate commerce, and the two areas are clearly linked. I would like to join with the chairman in welcoming the witnesses here today. I am sure that your testi-

mony, along with the hearings next week, will be important factors in shaping our opinions on this very important subject.

Mr. HOWARD. Thank you.

If no other members wish to be recognized, we will proceed to our first witness. Our first witness is Dr. James Palmer, Administrator, Research and Special Programs Administration of the Department of Transportation.

Dr. Palmer, welcome to the subcommittee. If you will, for the record, identify the gentleman accompanying you.

We do have a copy of your testimony. Without objection, that will be made a part of the record at this time, and you may proceed as you wish.

[The following was received for the record:]

STATEMENT OF DR. JAMES D. PALMER, ADMINISTRATOR OF THE
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF
OF TRANSPORTATION, BEFORE THE HOUSE PUBLIC WORKS AND
TRANSPORTATION SUBCOMMITTEE ON SURFACE TRANSPORTATION

MAY 1, 1979

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear before your Subcommittee to discuss the Department of Transportation's (DOT) pipeline safety programs and, in particular, to express our strong support for House bill 2207. In addition to authorizing appropriations for DOT's pipeline programs for fiscal years 1980 and 1981, H.R. 2207 provides DOT with the needed ability to more effectively and efficiently carry out those programs.

Before discussing the benefits that would be realized from the enactment of H.R. 2207, I would like to highlight some of the important pipeline safety activities that the Department has undertaken during the last year.

Although the Department's pipeline safety functions continue to be carried out by the Materials Transportation Bureau (MTB) within the Research and Special Programs Administration (RSPA), the Bureau has recently completed an internal reorganization which will improve management of the pipeline safety and hazardous materials programs. This was accomplished by separating rulemaking activities from the implementation and enforcement responsibilities for these two programs. The realignment of functions was accomplished by restructuring the old Offices of Pipeline Safety Operations and Hazardous Materials Operations into four new offices. The new Offices of Pipeline Safety Regulation and Hazardous Materials Regulation are concerned with all rulemaking and waiver activities.

The new Office of Operations and Enforcement, in addition to compliance and enforcement, manages the pipeline State grant-in-aid program and monitors implementation of National Transportation Safety Board recommendations. The Office of Program Support consolidates all administrative, budget, research, and data functions in support of the other offices. At this time, there is also a fifth office which manages the Department's participation in the Alaska Natural Gas Transportation System. The staffing and resources committed to the activities of this Office will vary with the workload through the phases of design review and construction monitoring for the System. This Office will go out of existence approximately one year after completion of the Alaska Natural Gas Transportation System, following review of initial operations and assurance that all DOT safety requirements have been met.

In addition to the management improvements provided by the MTB reorganization, staffing of the pipeline safety program has also increased in the last year. In February 1978, only 37 of 54 authorized positions were staffed. Aside from the positions authorized in FY 79 for the Alaska Gas System, 48 of 56 authorized positions are now staffed. The MTB has not moved as quickly on the Alaska Gas positions because of delays associated with that project. Also, a permanent Director of the MTB and an Associate Director for Pipeline Safety Regulation have been installed. The Department looks forward to even more responsive and expeditious personnel actions as a result of the new Civil Service Reform Act.

Over this last year the Department has also made a significant progress in developing regulations to assure the safe construction and operation of LNG facilities.

The MTB has now completed the review of over 4,000 pages of comments submitted in response to its April, 1977 advance notice of proposed rulemaking

pertaining to new Federal safety standards for LNG facilities. The advance notice proposed more stringent LNG safety standards providing for: (1) protection of persons and property near an LNG facility from thermal radiation (heat) caused by ignition of a major spill of LNG, (2) protection of persons and property near an LNG facility from dispersion and delayed ignition of a natural gas cloud arising from a major spill on LNG, and (3) reduction of the potential of a catastrophic spill of LNG resulting from natural phenomena such as earthquakes, tornadoes, and flooding.

The MTB has decided to treat the subject matter of the original advance notice in two rulemaking actions. The first, a notice of proposed rulemaking published in the February 8, 1979 Federal Register, covers the design (including site selection) and construction of new facilities and existing facilities that are replaced, relocated, or significantly altered. That notice results from the Department's efforts to regulate for the safety of LNG facilities in a manner which is not so costly as to unnecessarily rule out LNG as a national energy source, but which will provide adequate safety assurance for the public.

The second notice of proposed rulemaking will pertain to standards for the operation and maintenance of LNG facilities. It is expected that this second notice will be issued by the end of this month. This notice of proposed rulemaking will address operational and transfer procedures, site security, emergency procedures, employee training requirements, and various maintenance procedures.

The MTB expects to issue the final rule on design and construction of LNG facilities in September and the final rule on LNG facility operations in December.

Concurrent with the MTB's LNG regulatory activities, the United States Coast Guard has been developing regulations for storage and handling of hazardous materials, including LNG, at ports. On August 3, 1978, the Coast Guard issued an advance notice of proposed rulemaking inviting public participation at the earliest stages in the development of regulations to provide standards for safety, security, and environmental protection in the transportation transfer, handling, and storage of liquefied natural gas at waterfront facilities. The Coast Guard is analyzing the comments received as a result of this advance notice and is drafting a notice of proposed rulemaking. The Coast Guard expects that the proposal will be ready for publication in July of this year, or shortly thereafter.

Because of overlapping safety jurisdiction for waterfront LNG facilities, the MTB and the Coast Guard carry out their respective regulatory activities on this subject under the terms of a Memorandum of Understanding executed by the agencies in February, 1978. Cooperation between these two agencies on this important safety matter has been excellent.

In the liquid pipeline area, the MTB has several rulemaking proceedings in process aimed at reducing the potential for accidents involving the transportation of what are viewed as highly volatile liquids (HVL). Examples of such liquids are liquefied petroleum gas and anhydrous ammonia. These liquids, when released into the atmosphere, form a gas cloud which is a markedly different and more insidious hazard than those presented by spills of less volatile liquids. The gas cloud will move downhill or downwind depending on the terrain, type of liquid involved, and atmospheric conditions. Because it is generally heavier than air, the gas cloud will tend to hug the ground as it continues to move. If a

source of ignition is encountered, a petroleum gas cloud will burn or explode. If anhydrous ammonia is spilled, the greatest danger is that of toxicity or asphyxiation. With either commodity, the hazards are severe. The record of liquid pipeline accidents through 1976 shows that although HVL accidents, primarily involving LPG, comprise only 10 percent of the liquid pipeline accidents, those accidents caused 66 percent of the deaths, 50 percent of the injuries and 30 percent of the property damage.

The HVL rulemakings that were initiated in 1978 propose safety plans for normal operations and emergencies and standards designed to reduce spill size, and pipeline failure rates. In addition, the MTB recently issued an advance notice of proposed rulemaking soliciting public comments on the need for additional and more stringent requirements for design, construction, operation, and maintenance of Highly Volatile Liquid pipelines.

Equally important to the DOT pipeline regulatory program is the continued improvement in the cooperative Federal/State relationship on pipeline safety. The gas pipeline safety program in the United States is dependent, in large part, upon the representatives of State offices who carry out the compliance and enforcement responsibilities for intrastate pipeline. Without the contribution from State representatives, the national program (as defined by the National Gas Pipeline Safety Act of 1968) would be in relatively poor shape. When it is considered that State agencies inspect over 3,000 gas operators annually, and accrue more than 15,000 individual inspections, it can be seen that they are the bulk of the enforcement effort. Their performance has been satisfactory in every respect. This is not to say that there is not room for improvement, because in every participatory program consisting of a network of geographically

dispersed units, there is always room for improvement. We at the Federal level are working on specific aspects of the monitoring program. We are particularly interested in having State representatives move forward of their own volition on gas pipeline safety issues. Because of the peculiarities of local and State geographical, demographical and political considerations, this approach is in many respects the only sensible way to achieve greater pipeline safety.

Over the last year, there has also been substantial progress in the Department's pipeline safety enforcement activities. One major reason for this progress is that RSPA is now providing two staff attorneys nearly full time to evaluate and prosecute enforcement cases which are investigated by MTB's pipeline safety enforcement division through its five regional offices. In addition, a joint effort between the attorneys and the regional staff was initiated in 1978 to coordinate the development of higher "quality" cases. This has reduced the risk of faulty evidence becoming the basis of an enforcement action.

Another major change in our enforcement program has been the granting of informal conferences to the operator where he requests an opportunity to present a more thorough defense than what can be accomplished by written correspondence. Some indirect benefits to the program are already apparent even though the informal conference system is still in its infancy. These include:

- ° Improved operator awareness of the pipeline safety program with the expectation that regulations will be enforced;
- ° Operator assurance that they are being treated fairly and with due process of law; and
- ° Enhanced negotiating posture of MTB through discovery of weaknesses in the case permits us to dismiss inappropriate

allegations and rely on sound evidence.

Notwithstanding the advances we have made in our compliance efforts, there is still much room for improvements. My comments on H. R. 2207 will address this issue.

The overall goal of the DOT's pipeline safety program, expressed in the most general terms, is to maintain and, where reasonable, enhance the public safety in the transportation of hazardous commodities by pipeline. DOT sees a continued growth in such transportation. Associated with that growth will surely be an increased risk to the public safety. A policy devoted to the "status quo" in public safety is not commensurate with this increasing risk.

In exercising its pipeline safety regulatory authority, MTB must, and does, strive for the highest levels of safety while simultaneously considering the many important issues involved with cost versus benefit, energy, and other impacts of the economy, the environment, and the Nation in general.

Our identification of major pipeline safety programs is designed to focus MTB's management attention and channel MTB's energies and resources to those areas that deserve priority treatment in terms of overall safety goals in pipeline transportation. Priorities among these major safety program areas are determined by weighing two fundamental considerations:

- ° The current likelihood, frequency, and magnitude of accidents occurring in the subject areas; and
- ° The potential a regulatory action has for application to a similar problem in other program areas.

For the Subcommittee's information, I have attached, to my prepared statement, a complete current ordering among the major safety programs for pipeline

transportation that have been identified for MTB action. This listing will give you some idea of the hefty schedule of activities that MTB's pipeline staff envisions for itself. Also attached to my statement are several fact sheets on resource and organizational matters pertinent to DOT's pipeline safety programs.

I would like to now turn my attention to House bill 2207. Rather than providing the Subcommittee with detailed discussion on H.R. 2207's provisions at this time, I will speak to the need for this legislation.

Based on the good Federal/State relationship, the cooperative interplay between DOT and industry, and our active regulatory, enforcement, and R&D programs, it is reasonable to conclude that DOT is experiencing a basic success in its pipeline safety programs. However, notwithstanding this basic success under existing law, a decade of experience with the Federal Government's pipeline safety responsibilities, has shown the need for improved pipeline safety legislation.

The Natural Gas Pipeline Safety Act of 1968 and the Transportation of Explosives Act in the Federal criminal code are the primary authorities for the Department's current gas and hazardous liquid pipeline safety programs. We believe, after a decade of experience, that these underlying authorities do not provide all the tools necessary for a comprehensive and effective Federal pipeline safety program. It is for this reason that we support House bill 2207, which will substantially improve the ability of the Department to progress toward the goal of a fully effective and comprehensive pipeline safety program. The bill contains two titles. Title I amends the Natural Gas Pipeline Safety Act in a manner that would permit a more effective realization of the original purposes of the Act. Title II proposes new and comprehensive legislation for the

safety regulation of hazardous liquid pipeline transportation.

Title I has two major purposes. First, it clarifies the Department's safety role during the preconstruction and construction phases of a gas pipeline facility.

To date, it has not been the practice of the Department to pass on whether pre-operational facility safety standards issued under the NGPSA have been complied with before a facility becomes operational.

In recent years however, the environmental and safety concerns associated with the location, construction (including extension and replacement), and operation of pipeline facilities, especially those used or intended for use in the import and export of LNG have led the Department to conclude that it should be active in assuring the safety of a pipeline facility before it becomes operational. To effectively carry out such a role, the Department believes that the NGPSA should expressly provide the necessary authority. Title I would do just that by giving the Secretary preconstruction approval authority for major gas pipeline facilities and by making clear that the Secretary may use his enforcement powers to achieve compliance with applicable standards before a facility goes into operation.

And second, Title I would provide the Secretary with better enforcement powers. These would include subpoena authority, compliance order authority, availability of criminal sanctions, and authorization to seek collection of relatively small civil penalties in Federal Magistrate courts. Taken together, these new tools will provide the boost to the Department's pipeline safety enforcement program that is needed if that program is to be fully effective.

Other than the authorization provision, the remaining amendments in Title I of H. R. 2207 are primarily housekeeping in nature and are desirable because of the greater clarity and conciseness that they would

bring to the NGPSA if enacted.

As I previously stated, Title II of our bill proposes new legislation as authority for the Department's hazardous liquid pipeline safety program. The Department currently regulates liquid pipeline transportation under the Transportation of Explosives Act (the Explosives Act). Unlike the NGPSA for gas pipelines, the Explosives Act was not written with pipeline safety in mind and in fact does not even use the word pipeline in its provisions, and applies to pipelines only because of its general applicability to hazardous materials transportation. We believe that necessary and appropriate improvement of the Secretary's liquid pipeline safety programs requires the enactment of legislation specifically pertaining to such programs.

Notwithstanding the deficiencies of the Explosives Act, I would say that the safety record of liquid pipelines has been good - at least on the interstate lines for which we have data. Pipelines admittedly do not compare with highway transportation, for example, as a national safety problem. Nevertheless, at the time when patterns of energy use are changing and evolving, it is essential that we have the most effective safety program possible.

Like Title I of H. R. 2207 Title II was prepared after reviewing our experience during the last decade. We reexamined the patchwork of existing legislative mandates as to what we should and should not be doing. We decided to seek clear, express safety authority over storage facilities of hazardous liquids and over intrastate liquid pipelines. Our authority in these areas today is somewhere between nonexistent and highly ambiguous. This is a deficiency in today's law, and we are not satisfied with where that leaves us, while we are being called upon to ensure that the public is adequately protected.

A look at liquid pipelines' safety record shows both notable pluses and minuses.

In 1977, 179,600 miles of interstate pipeline transported upwards of 523,00 ton-miles of liquid petroleum products. In terms of national fatality and injury rates, interstate transportation by liquid pipelines is a relatively safe endeavor. We know that during the last eight years (1971-1970), interstate liquid pipelines have experienced an average of five deaths and ten injuries each year. This is an admirable safety record, particularly when compared to other modes. However, we do become concerned when we look further at the statistics and find that highly volatile liquids (HVL) in pipelines, such as LPG, have been involved in only 10% of the accidents but account for 66% of the fatalities, 50% of the injuries, and 30% of the property damage overall.

We have no authoritative source of such data on intrastate liquid pipelines. We estimate there are between 70,000 and 80,000 miles of intrastate hazardous liquid pipelines that are currently not subject to Federal safety standards. Most operate at high pressures and share numerous other operating characteristics with interstate pipelines. Also, we believe they are in general about the same age, and have been built to the same basic industry standards, as the interstate lines. Thus, it is reasonable to expect that the same pipeline safety problems to which the Federal regulations for interstate liquid pipelines are directed also occur on intrastate pipelines.

The largest proportion of the intrastate liquid pipelines are in the Southwest and West, particularly in Louisiana, Texas, Oklahoma, and California, but none of these States exercises safety jurisdiction over the lines. This absence of State regulation is surprising since, unlike interstate lines which tend to be in open country, a large number of

intrastate pipelines pass through population areas. As an example, many intrastate lines exist in Los Angeles County and downtown Los Angeles. With the growing tendency of States and local governments to assert safety regulatory authority over all sorts of hazardous material transportation activities, this may well change in the near future.

I would like to inform the Subcommittee of a few serious accidents which have occurred on these lines.

In 1976, a pipeline transporting gasoline in Los Angeles was struck by trenching equipment and ruptured. The vapors and liquid were ignited. An ensuing fireball killed 9 people, injured 14 others, and destroyed several commercial buildings.

A crude oil line cracked at Abilene, in 1974. Six workmen were overcome and killed by hydrogen sulfide fumes. They were attempting to repair a leaking weld where a repaired sleeve for corrosion leaks had been installed.

In a 1972 accident at Hearne, Texas, vapors sprayed from a ruptured 8-inch crude oil line. The vapors ignited, and fire killed 1 person, injured 2 others, and destroyed a house.

Title II of H. R. 2207 would provide for uniform Federal standards for those and all intrastate liquid pipelines and allow the individual States the option of taking on the task of monitoring compliance with these standards. The General Accounting Office (GAO) has on at least two occasions recommended that DOT regulate the safety of all hazardous materials pipelines which are not currently regulated. In a comprehensive report issued July 31, 1978, titled "Liquefied Energy Gases Safety" (EMD-78-28), GAO recommended that DOT "extend its regulations to cover intrastate LPG and naphtha pipelines, including connecting import terminals and storage complexes, affecting intrastate commerce." A similar recommendation

was included in an earlier report, "Pipeline Safety - Need for a Stronger Federal Effort," issued April 26, 1978 (CED-78-99). In this report, GAO noted that several serious accidents have occurred in recent years involving intrastate liquid pipelines and gas gathering lines in rural areas, and recommended that DOT "issue safety regulations covering all gas and hazardous liquid pipelines which pose potential hazards to the public safety."

While time does not permit a listing of the National Transportation Safety Board recommendations calling for new or more stringent standards for liquid pipelines, I will be happy to submit them for the record.

During the past decade, there has been tremendous growth in both the chemical and petroleum industries. There has been a corresponding growth in the quantity of shipments and, thus, in the exposure of the public to risks. As the nation's pipeline systems become older, they become more susceptible to fatigue and failure. Proper maintenance and operation become more critical. It is important that the Federal government have adequate enforcement tools to ensure compliance with safety standards on existing pipelines and on those under construction. Under the Explosives Act, liquid pipelines are subject to only criminal sanctions for violations of Federal safety standards.

Under the Explosives Act, all State and local efforts to impose safety requirements on interstate liquid pipelines have been preempted and not a single Federal enforcement action has gotten any further than referral to a U.S. attorney.

In developing Title II, we believed the need for better enforcement tools to be of primary importance. Therefore we proposed to have civil penalties available to cover liquid pipelines. We also asked for authority

to issue compliance orders when monetary penalties may not be appropriate or fully effective in achieving compliance. Largely because of their vulnerability to malevolent attacks, we asked for criminal sanctions for the willful or attempted destruction of interstate pipelines or related facilities.

We believe the proposed legislation will let us do our job better. It will give us tools to promulgate and enforce regulations without inefficiency. The scheme of Title II is a logical one and will help us apply our energies and resources more effectively.

Mr. Chairman, I've tried to show you today how hard we have been working to improve our pipeline safety programs. While I believe that enactment of House bill 2207 will substantially enhance our capability in that regard, I want to assure you of our commitment, whether or not that bill becomes law, to the continued improvement of those programs.

Lastly, I can assure you that the Department is ready to provide any assistance that you or your staff might desire during your consideration of pipeline safety legislation in the days ahead.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

ATTACHMENTS TO STATEMENT BY DR. JAMES D. PALMER,
ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS
ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE
HOUSE PUBLIC WORKS AND TRANSPORTATION SUBCOMMITTEE ON SURFACE
TRANSPORTATION

MAY 1, 1979.

PRIORITY PROGRAM AREA: Natural Gas Pipeline Safety

Transportation and Safety Profile

In 1977, 935,000 miles of pipelines transported in excess of 14 trillion cubic feet of gas — natural and synthetic gas, propane, and other petroleum gases — in the United States. Despite the extent of the gas pipeline system, fatalities resulting from gas-related accidents averaged only 36 annually over the last eight years.

Although the fatality rate has remained relatively constant, the accident rate has steadily increased over eight years as gas pipeline transportation has grown. This trend will almost certainly continue — pipeline mileage is expected to reach 972,000 by 1980 — and the potential for deaths, injuries, and property damage resulting from pipeline accidents will continue to be considerable.

Rulemaking Schedule

The Rulemaking schedule to help achieve MTB's regulatory development goal is as follows:

Plastic Pipe Safety

Docket PS-54:

Rules of joining procedures, personnel training, or field tests to ensure the integrity of plastic pipe joints (Part 192). - FINAL RULE, March 1979.

Pipeline Welding/Other Safety Concerns

Project 181-8:

Proposed rule for revising requirements for retention of radiographic films (Part 192). - NPRM, November 1979.

- Project 210-9: Locate longitudinal weld seams in liquid pipe in upper half of pipe. - NPRM, October 1979.
- Project 218-10: Operators would be required to participate in a program to prevent excavation damage to underground gas and liquid pipelines. - NPRM, May 1979.
- Project 141-6: Proposed rule for revising the allowable temperature heat treatment of hard spots to reflect improved steel technology (Part 192). - NPRM, July 1979.
- Project 203-8: Proposed rules for qualifying the use of certain pipeline components other than pipe (Part 192). - NPRM, October 1979.
- Docket PS-48: Final rule on construction requirements for offsetting of longitudinal weld seams (Part 195). - FINAL RULE, December 1978.
- Project 211-9: Proposed rule to require operators to have procedures to protect facilities affected by blasting (Part 192). - NPRM, November 1979.
- Project 212-9: Gather information with respect to requirement for operators to monitor maps and records to identify the location, size and operating pressure of all pipeline (Part 192). - ANPRM, July 1979.
- Project 213-9: Proposed rule to require operators to identify a pipeline by pressure monitors or other means before performing hot taps (Part 192). - NPRM, September 1979.
- Project 188-8: Gather information regarding requirement for procedures and instrumentation for use in monitoring gas odorants (Part 192). - NPRM, January 1979.
- Project 180-8: Proposed rule to amend leak survey practices (Part 192). - NPRM, August 1979.

Project 215-9:

Gather information regarding adequacy of existing standards with regard to safety problems concerning interior piping (Part 192). - ANPRM, December 1979.

Project 214-9:

Proposed rule to require monitoring equipment for systems served by a simple district pressure regulating station (Part 192). - NPRM, May 1979.

Research and Development

MTB has the following research efforts planned:

Development of Fracture Mechanics Standards for Pipeline Girth Welds:

This study will provide an alternative method for assuring weld integrity.

Failure Testing and Analysis:

This research effort provides specialized analysis to alternative causes of pipeline component failures.

Offshore Pipeline Technology:

This study is designed to assess special requirements of pipelines constructed offshore; results to be used in development of offshore pipeline regulations.

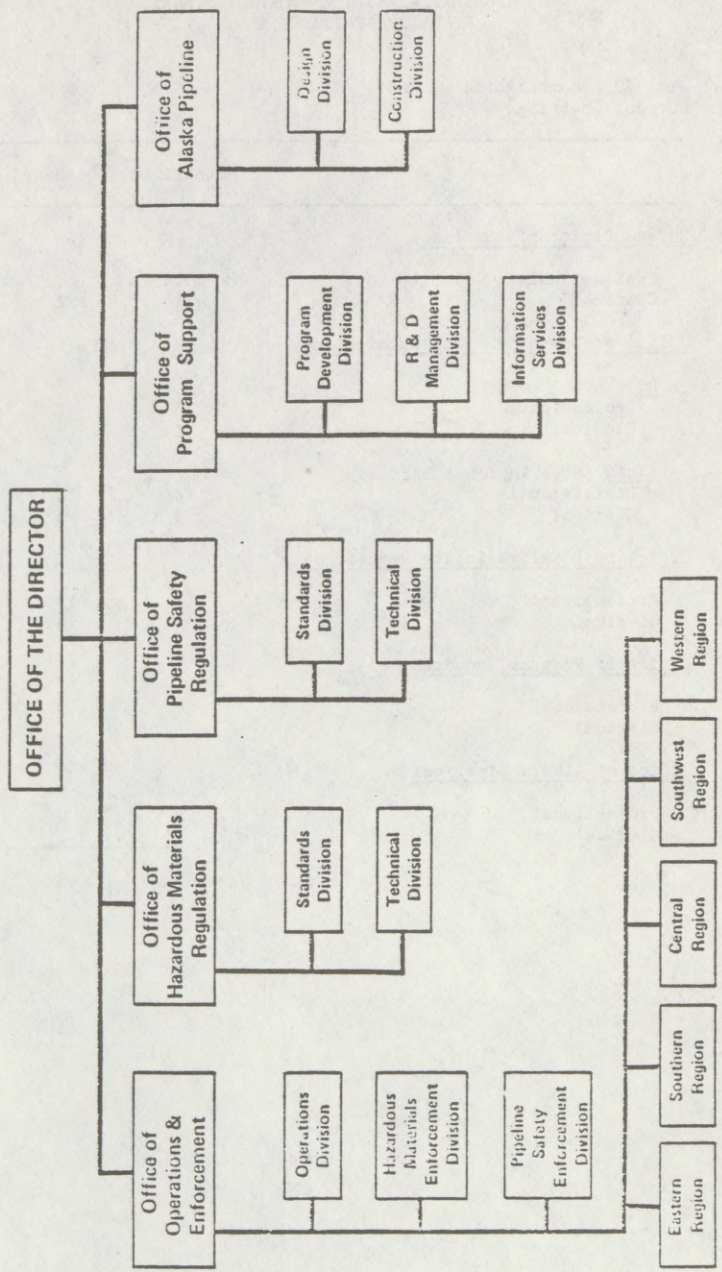
Factors affecting the Safety of Arctic Pipelines:

The research will develop means to identify and solve special problems peculiar to pipelines built in arctic environments; results to be used in development of arctic pipeline regulations.

Training and Education:

MTB will continue to train Federal, State, and industry personnel at courses offered by the Transportation Safety Institute--Safety Evaluation of Gas Pipeline Systems, Gas Pipeline Failure Investigation, Evaluation of Gas Pipeline Corrosion Control Systems, and Joining of Pipeline Materials. In addition, two-day industry seminars, conducted in cooperation with State agencies and directed toward the small industry operators, provide an overview of the safety requirements for gas pipeline systems.

MATERIALS TRANSPORTATION BUREAU



MATERIALS TRANSPORTATION BUREAU
PIPELINE PERSONNEL AS OF 4/27/79

FY 1979 Authorization 63
Current Staffing 48

	Authorized	On Board	Vacancies
<u>Bureau Director's Office</u>			
Professional	2	1	1
Clerical	1	1	0
<u>Office of Operations and Enforcement</u>			
<u>HQ</u>			
Professional	6	4	2
Clerical	1	1	0
<u>Field (Five Regional Offices)</u>			
Professional	16	14	2
Clerical	5	5	0
<u>Office of Pipeline Safety Regulation</u>			
Professional	14	12	2
Clerical	4	3	1
<u>Office of Program Support</u>			
Professional	6	5	1
Clerical	1	1	0
<u>Office of Alaska Pipelines</u>			
Professional	5	0	5
Clerical	2	1	1
Total	63	48	15

MATERIALS TRANSPORTATION BUREAU
FY 80 BUDGET SUMMARY

<u>Operations</u>	1979		1980		Differences	
	<u>Positions</u>	<u>Amounts</u>	<u>Positions</u>	<u>Amounts</u>	<u>Positions</u>	<u>Amounts</u>
Hazardous Materials	80*	3,109	80*	3,361	0	+252
Pipeline Safety	63	3,103	63	3,571	0	+468
	143*	6,212	143*	6,932		720
<u>Research & Development</u>						
Hazardous Materials		525		990		+ 465
Pipeline Safety		350		635		+ 285
		875		1,625		750
Grants-in-Aid for Pipeline Safety		2,820		2,820		0
TOTAL		\$9,907		\$11,377		\$1,470

* Flva are assigned to other organizations within the RSPA (three to DCC and two elsewhere).

TESTIMONY OF DR. JAMES D. PALMER, ADMINISTRATOR OF
THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY
LEON D. SANTMAN, DIRECTOR, MATERIALS TRANSPORTATION
BUREAU

Dr. PALMER. With me is Leon Santman, who is Director of the Materials Transportation Bureau, which has the responsibility for implementation of the legislation that we are proposing today.

Since my formal statement has been received for the record, I will proceed to provide you, I think, with some information relative to the general situation in pipelines in the United States, and then outline the authorities that DOT currently has to regulate pipelines, indicate what kind of authority we have to impose penalties, and then provide some kind of insight into what we feel the bill, H.R. 2207, will do in the area of pipeline safety.

First of all, in the United States we separate pipelines into two different categories. The first category is those that are regulated through the Natural Gas Pipeline Safety Act of 1968. That includes natural gas in all of its forms, with liquified natural gas as part of the natural gas pipeline network. In that system we classify three types of pipelines. There are intrastate gathering lines, of which there are some 73,000 miles. There are interstate transmission lines, of which there are about 250,000 miles; and there are intrastate distribution lines, of which there are about 675,000 miles.

In the liquid area we regulate pipelines under the Transportation of Explosives Act of 1908 as amended in subsequent years. Under that authority we regulate crude oil.

Intrastate there are some 30,000 miles; interstate crude oil pipelines, some 40,000 miles. Transmission lines in crude oil are about 20,000 miles. Intrastate and interstate about 65,000 miles. Refined oil, intrastate pipelines and transmission systems are about 12,000 miles. Interstate about 75,000 miles.

In the liquid petroleum gas area there is about 30,000 miles of interstate transmission lines; and anhydrous ammonia, and other highly volatile liquids, consist of about 3,000 miles of interstate line.

DOT has authority to regulate all interstate pipelines, some of the intrastate pipelines, all distribution lines, and some of the gathering lines under these various acts, the acts under which we function in the pipeline area, these are the Natural Gas Pipeline Safety Act of 1968, the Transportation of Explosives Act, title 18, the Hazardous Materials Transportation Act which gets to certain classes of pipelines in which the parent company is not an interstate carrier, the Mineral Leasing Act in which we provide guidance for pipeline safety on Federal lands, and the Deepwater Ports Act, which has a provision for offshore pipelines.

As we regulate each of the areas relative to safety, we promulgate rules, including rules on operations and maintenance. With respect to LNG we are proposing rules relative to siting and pre-construction characteristics. Under the various acts we have certain types of penalties that we might impose for violation of safety as determined through inspection, or reports of instances of leaks, loss of property, or loss of life.

In the natural gas area, we have both civil and criminal penalty options available to us. In the liquid area we have only criminal sanctions available. In the Hazardous Materials Transportation Act, once again, both criminal and civil, and in the Mineral Lease Act we have no penalty authority at all, simply recommending to the owner on Federal lands to come up to a level of standard relative to safety.

It is our judgment that these laws provide DOT with broad authority to establish safety regulations, provide for record keeping, and for the assessment of penalties.

What we feel that we really need in addition to the laws as they are currently compiled is to clarify these laws and put them in one code. Right now, as I indicated, there are some five sources which we must look at to regulate pipelines. This is probably a little more complex than is necessary in the sense that we could bring these together under one act. If we had this clarification under a single bill, we would also suggest that civil penalties in the area of liquids would be much more effective in enforcing safety than the criminal penalties alone.

At the present time we are able to assess civil and criminal penalties under the Natural Gas Pipeline Safety Act, and here we would suggest to you that in addition to the civil penalties in the case of small firms, involving master meters or mobile home distribution, we should have authority to go to a Federal Magistrate Court, rather than a Federal District Court. The interest of the Federal district court in collecting fines up to \$1,500 is not very great. It seems like a modest sum.

On the other hand, as an economic problem for small operators, that amount can be a very large factor in their own situation.

We would also like compliance authority in the civil area, and that would provide us with the opportunity to work with individuals or municipalities, or other political subdivisions to attempt to bring their system up to compliance with the safety regulations, instead of fining them and to provide them guidance and assistance in any technical area, and to provide them with the opportunity to tap into other Federal programs run by HUD and EDA, to upgrade their systems.

We would like subpoena authority in the case of accidents, so that we might trace through the cause—not for the purpose of establishing the cause—but rather to find out what the problem was. For example, if a pipeline is aging, it has fatigued—pipelines move when they are under high pressure—and if this movement causes fatiguing, if there is a rupture or a leakage that occurs of rather large proportions; frequently we are not able to get sections of the pipeline to examine the condition of that pipe. This is particularly important if the pipeline is aged, or the welds are having a problem, or there is corrosion. So we might approach the owner and say, you probably will have a difficulty later on and you need to look at this for possible replacement and upgrading.

We would like this both in liquids and the gas area, and this is what we propose in our H.R. 2207.

Finally, the DOT lacks clear authority over storage facilities of hazardous liquids that are associated with transportation, and in

the area of intrastate liquid pipelines, as these relate to transportation systems.

As in the case of our current gas pipelines, we would propose that title II of H.R. 2207 include an exemption from regulatory jurisdiction of liquid gathering lines in rural areas. We would propose that this same exclusion problem be proposed in the area of liquids.

Mr. Chairman, we have before us a bill that we feel merits your attention, H.R. 2207, which would bring both liquids and gas together under one act. It would provide both the operator and the transmission company with a clear statement as to the authority and the responsibility for safety in the transmission of products in pipelines, and as Representative Shuster noted, is a major factor in the transmission of commodities in this country.

With that, I would be pleased to respond to questions.

Mr. HOWARD. Thank you.

Before we get to questions, we would like to recognize the fact that we do have a member of our full committee who is a new member. We are happy that he is a member of the Subcommittee on Surface Transportation.

The only concern that we have in the other 49 States is that it gives the great State of California seven members on the full committee, including the full committee chairman, and two subcommittee chairmen.

Since the new member is a member of the minority, I am happy to recognize our ranking minority member, Mr. Shuster, to introduce him.

Mr. SHUSTER. Thank you.

It is indeed a great pleasure for me to have the opportunity to introduce William Royer, a new member of this committee. He is from Redwood City, Calif. He was elected in the special election to fill the seat previously held by the late Leo Ryan. By profession he is a realtor. By conviction he is a Republican, and I can tell you, Bill, that if you have to be in the minority, this is, in my view, the best committee in the Congress to serve on, because it is a bipartisan committee, a committee where, while we have our differences and our battles, they very seldom are along pure partisan lines. Rather, they are along geographical lines. It is a great committee to serve on, and it gives me special pleasure to introduce you.

Mr. ROYER. Thank you.

I am very pleased to be part of this committee. In San Mateo County I had the opportunity to serve on the metropolitan transportation committee, and I am delighted to be on board, and look forward to working with you.

Mr. HOWARD. Are you from the area where they are using that unique approach of ticketing hitchhikers, and car-pooling provisions in California?

Mr. ROYER. We have car pooling, but I do not know about the other one that you were talking about.

Mr. HOWARD. That is a new thing being tried. We are happy to have you with the subcommittee and, as Mr. Shuster says, it has been a pleasure to be on this committee, which has been a cohesive committee, in the 15 years I have been here. This is so much so that this committee has not lost a bill on the floor in 30 years.

Dr. Palmer, I do have one question dealing with, first of all, just the funding that is requested in this bill, and some of the answers that you might be able to provide for us. So it is a rather long question. Perhaps Mr. Royer can hand you a copy of that, and you may look it over, and give us brief answers, if you would.

In H.R. 2207, DOT has requested \$4,206,000 in fiscal year 1980 to carry out the provisions of the Natural Gas Pipeline Safety Act and the provisions of the proposed Hazardous Liquid Pipeline Safety Act.

One, how much of this funding would be used to carry out the provisions of the Natural Gas Pipeline Safety Act?

Two, how much would be used to carry out the provisions of the Hazardous Liquid Pipeline Safety Act?

Three, how many new positions are reflected in this authorization? Field positions? Inspections?

Four, what level of funding for fiscal year 1980 was recommended to carry out the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act by each of the following: (a) Office of Pipeline Safety Operations; (b) Materials Transportation Bureau; (c) Research and Special Programs Administration; (d) Department of Transportation; and (e) Office of Management and Budget.

If you do not have the answers now, we would appreciate it if you could supply them for the record.

Dr. PALMER. I think if you bear with me I can track through and give you most of the responses, and then provide you with the accurate figures for the record.

First of all, the funding to carry out the provisions of the Natural Gas Pipeline Safety Act amounts to about 90 percent of the total amount requested. We have estimated that to carry out the hazardous liquids area would require somewhere between \$250 and \$500,000 in fiscal year 1980. This is because it would be a program in which we are already funding the regulation area, and would simply add from five to seven individuals to carry out the enforcement area. That, I think, would take care of the first two questions.

As to the field positions and inspections, we would anticipate five to seven positions. Probably two of those would be in the field for inspections. We would hope to initiate discussions with the States to increase their proportion to cover the liquid lines as well as the gaslines, because we feel that is really the more appropriate way to handle it.

If you think of the manpower required from the Federal level to inspect all pipelines, and the burden that would be at the Federal level, we think the grant program on the gas side really features more effective use of both field and State resources. We pay approximately one-half of the total cost of the gas pipeline safety inspections to the States. The State provides the other half. Through that they carry out the inspections of all intrastate gas pipelines.

We would like to study the situation in the liquid area and determine just what kind of program would be appropriate. Compared to gas, it takes in, obviously, much fewer miles of pipeline, and also covers only 20-some-odd States in which liquid lines travel.

With regard to the level of recommended funding for fiscal 1980—essentially the answer for (a) through (e) is that the recommendations made by the Office of Pipeline Safety have been carried forward in all of the departments of DOT, and finally through OMB. They have essentially agreed to our level of funding as requested for fiscal year 1980—\$4,206,000 for carrying out the Federal pipeline programs and \$2,820,000 for the gas pipeline grant-in-aid program.

Mr. HOWARD. Thank you.

In your testimony you did state the highly volatile liquids in pipelines, such as liquid petroleum gas, have been involved in only 10 percent of the accidents but yet have accounted for 66 percent of the fatalities, and half of the injuries, and 30 percent of the property damage overall. What safety laws cover the transportation of liquid petroleum gas and other highly volatile liquids?

Dr. PALMER. The law that covers this is the Transportation of Explosives Act, Title 18, United States Code. Under that, DOT has the authority to prescribe safety regulations for operation, and maintenance, of these LPG lines. We do that by establishing rules and regulations.

However, in the enforcement area, we have only criminal penalty authority under the Transportation of Explosives Act.

Mr. HOWARD. Do you investigate these, or does the National Transportation Safety Board, or do both?

Dr. PALMER. If there is an accident, it is the responsibility of the NTSB to conduct the investigation. We participate with them by providing them our regional experts to be at their beck and call to analyze the technical aspects. They determine the probable cause of the accident and carry forward recommendations to us that our rules and regulations are adequate, inadequate, modified, should be looked at, and we respond to these recommendations, I think currently, in a very timely fashion, and most of them we feel are needed, and carry out these recommendations through rules and regulations.

Mr. HOWARD. How about the cause, the major cause of these accidents? Is this the kind of thing where perhaps the regulations are not complete enough, or they are not followed as they should be, or is it human error, or what?

Dr. PALMER. As we have reviewed the situation, it appears to be excavation. That is, a pipeline that has been constructed properly, and meets all of the safety standards of DOT and the site requirements, if any, by the States, and then a highway changes, a subdivision goes in—

Mr. HOWARD. I am sorry I asked the question.

Dr. PALMER. A bulldozer nicks the pipeline. It gets covered up without being repaired. It comes under pressure. The wall is weakened, and it escapes.

Mr. HOWARD. There is no way to check those things while they are underground? Do you have to go there and check all of the pipeline itself? I guess there is no electronics capable of being able to get a warning signal that one of these is broken, or leaking?

Dr. PALMER. What would be useful, by the States, would be an inspection when it occurs at—

Mr. HOWARD. That would be by the States?

Dr. PALMER. Yes; that is essentially where the responsibility would lie. Several States have implemented this kind of legislation, Michigan being one, based on a model piece of legislation. We are considering States doing this in their own programs.

Mr. HOWARD. Most of what the public hears about, and there has been an increase in recent years, are the accidents involving dangerous materials, where some of these chemicals get out. That happens with railroad accidents and disasters. Is there any such history with anything that goes through the pipelines, where there is later a transfer?

Is there any connection that you might have? Do you have any transfer points where something goes by pipe, and then is brought to the surface to be put on railroads, or do you pretty much go from beginning point to final point strictly by pipeline?

Dr. PALMER. The material in the pipelines from refineries and conditioning points move through the line to some terminal storage facilities. If at that point it is transferred to tank cars, it is done so in a manner prescribed by DOT, through the Federal Rail Administration.

Mr. HOWARD. This is new to our subcommittee to some degree. You handle all materials, or only hazardous? I am thinking of coal slurry, if that should come. Where would that come under?

Dr. PALMER. At the present time if it gets classed as a hazardous material, it would definitely fall under the transportation of hazardous materials. A coal slurry that is perhaps mixed with oil as a medium for transportation would definitely then be material that could burn.

Mr. HOWARD. Then you would be involved?

Dr. PALMER. Yes.

Mr. HOWARD. If the mix has some hazardous material in it?

Dr. PALMER. Yes.

Mr. HOWARD. Thank you.

I may have some more questions, but I will now recognize the gentleman from Pennsylvania.

Mr. SHUSTER. Thank you for your testimony.

In 1978 how many people were killed, and how many people were injured as a result of accidents in the various types of pipelines which you have described here today?

Dr. PALMER. In 1978, 3 persons were killed in liquid pipeline accidents, 31 persons were killed in gas pipelines. In the liquid area, reported leaks and failures were 244. In the gas area, 2,088, and I think that generally relates to the number of miles per pipeline type, since there are more pipelines of gas than there are liquids.

Mr. SHUSTER. Refresh my memory, particularly with regard to gas. You described the three categories: intrastate gathering, interstate transmission, and intrastate distribution?

Dr. PALMER. Yes.

Mr. SHUSTER. Where does your authority end—I am thinking up to the gasline that goes into the home. Does it end on the street?

Dr. PALMER. At the meter. We go up to the meter.

Mr. SHUSTER. So any fatalities that occur at home would not be included in your statistics?

Dr. PALMER. No.

Mr. SHUSTER. Do you have any information as to how many fatalities do occur in home explosions?

Dr. PALMER. No, sir, I do not have that number.

Mr. SHUSTER. Do you have any feel for it at all?

Dr. PALMER. My feeling, I think, Representative Shuster, would be what I have read in the newspapers. It seems to me we read about 8 or 10 of these a year, perhaps. I just really cannot provide you any definitive information.

Mr. SHUSTER. There have been 34 fatalities?

Dr. PALMER. In 1978.

Mr. SHUSTER. Do we have any information on injuries?

Dr. PALMER. Yes. Injuries for 1978, in the gas area, we break it down into employees and nonemployees in the distribution area. We had 44 employees injured, and 276 nonemployees.

Mr. SHUSTER. What are the total figures of injuries in gas, and injuries in liquid—

Dr. PALMER. Could I provide that number for the record? I would have to total it here.

Mr. SHUSTER. Why do you not total it up? I guess the point I am driving at is to try to see how serious the problem is.

When you think about 50,000 people killed on the highways, and 2,000 being killed in aviation accidents, this is really—every life is significant, but relatively speaking, 34 fatalities is certainly minuscule when compared with 50,000.

Dr. PALMER. I think there is no question that of all of the modes of transportation of commodities, pipeline has the best safety record. I would like to think that that is the product of a dual responsibility, both of the pipeline companies in their operations, and the DOT regulations which, over a long period of time, have been developed with industry to provide for safe transportation of these liquids and gases. So we are regulating currently all lines, or providing safety standards for those which we do not regulate.

We feel these have been very effective. I think what we are really suggesting is, as you have noted, a loss of one life may be more than we are willing to say is reasonable, if in fact we can do away with the loss of that life.

Mr. SANTMAN. Your 1978 totals were, in gas pipelines, a total of 31 fatalities, and a total of 408 injuries. In liquid pipelines, 3 fatalities, and 21 injuries reported to us.

Mr. SHUSTER. 429 injuries?

Mr. SANTMAN. These are the interstate lines. Within that gas area, sir, over the last 9 years the average in fatalities has been about 28 in distribution systems, in your city distribution systems, versus about 5 in the long-range transmission lines and the gathering line area.

Mr. SHUSTER. Thank you very much.

Mr. HOWARD. The gentleman from Minnesota.

Mr. HAGEDORN. To what extent are the costs taken into consideration to meet the pipeline safety standards?

Dr. PALMER. Whenever we generate a rulemaking process, and if I might, I would go through what we did on the most recent one, liquefied natural gas. We have determined, as other bodies have suggested, that there is a need to regulate a little more stringently

the LNG class, particularly as this appears to be growth areas for imports.

We conducted an advance notice of proposed rulemaking under which we outlined what kinds of things we proposed to do in the regulation. As a part of that we contracted an economic impact study on what would be the economic impact back to the company, and hence to the customer, if these rules were put into place as proposed.

In the case of LNG we have determined that about 95 percent of the individual items that we were proposing in the rule would not have a severe economic impact. There are 11 others that present some economic impact, and 1 of those, the requirement that we proposed for a 1½-mile radius around LNG storage to be cleared of human habitation, would impose rather severe economic impacts. So we are now relooking at that, based on information provided by engineers, consultants, and the general public, to see whether that is in fact an appropriate distance.

So we specifically performed an economic impact. It is certainly not the deciding force, that is, if it comes to safety versus cost, we would propose in the final analysis to be safe. But we feel there is a balance.

Mr. HAGEDORN. I understand the General Accounting Office has suggested that siting of storage facilities will be located in more remote areas, rather than in populized areas. What is your view on that conclusion? And I guess that would be similar to the proposal of siting any future nuclear plants in what they would call energy parks. Are the two compatible?

If nuclear power were to be used in the future, could you site various sources of energy in one area? Is there a problem there?

Dr. PALMER. If indeed the safety regulations of DOT are placed on the facilities, that would be far enough away from any other facilities that we feel that would be a safe requirement. We require a fairly large area to have a park. We are talking about separation distances of 1 mile to 1½ miles distance from a storage facility.

Mr. HAGEDORN. But a nuclear park probably would be 10- or 20-mile radius. Would you be able to combine a number of these volatile situations in one area?

Dr. PALMER. It is a difficult question to answer philosophically. Technically, I am sure the answer is yes. Whether one wants to aggregate all of these things in one place, and then talk about the public that lives around them, I am not sure that that is where we would like to be in DOT.

I think what we would like to say is that we will provide for safety regulations that will insure the public safe operation of these facilities.

The Federal Energy Regulatory Commission, or any other agency, or Congress decides these issues, where facilities should be sited. We insist they be safe in whatever context.

Mr. HAGEDORN. But if you were going to situate something like this in a remote area, there would be few people involved anyway, so that kind of makes sense to get our policies together in one neat package and move forward.

Dr. PALMER. We would concur in that. I think we would be most cooperative in doing that.

Mr. HAGEDORN. My question is, in siting storage facilities for, say, anhydrous ammonia, or some other volatile gas, particularly LNG, does this bill apply to that at all?

Dr. PALMER. It would depend on the size of the storage facility. We generally look for 200,000 barrel units as being the size that we would feel to present an imminent danger in the event of rupture—so we propose our regulations be applicable at that level upward.

Mr. STANGELAND. In Minnesota we have environmental quality councils and a pollution control agency that has the jurisdiction for issuing permits for these kinds of sitings. Would it be your thought to set up guidelines, and then allow the States to implement their own programs, based on those guidelines?

Dr. PALMER. We certainly feel that would be an appropriate way to go. We would like to set the minimum standards. We are not in the licensing business, and we propose that that be someone else.

Mr. STANGELAND. Then a question that perhaps does not lend itself to the safety aspect, but for my own knowledge, are there any pipelines regulated by the ICC at all?

Dr. PALMER. No longer. These were all transferred to DOT.

Mr. STANGELAND. We had a problem a year ago, where we had a pipeline that normally—

Mr. HOWARD. Based on the question you asked before, you are asking about Federal compared to the State? That is only in gas at the present time?

Dr. PALMER. Yes.

Mr. HOWARD. The Federal Government has minimum criteria which the State must meet, that may be more stringent?

Dr. PALMER. In the interstate area, yes, that is correct.

Mr. HOWARD. Thank you very much, Mr. Stangeland.

Mr. STANGELAND. This one is a regulatory question. A year ago this pipeline, built to transport petroleum, has gotten into the business of transporting liquid fertilizer, because it is economically more lucrative. A year ago one of our major storage tanks was about half filled with liquid fertilizers and gas. This year we have a storage facility that has diesel fuel and liquid fertilizer.

Is there any design in this bill to regulate and control these pipelines that are in these kinds of businesses where they mix commodities, and then are not careful as to what comes out of the other end of the pipe and goes into that storage tank?

Dr. PALMER. We certainly want to regulate those pipe lines and intransit storage facilities, to be sure that they are safe. You have pipeline conversions frequently, if a liquid is going to a liquid. Then the likelihood of accident is not very great. But if you have a liquid going to a gas, that could cause severe problems with a pipeline. In the storage area we are really not interested in the smaller storage units, although we will provide guidance as to the safe construction of these, and assist anyone in carrying out these safety requirements.

By and large, that is more a State responsibility than it is a Federal responsibility, because unless the site is sufficiently large, it is not a thing that would be involved in interstate transportation of these materials.

Mr. ATKINSON. I know we are dealing with pipelines, but as far as accidents are concerned, what is the percentage of the accidents or injuries dealing with fuel trucks, or fuel trains, as opposed to pipelines?

Dr. PALMER. In our analysis through the accident reporting system, highway accidents comprise about 90 percent of all of the accidents that are reported. Rail would be the next largest, with 8 percent or so, and all other modes might comprise the other 2 percent. Pipelines are minuscule in that zone.

Mr. Santman indicated that bulk petroleum is the top problem in highways, the tank truck operations.

Mr. ATKINSON. Is there a map showing where all the pipelines are? Is that available?

Dr. PALMER. The companies have all pipeline maps. We require access to these, as we do our interstate pipeline inspections. State regulations, by and large, cover the rest of them. Generally we know where the new pipelines are. In this country there are pipeline systems dating back to 1850, 1860. I am not sure that anyone knows where all of those pipelines are, or whether they are all in use.

Mr. ATKINSON. I know that pipelines traverse rural areas all through this country, and whether someone knows when they are building—

Dr. PALMER. There is knowledge of that, when you are constructing, that you are near a pipeline.

Mr. ATKINSON. I am just wondering what the impact of this would be on energy costs.

Dr. PALMER. We currently regulate all of the areas that are proposed in H.R. 2207. So, in the sense of whether we would be adding a great deal of regulatory authority, the answer is no. We are really looking toward putting into one place all of the laws that pertain to pipelines, and providing civil penalties, rather than criminal penalties, or rather in addition to criminal penalties in the liquid area and, finally, to get into preconstruction phases for safety, instead of having to go and look after the operation begins and determine whether it meets the DOT minimum requirements.

We think that, except perhaps the preconstruction phase, there is really no economic impact. There could be some in the preconstruction phase.

Mr. ATKINSON. So regulations will not add a lot to the energy costs?

Dr. PALMER. I think not.

Mr. ATKINSON. You have siting authority?

Dr. PALMER. No. We exercise an assessment as to whether a site is safe, but as far as selecting one out of four, if all were declared equally safe, we would not be site specific.

Mr. ATKINSON. Thank you.

Mr. LIVINGSTON. To what extent will this bill preempt existing Federal or State laws in this area, particularly with respect to transportation of hazardous materials?

Dr. PALMER. It really does not impact anything except the pipeline area. We would propose that it preempt the aforementioned laws into one code. We already preempt, in some cases more strongly than others.

For example, the Explosives Act absolutely preempts the State laws. We feel that we do not need any more preemption authority, nor do we desire any.

Mr. LIVINGSTON. So you were saying this will not go any further into the domain of State laws than present authority already gives you?

Dr. PALMER. No.

Mr. SANTMAN. Actually, in the liquid area we are looking to have the States join us. We have borrowed on our 10 years of experience under the Gas Act which requires us to establish minimum Federal standards. Then as the individual States got their administrative machinery in place they assumed responsibility for all of the intrastate pipeline activity, using the Federal standards as a uniform base to build on. They have the authority under the Gas Act to impose more stringent requirements, as long as they are not inconsistent with Federal standards.

We have found in the 10 years of experience working with the States under the Gas Act that they have been pretty well satisfied with the Federal standards.

What we have proposed in this bill on the liquid side is the beginning of that same sort of experience. We have 51 jurisdictions engaged in this sort of relationship on the gas side. The liquid activity, there is a lot less pipeline, and you do not have the distribution systems in the municipalities. But we believe there are probably half of the States that could join us in the kind of relationship on the liquid side that we now have on the gas side.

Mr. LIVINGSTON. Thank you.

Mr. HOWARD. Mr. Lewis?

Mr. LEWIS. Apparently the questions have been asked about the total budget numbers, and employees, and the like.

Dr. PALMER. Yes.

Mr. LEWIS. I will get that from the record. But following on Mr. Atkinson's question, where he essentially touched on, by way of your response, the fact that 98 percent of the instances occur in interstate highways, and will.

Dr. PALMER. Other than pipelines.

Mr. LEWIS. Who has the authority for regulating that kind of transportation of hazardous materials or gas?

Dr. PALMER. The Hazardous Materials Transportation Act of 1974 provides DOT with authority to regulate all movement of hazardous materials by all modes, whether by water, air, truck, train, pipeline—

Mr. LEWIS. So you are the same Bureau?

Dr. PALMER. Yes. The Materials Transportation Bureau administers that law in behalf of the Department. In, I guess, 1975, the Secretary of Transportation, at that time, delegated to the modes the authority to regulate the modal specific laws.

So that, for example, the Bureau of Motor Carrier Safety is vested with the authority to regulate interstate truck traffic, and to work with MTB in developing regulations to carry out this responsibility. The MTB has what we call a multimodal authority, in that vehicle design and containers for various hazardous liquids are developed under the form of standards set by MTB. These are then incorporated into the various modes for their use.

So it is a cooperative venture where the regulation by mode is in a particular modal administration, Federal rail, Federal highway, Coast Guard, and the overall review is conducted by MTB, and with the authority for pipeline vested in MTB—

Mr. LEWIS. What I would like to get at is the feel for the use of personnel, applying your budget, the relative percentage and weight of energy and time you spend on the less than 1 percent, or less than 2 percent versus the time that you spend attempting to address yourself to effective regulation and decrease of incidences in that 98 percent area.

Dr. PALMER. Since we have a modal authority responsibility in pipelines, we carry out all of the work in pipelines, so that we devote a fraction of our time in field work, field inspections. We have regional offices, plus regulation writing by our people in Washington who overlook—

Mr. LEWIS. Did you hear what I am asking?

Dr. PALMER. Yes. I think I can get to it if you permit me.

Mr. LEWIS. I will be patient.

Dr. PALMER. The percentage of time that MTB devotes to the pipeline area is roughly a half, a third to a half of our total manpower in the pipeline area, where we have prime authority. The remainder of MTB assists in the development of regulations for modal-specific rules, so that our authority explicitly in areas other than pipelines, related to the development of containers, so that we write performance requirements for containers for various kinds of hazardous materials. These are then incorporated into the other modes.

The Bureau of Motor Carrier Safety then has a cadre of individuals who are charged with the investigatory, inspection, enforcement in the area of trucks. The Rail Safety Office carries out their inspections and enforcement, the FAA in air, and the Coast Guard in water.

Mr. LEWIS. So you are saying, let us say I am addressing myself to a train derailment, where there is an escape as a result of an accident, of some hazardous gas. You would have done your job up to the point of establishing, or working with the appropriate authority in developing regulations and containers that provide a maximum level of standard. From there it is up to them to investigate and evaluate.

So in terms of safety your budget reflects a smaller part of the whole.

Dr. PALMER. A very modest part of the whole, that is correct.

Mr. LEWIS. Thank you.

Mr. HOWARD. The gentleman from California, Mr. Royer.

Mr. ROYER. No questions.

Mr. HOWARD. Dr. Palmer, when you stated that many pipelines are rather old, some going back to 1840, are some of them interstate? Are any of those very old?

Dr. PALMER. No. They are all distribution lines. The oldest interstate transmission line is probably 30 years old. Most are updated, and replaced, life-cycle operation.

Mr. HOWARD. Is this the way they are handled, when they get to a certain age they are not used any more? How do you actually inspect these pipelines?

Dr. PALMER. Let me give you an overview, and then ask Mr. Santman to give you the details. We have regional people who work on the inspections of the interstate carriers. We have a State program in which we train people to work at the State level, looking at intrastate—

Mr. HOWARD. How do you look at them?

Dr. PALMER. We actually go into the facility and make inspections onsite. They will either walk or fly the pipeline, looking for leaks. Where leaks have been determined, they will go onsite.

Mr. HOWARD. That would be aboveground leaks. How about below ground?

Dr. PALMER. The transmission pipeline companies are obligated to keep track of their product flow, and as product flow is reported, you determine whether there is leakage from start to finish.

Mr. HOWARD. If you are not getting all you put in, you figure there is a leak?

Dr. PALMER. If that is major you begin to search the pipeline, either by putting a device through the pipeline, searching for a pressure loss—there are several techniques that are employed.

Mr. HOWARD. How many inspectors do you have?

Dr. PALMER. Our inspectors are in the field, and we are authorized 16, and have 14 onboard.

Mr. HOWARD. The States must have an awful lot?

Dr. PALMER. The States have about 200 inspectors.

Mr. HOWARD. But most of the inspection work is done by the States?

Dr. PALMER. That is correct.

Mr. HOWARD. In testimony that is coming up there is a suggestion that the bill should indicate specifically that the power to determine probable cause of pipeline accidents is denied now to the Secretary. Do you feel that DOT has been aggressive enough in performance of its pipeline duties?

Dr. PALMER. In response to the two parts of the question, the first part, we feel that it is appropriate that NTSB retain the authority to determine the cause. They are an independent agency set up by Congress to do that.

I would say that in the last year we have been quite aggressive in pursuing enforcement, and that we have reviewed all of our aging cases. We have established a mechanism for evaluating these, getting them to the U.S. attorney for prosecution, and we have implemented a number of definitive actions in the penalty collection area on the gas side, and I think that we are doing that in an aggressive manner at the present time.

In the area of liquid, the answer is, no, we do not aggressively seek out criminal penalties. We seldom, if ever, have a case, even one which involves death, that can be traced back.

For example, in the latest one, in Iowa, where two individuals were killed in an LPG pipeline explosion, we saw no way to connect the president of the company, sitting three States away, with that particular accident, which happened because a bulldozer allegedly nicked the pipe in a relocation. So we do not pursue penalties in the liquid area, simply because there is no merit in that particular operation.

Mr. HOWARD. Thank you.

The gentleman from North Carolina.

Mr. HEFNER. How many inspectors do you have?

Dr. PALMER. We have 14.

Mr. HEFNER. Onboard? But you are authorized?

Dr. PALMER. Sixteen.

Mr. HEFNER. How many State?

Dr. PALMER. 200.

Mr. HEFNER. How close do you work with the inspectors in industry? Do they work closely with the people in the States? When they fly the pipelines, and this sort of thing, do they have your people there, or State people, or in conjunction?

Mr. SANTMAN. It is generally the industry people that do the flying in that kind of an inspection. The primary activities of our inspectors and the State inspectors are to look at the way the pipeline company manages the maintenance of its pipeline. The dramatic loss of pressure, or the record leaks over a long period of time give you some indication. But it has been generally known that corrosion has been the biggest problem with pipelines over the years.

Various techniques of corrosion control have been developed, and technology has been advanced. One of the things our inspectors and State inspectors look for is a properly managed, and properly recorded corrosion control program. Whenever there is excavation of a pipeline, for any reason, whether it is to make a repair, or to relocate systems, or change of a highway, those opportunities are taken to actually look at the physical pipe.

Again, there may or may not be one of our inspectors, or one of the State inspectors present, but they certainly do watch the companies' records, to see what was the evaluation of the pipe. What sort of things were observed when the pipe was exposed.

There is not an active program for periodically digging up pipe, unless there is some other indication that there may be problems.

Mr. HEFNER. I understand that. What I am talking about is, for instance a section of pipe that is 20 years old, whose endurance may be suspect after this length of time. Does anyone put excess pressure on such a line to check, it the industry, or anybody?

Mr. SANTMAN. No, not excess pressure, but one of the rulemakings we have underway with respect to the highly volatile liquids is involved a requirement for periodic hydrostatic tests to do just the sort of thing we are talking about. It is above operating pressure, but it is not above design pressure. It would be above the operating pressure. This is a technique that is used with boilers in ships where you test to $1\frac{1}{4}$ or $1\frac{1}{2}$. That is one of the things that we are considering.

The business of detecting leaks, this is one of the areas that we are looking for future R. & D. activities, cultivating techniques or better ways of detecting the leaks in pipelines, or dislocations, discontinuity, thinness in walls, whatever indicia may tell you that the pipeline needs some help.

Advancing the state of the art of being able to tell, from the above ground, without digging it up, is one of the targets of our research and development.

Mr. ATKINSON. As far as State and Federal inspections, is there any overlapping? Do you both inspect the same thing? Is the criteria more stringent for the States than the Federal Government?

Dr. PALMER. We certainly do not overlap. We have an agreement with the States. We provide money for their program, and they in turn support their own. Our inspectors generally spend some 25 percent of their time monitoring, evaluating State programs. So they are working with the State programs.

Mr. ATKINSON. In coal mines, I know that the Federal inspectors go in, and the State inspectors go in. When they do that, certain people that are working for that particular industry have to be along to accompany them, and there is a tremendous amount of duplication, and in some cases the rules and regulations are such that you are bound to be in conflict and be penalized and cited because you complied with the State, regulations, and did not comply with the Federal.

One example that I can speak to you about, because I was down in the mines during the past Easter break, concerned the monitoring device for the quality of the air in the mine. One set of regulations said it had to be in open air where the air flows, and the other said it should be enclosed, and out of that area.

So, frankly, it depends on what inspector is coming, if there is prior notice, if they just happen to be lucky, and you have it sitting in the place where it was acceptable to the right regulator. I am just wondering if he might have similar conflicts in the pipeline area.

Dr. PALMER. We generally do not have that conflict situation. The body of rules and regulations in pipelines is relatively modern by comparison to others. We have a good cooperative effort. The States comment on our programs.

If there is a concern that a State wants to increase their regulation, but not inconsistent with ours, they do so.

Mr. ATKINSON. Would you say your regulations are stronger than those of the States?

Dr. PALMER. The States generally incorporate our regulations by reference.

Mr. SANTMAN. The start of this program involved a 2-year period, during which there was a set of homogenized State regulations. They took all the existing State regulations and merged them into a set which was 80 or 90 percent of the most stringent State regulations. Those were in place for 2 years. Then the true Federal regulations came into place. There are now a few isolated areas in which a couple of States have more stringent standards.

In fact, the only one I can bring to mind, is an area under the New York requirements that requires odorization in natural gas further back in the transmission system than the Federal regulations require. We all require odorization of the gas when it goes into a person's home. New York extends beyond that. This is not inconsistent from our side. Once in a while we try to encourage the State inspectors to be a little more aggressive.

I think those are natural features of our doing business. But I believe the natural gas pipeline relationship, safety relationship between the Federal Government and the States is in some ways a model operation.

With their 200 inspectors, and our 14 inspectors, there is not too much opportunity for duplication, and when you balance out against the numbers of deaths and injuries, we are working against, I think we have struck a good balance.

Mr. ATKINSON. That is encouraging. That formula you use, or relationship, ought to be transferred over to some of the other industries, because there it does not always hold that way.

Mr. SANTMAN. Under the funding program, we fund up to 50 percent of the cost of the State program, up to 50 percent. That has been running around \$2.8 million. That is really the experience upon which we are borrowing when we propose what we are proposing in the liquid side.

Mr. ATKINSON. You can see the frustration in the industry of trying to meet the double standards. But in your case, you say if they meet the most stringent controls, of either State or Federal, they would not be in violation of either?

Mr. SANTMAN. The way that works, and it is spelled out in the Natural Gas Safety Act, the Federal standards are the absolute word for all interstate pipelines, transmission lines. When a State has the machinery in place—it has a staff of people it authorizes to impose penalties—it can then certify into the program.

Once they are certified into the program, then they assume responsibility for all intrastate activities. This is generally for distribution systems. They then have the authority under the terms of the statute to impose more stringent standards intrastate than the Federal standards. They must be consistent with, but may be more stringent than.

As I indicated earlier, most of the States, practically every case, have taken the Federal standards and applied them. There were a few instances, like the odorization, where New York has gone a little further. It is consistent. It is a little more stringent, but New York has probably the most sophisticated program of any of the States. It has also the most troublesome distribution lines to keep up with.

Mr. ATKINSON. If they are identical, why would you have to inspect something the States have inspected?

Dr. PALMER. We do not inspect something the States have inspected. We monitor the States. There is a requirement in our statute to make sure that the Federal dollar that goes out there is buying something. So we monitor. We will go out with them and watch them. We do not do the inspection. We look at how they operate their set up.

We have auditors to check their books to see what they have spent their money on. We also have States who are organized into regional groups, and periodic meetings are held with the combination of the States to maintain uniformity and get a cross view.

A guy from California may have a problem that did not occur in Colorado yet. It is a small program by Federal Government standards, but it has much satisfaction in the way it operates.

Mr. HOWARD. Dr. Palmer, over half, \$2.8 million of your \$4.2 budget, goes out to States for their operations. That is what is in this \$4.2 million, that is in this bill which you are supporting. That amount of money—which we consider a sufficient amount of money to meet your responsibilities for maximum safety—you do

support that? Should there be a rash of accidents in the coming year, I guess naturally everyone would say Congress did not give us enough money. That \$4.2 million, roughly, you feel is sufficient for your operations?

Dr. PALMER. We feel it is sufficient. As Mr. Santman said, we have a 10 year record of working with this program. We feel indeed it has proven out.

If you look at the budget sheet, the \$2.8 million is a separate line, called the grant-in-aid for pipeline safety.

Mr. HOWARD. If something goes wrong, this is one area where the Congress will not be blamed.

Dr. PALMER. I think not.

Mr. HOWARD. Thank you very much. We certainly appreciate your testimony. Next, we will hear from Mr. Francis H. McAdams, member, National Transportation Safety Board. Welcome, Mr. McAdams. Please introduce those who are accompanying you today.

TESTIMONY OF FRANCIS McADAMS, MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD, ACCOMPANIED BY HENRY M. SHEPHERD, CHIEF, PIPELINE ACCIDENT INVESTIGATION DIVISION; AND CHARLES H. BATTEN, OFFICE OF EVALUATIONS AND SAFETY OBJECTIVES

Mr. McADAMS. On my right is Mr. Henry Shepherd, Chief of the Pipeline Accident Investigation Division, and on my left is Mr. Charles Batten, Office of Evaluations and Safety Objectives.

I have a short statement, and I would like to read it, if I may.

Good morning, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to appear today on behalf of the Safety Board to convey our views about amendments proposed to the Natural Gas Pipeline Safety Act of 1968 by H.R. 2207.

Your committee's concerns and actions to improve the safety of pipeline transportation are commendable. We support the safety objectives reflected in this bill.

The Board endorses the removal of criminal sanctions against operators of liquid pipelines as the means to enforce compliance with the safety regulations. We are aware of no instance in which the present criminal sanctions have been used against a liquid pipeline operator for failure to comply with the pipeline safety regulations issued by the Department of Transportation. On the other hand, the Natural Gas Pipeline Safety Act provides for enforcement through civil penalties and these have been used to obtain compliance with the gas pipeline safety regulations.

We concur with the retention of criminal penalties for persons who willfully injure or destroy a pipeline facility. These penalties could serve as a deterrent to acts of sabotage and vandalism similar to the incidents which occurred on the Alyeska pipeline during 1978.

The separate but equal treatment proposed for gas and liquid pipelines in titles I and II of the bill will provide the latitude necessary for development of safety regulations to meet the differing safety needs of each class of pipeline. We believe that this step toward consolidation of pipeline safety legislation into one comprehensive statute will improve greatly the administration of the De-

partment of Transportation's pipeline safety programs. However, we wish to point out that one class of pipeline has not been included—rural gathering pipelines. The DOT presently has authority to regulate rural gathering pipelines under the Hazardous Materials Transportation Act of 1974 and in the interest of clarity and improved administration, it seems reasonable that these pipelines should be included in the scope of this bill. With this change to section 104 of the bill, the entire network of pipelines which transport hazardous materials would be included in one comprehensive body of legislation.

As this committee is aware, the Safety Board has made many recommendations to the Department of Transportation—DOT—concerning the need to strengthen the safety requirements for pipelines. Several recommendations are directed at pipelines which transport highly volatile liquids, such as liquefied petroleum gases—LPG—and anhydrous ammonia. Our concern about the safety of these highly volatile liquid pipelines has been evident since our first recommendation for improved safety regulations made in 1972. Our efforts to obtain improved safety regulations for these pipelines began with our investigation of a propane gas explosion in Franklin county, Mo., on December 9, 1970, and has continued to the most recent LPG accident at Donnellson, Iowa, on August 4, 1978. The highly volatile liquid pipeline accidents experienced to date in the United States have not resulted in a major catastrophe; although the potential is always present. The potential for a major loss of life and massive property damage was vividly demonstrated by the March 2, 1979, LPG pipeline rupture at Edmonton, Alberta Province, Canada. In this accident, the longitudinal seam of an 8-inch pipeline failed and released liquefied petroleum gas at a pressure of 200 pounds per square inch. Some of the LPG released to the atmosphere vaporized and formed a vapor cloud which ignited. Other vapors made their way into the sewer systems and migrated up to 8 miles from the rupture site. Effective implementation of the city's excellent civil defense program was able to evacuate 20,000 people from the affected area with only 1 person being critically burned. Fires burned at the rupture site for over 24 hours and, fortunately, property damage was the only major loss from this accident. The Canadian Government will hold a hearing on this accident during the first week in May. The Safety Board will monitor closely the results of this hearing since many miles of liquid pipelines in this country also pass through heavily populated areas. We must constantly remind ourselves that we have been fortunate not to have experienced a liquid pipeline accident in one of these populous locations.

I am pleased to report at this time to this committee that the DOT has begun to take action to strengthen the liquid pipeline safety regulations. The DOT now has issued three notices of proposed rulemaking and one advance notice of proposed rulemaking, all directed at making more stringent the safety requirements of highly volatile liquid pipelines. The Safety Board reviewed these proposed rulemakings and recommended changes in areas where deficiencies existed.

We are hopeful that final action on these proposals will soon reduce substantially the risks posed by the transportation of these

liquids. In addition to this action, the DOT committed to the Safety Board that sufficient resources would be made available to complete, at an early date, work on recently proposed regulations and that all pertinent, outstanding Safety Board recommendations would be reconsidered for future rulemaking action. We are quite pleased with this new direction being taken by the Secretary to reduce the risks posed by highly volatile liquid pipelines. Also, we have no doubt that the interest shown by this committee and the intensified activity of the Safety Board have played a major role in the DOT's recent activity to respond to this longstanding need.

Mr. Chairman, while we view the proposed bill favorably, there are some areas in which we believe changes could be made to improve its effectiveness. One example previously mentioned was the need to include rural gathering pipelines within the scope of the bill. Another change would be to incorporate within title I of the bill the policy that the Secretary of Transportation is responsible for the protection of this Nation against the risks to life and property which are inherent in the transportation of hazardous gases by pipeline.

This policy was developed first in the Hazardous Materials Transportation Act of 1974 and is included in the policy declaration of title II of the bill. Only a minor change is necessary to accomplish this objective. The third sentence of section 105(a) of the bill should be revised to read:

The standards shall be practicable and designed to eliminate unacceptable risks associated with the transportation of gas and may govern any safety aspect of that transportation and of pipeline facilities which the Secretary considers necessary or appropriate.

This wording more explicitly states that the purpose of regulations issued pursuant to the statute is to reduce the likelihood of an unreasonable risk to life or property during expected pipeline operations.

Sections 105(a) and 204(c) of the bill provide for reconstruction approval by the Secretary. We agree that there are times when approval prior to construction would be desirable. For example, when a potentially high-risk facility like an LNG terminal is to be constructed, then preconstruction approval of new or expanded facilities would be a desirable tool to assure that these facilities will pose no unreasonable risks to the public.

We recommend that preconstruction approval authority be reserved for those facilities determined by the Secretary to pose unreasonable risk to life or property. This restriction would fulfill the basic need of the DOT while also providing assurance to existing pipeline operations that this requirement is not intended to place a burdensome approval requirement upon all construction.

Sections 109 and 212 of the bill will provide certain powers and duties of the Secretary which could be interpreted to require the determination of the probable cause of pipeline accidents. While we believe that such authority is neither provided nor intended, we recommend that a sentence be added to paragraph (A) of each of these provisions to make it clear that these powers are not intended to authorize the Secretary to determine the probable cause of pipeline accidents.

Liquefied natural gas facilities are subject to the regulations issued pursuant to the Natural Gas Pipeline Safety Act of 1968. Each system is uniquely designed to take advantage of the latest technological advances in machinery and process design. While the Safety Board applauds the innovation of this industry, the fact that this industry is constantly pushing the limits of proven technology and because of the complexities of these systems, the Safety Board believes that it is imperative for these systems to be subjected to the most comprehensive, systematic safety analyses. This recommendation was made to the DOT in its advance notice of proposed rulemaking for LNG facilities which was issued in 1977. We reiterated this recommendation in response to the DOT's current notice of proposed rulemaking on LNG facilities. The present notice indicates partial acceptance of the need for improved safety analyses to identify LNG system hazards. However, we are not convinced that the DOT recognizes fully the need to perform, in a systematic manner, safety analyses adequate to identify and evaluate completely each event which may pose a threat to public safety. We believe that this bill should be revised to cause the Secretary of Transportation to require a system management program which details the safety analyses to be performed for each phase in the life cycle of each new LNG facility. Also, existing LNG facilities should be required to develop a program for the operation, maintenance, testing, and retirement phases of their remaining life cycles.

Mr. Chairman, this concludes my remarks. Should you or the subcommittee members have any questions, I or the staff will be pleased to try to answer them. Thank you.

Mr. HOWARD. Thank you very much. We certainly appreciate your testimony and your appearance here, Mr. McAdams.

You concur with the retention of criminal penalties for willfully destroying pipeline facilities. We had a great deal of trouble with the word "willfully" over the last 10 or 12 years concerning oil tankers and damage to them. Of course, that dealt mainly with willful negligence. We found there is no indication throughout a decade where the Department of Justice could bring a suit with the word "willful" in there.

Here you are talking more about sabotage or vandalism-type things. This does not deal in your statement with that negligence, I presume?

Mr. McADAMS. No, sir, it does not.

Mr. HOWARD. We did have an awful time sometimes making it difficult with the word "willful negligence" in, and sometimes too easy with just the word "negligence" in there. And we got hung up on that.

There was in the statement that perhaps DOT has not been aggressive enough in performance of the pipeline safety duties, but you did mention how happy you are with recent regulations taken by the Department of Transportation. Perhaps you should have stated that DOT had not been as aggressive rather than has not. That they are moving, as you feel, more in the direction that they should be?

Mr. McADAMS. That is correct, Mr. Chairman.

Mr. HOWARD. You spoke of the Edmonton, Alberta, Canada, accident and evaluation.

Are there instances where it might be necessary in this country, if something similar were to happen in the United States where many, many tens of thousands of people might need to be evacuated?

Are we prepared to do that kind of a thing, or what might need to be done in this case?

Mr. McADAMS. Yes, we feel there is this potential in heavily populated areas. We feel we have been fortunate that it has not yet happened.

In the populated areas where it might happen, it would be up to the local governments with their local disaster plans to cope with the situation, and the civil defense authorities would move in, as they have in some, for example, rail accidents.

Mr. HOWARD. And we have no program?

Mr. McADAMS. As far as I know, there is no Federal program. That is left strictly to the local jurisdictions. That would be the local fire department and the overall disaster plan, which would include the hospitals and would include facilities for evacuation of the people, if it was necessary.

Mr. HOWARD. This would probably come under some activity taken for general purposes rather than the requirement under an act like that that be undertaken. Evacuation could be for many, many reasons.

Mr. McADAMS. I would think so, Mr. Chairman.

Mr. HOWARD. I was wondering, you know, saying this must be done and everyone else saying we should do that.

Mr. McADAMS. As I understand it, DOT does have a training program that would cover part of this, but it has not yet been implemented. Because pipeline companies, they know what the potential is and what the dangers are, and they have tried to cope with it in their way.

People that live along pipelines do receive expert specialized instructions. As a matter of fact, they are even given keys to valves to open a chain so that they can shut off valves. And they do receive certain instructions on how to close a valve.

Mr. HOWARD. Regarding possible authority of the Secretary to determine the cause of accidents, and so forth, does that paragraph bother you at all?

Mr. McADAMS. Well, the paragraph—

Mr. HOWARD. As to giving the right to the Secretary?

Mr. McADAMS. No. The paragraph does not bother us. It is just that we feel—we would feel more comfortable if it were made explicit.

Mr. HOWARD. Since you do the investigation, maybe you ought to be the people to make the determination.

The gentleman from Minnesota.

Mr. STANGELAND. Mr. McAdams, for my information, you recommend that rural gathering pipelines are not included and they ought to be included in the bill. What is a rural gathering pipeline?

Mr. McADAMS. It is a pipeline that is—it is a gathering line that is a separate offshoot from the main line. It gathers the product from the production facility and transports it to the transmission pipeline. And we have had a few accidents and a few fatalities, and there still is potential for more.

The reason why we feel these gathering lines should be included is just to put them all in one place in one bill. It is for administrative convenience they be included. They are already included in another act, but they are not included in this bill.

Mr. STANGELAND. From a safety perspective, how does the transportation by pipeline compare with other modes of transportation?

Mr. McADAMS. Well, I would say that it compares very well with it. I mean certainly from the fatality rate it is probably one of the lowest of all in transportation. Of course, property damage sometimes runs quite high. And then, of course, there is the potential for great loss of life.

Mr. HOWARD. If the gentleman will yield, I believe that we had a statement saying some 90 percent of it was in the area of truck transport.

Mr. STANGELAND. I prefer this gentleman's answer as well as the last one. [Laughter.]

What is the most important problem in pipeline safety today? What do you consider the most important problem?

Mr. McADAMS. From our investigations, it would appear that third-party damage or excavation damage, and followed very closely by corrosion. And, third, I suppose you could determine it as mechanical defects or operator errors.

Mr. STANGELAND. The GAO concluded in its report on liquefied energy gases that the Federal Government has not acquired sufficient knowledge or competence before making decisions on liquefied natural gas or petroleum gas, and not adequately protected the public health and safety.

Would you care to comment on the GAO's conclusion, and would this proposed bill help remedy the situation?

Mr. McADAMS. I think the proposed bill will help remedy the situation. Insofar as whether or not the Federal Government has sufficient expertise, I am not at all sure that I would agree with that. I think they are getting it and getting it very rapidly. And, hopefully, I think they will do a good job in the field.

Mr. STANGELAND. Would you anticipate in monitoring the hearings of the Alberta accident that coming out of that hearing you might catalog areas of high risk in this country and maybe recommendations, at least to State civil defense directors to explore the possibilities of evacuation programs and the kind of programs necessary to prevent any major catastrophe happening in this country?

Mr. McADAMS. I would hope that would be one of the benefits coming from the Canadian hearing. And we will follow it very closely.

And, if necessary, after we get all the facts, we will make recommendations in this area.

Mr. STANGELAND. We would appreciate getting a copy of those recommendations.

Do you presently have any kind of catalog of high risk areas where we have concentrations of these kinds of facilities in densely populated areas, urban areas?

Mr. McADAMS. As far as I know, we do not. We have not indexed high risk areas.

Mr. STANGELAND. I have no further questions, Mr. Chairman.

Mr. HOWARD. Thank you.

The gentleman from North Carolina.

Mr. HEFNER. Thank you, Mr. Chairman.

You do not have a catalog of any urban area of high concentrations?

Mr. McADAMS. Yes, sir.

Mr. HEFNER. So, for any area where this exists, you have no catalog?

Mr. McADAMS. That is correct, where the pipeline moves through a high-risk area.

Mr. HEFNER. None would be more dangerous than the other, given the age of the pipeline?

Mr. McADAMS. That would be more or less correct. Any heavily populated area has more or less the same risk. But there would be other things to be considered. Where the pipeline was buried, what stresses, what kind of soil, a number of things of that sort could make one particular pipeline of a higher risk than another merely because of its location and the manner in which it was installed.

Mr. HEFNER. Have procedures changed over the past 10 years on construction of pipelines as opposed to 10 or 15 years ago? What kind of changes have been made as far as regulations for installing new pipelines?

Mr. McADAMS. One of the more important things in putting in new pipelines is to see that the pipeline meets all of the standards in effect for pipelines, and would have the proper coating and insulation to prevent one of the No. 1 problems of corrosion.

And there are standards today for new pipelines that are quite stringent. And if they are followed and properly laid, we feel that this is a step in the right direction.

There is also the problem with welding. That has to be monitored very closely. And, of course, I think the most important thing is putting in the best pipe that we can possibly put in the ground.

Mr. HEFNER. Some of the older pipelines would not meet the restrictions in the regulations today if they were to be put in, right?

Mr. McADAMS. That is correct.

Mr. HEFNER. So they have been monitored more closely?

Mr. McADAMS. They have to be inspected on a more frequent basis and tested on a more frequent basis.

Mr. HEFNER. And I am assuming that they are.

Mr. McADAMS. Yes. But I don't know quite how far to go on that. We feel that as far as the Board is concerned, that there could be more frequent inspections of older pipelines. It is a very, very big problem with old pipelines to be able to know just how often it should be inspected and to uncover it and to test it.

Mr. D'AMICO. May the record reflect an extended pause in the witness' response? And I do not think he will object to it.

Mr. McADAMS. Pardon?

Mr. D'AMICO. I would like the record to reflect your pause before responding.

Mr. HEFNER. These pipelines that went in 25 years ago, was there any projection how long they would be useful?

Of course, I realize some of the things may have changed over the years, but when you put in a system say, 25 years ago, what was its projected life?

Mr. SHEPHERD. The economic life on those pipelines were ICC evaluation, and normally about 3 percent per year, so an economic life of about 33 years on the line.

But the physical line, depending on how well it was maintained, could be in existence 30, 40, 50 or more years. Twenty-five to thirty years ago, the lines were smaller in diameter. As the new lines came across to carry big volumes, they have entered a new phase of life in a product system or some smaller system. So this, again by reclamation and retesting and good maintenance, gave them an added life.

Mr. HEFNER. Good maintenance? How can you maintain the pipe after it is buried?

The only thing you can maintain is the connections.

Mr. SHEPHERD. No, sir. Two ways. You could hydrostatically retest a pipe 5 years and see if, in fact, it will hold, say, 1,000 pounds of pressure.

The second is you can survey the line electrically or cathodically and find out the known spots of corrosion and put anodes on the pipeline, meaning you put a current on the pipeline.

Those are two often used procedures. The third one, which is relatively new, you can insert in the pipeline a special instrument and it follows along through the pipeline by the pressure of the gas behind it or the liquid behind it, and it will determine the wall of thickness, the remaining wall thickness of the pipeline. And it looks like a cardiogram when you unroll it, and you can see point by point where the wall has thinned from the original wall thickness.

It is in its infancy. There are some who say in some cases it is accurate, but it is a start.

Mr. HEFNER. But the technology is not there to do it on a mass scale at this time?

Mr. SHEPHERD. I would say not yet. I think it is coming.

Mr. McADAMS. Well, the technology is there, I would say. It is just a question of going down and deciding here is an old pipeline and we are going to test it, we are either going to test it electrically or hydrostatically.

All of this costs money, of course, when you start uncovering pipeline, but it can be done. They call this thing a bug? Tubascope. That is controversial with some oil companies. And again that may be a question of economics, too.

Mr. HEFNER. Thank you, sir.

Thank you, Mr. Chairman.

Mr. HOWARD. The gentleman from California.

Mr. LEWIS. Thank you, Mr. Chairman.

Mr. McAdams, in the very first part of your testimony, you agree with the elimination of criminal penalties as a means to enforce compliance.

Explain to me the significance of that besides just saying there never has been a criminal action taken? What is the value of removing possible criminal penalties?

Mr. McADAMS. The value is that the Department of Justice has not moved on criminal penalties. And it is understandable, because it is very difficult to prove negligence and, in other words, if you are going to impose a criminal penalty upon some person or some corporation, you have got to prove criminal or willful negligence, and that is a very difficult thing to do.

Mr. LEWIS. Does the language of that section relative to criminal penalties used to trace willful negligence?

Mr. McADAMS. No.

Mr. LEWIS. Let us presume that we go to Alberta, and there was an inspection made which indicated some problem with a seam in a pipe, and the company responsible for delivering the service had ignored and delayed their action, and before they took that action there was a leak that led to an explosion in which, fortunately, only one person was killed.

Do you think there would be some value of criminal negligence in that circumstance?

Mr. McADAMS. There might be in certain cases, yes. However, if we are going to get enforcement, it seems to me that the best way to get enforcement is through civil penalties rather than going to court and trying to prove beyond a reasonable doubt someone is guilty of negligence.

In certain cases, I suppose the imposition of a criminal penalty might be a deterrent. It is a very difficult thing in many transportation accidents to indict people for negligence as a result of an accident.

Mr. LEWIS. Staff points out to me that apparently there is an error in your statement on page 11, line 14. There is a section addressing itself to criminal penalties which apparently is in the bill. Under section 108(d).

Mr. HOWARD. If the gentleman will yield.

I presume it is the elimination of the criminal penalty section that has been in effect, but they are writing new criminal penalties, which is in this bill.

Mr. McADAMS. That is correct.

Mr. LEWIS. So you are supporting the adjustment of criminal penalties language rather than just posing criminal penalties per se?

Mr. McADAMS. That is correct. In other words, we have no difficulty with section 8, paragraph D, which includes criminal penalties.

Mr. LEWIS. As I read your statement, at least that was not clear to me.

Mr. McADAMS. I am sorry. I did not mean it to be read that way.

Mr. LEWIS. I was curious, in following your testimony, that over the years since 1970 you have played a role in encouraging, applying pressure and otherwise to raise safety standards. I am really curious to know if you can provide for the record or presently what the pattern has been in terms of improved evidence of safety. The number of lives lost last year and the accidents with the increase in volume. Give us a very thin line of at least on the surface a thin line of incidents about which we can be concerned.

Has there been a significant change, a decrease over the years?

Mr. McADAMS. It is very difficult when talking about accidents, to say that because of this regulation you have saved x number of lives. It does not come out that way for some reason.

The only thing you know is that one particular type of accident is not going to happen again, because you have made a certain recommendation or a certain regulation that is now being enforced.

Mr. LEWIS. If I understand what you said, all you know is that by developing regulations after the fact, you can provide a greater security that a certain kind of accident will not occur again?

Mr. McADAMS. That is correct. That is prevention.

Mr. LEWIS. But could you develop data for us that specifically talks about the number of lives and injuries and kinds of injuries and what the pattern has been over the last 10 years?

Mr. McADAMS. We can supply that for the record. You would like it for a 10-year period?

Mr. LEWIS. Those are the time frames you used in your testimony, so that would be helpful.

Mr. HOWARD. Without objection, that will be made part of the record.

[The following was received for the record:]

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., May 11, 1979.

Hon. JERRY LEWIS,
House of Representatives, Washington, D.C.

DEAR MR. LEWIS: On May 1, 1979, during the hearings on the Pipeline Safety Act before the Subcommittee on Surface Transportation, you requested statistics concerning accidents and fatalities in the pipeline mode over the last ten years.

Please let me know if you need additional information.

Sincerely yours,

FRANCIS H. McADAMS, *Member.*

Attachment.

LIQUID AND GAS PIPELINE FATALITIES AND MAJOR
REPORTED ACCIDENTS

Calendar Year 1968

	<u>Fatalities</u>	<u>Accidents</u>
Liquid Pipelines	11	499
Gas Pipelines	<u>NA</u>	<u>NA</u>
Total		

Calendar Year 1969

Liquid Pipelines	5	403
Gas Pipelines	<u>16</u>	<u>NA</u>
Total	21	

Calendar Year 1970

Liquid Pipelines	4	347
Gas Pipelines	<u>36</u>	<u>1019</u>
Total	40	1366

Calendar Year 1971

Liquid Pipelines	1	308
Gas Pipelines	<u>52</u>	<u>1287</u>
Total	53	1598

Calendar Year 1972

Liquid Pipelines	8	309
Gas Pipelines	<u>54</u>	<u>1293</u>
Total	62	1602

Calendar Year 1973

Liquid Pipelines	7	273
Gas Pipelines	<u>59</u>	<u>1364</u>
Total	66	1637

Calendar Year 1974

Liquid Pipelines	10	262
Gas Pipelines	<u>24</u>	<u>1477</u>
Total	34	1739

Calendar Year 1975

Liquid Pipelines	7	255
Gas Pipelines	<u>23</u>	<u>1373</u>
Total	30	1628

Calendar Year 1976

Liquid Pipelines	14	
Gas Pipelines	<u>68</u>	
Total	82	

Calendar Year 1977

	<u>Fatalities</u>	<u>Accidents</u>
Liquid Pipelines	4	240
Gas Pipelines	39	1996
Total	<u>43</u>	<u>2236</u>

Calendar Year 1978

	<u>Fatalities</u>	<u>Accidents</u>
Liquid Pipelines	3	*
Gas Pipelines	30	*
TOTAL	33	-

*Data unavailable at the time of this report--5-10-79.

Mr. LEWIS. Thank you.

I guess the reason for me wanting to follow that path, if I were to take a rough guesstimate combining this year's budget that is part of this bill, along with the dollar items involved, subsidies to the States, I would guesstimate an average of \$4 million per year for this kind of safety enforcement over the last 4 years is reasonable if that \$40 million package is accurate and related to that number of deaths that did occur over the years.

I would be curious to know if that money might be better spent in concentrating in areas where crises might be before the fact. It is the population centers that concern me most. If, indeed, many of those population centers have not activated some programs for civil defense activities, for example, removing population, so on, I would think money would be much better spent by focusing on that.

Mr. Chairman, over the weekend we spent some time in Philadelphia and Buffalo, and there we found in their water systems not a hazardous material, but in the water systems there is an average of 35 percent loss of water by leakage. Systems that have not been improved or repaired for 50 or 100 years because there is no incentive for safety or delivery of service.

I am just wondering, I would really be interested in additional testimony you might give regarding relative value. Because I can tell you you are going to be in here for money, asking for work for civil defense if we have an explosion in New York one of these days that kills a number of people. I would like to know where you are in terms of those recommendations and whether in the final analysis you make a recommendation to shift the emphasis where we place our dollars?

Mr. McADAMS. We can supply the statistics with respect to the 10-year period. However, I do not think we can give you an analysis of the economic benefits of a recommendation. We are not that kind of an agency. All we do is go out and investigate, and then we make recommendations.

Insofar as our recommendations are concerned, we do not make an economic cost-benefit analysis of that recommendation. In other words, we expect whoever we make the recommendation to to say to us, well, now, this is a fine recommendation and it may help safety, but it just costs too much money for the benefits that would be involved. We do not have that sort of personnel to be able to do an economic analysis.

Mr. STANGELAND. Then, in making a rule, who determines the cost benefit? Who determines if the costs far outweigh the potential benefits from that rule?

Mr. McADAMS. Our recommendations are not mandatory. We have no regulatory authority. We will make a recommendation to the Department of Transportation that we feel they should do such and such with respect to some phase of a pipeline operation.

They have to answer—that is made public. They have to answer that recommendation in 90 days. They have to tell us either that they have it under further consideration or that the recommendation is a good one, they will implement it, or the recommendation is not a good one and they do not intend to implement it.

If we still feel strongly that despite, let us say, an economic argument is made by the DOT, if we still feel strongly, we will

actively follow up that recommendation and go back to the Secretary and say despite your answer and your economic argument, we still think this is a good recommendation and, Mr. Secretary, we are still pushing it.

Now, that is our court of last resort, in effect, except we can come back to Congress at the end of the year and we can say we made certain recommendations to the Secretary of Transportation and he did not see fit to follow them, we still think they should be implemented and we put it then to the Congress of the United States.

Mr. STANGELAND. Then the Secretary of DOT has the authority to make the trade-offs on costs and benefits?

Mr. McADAMS. Yes. He has the people and the authority to evaluate that particular phase of a recommendation. A cost-benefit analysis is made by the recipient of our recommendations.

Mr. STANGELAND. Thank you.

I thank the gentleman for yielding.

Mr. LEWIS. I am really finding some difficulty in getting a handle on not just the purpose and value of your recommendations, I can see value in public review of these questions, but moving to the developing role, I just do not know what they might have done that was not already being done in the last 10 years to prevent that accident in Canada.

I could guess they have a few regulations around in Canada. I would guess they spend as much of their Government dollars in this area as we do relatively. I wonder if maybe we are not looking at the very thin side of the risk involved in safety, spending a lot of our dollars, concentrating on that in DOT and ignoring the real potential hazard and preparation for that kind of possibility or development before the fact would seem to me to be most significant in terms of your area of evaluation or responsibility for evaluation.

Mr. McADAMS. I think we do try to do it after the fact. People look at our agency as an after the fact agency because we do not move in until something happens. But when we move in on an accident, it is just not the cause itself. We look at all the facts and circumstances surrounding that accident, and we make recommendations that where we find deficiencies that have the potential of a future accident, and as a result of our investigation, we also uncover in the course of finding out the cause of other areas that we feel have the potential. And we do make recommendations either to the Secretary or to the pipeline companies or to the local jurisdiction.

And this is how we carry out what we feel is one of our most important roles of prevention. But, of course, we do not move into these areas until something happens.

Mr. HEFNER. Will the gentleman yield?

Mr. LEWIS. Certainly.

Mr. HEFNER. Let me understand the situation of Canada. What you are saying is when you get all the facts and look at your past records you can determine that there is a potential for an accident happening in Kansas City, for example. So you alert the Secretary of Transportation and the industry and the people affected that there could be a situation in Kansas City as there was in Canada.

That is what you are saying you can head off?

Mr. McADAMS. That is correct.

Mr. HEFNER. In other words, maybe you could not prevent the situation in Canada, but you could prevent maybe 10 like it in the United States?

Mr. McADAMS. That is correct. In other words, we might uncover some particular situation in one accident and the recommendation would apply nationally to something that we found out.

In other words, you should inspect all pipelines that, let us say, are constructed of a certain type of metal, because we have found a weakness in that metal, and then that would apply nationally and not only to the particular one that we investigated but all pipelines.

Mr. HEFNER. I thank the gentleman.

Mr. HOWARD. The gentleman from Pennsylvania is next.

Mr. ATKINSON. Just one question.

You mentioned, I thought, that there was an awareness on the part of the citizenry who lived along the side of a liquid pipeline carrying hazardous materials to the extent they are even instructed to shut off valves.

Is this the case with all persons living along a pipeline?

Mr. McADAMS. No. No, sir, it is not. The reason why I brought it up, we investigated an accident that occurred in Donnellson, and the pipeline company in that particular case, they had that system where they had briefed certain people that lived along the pipeline if they got a telephone call—they gave them a key even to open the chain and lock on the valve, and they were instructed how to close the valve.

Unfortunately, they did not follow up on it. Many of these people had moved away. It is not effective, but one way.

Mr. ATKINSON. But the liquid pipeline operator did this on his own? There is no legislation that calls for the citizenry to have an awareness of the pipeline, nothing in the deed to their property? Could it not be a recommendation as far as safety objectives are concerned?

Something of this sort should be part of the law. I am just wondering to what depth these lines are laid. Of course, in a professional construction firm, they study these.

But assume John Doe started building a garage and tried to get in there. I am just wondering if there are markings, an indication there is a hazardous material or high pressure line?

Mr. HOWARD. If the gentleman would yield on that.

I would imagine that in the title searching that is involved, if there are pipelines, I believe there must be an easement involved, which would be in the record, in the paperwork involved in the sale of each property. So that a person, I believe, in his own title and deed, should have a reference to that because there would have to be an easement on the property.

Mr. McADAMS. And the lines are actually marked. Sometimes not more than a little flag, say, across a farmer's property, so that he knows he has got a pipeline down there.

Mr. HOWARD. And its location would be listed in the deed.

Mr. McADAMS. That is correct.

Mr. ATKINSON. It would say what that pipeline carried?

Mr. McADAMS. Yes, natural gas or liquid petroleum.

Mr. HOWARD. And to whom the easement refers, what company or jurisdiction has that. You might also be able to figure it out from that.

Mr. ATKINSON. You say they have a valve where they can turn it off. Is there not any technology where these pipe lines that carry that kind of hazardous material can have an automatic shutoff?

Mr. McADAMS. There are automatic shutoffs. And they monitor it from central station. When there is a pressure drop, there is an alarm bell that goes off. And it is either done automatically or it can be done manually as soon as that alarm bell rings where there is a pressure drop in the line that indicates there is a leak.

Mr. ATKINSON. Thank you, Mr. Chairman.

Mr. HOWARD. Any further questions?

Mr. STANGELAND. I have just one question. I would like to follow up.

Following up the rural gathering pipeline, I am wondering if you can give us an idea of what larger percent of pipelines DOT would be regulating if we included the rural gathering of pipelines? In other words, what value are we talking about, and would that increase the cost in the bill, and is there a real need to regulate the rural gathering pipeline from the aspect of safety?

And I am assuming that a rural gathering of pipeline is in the rural area where you do not have the risk involved.

Mr. McADAMS. Well, in my opinion, it would not add at all to the cost of the bill because DOT already has authority over rural gathering pipelines. And our suggestion is put it all in one bill so it is administratively more efficient.

Mr. STANGELAND. Thank you.

Mr. HOWARD. Before ending the hearing, I would like to state that in the act passed in 1968, in section 16, there is a provision that the program to educate the public on possible hazards associated with gas leaks is in the act. And this only refers to the gas.

We will ask that DOT send to the committee, and without objection, let it be incorporated in the record, the implementation of this provision in the act, and see to it that all members of the subcommittee get copies.

Mr. LEWIS. Just before we close, Mr. McAdams, reviewing once again your statement that relates to the question of criminal sanctions. It really does look at though you are saying there is no value or need for criminal sanctions.

I would like the record to clearly indicate that you do support those sections that exist in the bill previously.

Mr. McADAMS. I will make that statement. We do support the criminal sanctions in the bill as presently written.

Mr. HOWARD. In your testimony you give suggestions as to change, and certainly the subcommittee will seriously consider them. But you do not refer to the funding which is a little over \$7 million per year. Do you feel that will be adequate for the job you have to do?

Mr. McADAMS. My off-the-cuff opinion is yes, it will be.

Mr. HOWARD. Thank you very, very much. We appreciate your testimony.

The subcommittee stands in recess, pending the call of the Chair.

[Whereupon, at 12:08 p.m., the subcommittee recessed, subject to the call of the Chair.]

1. The first part of the report deals with the general situation of the country and the progress of the work.

2. The second part of the report deals with the results of the work and the progress of the work.

3. The third part of the report deals with the results of the work and the progress of the work.

4. The fourth part of the report deals with the results of the work and the progress of the work.

5. The fifth part of the report deals with the results of the work and the progress of the work.

6. The sixth part of the report deals with the results of the work and the progress of the work.

7. The seventh part of the report deals with the results of the work and the progress of the work.

8. The eighth part of the report deals with the results of the work and the progress of the work.

9. The ninth part of the report deals with the results of the work and the progress of the work.

PIPELINE SAFETY ACT OF 1979

FRIDAY, JUNE 8, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

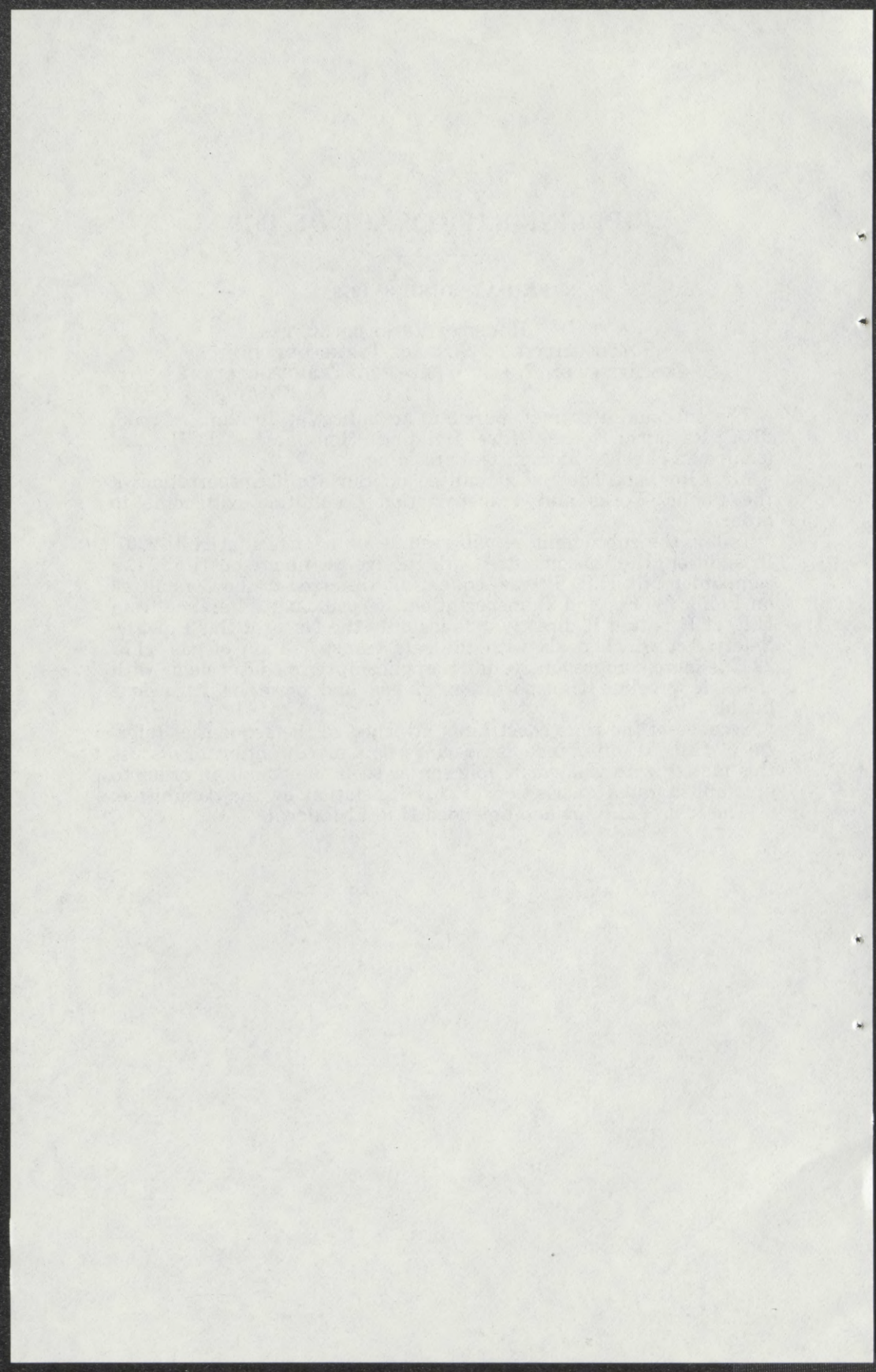
The subcommittee met, pursuant to notice, at 10 a.m., in room 2167, Rayburn House Office Building, Hon. James J. Howard (chairman of the subcommittee) presiding.

Mr. HOWARD. The Subcommittee on Surface Transportation of the Public Works and Transportation Committee will come to order.

Today, the subcommittee will resume its hearings on H.R. 2207. In addition, the subcommittee will receive testimony on H.R. 51, a companion bill. H.R. 51 was sequentially referred to the Committee on Public Works and Transportation. Its principal difference from H.R. 2207 is that it directly amends only the Natural Gas Pipeline Safety Act which deals with the safe transportation of gas. H.R. 2207 is more comprehensive in its applicability in that it deals with the safe pipeline transportation of gas and of other hazardous liquids.

Because of the time constraints attached to the sequential referral of H.R. 51, after today's hearings it is my intention to discuss this matter with Chairman Johnson as soon as possible in order to accomplish rapid disposition of this legislation by the committee.

[The text of H.R. 51 and amended H.R. 51 follow:]



96TH CONGRESS
1ST SESSION

H. R. 51

To amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1979

Mr. MARKEY (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE; TABLE OF CONTENTS

4 SECTION 1. (a) This Act may be cited as the "Fuels
5 Transportation Safety Amendments Act of 1979".

6 (b) The table of contents for this Act is as follows:

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TABLE OF CONTENTS

	Page
Sec. 1. Short title; table of contents.	
Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.	

TITLE I—FUELS TRANSPORTATION GENERALLY

Sec. 101. Hazardous pipeline facilities.	
Sec. 102. Information on pipeline location and characteristics.	
Sec. 103. Reporting of pipeline leaks.	
Sec. 104. Coverage of pipeline transportation of liquefied petroleum gas.	
Sec. 105. Coverage of gas distributed in connection with rental or lease of real property.	
Sec. 106. Coverage of certain nonpipeline facilities.	
Sec. 107. Pipeline safety inspectors.	
Sec. 108. Technical Pipeline Standards Committee.	
Sec. 109. Appropriations authorization.	

TITLE II—SITING AND SAFETY OF LNG FACILITIES

Sec. 201. Definitions.	
Sec. 202. Siting and safety standards.	
Sec. 203. Financial responsibility.	
Sec. 204. Enforcement of standards and financial responsibility requirements.	
Sec. 205. Appropriations authorization.	

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Willful destruction of interstate pipeline transmission or LNG facilities.	
Sec. 302. Appointments of Director of Pipeline Safety Operations and Director of Materials Transportation Bureau.	
Sec. 303. Technical, clerical, and conforming amendments.	

1	REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT
2	OF 1968
3	SEC. 2. Except as otherwise expressly provided, when-
4	ever in this Act, any reference, amendment, or repeal is ex-
5	pressed in terms of a reference or amendment to, or repeal of,
6	a section or other provision, it shall be considered to be made
7	to a section or other provision of the Natural Gas Pipeline
8	Safety Act of 1968.

1 TITLE I—FUELS TRANSPORTATION GENERALLY

2 HAZARDOUS PIPELINE FACILITIES

3 SEC. 101. (a) Section 8 is amended by redesignating
4 subsection (b) as subsection (c) and by inserting after subsec-
5 tion (a) the following new subsection:

6 “(b)(1) If the Secretary finds, after reasonable notice
7 and an opportunity for hearing, that any pipeline facility is
8 hazardous to life or property, he shall, by order, require the
9 person operating the facility to take necessary corrective
10 action. Such corrective action may include physical inspec-
11 tion, testing, repair, replacement, or other action, as
12 appropriate.

13 “(2) The Secretary may find a pipeline facility to be
14 hazardous under paragraph (1)—

15 “(A) if under the facts and circumstances he de-
16 termines the particular facility is hazardous to life or
17 property, or

18 “(B) if the pipeline facility or a component thereof
19 has been or is proposed to be constructed or operated
20 with any equipment, material, or technique which he
21 determines is hazardous to life or property, unless the
22 operator involved demonstrates to the satisfaction of
23 the Secretary that under the particular facts and cir-
24 cumstances involved such equipment, material, or tech-
25 nique is not hazardous to life or property.

1 “(3) In making a determination under paragraph (2), the
2 Secretary shall consider—

3 “(A) the characteristics of the pipe and other
4 equipment used in the pipeline facility involved, includ-
5 ing its age, manufacturer, physical properties (including
6 its resistance to corrosion and deterioration), and the
7 method of its manufacture, construction, or assembly;

8 “(B) the nature of the materials transported by
9 such facilities (including their corrosive and deteriora-
10 tive qualities), the sequence in which such materials
11 are transported, and the pressure required for such
12 transportation;

13 “(C) the aspects of the areas in which the pipeline
14 facilities are located, in particular the climatic and geo-
15 logic conditions (including soil characteristics) associat-
16 ed with such areas, and the population density and
17 population and growth patterns of such areas;

18 “(D) any relevant recommendation of the National
19 Transportation Safety Board issued in connection with
20 any investigation conducted by the Board under other
21 provisions of law; and

22 “(E) such other factors as the Secretary may con-
23 sider appropriate.

24 “(4) The Secretary may waive any requirements for
25 hearing and a period of reasonable notice and provide for

5

1 expeditious issuance of an order under this subsection in any
2 case in which he determines that the failure to do so would
3 result in the likelihood of serious harm to life or property.”.

4 (b) Section 3(b) is amended by striking out the fourth
5 sentence.

6 (c) The first sentence of section 5(a) is amended by
7 striking out “the fourth sentence of section 3(b),” and insert-
8 ing in lieu thereof “section 10(b),”.

9 INFORMATION ON PIPELINE LOCATION AND

10 CHARACTERISTICS

11 SEC. 102. (a) Section 12 is amended by redesigning sub-
12 section (d) as subsection (f) and by inserting after subsection
13 (c) the following new subsection:

14 “(d)(1) The Secretary shall, by regulation, require any
15 person operating a pipeline facility to—

16 “(A) prepare and maintain a general description of
17 the pipeline facility, including—

18 “(i) the location of the pipeline and the pipe-
19 line facilities;

20 “(ii) the type, age, manufacturer, and method
21 of construction of such pipeline and facilities;

22 “(iii) the nature of the materials transported;
23 the sequence in which they are transported, and
24 the pressure at which they are transported;

6

1 “(iv) the climatic, geologic, seismic, and con-
2 ditions (including soil characteristics) associated
3 with the areas in which the pipeline facilities are
4 located, and the existing and projected population
5 and demographic characteristics associated with
6 such areas; and

7 “(v) such other information as the Secretary
8 may consider appropriate;

9 “(B) prepare, maintain, and submit to State and
10 local entities authorized to approve demolition, excava-
11 tion, tunneling, or construction activities in the areas
12 in which the pipeline facilities are located a detailed
13 description of the pipeline’s location; and

14 “(C) submit to the Secretary a report containing
15 the information prepared and maintained under subpar-
16 agraph (A).

17 “(2) Information prepared and maintained under para-
18 graph (1)(A)(i) of this subsection shall, on request and for
19 good cause shown, be made available for public inspection.

20 “(3) The requirements of subparagraph (B) of paragraph
21 (1) shall be deemed to be satisfied in the case of any pipeline
22 facility operator participating in a public safety program es-
23 tablished under State or local law or regulation—

24 “(A) under which—

1 “(i) notice is required to be provided to pipe-
2 line facility operators of proposed demolition, ex-
3 cavation, tunneling, or construction near or affect-
4 ing such facility; and

5 “(ii) such operators are required to identify
6 specific pipeline facilities which may be affected
7 by the proposed demolition, excavation, tunneling,
8 or construction, for the purpose of preventing
9 damage to such facilities; and

10 “(B) which the Secretary determines is being car-
11 ried out in a manner adequate to assure protection
12 against the hazards of demolition, excavation, tunnel-
13 ing, or construction near or affecting such facilities.

14 “(4)(A) The Secretary shall—

15 “(i) not later than 180 days after the date of the
16 enactment of this subsection, publish proposed regula-
17 tions required to be prescribed under paragraph (1),
18 and provide an opportunity (of not less than 60 days’
19 duration) for oral and written public comment on such
20 proposed regulations; and

21 “(ii) as soon as possible after the public comment
22 period under clause (i) but not later than 270 days
23 after the date of the enactment of this subsection, pre-
24 scribe the final regulations.

1 “(B) Any requirement to prepare, maintain, or submit
2 information which is prescribed pursuant to this subsection
3 shall not take effect until 3 years after the date of the enact-
4 ment of this Act.

5 “(5) The Secretary shall, by order or regulation, provide
6 for an exemption for any person or category of persons from
7 all or part of the requirements under this subsection if the
8 Secretary finds—

9 “(A) that the financial and administrative burdens
10 of being covered by such requirements are not justified
11 by the benefits resulting from that coverage; or

12 “(B) the costs to such person or persons by being
13 covered by such requirements would significantly in-
14 crease consumer rates or charges and such exemption
15 would not endanger the public health or safety.

16 “(7) Not later than 3 years after the date of the enact-
17 ment of this subsection, the Secretary shall, by rule, establish
18 and thereafter maintain a program, for use in an electronic
19 data-processing system, which processes and maintains—

20 “(A) information obtained under the preceding
21 provisions of this subsection;

22 “(B) information on pipeline leaks reported under
23 subsection (e);

24 “(C) information on accidents and incidents re-
25 ported under section 5; and

1 “(D) such other information as the Secretary de-
2 termines appropriate which is obtained by the Secre-
3 tary under any other provision of law;
4 for the purpose of identifying hazardous equipment, materi-
5 als, and techniques involved in the construction or operation
6 of pipeline facilities.”.

7 (b)(1) Section 5(a) is amended—

8 (A) by inserting after “(3) is enforcing each such
9 standard;” the following: “(4) has adopted and is ad-
10 ministering a reporting and disclosure program sub-
11 stantially meeting the requirements of the reporting
12 and disclosure program established by regulation under
13 section 15(d)(1);”;

14 (B) by redesignating paragraphs (4) and (5) there-
15 of as paragraphs (5) and (6), respectively;

16 (C) by striking out “excavation” in paragraph (5),
17 as redesignated, and inserting “demolition, excavation,
18 tunneling, or construction” in lieu thereof; and

19 (D) by striking out “and (iv)” and inserting in lieu
20 thereof “(iv) information obtained by the State agency
21 under a program described by paragraph (4) of this
22 subsection; and (v)”.

23 (2) Certification and information requirements estab-
24 lished by regulation under the amendments made by para-
25 graph (1) of this subsection shall not apply with respect to

1 annual certifications under section 5 during the 3-year period
2 which begins on the effective date of such regulation.

3 (c) Section 12(f), as redesignated by subsection (a) of
4 this section, is amended by striking out "or (c)" and inserting
5 in lieu thereof "(c), or (d)".

6 (d) Section 16 is amended by inserting "(a)" before
7 "Each person" and by adding at the end thereof the follow-
8 ing new subsection:

9 "(b) In addition to the program under subsection (a) of
10 this section, each person engaged in pipeline transportation
11 shall, in accordance with the regulations prescribed by the
12 Secretary, establish a program for the education of the public
13 of the hazards of demolition, excavation, tunneling, or con-
14 struction activity conducted near pipeline facilities, and the
15 methods by which information on the location of underground
16 pipelines may be obtained by the public."

17 REPORTING OF PIPELINE LEAKS

18 SEC. 103. (a) Section 12, as amended by section 102 of
19 this Act, is further amended by inserting after new subsection
20 (d) the following new subsection:

21 "(e)(1) The Secretary shall, by regulation, require that
22 any person owning or operating pipeline facilities shall
23 report, at such time and in such manner as the Secretary
24 shall require, any pipeline leak of which such person knew or

1 reasonably should have known. Any such report shall
2 include—

3 “(A) the specific location of the pipeline leak;

4 “(B) a description of the pipeline facilities at
5 which the pipeline leak occurred, including any infor-
6 mation described in subsection (d)(1)(A) which the Sec-
7 retary may require under such regulation;

8 “(C) a description of any personal injury or prop-
9 erty damage resulting from such pipeline leak; and

10 “(D) a description of the steps taken to prevent
11 the leak or leaks of a similar type from continuing or
12 recurring.

13 “(2) The Secretary shall, by order or regulation, provide
14 for an exemption for any person or category of persons from
15 all or part of the requirements under this subsection if the
16 Secretary finds that the financial and administrative burdens
17 of being covered by such requirements are not justified by the
18 benefits resulting from that coverage.

19 “(3) For the purposes of this subsection, the term ‘pipe-
20 line leak’ means any condition resulting in the escape of ma-
21 terial from pipeline facilities during pipeline transportation, or
22 during treatment of such material during the course of pipe-
23 line transportation, which is not caused by operation, inspec-
24 tion, or adjustment procedures which were properly carried
25 out. Such term does not include any condition which does not

1 pose a threat to public health or safety, property, or the envi-
2 ronment, as determined in accordance with regulations pre-
3 scribed by the Secretary.”.

4 (b) Section 12(f) (as amended by section 102 of this Act)
5 is amended by striking out “, or (d)” and inserting in lieu
6 thereof “(d), or (e)”.

7 (c) The amendments made by this section shall not
8 apply with respect to any pipeline leak (within the meaning
9 of section 12(e)(3), as amended by this section) occurring
10 before the effective date of the regulation initially prescribed
11 under such amendments.

12 COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED
13 PETROLEUM GAS

14 SEC. 104. (a) Section 2(3) is amended—

15 (1) by striking out “Transportation of gas” and
16 inserting in lieu thereof “Pipeline transportation”; and

17 (2) by inserting after “interstate or foreign
18 commerce” the following: “, or the transmission or dis-
19 tribution (but excluding the gathering) of liquefied
20 petroleum gas by pipeline, in interstate or foreign
21 commerce”.

22 (b) Section 2 is amended by redesignating paragraphs
23 (3) through (10) as paragraphs (4) through (11), respectively,
24 and by inserting after paragraph (2) the following new
25 paragraph:

13

1 “(3) ‘Liquefied petroleum gas’ means propane, butane,
2 any related product, or any mixture or combination thereof;”.

3 (c) Section 2(2) is amended by inserting “, but such
4 term does not include liquefied petroleum gas” after “toxic or
5 corrosive”.

6 (d) Section 2(4), as amended and redesignated, is further
7 amended by inserting after “distribution of gas” the follow-
8 ing: “(whether in a gaseous or nongaseous state)”.

9 (e) Section 2 is amended by inserting “(a)” after “SEC.
10 2.” and by adding at the end thereof the following new
11 subsection:

12 “(b) Any storage facility, or category of storage facili-
13 ties, physically connected to any pipeline facility, or facilities,
14 used for the transmission or distribution of liquefied petro-
15 leum gas shall be included by the Secretary, by regulation,
16 within the meaning of subsection (a)(5) if—

17 “(1) the Secretary finds that such inclusion would
18 further the purposes of this Act; and

19 “(2) such facility has a storage capacity of 30,000
20 gallons or more, or is used in connection with one or
21 more other storage facilities at the same site which
22 have, in the aggregate, a storage capacity of 30,000
23 gallons or more.”.

24 (f) Section 3 is amended by adding at the end thereof the
25 following new subsection:

1 “(f)(1) Standards, or amendments to standards, required
2 under this section by reason of the enactment of the Fuels
3 Transportation Safety Amendments Act of 1979 shall be pre-
4 scribed not later than 36 months after the date of the enact-
5 ment of such Act.

6 “(2) As soon as practicable but not later than 3 months
7 after the enactment of such Act, the Secretary shall, by
8 order, adopt interim minimum Federal safety standards for
9 pipeline facilities and pipeline transportation to the extent not
10 covered by this Act immediately before the date of the enact-
11 ment of the Fuels Transportation Safety Amendments Act of
12 1979. Such standards shall, to the extent the Secretary de-
13 termines appropriate, be the State standards regulating pipe-
14 line facilities and pipeline transportation within such State on
15 such date on enactment. In any State in which no such
16 standards are in effect, the Secretary shall, by order, estab-
17 lish interim Federal safety standards for such pipeline facili-
18 ties and pipeline transportation in such State which shall, to
19 the extent the Secretary determines appropriate, be such
20 standards as are common to a majority of States having
21 safety standards for pipeline facilities and pipeline transporta-
22 tion on such date. Interim standards shall remain in effect
23 until amended or revoked pursuant to this section. Any State
24 agency may adopt such additional or more stringent stand-
25 ards for pipeline facilities and pipeline transportation not sub-

1 ject to the jurisdiction of the Federal Energy Regulatory
2 Commission under the Natural Gas Act, or the Interstate
3 Commerce Act, as are not incompatible with the Federal
4 minimum standards, but may not adopt or continue in force
5 after the interim standards provided for above become effec-
6 tive any such standards applicable to interstate transmission
7 facilities.”.

8 (g)(1) The following provisions are amended by striking
9 out “the transportation of gas” each place it appears and
10 inserting in lieu thereof “pipeline transportation”:

11 (A) section 2(a)(5) and (9), as redesignated by sub-
12 section (a);

13 (B) section 3(b) and (e);

14 (C) section 4(b);

15 (D) section 8(a);

16 (E) section 11;

17 (F) section 12(a);

18 (G) section 13(b); and

19 (H) section 14(a)(4).

20 (2) The following provisions are each amended by strik-
21 ing out “transportation of gas” each place it appears and
22 inserting in lieu thereof “pipeline transportation”:

23 (A) section 2(a)(10), as redesignated by subsec-
24 tion (a);

25 (B) section 5(b)(3); and

1 (C) section 10(a).

2 (3) The following provisions are each amended by strik-
3 ing out "gas pipeline" each place it appears and inserting in
4 lieu thereof "pipeline":

5 (A) section 3(e);

6 (B) section 4(a); and

7 (C) section 14(b).

8 (4) Section 2(a)(4), as redesignated and amended, is fur-
9 ther amended by striking out "or its storage" and inserting in
10 lieu thereof ", or its storage in connection with such gather-
11 ing, transmission, or distribution,".

12 (5) Section 5(c)(1) is amended—

13 (A) by striking out "gas safety programs" and in-
14 serting in lieu thereof "pipeline safety programs", and

15 (B) by striking out "date of enactment of this sec-
16 tion." and inserting in lieu thereof the following: "date
17 of enactment of the Fuels Transportation Safety
18 Amendments Act of 1979.".

19 (6) The short title set forth in the first section is amend-
20 ed to read as follows: "Fuels Transportation Safety Act".

21 COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH

22 RENTAL OR LEASE OF REAL PROPERTY

23 SEC. 105. Section 2, as amended by section 104(e), is
24 further amended by adding at the end thereof the following
25 new subsection:

1 “(c)(1) Unless paragraph (2) applies, there shall be in-
2 cluded within the meaning of subsection (a)(4) any pipeline
3 distribution of gas by any person in connection with the
4 rental or lease of real property by that person to others,
5 whether or not—

6 “(A) a separate charge is made for such gas;

7 “(B) the distribution to each rental or lease unit is
8 separately metered; and

9 “(C) the person distributing such gas is otherwise
10 treated as being engaged in local distribution of gas.

11 “(2) The Secretary shall, by regulation, provide that the
12 provisions of paragraph (1) not apply in cases in which the
13 public health and safety are adequately protected by reason
14 of the existence and enforcement of appropriate building or
15 housing codes or similar laws.”.

16 COVERAGE OF CERTAIN NONPIPELINE FACILITIES

17 SEC. 106. (a) Section 2, as amended by this Act, is
18 further amended by adding at the end thereof the following
19 new subsection:

20 “(d)(1) If the Secretary finds that the purposes of this
21 Act would be furthered, he may, by regulation, require that
22 the provisions of this Act shall apply with respect to any
23 specified type or class of facility or equipment used in the
24 transportation on land of gas or liquefied petroleum gas, in
25 interstate or foreign commerce, or storage in connection with

1 such transportation, to the same extent and in the same
2 manner as such provisions apply with respect to pipeline
3 facilities.

4 “(2) This subsection (or any action hereunder) shall not
5 be construed to relieve any person from having to meet
6 standards or meeting other requirements under any other
7 Federal law; except that, if any regulation under this subsec-
8 tion results in the imposition of a standard or other require-
9 ment relating to any matter that the Secretary finds is cov-
10 ered by any other standard or requirement pursuant to any
11 provision of law under the jurisdiction of the Secretary, the
12 Secretary shall so state in such regulation, and that standard
13 or requirement shall supersede and preempt the standard or
14 requirement pursuant to such other provision of law to the
15 extent such matter is covered under the regulation under this
16 subsection.

17 “(3) Nothing in this subsection shall be interpreted to
18 provide the Secretary with authority over any specified type
19 or class of facility or equipment used in the transportation on
20 land of gas or liquified petroleum gas, in interstate or foreign
21 commerce, or storage in connection with such transportation,
22 unless the Secretary has authority over such facilities, equip-
23 ment, or storage under any other provision of law.”.

24 (b) Section 5(a) is amended by inserting “section 2(d),”
25 after “Except for”.

1 PIPELINE SAFETY INSPECTORS

2 SEC. 107. (a)(1) Section 3(b) is amended by inserting
3 after paragraph (4) the following new sentence: "Standards
4 under this subsection which relate to inspection and other
5 enforcement shall set forth minimum training and educational
6 requirements for pipeline inspectors."

7 (2) Section 5(c) is amended by adding at the end thereof
8 the following new paragraph:

9 "(5) The Secretary may not make any payment under
10 this subsection to a State agency for any calendar year begin-
11 ning after December 31, 1981, unless such State agency has
12 demonstrated that from the payments to such agency for such
13 year funds will be applied for the training and education of
14 pipeline safety inspectors of such State agency in order to
15 enable them to better perform their responsibilities. The
16 amounts to be applied for such purposes are to be adequate to
17 assure that the pipeline safety inspectors maintained by such
18 State agency comply with any standards established under
19 section 3(a) for training and education of pipeline
20 inspectors."

21 (b) Section 5(f) is amended to read as follows:

22 "(f)(1) The Secretary shall determine, after reasonable
23 notice and opportunity for hearing, the minimum number of
24 pipeline safety inspectors which must be maintained by a

1 State agency in order to assure adequate monitoring of com-
2 pliance with applicable safety standards within such State.

3 “(2) No State agency shall be considered to meet the
4 requirements for certification under subsection (a), nor may
5 the Secretary enter into any agreement under subsection (b)
6 or allow a State to act as his agent with respect to interstate
7 transmission facilities, unless the State agency involved has
8 demonstrated that such agency has and will continue to
9 maintain no less than the minimum number of pipeline in-
10 spectors determined by the Secretary under paragraph (1) to
11 be required for such State.”.

12 TECHNICAL PIPELINE STANDARDS COMMITTEE

13 SEC. 108. (a) Section 4(b) is amended—

14 (1) by striking out the first sentence and inserting
15 in lieu thereof the following: “The Secretary shall
16 submit to the Committee any proposed standard under
17 this Act, or any proposed amendment to a standard
18 under this Act, for their consideration. Within 90 days
19 after receipt of any proposed standard or amendment,
20 the Committee shall prepare a report on the technical
21 feasibility, reasonableness, and practicability of such
22 standard or amendment. The Secretary may prescribe
23 a final standard or final amendment to a standard at
24 any time after the 90th day after its submission to the

1 Committee, whether or not the Committee has pre-
2 pared a report on such standard or amendment.”;

3 (2) by inserting after “published by the Secretary
4 and” the following “, if timely made,”; and

5 (3) by inserting before the last sentence thereof
6 the following new sentence: “The Committee shall
7 meet with the Secretary (or his designee) not less fre-
8 quently than once every 6 months.”.

9 (b) Section 4(c) is amended by striking out “not to
10 exceed \$100 per diem” and inserting in lieu thereof “not to
11 exceed the daily equivalent of the maximum annual rate of
12 basic pay then currently payable under the General Schedule
13 under section 5332 of title 5, United States Code, for each
14 day”.

15 APPROPRIATIONS AUTHORIZATION

16 SEC. 109. Section 15 is amended to read as follows:

17 “APPROPRIATIONS AUTHORIZED

18 “SEC. 15. (a) For the purpose of carrying out the provi-
19 sions of this Act (other than provisions for which funds are
20 authorized to be appropriated under subsection (b)), there are
21 authorized to be appropriated—

22 “(1) \$6,000,000, for the fiscal year ending Sep-
23 tember 30, 1980;

24 “(2) \$7,000,000, for the fiscal year ending Sep-
25 tember 30, 1981; and

1 “(3) \$8,000,000, for the fiscal year ending Sep-
2 tember 30, 1982;

3 “(b)(1) For the purpose of carrying out the provisions of
4 section 5 (c) and (f) of this Act, there are authorized to be
5 appropriated—

6 “(A) \$4,500,000, for the fiscal year ending Sep-
7 tember 30, 1980;

8 “(B) \$5,500,000, for the fiscal year ending Sep-
9 tember 30, 1981; and

10 “(C) \$6,500,000, for the fiscal year ending Sep-
11 tember 30, 1982;

12 “(2) For the purpose of carrying out the electronic data-
13 processing program under section 15(d)(6) for identifying haz-
14 ardous equipment, materials, and techniques, there are
15 authorized to be appropriated—

16 “(A) \$1,000,000, for the fiscal year ending Sep-
17 tember 30, 1980;

18 “(B) \$1,500,000, for the fiscal year ending Sep-
19 tember 30, 1981; and

20 “(C) \$2,000,000, for the fiscal year ending Sep-
21 tember 30, 1982.”.

1 TITLE II—SITING AND SAFETY OF LNG

2 FACILITIES

3 DEFINITIONS

4 SEC. 201. Section 2(a), as redesignated, is amended by
5 striking out “and” at the end of paragraph (10) (as redesign-
6 nated), by striking out the period at the end of paragraph (11)
7 (as redesignated) and inserting a semicolon in lieu thereof,
8 and by adding at the end thereof the following new items:

9 “(12) ‘LNG’ means natural gas in a liquid, semisolid, or
10 solid state;

11 “(13) ‘LNG facility’ means any storage tank, pipeline,
12 or other structure or equipment used for the transportation,
13 storage, or use of LNG, or for LNG conversion, in interstate
14 or foreign commerce, but does not include any structure or
15 equipment (or portion thereof) located in navigable waters (as
16 defined in section 3(8) of the Federal Power Act (16 U.S.C.
17 796(8)));

18 “(14) ‘LNG conversion’ means conversion of natural gas
19 into LNG (liquefaction or solidification) or the conversion of
20 LNG into natural gas (vaporization);

21 “(15) ‘Construction’ means construction, reconstruction,
22 or erection, and includes, with respect to any LNG facility,
23 any act which the Secretary determines would result in the
24 creation or substantial increase of capacity of such facility for
25 transporting or storing LNG or for LNG conversion;

1 “(16) ‘Existing LNG facility’ means any LNG facility
2 for which an application for the approval of the siting, con-
3 struction, or operation of such facility was filed before March
4 1, 1978, with—

5 “(A) the Department of Energy or any predeces-
6 sor organization of the Department, or

7 “(B) the appropriate State agency, in the case of
8 any facility not subject to the jurisdiction of the De-
9 partment of Energy under the Natural Gas Act,
10 except that such term does not include any facility the con-
11 struction of which commences on or after the date of the
12 enactment of this paragraph and such construction is not pur-
13 suant to such an approval;

14 “(17) ‘New LNG facility’ means any LNG facility other
15 than an existing LNG facility;

16 “(18) ‘LNG accident’ means any release, burning, or
17 explosion of LNG resulting from—

18 “(A) a rupture or other failure of a storage tank,
19 pipeline, or other LNG facility;

20 “(B) natural hazards (including earthquakes, hur-
21 ricanes, and high winds);

22 “(C) sabotage; or

23 “(D) any other cause;

24 other than any such release, burning, or explosion which, as
25 determined in accordance with regulations prescribed by the

1 Secretary, does not pose a threat to public health or safety,
2 property, or the environment; and

3 “(19) ‘Interstate or foreign commerce’ means any trade,
4 traffic, transportation, exchange, or other commerce—

5 “(A) between any State and any place outside of
6 such State, or

7 “(B) which affects any trade, transportation, ex-
8 change, or other commerce described in subparagraph
9 (A).”.

10 SITING AND SAFETY STANDARDS

11 SEC. 202. (a) The Act is amended by redesignating sec-
12 tions 6 through 17 as sections 8 through 19, respectively,
13 and by inserting after section 5 the following new section:

14 “STANDARDS FOR LNG FACILITIES

15 “SEC. 6. (a)(1) After the date standards first take effect
16 under this section, no new LNG facility may be constructed
17 unless the Secretary approves such construction, and then
18 only to the extent that such construction is in accordance
19 with the applicable standards prescribed under subsection (b)
20 and such other terms and conditions as the Secretary deter-
21 mines are appropriate to assure that the facility will be con-
22 structed and operated in compliance with standards under
23 subsection (b).

24 “(2) The Secretary shall not approve construction of
25 any LNG facility under this subsection unless the person

1 seeking such approval submits a contingency plan which sets
2 forth those steps which are to be taken in the event of an
3 LNG accident and which the Secretary determines to be
4 adequate.

5 “(3) The standards under this subsection shall not apply
6 in the case of siting or construction with respect to which an
7 application for approval was filed before March 1, 1978,
8 with—

9 “(A) the Department of Energy or any predeces-
10 sor organization of the Department; or

11 “(B) the appropriate State agency, in the case of
12 any facility not subject to the jurisdiction of the De-
13 partment under the Natural Gas Act.

14 “(b) Not later than 180 days after the date of the enact-
15 ment of this section, the Secretary shall establish—

16 “(1) minimum standards for determining the loca-
17 tion of any new LNG facility which is to be stationary,

18 “(2) minimum standards for the construction of
19 any new LNG facility, and

20 “(3) minimum standards for the operation of any
21 new LNG facility.

22 Any standard under this section shall be in addition to, and
23 not in lieu of, standards under section 3 which are not incon-
24 sistent with such standard.

1 “(c) Not later than 270 days after the date of the enact-
2 ment of this title, the Secretary shall establish minimum
3 standards to be maintained with respect to the operation of
4 any existing LNG facility.

5 “(d) In prescribing standards under subsections (b) and
6 (c), the Secretary shall take into consideration—

7 “(1) with respect to standards relating to the loca-
8 tion of any stationary new LNG facility—

9 “(A) the nature of the use of the facility;

10 “(B) criteria to be used in determining the
11 number and characteristics of other sites to be
12 considered as alternative locations for such LNG
13 facility;

14 “(C) the existing and projected population
15 and demographic characteristics associated with
16 each location considered;

17 “(D) the existing and proposed land uses
18 near each such location;

19 “(E) the meteorological, geological, topo-
20 graphical, seismic, and other natural physical as-
21 pects of each such location;

22 “(F) the medical, law enforcement, and fire
23 prevention capabilities existing near each such lo-
24 cation to cope with risks created by such a
25 facility;

1 “(G) the costs of constructing and operating
2 such LNG facility at each such location, including
3 the costs to the United States and to State and
4 local governments which are associated with such
5 construction and operation; and

6 “(H) the need to encourage remote siting;

7 “(2) with respect to standards applicable to the
8 construction of any new LNG facility—

9 “(A) the thermal resistance and other char-
10 acteristics of materials to be used in the construc-
11 tion of such facility as compared to alternative
12 materials;

13 “(B) design factors (such as multiple diking,
14 insulated concrete, and vapor containment bar-
15 riers);

16 “(C) the characteristics of the LNG to be
17 stored or converted at, or transported by, such fa-
18 cility (for example, whether it is to be in a liquid,
19 semisolid, or solid state); and

20 “(D) the public safety factors of the design
21 as compared to alternative designs (particularly
22 the ability under such a design to prevent and
23 contain an LNG spill); and

24 “(3) with respect to standards for the operation of
25 any LNG facility—

1 “(A) the conditions, features, and type of
2 equipment and structures which comprise, or
3 which are used in connection with, such facility;

4 “(B) the fire prevention and containment
5 equipment at such facility;

6 “(C) the security measures to be used with
7 respect to the operation of such facility for the
8 prevention of sabotage or other intentional acts
9 which could cause an LNG accident;

10 “(D) maintenance procedures and equipment;

11 “(E) the training of personnel with respect to
12 the equipment, structures, measures, and proce-
13 dures described in subparagraphs (A), (B), (C),
14 and (D); and

15 “(F) other factors and conditions relating to
16 the safe handling of LNG.

17 “(e) At any time after the effective date of standards
18 initially prescribed under subsections (b) and (c), the Secre-
19 tary shall, on his own motion or on the motion of any person,
20 amend such standards to the extent he considers necessary to
21 reflect changes in technology or to otherwise carry out the
22 purposes of this section.

23 “(f) Any standards prescribed under this section, and
24 amendments thereto, shall become effective 30 days after the
25 date of issuance of such standards unless the Secretary, for

1 good cause recited, determines an earlier or later effective
2 date is required as a result of the period reasonably necessary
3 for compliance and such date is specified in the order estab-
4 lishing or amending such standard.

5 “(g) The provisions of subchapter II of chapter 5 of title
6 5, United States Code, shall apply to all orders establishing,
7 amending, or revoking, any standard established under this
8 section. The Secretary shall afford interested persons an op-
9 portunity to participate fully in the establishment of such
10 safety standards through submission of written data, views,
11 or arguments with opportunity to present oral testimony and
12 argument.”.

13 (b)(1) Section 2(a)(4), as redesignated, is amended by
14 striking out “or affecting”.

15 (2) Section 2(a)(10), as redesignated, is amended by in-
16 serting “, LNG facilities,” after “pipeline facilities” the first
17 place it appears therein.

18 (3) Section 3(d), as redesignated, is amended—

19 (A) by inserting “or LNG facilities” after “pipe-
20 line facilities”; and

21 (B) by inserting after “in the same manner” the
22 following: “and to the same extent”.

23 (4) Section 4(b) (relating to Pipeline Transportation
24 Safety Committee) is amended by inserting “, LNG facili-
25 ties,” after “pipeline facilities”.

1 (5) Section 9 (relating to cooperation), as redesignated,
2 is amended—

3 (A) by inserting “or LNG facility” after “affected
4 pipeline facility” and after “gas pipeline”; and

5 (B) by inserting “or LNG facilities” after “pipe-
6 line facilities”.

7 (6) Section 10 (relating to compliance), as redesignated,
8 is amended by inserting “or LNG facilities” after “pipeline
9 facilities”.

10 (7) Section 13 (relating to injunction and jurisdiction), as
11 redesignated, is amended by inserting after “pipeline facility”
12 the following: “or LNG facility”.

13 (8) Section 14 (relating to inspection and maintenance
14 plans), as redesignated, is amended—

15 (A) by inserting after “facilities” the following:
16 “or LNG facilities” each place it appears;

17 (B) by striking out “pipeline safety” each place it
18 appears and inserting in lieu thereof “pipeline and
19 LNG facility safety”; and

20 (C) by inserting in paragraph (2) after “pipeline
21 transportation” the following: “or LNG facility”.

22 (9) Section 15 (relating to records, etc.), as redesign-
23 nated, is amended by inserting after “pipeline facilities” each
24 place it appears the following: “and LNG facilities”.

1 (10) Section 17(a)(2) (relating to annual report), as re-
2 designated, is amended by inserting after "pipeline" the fol-
3 lowing: "or LNG facilities".

4 (11) Section 17(a)(4) (relating to annual report), as re-
5 designated, is amended by striking out "and pipeline facili-
6 ties" and inserting in lieu thereof ", pipeline facilities, and
7 LNG facilities,".

8 FINANCIAL RESPONSIBILITY

9 SEC. 203. The Act, as amended by section 202 of this
10 Act, is further amended by inserting after the new section 6
11 the following new section:

12 "FINANCIAL RESPONSIBILITY FOR CERTAIN LNG
13 ACTIVITIES; STUDIES

14 "SEC. 7. (a) Not later than 9 months after the date of
15 the enactment of this section, the Secretary shall—

16 "(1) conduct a study of—

17 "(A) the risks associated with the production,
18 transmission, and storage of LNG;

19 "(B) the risks associated with the production,
20 transmission, and storage of liquefied petroleum
21 gas;

22 "(C) the methods of assuring adequate finan-
23 cial responsibility for those engaged in any such
24 activity; and

1 “(2) prepare and transmit to each House of the
2 Congress a report on the results of such study, to-
3 gether with the recommendations of the Secretary for
4 such legislative or administrative action as he considers
5 appropriate.

6 “(b)(1) Whenever the Secretary has reason to believe
7 that any operator of an LNG facility is not maintaining ade-
8 quate insurance or otherwise does not have adequate finan-
9 cial responsibility with respect to such facilities, he shall
10 issue and serve upon such operator notice thereof, together
11 with a statement of the amount of the financial responsibility
12 that the Secretary would consider adequate.

13 “(2) Any person issued notice under paragraph (1) shall
14 have a right to hearing on the record in accordance with
15 section 554 of title 5, United States Code, to be held not
16 later than 30 days after notice under paragraph (1), at which
17 such person has the right to show cause as to why an order
18 should not be issued by the Secretary requiring such person
19 to demonstrate and maintain financial responsibility at or
20 above the amount indicated in the notice under paragraph (1).

21 “(3) After an opportunity for hearing under paragraph
22 (2), the Secretary may, if he determines it is justified in the
23 public interest, order the person issued notice of such hearing
24 to demonstrate and maintain financial responsibility at or
25 above an amount determined appropriate by the Secretary,

1 taking into account any information, data, and views pre-
2 sented in such hearing.

3 “(4)(A) Any person aggrieved by an order issued under
4 paragraph (3) may seek judicial review of such order only by
5 filing a petition for review in the appropriate court of appeals
6 of the United States within 60 days after such order is
7 issued.

8 “(B) Upon receipt of notice of the filing of such petition,
9 the Secretary shall file in the court the record in the proceed-
10 ing, as provided in section 2112 of title 28, United States
11 Code. Upon such filing, the court may affirm, modify,
12 remand, or set aside the order of the Secretary, and may
13 enforce the order to the extent that such order is affirmed
14 and issue such writs as are ancillary to its jurisdiction or are
15 necessary in its judgment to prevent injury to the public pen-
16 dente lite. The findings of the Secretary as to the facts, if
17 supported by substantial evidence, shall be conclusive.

18 “(C) The judgment and decree of the court shall be
19 final, except that such judgment and decree shall be subject
20 to review by the Supreme Court upon certiorari, as provided
21 in section 1254 of title 28, United States Code.

22 “(c) For purposes of subsection (b) of this section, finan-
23 cial responsibility may be maintained by any one of, or a
24 combination of, the following methods acceptable to the
25 Secretary:

- 1 “(1) evidence of insurance,
2 “(2) surety bonds,
3 “(3) qualification as a self-insurer, or
4 “(4) other evidence of financial responsibility.”.

5 ENFORCEMENT OF STANDARDS AND FINANCIAL
6 RESPONSIBILITY REQUIREMENTS

7 SEC. 204. (a) Section 11(a) (relating to civil penalty), as
8 redesignated by section 202 of this Act, is amended by in-
9 serting “(1)” before “Any person” and by adding at the end
10 thereof the following new paragraph:

11 “(2) Any person who violates the provisions of section 6
12 or any order under section 7(b) shall be subject to a civil
13 penalty of not to exceed \$50,000, which penalty shall be in
14 addition to any other penalties to which such person may be
15 subject under this subsection.”.

16 (b) The Act is further amended by redesignating sec-
17 tions 12 through 19 (as redesignated) as sections 13 through
18 20, respectively, and by inserting after section 11 the follow-
19 ing new section:

20 “CRIMINAL PENALTY

21 “SEC. 12. Any person who willfully and knowingly vio-
22 lates the provisions of section 6 or any order issued under
23 section 7(b) shall, on conviction thereof, be punished by a fine
24 of not more than \$50,000, or by imprisonment for not more
25 than five years, or both.”.

1 APPROPRIATIONS AUTHORIZATION

2 SEC. 205. Section 18(b) (relating to appropriations au-
3 thorization), as redesignated, is amended by adding at the
4 end thereof the following new paragraph:

5 “(3) For the purpose of carrying out sections 6 and 7 of
6 this Act, there are authorized to be appropriated—

7 “(A) \$2,000,000 for the fiscal year ending Sep-
8 tember 30, 1979;

9 “(B) \$2,000,000 for the fiscal year ending Sep-
10 tember 30, 1980; and

11 “(C) \$2,000,000 for the fiscal year ending Sep-
12 tember 30, 1981.”.

13 TITLE III—MISCELLANEOUS PROVISIONS

14 WILLFUL DESTRUCTION OF INTERSTATE PIPELINE

15 TRANSMISSION OR LNG FACILITIES

16 SEC. 301. Section 12 (as added by section 204 of this
17 Act) is amended by inserting “(a)” after “SEC. 12.” and by
18 adding at the end thereof the following new subsection:

19 “(b) Any person who willfully injures or destroys, or
20 attempts to injure or destroy—

21 “(1) any pipeline facility for the interstate trans-
22 mission of gas, liquefied petroleum gas, or petroleum,
23 including any facility or equipment covered under this
24 Act under section 2(b) or (d) used in the interstate
25 transmission of gas or liquefied petroleum gas, or

1 “(2) any liquefied gas facility to which section 6
2 applies,
3 shall be fined not more than \$15,000 or imprisoned not more
4 than fifteen years, or both.”.

5 APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPER-
6 ATIONS AND DIRECTOR OF MATERIALS TRANSPORTA-
7 TION BUREAU

8 SEC. 302. (a) Notwithstanding any other provision of
9 law—

10 (1) no individual may serve for more than 180
11 days (in the aggregate) in an acting capacity in a posi-
12 tion the principal duties of which were identified as of
13 March 1, 1978, as assigned to the Director of the
14 Office of Pipeline Safety Operations, Department of
15 Transportation, or may serve as the Acting Director of
16 the Materials Transportation Bureau, Department of
17 Transportation, and

18 (2) If a person is not appointed to such position
19 within 180 days after a vacancy occurs in that posi-
20 tion, the Secretary shall personally carry out the func-
21 tions of such position until an appointment is made to
22 that position, and all delegations of authority under the
23 Fuels Transportation Safety Act shall be suspended
24 until such appointment is made.

1 (b) In the case of any vacancy in such positions on the
2 date of the enactment of this Act, periods of service before
3 the date of enactment shall not be taken into account for
4 purposes of subsection (a).

5 TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

6 SEC. 303. (a) Section 3, as amended by this Act, is
7 further amended by striking out subsection (a) and by redesi-
8 gnating subsections (b) through (f) as subsections (a) through
9 (e), respectively.

10 (b) Section 3(b), as redesignated by subsection (a), is
11 amended by inserting after "period reasonably necessary for
12 compliance" the following: "and such date is specified in the
13 order establishing or amending such standard".

14 (c) Clause (ii) of section 5(a) is amended by inserting
15 after "property damage exceeding \$1,000" the following:
16 "(whether or not sustained by a person subject to the safety
17 jurisdiction of the State)".

18 (d) Section 5(a) is amended by striking out "; except
19 that a State agency may file a certification under this subsec-
20 tion without regard to the requirement of injunctive and mon-
21 etary sanctions under State law for a period not to exceed
22 five years after the date of enactment of this Act".

23 (e) Section 11(a)(1) (relating to civil penalties), as redesi-
24 gnated, is amended by striking out ": *Provided*, That for a
25 reasonable period of time, not to exceed one year after the

1 date of the enactment of this Act, such civil penalties shall
2 not be applicable to pipeline facilities existing on such date of
3 enactment”.

4 (f) Section 17(a)(3) (relating to annual reports), as redes-
5 ignated by sections 202 and 204 of this Act, is amended by
6 striking out “section 3(e)” and inserting in lieu thereof “sec-
7 tion 3(d)”.

8 (g) The following provisions are each amended by strik-
9 ing out “Federal Power Commission” and inserting in lieu
10 thereof “Federal Energy Regulatory Commission”:

11 (1) section 2(a) (9) and (10), as redesignated;

12 (2) section 9 (relating to cooperation), as redesign-
13 nated, including the section heading; and

14 (3) section 16(b) (relating to administration), as
15 redesignated.

16 (h) Paragraphs (9) and (10) of section 2(a), as redesign-
17 nated, are each amended by inserting “or the Interstate
18 Commerce Act” after “the Natural Gas Act”.

19 (i)(1) Section 5(a) is amended by striking out “section
20 12(b)”, “section 12”, “section 11”, and “sections 9 and 10”
21 and inserting in lieu thereof “section 15 (b) and (e)”, “section
22 15 (a), (b), (c), and (f)”, “section 14”, and “sections 11 (other
23 than subsection (a)(2) thereof) and 13”, respectively.

1 (2) Section 5(a) is further amended by inserting "section
2 20," before "and except as otherwise provided in this
3 section".

4 (3) Section 5(b)(2) is amended by striking out "section
5 11" and inserting in lieu thereof "section 14".

6 (4) Section 5(c)(2) is amended by striking out "section
7 15(b)" and inserting in lieu thereof "section 18(b)(1)".

8 (5) Section 10 (relating to compliance), as redesignated,
9 is amended by striking out "section 11" and "section 12"
10 and inserting in lieu thereof "section 14" and "section 15",
11 respectively.

12 (6) Section 13 (relating to injunction and jurisdiction), as
13 redesignated, is amended by striking out "section 9" each
14 place it appears and inserting in lieu thereof "section 11
15 or 12".

16 (7) Section 11(a)(1) (relating to civil penalty), as redesignated,
17 is amended by striking out "section (8)(a)" and inserting
18 "section 10" in lieu thereof.

19 (j) Section 17(a) (relating to annual report), as redesignated,
20 is amended by striking out "March 17" and inserting
21 in lieu thereof "June 1".

22 (k) Any reference in any other provision of law, rule,
23 regulation, or order to the Natural Gas Pipeline Safety Act
24 of 1968 shall be considered to refer to the Fuels Transportation
25 Safety Act.

96TH CONGRESS
1ST SESSION

H. R. 51

[Report No. 96-201, Part I]

To amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1979

Mr. MARKEY (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MAY 15, 1979

Reported with an amendment, referred to the Committee on Public Works and Transportation for a period ending not later than June 5, 1979, for consideration of such portions of the bill and amendment as fall within its jurisdiction under clause 1(p), Rule X, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 5, 1979

Referral to the Committee on Public Works and Transportation extended for an additional period ending not later than June 12, 1979

JUNE 6, 1979

Additional sponsors: Mr. STAGGERS, Mr. PREYER, Mr. SCHEUER, Mr. OTTINGER, Mr. MAGUIRE, Mr. MOFFETT, Mr. GORE, Ms. MIKULSKI, Mr. MOTT, Mr. LELAND, and Mr. WAXMAN

A BILL

To amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Fuels Transportation Safety Amendments Act of 1979".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

	Page
Sec. 1. Short title; table of contents.	
Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.	

TITLE I—FUELS TRANSPORTATION GENERALLY

Sec. 101. Hazardous pipeline facilities.
Sec. 102. Information on pipeline location and characteristics.
Sec. 103. Reporting of pipeline leaks.
Sec. 104. Coverage of pipeline transportation of liquefied petroleum gas.
Sec. 105. Coverage of gas distributed in connection with rental or lease of real property.
Sec. 106. Coverage of certain nonpipeline facilities.
Sec. 107. Pipeline safety inspectors.
Sec. 108. Technical Pipeline Standards Committee.
Sec. 109. Appropriations authorization.

TITLE II—SITING AND SAFETY OF LNG FACILITIES

Sec. 201. Definitions.
Sec. 202. Siting and safety standards.
Sec. 203. Financial responsibility.
Sec. 204. Enforcement of standards and financial responsibility requirements.
Sec. 205. Appropriations authorization.

1 “(A) if under the facts and circumstances he de-
2 termines the particular facility is hazardous to life or
3 property, or

4 “(B) if the pipeline facility or a component thereof
5 has been or is proposed to be constructed or operated
6 with any equipment, material, or technique which he
7 determines is hazardous to life or property, unless the
8 operator involved demonstrates to the satisfaction of
9 the Secretary that under the particular facts and cir-
10 cumstances involved such equipment, material, or tech-
11 nique is not hazardous to life or property.

12 “(3) In making a determination under paragraph (2), the
13 Secretary shall consider—

14 “(A) the characteristics of the pipe and other
15 equipment used in the pipeline facility involved, includ-
16 ing its age, manufacturer, physical properties (including
17 its resistance to corrosion and deterioration), and the
18 method of its manufacture, construction, or assembly;

19 “(B) the nature of the materials transported by
20 such facilities (including their corrosive and deteriora-
21 tive qualities), the sequence in which such materials
22 are transported, and the pressure required for such
23 transportation;

24 “(C) the aspects of the areas in which the pipeline
25 facilities are located, in particular the climatic and geo-

1 logic conditions (including soil characteristics) associat-
2 ed with such areas, and the population density and
3 population and growth patterns of such areas;

4 “(D) any relevant recommendation of the National
5 Transportation Safety Board issued in connection with
6 any investigation conducted by the Board under other
7 provisions of law; and

8 “(E) such other factors as the Secretary may con-
9 sider appropriate.

10 “(4) The Secretary may waive any requirements for
11 hearing and a period of reasonable notice and provide for
12 expeditious issuance of an order under this subsection in any
13 case in which he determines that the failure to do so would
14 result in the likelihood of serious harm to life or property.”.

15 (b) Section 3(b) is amended by striking out the fourth
16 sentence.

17 (e) The first sentence of section 5(a) is amended by strik-
18 ing out “the fourth sentence of section 3(b),” and inserting in
19 lieu thereof “section 10(b),”.

20 INFORMATION ON PIPELINE LOCATION AND
21 CHARACTERISTICS

22 SEC. 102. (a) Section 12 is amended by redesigning sub-
23 section (d) as subsection (f) and by inserting after subsection
24 (e) the following new subsection:

1 “(d)(1) The Secretary shall, by regulation, require any
2 person operating a pipeline facility to—

3 “(A) prepare and maintain a general description of
4 the pipeline facility, including—

5 “(i) the location of the pipeline and the pipe-
6 line facilities;

7 “(ii) the type, age, manufacturer, and method
8 of construction of such pipeline and facilities;

9 “(iii) the nature of the materials transported,
10 the sequence in which they are transported, and
11 the pressure at which they are transported;

12 “(iv) the climatic, geologic, seismic, and con-
13 ditions (including soil characteristics) associated
14 with the areas in which the pipeline facilities are
15 located, and the existing and projected population
16 and demographic characteristics associated with
17 such areas; and

18 “(v) such other information as the Secretary
19 may consider appropriate;

20 “(B) prepare, maintain, and submit to State and
21 local entities authorized to approve demolition, excava-
22 tion, tunneling, or construction activities in the areas
23 in which the pipeline facilities are located a detailed
24 description of the pipeline’s location; and

1 “(C) submit to the Secretary a report containing
2 the information prepared and maintained under subpar-
3 agraph (A).

4 “(2) Information prepared and maintained under para-
5 graph (1)(A)(i) of this subsection shall, on request and for
6 good cause shown, be made available for public inspection.

7 “(3) The requirements of subparagraph (B) of paragraph
8 (1) shall be deemed to be satisfied in the case of any pipeline
9 facility operator participating in a public safety program es-
10 tablished under State or local law or regulation—

11 “(A) under which—

12 “(i) notice is required to be provided to pipe-
13 line facility operators of proposed demolition, ex-
14 cavation, tunneling, or construction near or affect-
15 ing such facility; and

16 “(ii) such operators are required to identify
17 specific pipeline facilities which may be affected
18 by the proposed demolition, excavation, tunneling,
19 or construction, for the purpose of preventing
20 damage to such facilities; and

21 “(B) which the Secretary determines is being car-
22 ried out in a manner adequate to assure protection
23 against the hazards of demolition, excavation, tunnel-
24 ing, or construction near or affecting such facilities.

25 “(4)(A) The Secretary shall—

1 “(i) not later than 180 days after the date of the
2 enactment of this subsection, publish proposed regula-
3 tions, required to be prescribed under paragraph (1),
4 and provide an opportunity (of not less than 60 days’
5 duration) for oral and written public comment on such
6 proposed regulations; and

7 “(ii) as soon as possible after the public comment
8 period under clause (i) but not later than 270 days
9 after the date of the enactment of this subsection, pre-
10 scribe the final regulations.

11 “(B) Any requirement to prepare, maintain, or submit
12 information which is prescribed pursuant to this subsection
13 shall not take effect until 3 years after the date of the enact-
14 ment of this Act.

15 “(5) The Secretary shall, by order or regulation, provide
16 for an exemption for any person or category of persons from
17 all or part of the requirements under this subsection if the
18 Secretary finds—

19 “(A) that the financial and administrative burdens
20 of being covered by such requirements are not justified
21 by the benefits resulting from that coverage; or

22 “(B) the costs to such person or persons by being
23 covered by such requirements would significantly in-
24 crease consumer rates or charges and such exemption
25 would not endanger the public health or safety.

1 “(7) Not later than 3 years after the date of the enact-
2 ment of this subsection, the Secretary shall, by rule, establish
3 and thereafter maintain a program, for use in an electronic
4 data-processing system, which processes and maintains—

5 “(A) information obtained under the preceding
6 provisions of this subsection;

7 “(B) information on pipeline leaks reported under
8 subsection (e);

9 “(C) information on accidents and incidents re-
10 ported under section 5; and

11 “(D) such other information as the Secretary de-
12 termines appropriate which is obtained by the Secre-
13 tary under any other provision of law;
14 for the purpose of identifying hazardous equipment, materi-
15 als, and techniques involved in the construction or operation
16 of pipeline facilities.”.

17 (b)(1) Section 5(a) is amended—

18 (A) by inserting after “(2) is enforcing each such
19 standard;” the following: “(4) has adopted and is ad-
20 ministering a reporting and disclosure program sub-
21 stantially meeting the requirements of the reporting
22 and disclosure program established by regulation under
23 section 15(d)(1);”;

24 (B) by redesignating paragraphs (4) and (5) there-
25 of as paragraphs (5) and (6), respectively;

1 (C) by striking out "excavation" in paragraph (5),
2 as redesignated, and inserting "demolition, excavation,
3 tunneling, or construction" in lieu thereof; and

4 (D) by striking out "and (iv)" and inserting in lieu
5 thereof "(iv) information obtained by the State agency
6 under a program described by paragraph (4) of this
7 subsection; and (v)".

8 (2) Certification and information requirements estab-
9 lished by regulation under the amendments made by para-
10 graph (1) of this subsection shall not apply with respect to
11 annual certifications under section 5 during the 3-year period
12 which begins on the effective date of such regulation.

13 (e) Section 12(f), as redesignated by subsection (a) of
14 this section, is amended by striking out "or (c)" and inserting
15 in lieu thereof "(c), or (d)".

16 (d) Section 16 is amended by inserting "(a)" before
17 "Each person" and by adding at the end thereof the follow-
18 ing new subsection:

19 "(b) In addition to the program under subsection (a) of
20 this section, each person engaged in pipeline transportation
21 shall, in accordance with the regulations prescribed by the
22 Secretary, establish a program for the education of the public
23 of the hazards of demolition, excavation, tunneling, or con-
24 struction activity conducted near pipeline facilities, and the

1 methods by which information on the location of underground
2 pipelines may be obtained by the public.”

3 REPORTING OF PIPELINE LEAKS

4 SEC. 102. (a) Section 12, as amended by section 102 of
5 this Act, is further amended by inserting after new subsection
6 (d) the following new subsection:

7 “(e)(1) The Secretary shall, by regulation, require that
8 any person owning or operating pipeline facilities shall
9 report, at such time and in such manner as the Secretary
10 shall require, any pipeline leak of which such person knew or
11 reasonably should have known. Any such report shall
12 include—

13 “(A) the specific location of the pipeline leak;

14 “(B) a description of the pipeline facilities at
15 which the pipeline leak occurred, including any infor-
16 mation described in subsection (d)(1)(A) which the Sec-
17 retary may require under such regulation;

18 “(C) a description of any personal injury or prop-
19 erty damage resulting from such pipeline leak; and

20 “(D) a description of the steps taken to prevent
21 the leak or leaks of a similar type from continuing or
22 recurring.

23 “(2) The Secretary shall, by order or regulation, provide
24 for an exemption for any person or category of persons from
25 all or part of the requirements under this subsection if the

1 Secretary finds that the financial and administrative burdens
2 of being covered by such requirements are not justified by the
3 benefits resulting from that coverage.

4 “(3) For the purposes of this subsection, the term ‘pipe-
5 line leak’ means any condition resulting in the escape of ma-
6 terial from pipeline facilities during pipeline transportation, or
7 during treatment of such material during the course of pipe-
8 line transportation, which is not caused by operation, inspec-
9 tion, or adjustment procedures which were properly carried
10 out. Such term does not include any condition which does not
11 pose a threat to public health or safety, property, or the envi-
12 ronment, as determined in accordance with regulations pre-
13 scribed by the Secretary.”

14 (b) Section 12(f) (as amended by section 102 of this Act)
15 is amended by striking out “, or (d)” and inserting in lieu
16 thereof “(d), or (e)”.

17 (c) The amendments made by this section shall not
18 apply with respect to any pipeline leak (within the meaning
19 of section 12(c)(3), as amended by this section) occurring
20 before the effective date of the regulation initially prescribed
21 under such amendments.

22 COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED

23 PETROLEUM GAS

24 SEC. 104. (a) Section 2(3) is amended—

1 (1) by striking out "Transportation of gas" and
2 inserting in lieu thereof "Pipeline transportation"; and

3 (2) by inserting after "interstate or foreign
4 commerce" the following: "or the transmission or dis-
5 tribution (but excluding the gathering) of liquefied
6 petroleum gas by pipeline, in interstate or foreign
7 commerce".

8 (b) Section 2 is amended by redesignating paragraphs
9 (2) through (10) as paragraphs (4) through (11), respectively,
10 and by inserting after paragraph (2) the following new
11 paragraph:

12 "(2) 'Liquefied petroleum gas' means propane, butane,
13 any related product, or any mixture or combination thereof;"

14 (c) Section 2(2) is amended by inserting "but such term
15 does not include liquefied petroleum gas" after "toxic or cor-
16 rosive".

17 (d) Section 2(4), as amended and redesignated, is further
18 amended by inserting after "distribution of gas" the follow-
19 ing: "(whether in a gaseous or nongaseous state)".

20 (e) Section 2 is amended by inserting "(a)" after "Sec.
21 2." and by adding at the end thereof the following new
22 subsection:

23 "(b) Any storage facility, or category of storage facili-
24 ties, physically connected to any pipeline facility, or facilities,
25 used for the transmission or distribution of liquefied petro-

1 leum gas shall be included by the Secretary, by regulation,
2 within the meaning of subsection (a)(5) if—

3 “(1) the Secretary finds that such inclusion would
4 further the purposes of this Act; and

5 “(2) such facility has a storage capacity of 30,000
6 gallons or more, or is used in connection with one or
7 more other storage facilities at the same site which
8 have, in the aggregate, a storage capacity of 30,000
9 gallons or more.”

10 (f) Section 3 is amended by adding at the end thereof the
11 following new subsection:

12 “(f)(1) Standards, or amendments to standards, required
13 under this section by reason of the enactment of the Fuels
14 Transportation Safety Amendments Act of 1979 shall be pre-
15 scribed not later than 36 months after the date of the enact-
16 ment of such Act.

17 “(2) As soon as practicable but not later than 3 months
18 after the enactment of such Act, the Secretary shall, by
19 order, adopt interim minimum Federal safety standards for
20 pipeline facilities and pipeline transportation to the extent not
21 covered by this Act immediately before the date of the enact-
22 ment of the Fuels Transportation Safety Amendments Act of
23 1979. Such standards shall, to the extent the Secretary de-
24 termines appropriate, be the State standards regulating pipe-
25 line facilities and pipeline transportation within such State on

1 such date on enactment. In any State in which no such
2 standards are in effect, the Secretary shall, by order, estab-
3 lish interim Federal safety standards for such pipeline facili-
4 ties and pipeline transportation in such State which shall, to
5 the extent the Secretary determines appropriate, be such
6 standards as are common to a majority of States having
7 safety standards for pipeline facilities and pipeline transporta-
8 tion on such date. Interim standards shall remain in effect
9 until amended or revoked pursuant to this section. Any State
10 agency may adopt such additional or more stringent stand-
11 ards for pipeline facilities and pipeline transportation not sub-
12 ject to the jurisdiction of the Federal Energy Regulatory
13 Commission under the Natural Gas Act, or the Interstate
14 Commerce Act, as are not incompatible with the Federal
15 minimum standards, but may not adopt or continue in force
16 after the interim standards provided for above become effec-
17 tive any such standards applicable to interstate transmission
18 facilities.”.

19 (g)(1) The following provisions are amended by striking
20 out “the transportation of gas” each place it appears and
21 inserting in lieu thereof “pipeline transportation”:

22 (A) section 2(a)(5) and (9), as redesignated by sub-
23 section (a);

24 (B) section 3(b) and (c);

25 (C) section 4(b);

- 1 (D) section 8(a);
- 2 (E) section 11;
- 3 (F) section 12(a);
- 4 (G) section 12(b); and
- 5 (H) section 14(a)(4).

6 (2) The following provisions are each amended by strik-
 7 ing out "transportation of gas" each place it appears and
 8 inserting in lieu thereof "pipeline transportation":

- 9 (A) section 2(a)(10), as redesignated by subsec-
 10 tion (a);
- 11 (B) section 5(b)(2); and
- 12 (C) section 10(a).

13 (3) The following provisions are each amended by strik-
 14 ing out "gas pipeline" each place it appears and inserting in
 15 lieu thereof "pipeline":

- 16 (A) section 3(e);
- 17 (B) section 4(a); and
- 18 (C) section 14(b).

19 (4) Section 2(a)(4), as redesignated and amended, is fur-
 20 ther amended by striking out "or its storage" and inserting in
 21 lieu thereof "or its storage in connection with such gather-
 22 ing, transmission, or distribution,".

23 (5) Section 5(e)(1) is amended—

- 24 (A) by striking out "gas safety programs" and in-
 25 serting in lieu thereof "pipeline safety programs", and

1 (B) by striking out "date of enactment of this sec-
2 tion." and inserting in lieu thereof the following: "date
3 of enactment of the Fuels Transportation Safety
4 Amendments Act of 1970."

5 (6) The short title set forth in the first section is amend-
6 ed to read as follows: "Fuels Transportation Safety Act".

7 COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH
8 RENTAL OR LEASE OF REAL PROPERTY

9 SEC. 105. Section 2, as amended by section 104(e), is
10 further amended by adding at the end thereof the following
11 new subsection:

12 "(c)(1) Unless paragraph (2) applies, there shall be in-
13 cluded within the meaning of subsection (a)(4) any pipeline
14 distribution of gas by any person in connection with the
15 rental or lease of real property by that person to others,
16 whether or not—

17 "(A) a separate charge is made for such gas;

18 "(B) the distribution to each rental or lease unit is
19 separately metered; and

20 "(C) the person distributing such gas is otherwise
21 treated as being engaged in local distribution of gas.

22 "(2) The Secretary shall, by regulation, provide that the
23 provisions of paragraph (1) not apply in cases in which the
24 public health and safety are adequately protected by reason

1 of the existence and enforcement of appropriate building or
2 housing codes or similar laws.”.

3 COVERAGE OF CERTAIN NONPIPELINE FACILITIES

4 SEC. 106. (a) Section 2, as amended by this Act, is
5 further amended by adding at the end thereof the following
6 new subsection:

7 “(d)(1) If the Secretary finds that the purposes of this
8 Act would be furthered, he may, by regulation, require that
9 the provisions of this Act shall apply with respect to any
10 specified type or class of facility or equipment used in the
11 transportation on land of gas or liquefied petroleum gas, in
12 interstate or foreign commerce, or storage in connection with
13 such transportation, to the same extent and in the same
14 manner as such provisions apply with respect to pipeline
15 facilities.

16 “(2) This subsection (or any action hereunder) shall not
17 be construed to relieve any person from having to meet
18 standards or meeting other requirements under any other
19 Federal law; except that, if any regulation under this subsec-
20 tion results in the imposition of a standard or other require-
21 ment relating to any matter that the Secretary finds is cov-
22 ered by any other standard or requirement pursuant to any
23 provision of law under the jurisdiction of the Secretary, the
24 Secretary shall so state in such regulation, and that standard
25 or requirement shall supersede and preempt the standard or

1 requirement pursuant to such other provision of law to the
2 extent such matter is covered under the regulation under this
3 subsection.

4 “(2) Nothing in this subsection shall be interpreted to
5 provide the Secretary with authority over any specified type
6 or class of facility or equipment used in the transportation on
7 land of gas or liquified petroleum gas, in interstate or foreign
8 commerce, or storage in connection with such transportation,
9 unless the Secretary has authority over such facilities, equip-
10 ment, or storage under any other provision of law.”.

11 (b) Section 5(a) is amended by inserting “section 2(d),”
12 after “Except for”.

13 PIPELINE SAFETY INSPECTORS

14 SEC. 107. (a)(1) Section 3(b) is amended by inserting
15 after paragraph (4) the following new sentence: “Standards
16 under this subsection which relate to inspection and other
17 enforcement shall set forth minimum training and educational
18 requirements for pipeline inspectors.”.

19 (2) Section 5(e) is amended by adding at the end thereof
20 the following new paragraph:

21 “(5) The Secretary may not make any payment under
22 this subsection to a State agency for any calendar year begin-
23 ning after December 31, 1981, unless such State agency has
24 demonstrated that from the payments to such agency for such
25 year funds will be applied for the training and education of

1 pipeline safety inspectors of such State agency in order to
2 enable them to better perform their responsibilities. The
3 amounts to be applied for such purposes are to be adequate to
4 assure that the pipeline safety inspectors maintained by such
5 State agency comply with any standards established under
6 section 3(a) for training and education of pipeline
7 inspectors.”.

8 (b) Section 5(f) is amended to read as follows:

9 “(f)(1) The Secretary shall determine, after reasonable
10 notice and opportunity for hearing, the minimum number of
11 pipeline safety inspectors which must be maintained by a
12 State agency in order to assure adequate monitoring of com-
13 pliance with applicable safety standards within such State.

14 “(2) No State agency shall be considered to meet the
15 requirements for certification under subsection (a); nor may
16 the Secretary enter into any agreement under subsection (b)
17 or allow a State to act as his agent with respect to interstate
18 transmission facilities, unless the State agency involved has
19 demonstrated that such agency has and will continue to
20 maintain no less than the minimum number of pipeline in-
21 spectors determined by the Secretary under paragraph (1) to
22 be required for such State.”.

23 TECHNICAL PIPELINE STANDARDS COMMITTEE

24 SEC. 108. (a) Section 4(b) is amended—

1 (1) by striking out the first sentence and inserting
2 in lieu thereof the following: "The Secretary shall
3 submit to the Committee any proposed standard under
4 this Act, or any proposed amendment to a standard
5 under this Act, for their consideration. Within 90 days
6 after receipt of any proposed standard or amendment,
7 the Committee shall prepare a report on the technical
8 feasibility, reasonableness, and practicability of such
9 standard or amendment. The Secretary may prescribe
10 a final standard or final amendment to a standard at
11 any time after the 90th day after its submission to the
12 Committee, whether or not the Committee has pre-
13 pared a report on such standard or amendment.";

14 (2) by inserting after "published by the Secretary
15 and" the following "if timely made,"; and

16 (3) by inserting before the last sentence thereof
17 the following new sentence: "The Committee shall
18 meet with the Secretary (or his designee) not less fre-
19 quently than once every 6 months.".

20 (b) Section 4(c) is amended by striking out "not to
21 exceed \$100 per diem" and inserting in lieu thereof "not to
22 exceed the daily equivalent of the maximum annual rate of
23 basic pay then currently payable under the General Schedule
24 under section 5322 of title 5, United States Code, for each
25 day".

1 APPROPRIATIONS AUTHORIZATION

2 SEC. 109. Section 15 is amended to read as follows:

3 "APPROPRIATIONS AUTHORIZED

4 "SEC. 15. (a) For the purpose of carrying out the provi-
5 sions of this Act (other than provisions for which funds are
6 authorized to be appropriated under subsection (b)), there are
7 authorized to be appropriated—

8 "(1) \$6,000,000, for the fiscal year ending Sep-
9 tember 30, 1980;

10 "(2) \$7,000,000, for the fiscal year ending Sep-
11 tember 30, 1981; and

12 "(2) \$8,000,000, for the fiscal year ending Sep-
13 tember 30, 1982;

14 "(b)(1) For the purpose of carrying out the provisions of
15 section 5 (e) and (f) of this Act, there are authorized to be
16 appropriated—

17 "(A) \$4,500,000, for the fiscal year ending Sep-
18 tember 30, 1980;

19 "(B) \$5,500,000, for the fiscal year ending Sep-
20 tember 30, 1981; and

21 "(C) \$6,500,000, for the fiscal year ending Sep-
22 tember 30, 1982;

23 "(2) For the purpose of carrying out the electronic data-
24 processing program under section 15(d)(6) for identifying haz-

1 arduous equipment, materials, and techniques, there are
2 authorized to be appropriated—

3 “(A) \$1,000,000, for the fiscal year ending Sep-
4 tember 30, 1980;

5 “(B) \$1,500,000, for the fiscal year ending Sep-
6 tember 30, 1981; and

7 “(C) \$2,000,000, for the fiscal year ending Sep-
8 tember 30, 1982.”

9 TITLE II—SITING AND SAFETY OF LNG

10 FACILITIES

11 DEFINITIONS

12 SEC. 201. Section 2(a), as redesignated, is amended by
13 striking out “and” at the end of paragraph (10) (as redesign-
14 nated), by striking out the period at the end of paragraph (11)
15 (as redesignated) and inserting a semicolon in lieu thereof,
16 and by adding at the end thereof the following new items:

17 “(12) ‘LNG’ means natural gas in a liquid, semisolid, or
18 solid state;

19 “(13) ‘LNG facility’ means any storage tank, pipeline,
20 or other structure or equipment used for the transportation,
21 storage, or use of LNG, or for LNG conversion, in interstate
22 or foreign commerce, but does not include any structure or
23 equipment (or portion thereof) located in navigable waters (as
24 defined in section 2(8) of the Federal Power Act (16 U.S.C.
25 796(8)));

1 “(14) ‘LNG conversion’ means conversion of natural gas
2 into LNG (liquefaction or solidification) or the conversion of
3 LNG into natural gas (vaporization);

4 “(15) ‘Construction’ means construction, reconstruction,
5 or erection, and includes, with respect to any LNG facility,
6 any act which the Secretary determines would result in the
7 creation or substantial increase of capacity of such facility for
8 transporting or storing LNG or for LNG conversion;

9 “(16) ‘Existing LNG facility’ means any LNG facility
10 for which an application for the approval of the siting, con-
11 struction, or operation of such facility was filed before March
12 1, 1978, with—

13 “(A) the Department of Energy or any predecess-
14 sor organization of the Department, or

15 “(B) the appropriate State agency, in the case of
16 any facility not subject to the jurisdiction of the De-
17 partment of Energy under the Natural Gas Act,

18 except that such term does not include any facility the con-
19 struction of which commences on or after the date of the
20 enactment of this paragraph and such construction is not pur-
21 suant to such an approval;

22 “(17) ‘New LNG facility’ means any LNG facility other
23 than an existing LNG facility;

24 “(18) ‘LNG accident’ means any release, burning, or
25 explosion of LNG resulting from—

1 “(A) a rupture or other failure of a storage tank,
2 pipeline, or other LNG facility;

3 “(B) natural hazards (including earthquakes, hur-
4 ricanes, and high winds);

5 “(C) sabotage; or

6 “(D) any other cause;

7 other than any such release, burning, or explosion which, as
8 determined in accordance with regulations prescribed by the
9 Secretary, does not pose a threat to public health or safety,
10 property, or the environment; and

11 “(10) ‘Interstate or foreign commerce’ means any trade,
12 traffic, transportation, exchange, or other commerce—

13 “(A) between any State and any place outside of
14 such State, or

15 “(B) which affects any trade, transportation, ex-
16 change, or other commerce described in subparagraph
17 (A).”.

18 SITING AND SAFETY STANDARDS

19 SEC. 202. (a) The Act is amended by redesignating sec-
20 tions 6 through 17 as sections 8 through 19, respectively,
21 and by inserting after section 5 the following new section:

22 “STANDARDS FOR LNG FACILITIES

23 “SEC. 6. (a)(1) After the date standards first take effect
24 under this section, no new LNG facility may be constructed
25 unless the Secretary approves such construction, and then

1 only to the extent that such construction is in accordance
2 with the applicable standards prescribed under subsection (b)
3 and such other terms and conditions as the Secretary deter-
4 mines are appropriate to assure that the facility will be con-
5 structed and operated in compliance with standards under
6 subsection (b).

7 “(2) The Secretary shall not approve construction of
8 any LNG facility under this subsection unless the person
9 seeking such approval submits a contingency plan which sets
10 forth those steps which are to be taken in the event of an
11 LNG accident and which the Secretary determines to be
12 adequate.

13 “(3) The standards under this subsection shall not apply
14 in the case of siting or construction with respect to which an
15 application for approval was filed before March 1, 1978,
16 with—

17 “(A) the Department of Energy or any predeces-
18 sor organization of the Department; or

19 “(B) the appropriate State agency, in the case of
20 any facility not subject to the jurisdiction of the De-
21 partment under the Natural Gas Act.

22 “(b) Not later than 180 days after the date of the enact-
23 ment of this section, the Secretary shall establish—

24 “(1) minimum standards for determining the loca-
25 tion of any new LNG facility which is to be stationary,

1 “(2) minimum standards for the construction of
2 any new LNG facility, and

3 “(3) minimum standards for the operation of any
4 new LNG facility.

5 Any standard under this section shall be in addition to, and
6 not in lieu of, standards under section 3 which are not incon-
7 sistent with such standard.

8 “(e) Not later than 270 days after the date of the enact-
9 ment of this title, the Secretary shall establish minimum
10 standards to be maintained with respect to the operation of
11 any existing LNG facility.

12 “(d) In prescribing standards under subsections (b) and
13 (e), the Secretary shall take into consideration—

14 “(1) with respect to standards relating to the loca-
15 tion of any stationary new LNG facility—

16 “(A) the nature of the use of the facility;

17 “(B) criteria to be used in determining the
18 number and characteristics of other sites to be
19 considered as alternative locations for such LNG
20 facility;

21 “(C) the existing and projected population
22 and demographic characteristics associated with
23 each location considered;

24 “(D) the existing and proposed land uses
25 near each such location;

1 “(E) the meteorological, geological, topo-
2 graphical, seismic, and other natural physical as-
3 pects of each such location;

4 “(F) the medical, law enforcement, and fire
5 prevention capabilities existing near each such lo-
6 cation to cope with risks created by such a
7 facility;

8 “(G) the costs of constructing and operating
9 such LNG facility at each such location, including
10 the costs to the United States and to State and
11 local governments which are associated with such
12 construction and operation; and

13 “(H) the need to encourage remote siting;

14 “(2) with respect to standards applicable to the
15 construction of any new LNG facility—

16 “(A) the thermal resistance and other char-
17 acteristics of materials to be used in the construc-
18 tion of such facility as compared to alternative
19 materials;

20 “(B) design factors (such as multiple diking,
21 insulated concrete, and vapor containment bar-
22 riers);

23 “(C) the characteristics of the LNG to be
24 stored or converted at, or transported by, such fa-

1 cility (for example, whether it is to be in a liquid,
2 semisolid, or solid state); and

3 “(D) the public safety factors of the design
4 as compared to alternative designs (particularly
5 the ability under such a design to prevent and
6 contain an LNG spill); and

7 “(3) with respect to standards for the operation of
8 any LNG facility—

9 “(A) the conditions, features, and type of
10 equipment and structures which comprise, or
11 which are used in connection with, such facility;

12 “(B) the fire prevention and containment
13 equipment at such facility;

14 “(C) the security measures to be used with
15 respect to the operation of such facility for the
16 prevention of sabotage or other intentional acts
17 which could cause an LNG accident;

18 “(D) maintenance procedures and equipment;

19 “(E) the training of personnel with respect to
20 the equipment, structures, measures, and proce-
21 dures described in subparagraphs (A), (B), (C),
22 and (D); and

23 “(F) other factors and conditions relating to
24 the safe handling of LNG.

1 “(e) At any time after the effective date of standards
2 initially prescribed under subsections (b) and (c), the Secre-
3 tary shall, on his own motion or on the motion of any person,
4 amend such standards to the extent he considers necessary to
5 reflect changes in technology or to otherwise carry out the
6 purposes of this section.

7 “(f) Any standards prescribed under this section, and
8 amendments thereto, shall become effective 30 days after the
9 date of issuance of such standards unless the Secretary, for
10 good cause recited, determines an earlier or later effective
11 date is required as a result of the period reasonably necessary
12 for compliance and such date is specified in the order estab-
13 lishing or amending such standard.

14 “(g) The provisions of subchapter II of chapter 5 of title
15 5, United States Code, shall apply to all orders establishing,
16 amending, or revoking, any standard established under this
17 section. The Secretary shall afford interested persons an op-
18 portunity to participate fully in the establishment of such
19 safety standards through submission of written data, views,
20 or arguments with opportunity to present oral testimony and
21 argument.”.

22 (b)(1) Section 2(a)(4), as redesignated, is amended by
23 striking out “or affecting”.

1 (2) Section 2(a)(10), as redesignated, is amended by in-
2 serting “, LNG facilities,” after “pipeline facilities” the first
3 place it appears therein.

4 (3) Section 3(d), as redesignated, is amended—

5 (A) by inserting “or LNG facilities” after “pipe-
6 line facilities”; and

7 (B) by inserting after “in the same manner” the
8 following: “and to the same extent”.

9 (4) Section 4(b) (relating to Pipeline Transportation
10 Safety Committee) is amended by inserting “, LNG facili-
11 ties,” after “pipeline facilities”.

12 (5) Section 9 (relating to cooperation), as redesignated,
13 is amended—

14 (A) by inserting “or LNG facility” after “affected
15 pipeline facility” and after “gas pipeline”; and

16 (B) by inserting “or LNG facilities” after “pipe-
17 line facilities”.

18 (6) Section 10 (relating to compliance), as redesignated,
19 is amended by inserting “or LNG facilities” after “pipeline
20 facilities”.

21 (7) Section 13 (relating to injunction and jurisdiction), as
22 redesignated, is amended by inserting after “pipeline facility”
23 the following: “or LNG facility”.

24 (8) Section 14 (relating to inspection and maintenance
25 plans), as redesignated, is amended—

1 (A) by inserting after "facilities" the following:

2 "or LNG facilities" each place it appears;

3 (B) by striking out "pipeline safety" each place it
4 appears and inserting in lieu thereof "pipeline and
5 LNG facility safety"; and

6 (C) by inserting in paragraph (2) after "pipeline
7 transportation" the following: "or LNG facility".

8 (9) Section 15 (relating to records, etc.), as redesign-
9 nated, is amended by inserting after "pipeline facilities" each
10 place it appears the following: "and LNG facilities".

11 (10) Section 17(a)(2) (relating to annual report), as re-
12 designated, is amended by inserting after "pipeline" the fol-
13 lowing: "or LNG facilities".

14 (11) Section 17(a)(4) (relating to annual report), as re-
15 designated, is amended by striking out "and pipeline facili-
16 ties" and inserting in lieu thereof ", pipeline facilities, and
17 LNG facilities,".

18 FINANCIAL RESPONSIBILITY

19 SEC. 203. The Act, as amended by section 202 of this
20 Act, is further amended by inserting after the new section 6
21 the following new section:

22 "FINANCIAL RESPONSIBILITY FOR CERTAIN LNG

23 ACTIVITIES; STUDIES

24 "SEC. 7. (a) Not later than 9 months after the date of
25 the enactment of this section, the Secretary shall—

1 “(1) conduct a study of—

2 “(A) the risks associated with the production;
3 transmission, and storage of LNG;

4 “(B) the risks associated with the production;
5 transmission, and storage of liquefied petroleum
6 gas;

7 “(C) the methods of assuring adequate finan-
8 cial responsibility for those engaged in any such
9 activity; and

10 “(2) prepare and transmit to each House of the
11 Congress a report on the results of such study, to-
12 gether with the recommendations of the Secretary for
13 such legislative or administrative action as he considers
14 appropriate.

15 “(b)(1) Whenever the Secretary has reason to believe
16 that any operator of an LNG facility is not maintaining ade-
17 quate insurance or otherwise does not have adequate finan-
18 cial responsibility with respect to such facilities, he shall
19 issue and serve upon such operator notice thereof, together
20 with a statement of the amount of the financial responsibility
21 that the Secretary would consider adequate.

22 “(2) Any person issued notice under paragraph (1) shall
23 have a right to hearing on the record in accordance with
24 section 554 of title 5, United States Code, to be held not
25 later than 30 days after notice under paragraph (1), at which

1 such person has the right to show cause as to why an order
2 should not be issued by the Secretary requiring such person
3 to demonstrate and maintain financial responsibility at or
4 above the amount indicated in the notice under paragraph (1).

5 “(2) After an opportunity for hearing under paragraph
6 (2), the Secretary may, if he determines it is justified in the
7 public interest, order the person issued notice of such hearing
8 to demonstrate and maintain financial responsibility at or
9 above an amount determined appropriate by the Secretary,
10 taking into account any information, data, and views pre-
11 sented in such hearing.

12 “(4)(A) Any person aggrieved by an order issued under
13 paragraph (2) may seek judicial review of such order only by
14 filing a petition for review in the appropriate court of appeals
15 of the United States within 60 days after such order is
16 issued.

17 “(B) Upon receipt of notice of the filing of such petition,
18 the Secretary shall file in the court the record in the proceed-
19 ing, as provided in section 2112 of title 28, United States
20 Code. Upon such filing, the court may affirm, modify,
21 remand, or set aside the order of the Secretary, and may
22 enforce the order to the extent that such order is affirmed
23 and issue such writs as are ancillary to its jurisdiction or are
24 necessary in its judgment to prevent injury to the public pen-

1 dente lite. The findings of the Secretary as to the facts, if
2 supported by substantial evidence, shall be conclusive.

3 “(C) The judgment and decree of the court shall be
4 final, except that such judgment and decree shall be subject
5 to review by the Supreme Court upon certiorari, as provided
6 in section 1254 of title 28, United States Code.

7 “(c) For purposes of subsection (b) of this section, finan-
8 cial responsibility may be maintained by any one of, or a
9 combination of, the following methods acceptable to the
10 Secretary:

11 “(1) evidence of insurance,

12 “(2) surety bonds,

13 “(3) qualification as a self-insurer, or

14 “(4) other evidence of financial responsibility.”

15 ENFORCEMENT OF STANDARDS AND FINANCIAL

16 RESPONSIBILITY REQUIREMENTS

17 SEC. 204. (a) Section 11(a) (relating to civil penalty), as
18 redesignated by section 202 of this Act, is amended by in-
19 serting “(1)” before “Any person” and by adding at the end
20 thereof the following new paragraph:

21 “(2) Any person who violates the provisions of section 6
22 or any order under section 7(b) shall be subject to a civil
23 penalty of not to exceed \$50,000, which penalty shall be in
24 addition to any other penalties to which such person may be
25 subject under this subsection.”

1 (b) The Act is further amended by redesignating sec-
2 tions 12 through 19 (as redesignated) as sections 12 through
3 20, respectively, and by inserting after section 11 the follow-
4 ing new section:

5 ~~“CRIMINAL PENALTY~~

6 “SEC. 12. Any person who willfully and knowingly vio-
7 lates the provisions of section 6 or any order issued under
8 section 7(b) shall, on conviction thereof, be punished by a fine
9 of not more than \$50,000, or by imprisonment for not more
10 than five years, or both.”.

11 ~~APPROPRIATIONS AUTHORIZATION~~

12 SEC. 205. Section 18(b) (relating to appropriations au-
13 thorization), as redesignated, is amended by adding at the
14 end thereof the following new paragraph:

15 “(2) For the purpose of carrying out sections 6 and 7 of
16 this Act, there are authorized to be appropriated—

17 “(A) \$2,000,000 for the fiscal year ending Sep-
18 tember 30, 1979;

19 “(B) \$2,000,000 for the fiscal year ending Sep-
20 tember 30, 1980; and

21 “(C) \$2,000,000 for the fiscal year ending Sep-
22 tember 30, 1981.”.

1 TITLE III—MISCELLANEOUS PROVISIONS

2 WILLFUL DESTRUCTION OF INTERSTATE PIPELINE

3 TRANSMISSION OR LNG FACILITIES

4 SEC. 301. Section 12 (as added by section 204 of this
5 Act) is amended by inserting "(a)" after "SEC. 12." and by
6 adding at the end thereof the following new subsection:

7 "(b) Any person who willfully injures or destroys, or
8 attempts to injure or destroy—

9 "(1) any pipeline facility for the interstate trans-
10 mission of gas, liquefied petroleum gas, or petroleum,
11 including any facility or equipment covered under this
12 Act under section 2(b) or (d) used in the interstate
13 transmission of gas or liquefied petroleum gas, or

14 "(2) any liquefied gas facility to which section 6
15 applies,

16 shall be fined not more than \$15,000 or imprisoned not more
17 than fifteen years, or both."

18 APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPER-
19 ATIONS AND DIRECTOR OF MATERIALS TRANSPORTA-
20 TION BUREAU

21 SEC. 302. (a) Notwithstanding any other provision of
22 law—

23 (1) no individual may serve for more than 180
24 days (in the aggregate) in an acting capacity in a posi-
25 tion the principal duties of which were identified as of

1 March 1, 1978, as assigned to the Director of the
2 Office of Pipeline Safety Operations, Department of
3 Transportation, or may serve as the Acting Director of
4 the Materials Transportation Bureau, Department of
5 Transportation, and

6 (2) If a person is not appointed to such position
7 within 180 days after a vacancy occurs in that posi-
8 tion, the Secretary shall personally carry out the func-
9 tions of such position until an appointment is made to
10 that position, and all delegations of authority under the
11 Fuels Transportation Safety Act shall be suspended
12 until such appointment is made.

13 (b) In the case of any vacancy in such positions on the
14 date of the enactment of this Act, periods of service before
15 the date of enactment shall not be taken into account for
16 purposes of subsection (a).

17 TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

18 SEC. 303. (a) Section 3, as amended by this Act, is
19 further amended by striking out subsection (a) and by redesi-
20 gnating subsections (b) through (f) as subsections (a) through
21 (e), respectively.

22 (b) Section 3(b), as redesignated by subsection (a), is
23 amended by inserting after "period reasonably necessary for
24 compliance" the following: "and such date is specified in the
25 order establishing or amending such standard".

1 (c) Clause (ii) of section 5(a) is amended by inserting
2 after "property damage exceeding \$1,000" the following:
3 "(whether or not sustained by a person subject to the safety
4 jurisdiction of the State)".

5 (d) Section 5(a) is amended by striking out "; except
6 that a State agency may file a certification under this subsec-
7 tion without regard to the requirement of injunctive and mon-
8 etary sanctions under State law for a period not to exceed
9 five years after the date of enactment of this Act".

10 (e) Section 11(a)(1) (relating to civil penalties), as reded-
11 icated, is amended by striking out "*Provided, That for a*
12 *reasonable period of time, not to exceed one year after the*
13 *date of the enactment of this Act, such civil penalties shall*
14 *not be applicable to pipeline facilities existing on such date of*
15 *enactment*".

16 (f) Section 17(a)(2) (relating to annual reports), as reded-
17 icated by sections 202 and 204 of this Act, is amended by
18 striking out "section 2(c)" and inserting in lieu thereof "sec-
19 tion 2(d)".

20 (g) The following provisions are each amended by strik-
21 ing out "Federal Power Commission" and inserting in lieu
22 thereof "Federal Energy Regulatory Commission":

23 (1) section 2(a) (9) and (10), as redesignated;

24 (2) section 9 (relating to cooperation), as redesign-
25 ated, including the section heading; and

1 (3) section 16(b) (relating to administration), as
2 redesignated.

3 (h) Paragraphs (9) and (10) of section 2(a), as redesign-
4 nated, are each amended by inserting "or the Interstate
5 Commerce Act" after "the Natural Gas Act".

6 (i)(1) Section 5(a) is amended by striking out "section
7 12(b)", "section 12", "section 11", and "sections 9 and 10"
8 and inserting in lieu thereof "section 15 (b) and (c)", "section
9 15 (a), (b), (c), and (f)", "section 14", and "sections 11 (other
10 than subsection (a)(2) thereof) and 12", respectively.

11 (2) Section 5(a) is further amended by inserting "section
12 20," before "and except as otherwise provided in this
13 section".

14 (3) Section 5(b)(2) is amended by striking out "section
15 11" and inserting in lieu thereof "section 14".

16 (4) Section 5(c)(2) is amended by striking out "section
17 15(b)" and inserting in lieu thereof "section 18(b)(1)".

18 (5) Section 10 (relating to compliance), as redesignated,
19 is amended by striking out "section 11" and "section 12"
20 and inserting in lieu thereof "section 14" and "section 15",
21 respectively.

22 (6) Section 13 (relating to injunction and jurisdiction), as
23 redesignated, is amended by striking out "section 9" each
24 place it appears and inserting in lieu thereof "section 11
25 or 12".

1 (7) Section 11(a)(1) (relating to civil penalty), as redesign-
 2 nated, is amended by striking out "section (8)(a)" and insert-
 3 ing "section 10" in lieu thereof.

4 (j) Section 17(a) (relating to annual report), as redesign-
 5 nated, is amended by striking out "March 17" and inserting
 6 in lieu thereof "June 1".

7 (k) Any reference in any other provision of law, rule,
 8 regulation, or order to the Natural Gas Pipeline Safety Act
 9 of 1968 shall be considered to refer to the Fuels Transporta-
 10 tion Safety Act.

11

12 SHORT TITLE; TABLE OF CONTENTS

13 SECTION 1. (a) This Act may be cited as the "Fuels
 14 Transportation Safety Amendments Act of 1979".

15 (b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.

TITLE I—FUELS TRANSPORTATION GENERALLY

Sec. 101. Hazardous pipeline facilities.

Sec. 102. Coverage of pipeline transportation of liquefied petroleum gas.

Sec. 103. Pipeline safety program standard.

Sec. 104. Exemption from standards.

Sec. 105. Coverage of gas distributed in connection with rental or lease of real
 property.

Sec. 106. Pipeline safety inspectors.

Sec. 107. Technical Pipeline Standards Committee.

Sec. 108. Cost-benefit analysis of increased fuels transportation safety regulation.

Sec. 109. Appropriations authorization.

Sec. 110. Effective date; interim standards.

TITLE II—SITING AND SAFETY OF LNG FACILITIES

Sec. 201. Definitions.

Sec. 202. Siting and safety standards.

Sec. 203. Financial responsibility.

Sec. 204. Enforcement of standards and financial responsibility requirements.

Sec. 205. Intervention by the Secretary in safety proceedings.

Sec. 206. Appropriations authorization.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Willful destruction of interstate pipeline transmission or LNG facilities.

Sec. 302. Appointments of Director of Pipeline Safety Operations and Director of Materials Transportation Bureau.

Sec. 303. Simplification of filing requirements.

Sec. 304. Technical, clerical, and conforming amendments.

1 REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT

2 OF 1968

3 SEC. 2. Except as otherwise expressly provided, when-
 4 ever in this Act, any reference, amendment, or repeal is ex-
 5 pressed in terms of a reference or amendment to, or repeal of,
 6 a section or other provision, it shall be considered to be made
 7 to a section or other provision of the Natural Gas Pipeline
 8 Safety Act of 1968.

9 TITLE I—FUELS TRANSPORTATION

10 GENERALLY

11 HAZARDOUS PIPELINE FACILITIES

12 SEC. 101. (a) Section 8 is amended by redesignating
 13 subsection (b) as subsection (c) and by inserting after subsec-
 14 tion (a) the following new subsection:

15 “(b)(1) If the Secretary finds, after reasonable notice
 16 and an opportunity for hearing, that any pipeline facility is
 17 hazardous to life or property, he shall, by order, require the

1 person operating the facility to take necessary corrective
2 action. Such corrective action may include physical in-
3 spection, testing, repair, replacement, or other action, as
4 appropriate.

5 “(2) The Secretary may find a pipeline facility to be
6 hazardous under paragraph (1)—

7 “(A) if under the facts and circumstances he de-
8 termines the particular facility is hazardous to life or
9 property, or

10 “(B) if the pipeline facility or a component there-
11 of has been or is proposed to be constructed or operated
12 with any equipment, material, or technique which he
13 determines is hazardous to life or property, unless the
14 operator involved demonstrates to the satisfaction of the
15 Secretary that under the particular facts and circum-
16 stances involved such equipment, material, or technique
17 is not hazardous to life or property.

18 “(3) In making a determination under paragraph (2),
19 the Secretary shall consider—

20 “(A) the characteristics of the pipe and other
21 equipment used in the pipeline facility involved, in-
22 cluding its age, manufacturer, physical properties (in-
23 cluding its resistance to corrosion and deterioration),
24 and the method of its manufacture, construction, or
25 assembly;

1 “(B) the nature of the materials transported by
2 such facilities (including their corrosive and deteriora-
3 tive qualities), the sequence in which such materials
4 are transported, and the pressure required for such
5 transportation;

6 “(C) the aspects of the areas in which the pipeline
7 facilities are located, in particular the climatic and
8 geologic conditions (including soil characteristics) asso-
9 ciated with such areas, and the population density and
10 population and growth patterns of such areas;

11 “(D) any relevant recommendation of the Nation-
12 al Transportation Safety Board issued in connection
13 with any investigation conducted by the Board under
14 other provisions of law; and

15 “(E) such other factors as the Secretary may con-
16 sider appropriate.

17 “(4) The Secretary may waive any requirements for
18 hearing and a period of reasonable notice and provide for
19 expeditious issuance of an order under this subsection in any
20 case in which he determines that the failure to do so would
21 result in the likelihood of serious harm to life or property.”.

22 (b) Section 3(b) is amended by striking out the fourth
23 sentence.

1 (c) *The first sentence of section 5(a) is amended by*
2 *striking out "the fourth sentence of section 3(b)," and insert-*
3 *ing in lieu thereof "section 10(b)."*

4 *COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED*
5 *PETROLEUM GAS*

6 *SEC. 102. (a) Section 2(3) is amended—*

7 (1) *by striking out "Transportation of gas" and*
8 *inserting in lieu thereof "Pipeline transportation"; and*

9 (2) *by inserting after "interstate or foreign com-*
10 *merce" the following: ", or the transmission or distri-*
11 *bution (but excluding the gathering) of liquefied petro-*
12 *leum gas by pipeline, in interstate or foreign*
13 *commerce".*

14 (b) *Section 2 is amended by redesignating paragraphs*
15 *(3) through (10) as paragraphs (4) through (11), respective-*
16 *ly, and by inserting after paragraph (2) the following new*
17 *paragraph:*

18 "*(3) 'Liquefied petroleum gas' means propane, butane,*
19 *any related product, or any mixture or combination thereof;"*

20 (c) *Section 2(2) is amended by inserting ", but such*
21 *term does not include liquefied petroleum gas" after "toxic or*
22 *corrosive".*

23 (d) *Section 2(4), as amended and redesignated, is fur-*
24 *ther amended by inserting after "distribution of gas" the fol-*
25 *lowing: "(whether in a gaseous or nongaseous state)".*

1 (e) Section 2 is amended by inserting "(a)" after "SEC.
2 2." and by adding at the end thereof the following new sub-
3 section:

4 "(b) Any storage facility, or category of storage facili-
5 ties, physically connected to any pipeline facility, or facili-
6 ties, used for the transmission or distribution of liquefied pe-
7 troleum gas shall be included by the Secretary, by regula-
8 tion, within the meaning of subsection (a)(5) if—

9 "(1) the Secretary finds that such inclusion
10 would further the purposes of this Act; and

11 "(2) such facility has a storage capacity of
12 30,000 gallons or more, is used in connection with one
13 or more other storage facilities at the same site which
14 have, in the aggregate, a storage capacity of 30,000
15 gallons or more."

16 (f)(1) The heading for section 4 is amended by striking
17 out "COMMITTEE" and inserting in lieu thereof "COMMIT-
18 TEES".

19 (2) Section 4(a) is amended by—

20 (A) inserting "(1)" after "(a)";

21 (B) by redesignating paragraphs (1), (2), and (3)
22 as subparagraphs (A), (B), and (C), respectively; and

23 (C) by adding at the end thereof the following
24 new paragraph:

1 “(2) The Secretary shall establish a Technical LPG
2 Safety Standards Committee. The Committee shall be ap-
3 pointed by the Secretary, after consultation with public and
4 private agencies concerned with the technical aspect of trans-
5 portation and storage relating to liquefied petroleum gas or
6 the operation of pipeline facilities relating to liquefied petro-
7 leum gas, and shall be composed of fifteen members each of
8 whom shall be experienced in the safety regulation of such
9 transportation and facilities or technically qualified by train-
10 ing, experience, or knowledge in one or more fields of engi-
11 neering applied in such transportation or operation to evalu-
12 ate safety standards relating to liquefied petroleum gas, as
13 follows:

14 “(A) Five members shall be selected from govern-
15 mental agencies, including State and Federal govern-
16 ments, two of whom shall be selected from State gov-
17 ernments;

18 “(B) Four members shall be selected from the liq-
19 uefied petroleum gas industry after consultation with
20 industry representatives, not less than three of whom
21 shall be currently engaged in the active operation of
22 liquefied petroleum gas pipelines; and

23 “(C) Six members shall be selected from the gen-
24 eral public.”

25 (3) Section 4(b) is amended by—

1 (A) by striking out "the Committee" where it ap-
2 pears in the second sentence and in each succeeding
3 place it appears and inserting in lieu thereof "either
4 Committee"; and

5 (B) by striking out "The Committee" the first
6 place it appears and inserting in lieu thereof "With re-
7 spect to matters under their jurisdiction, each
8 Committee".

9 (4) Section 4(c) is amended by striking out "the Com-
10 mittee" the first and third places it appears and inserting in
11 lieu thereof "either Committee".

12 (g) Section 3 is amended by adding at the end thereof
13 the following new subsection:

14 "(f) Any standard under this section applicable with re-
15 spect to liquefied petroleum gas shall take account of the dis-
16 tinguishing characteristics and different properties of gas and
17 liquefied petroleum gas and shall be established separately
18 from those applicable with respect to gas unless specific rea-
19 sons exist for the standard to be common to both, and those
20 reasons are set forth when the standard is prescribed or made
21 applicable to liquefied petroleum gas."

22 (h)(1) The following provisions are amended by striking
23 out "the transportation of gas" each place it appears and
24 inserting in lieu thereof "pipeline transportation":

- 1 (A) section 2(a) (5) and (9), as redesignated by
2 subsection (a);
- 3 (B) section 3 (b) and (e);
- 4 (C) section 4(b);
- 5 (D) section 8(a);
- 6 (E) section 11;
- 7 (F) section 12(a);
- 8 (G) section 13(b); and
- 9 (H) section 14(a)(4).
- 10 (2) The following provisions are each amended by strik-
11 ing out "transportation of gas" each place it appears and
12 inserting in lieu thereof "pipeline transportation":
- 13 (A) section 2(a)(10), as redesignated by subsec-
14 tion (a);
- 15 (B) section 5(b)(3); and
- 16 (C) section 10(a).
- 17 (3) The following provisions are each amended by strik-
18 ing out "gas pipeline" each place it appears and inserting in
19 lieu thereof "pipeline";
- 20 (A) section 3(e); and
- 21 (B) section 14(b).
- 22 (4) Section 2(a)(4), as redesignated and amended, is
23 further amended by striking out "or its storage" and insert-
24 ing in lieu thereof ", or its storage in connection with such
25 gathering, transmission, or distribution."

1 (5) Section 5(c)(1) is amended—

2 (A) by striking out “gas safety programs” and in-
3 serting in lieu thereof “pipeline safety programs”, and

4 (B) by striking out “date of enactment of this sec-
5 tion.” and inserting in lieu thereof the following: “date
6 of enactment of the Fuels Transportation Safety
7 Amendments Act of 1979.”.

8 (6) The short title set forth in the first section is amend-
9 ed to read as follows: “Fuels Transportation Safety Act”.

10 PIPELINE SAFETY PROGRAM STANDARD

11 SEC. 103. (a) Section 3(b) is amended by inserting
12 “(1)” after “(b)”, by redesignating paragraphs (1) through
13 (4) as subparagraphs (A) through (D), and by adding at the
14 end thereof the following new paragraph:

15 “(2) Not later than 12 months after the date of the en-
16 actment of the Fuels Transportation Safety Amendments Act
17 of 1979, the Secretary shall provide that the Federal mini-
18 mum safety standards established under this section include
19 a requirement that any operator of pipeline facilities—

20 “(A) participate in any public safety program—

21 “(i) which provides for notice to pipeline fa-
22 cility operators of proposed demolition, excavation,
23 tunneling, or construction near or affecting such
24 facility;

1 “(ii) which requires such operators to identi-
2 fy specific pipeline facilities which may be affect-
3 ed by the proposed demolition, excavation, tunnel-
4 ing, or construction, for the purpose of preventing
5 damage to such facilities; and

6 “(iii) which the Secretary determines is
7 being carried out in a manner adequate to assure
8 protection against the hazards to that operator’s
9 pipeline facilities created by such demolition, ex-
10 cavation, tunneling, or construction; or

11 “(B) to the extent that such a program is not
12 available, take such steps as the Secretary shall pre-
13 scribe to provide services to the public with respect to
14 that operator’s pipeline facilities which are comparable
15 to those which would be available to the public under
16 such a program.”.

17 (b) Section 5(a)(4) is amended by striking out “excava-
18 tion” and inserting in lieu thereof “demolition, excavation,
19 tunneling, or construction”.

20 (c) Certification and information requirements estab-
21 lished by regulation under the amendments made by subsec-
22 tion (a) shall not apply with respect to annual certifications
23 under section 5 during the 2-year period which begins on the
24 effective date of such regulation.

EXEMPTION FROM STANDARDS

1

2 SEC. 104. (a) Section 3(e) is amended by inserting
3 “(1)” after “(e)” and by adding at the end thereof the follow-
4 ing new paragraph:

5 “(2) Upon application by any person engaged in pipe-
6 line transportation or the operation of piepline facilities or
7 LNG facilities, the Secretary may, after notice and opportu-
8 nity for hearing and under such terms and conditions and to
9 such extent as he deems appropriate, exempt any person or
10 category of persons from all or part of the requirements from
11 any standard established under this Act if the Secretary de-
12 termines that—

13 “(A) the financial and administrative burdens of
14 being covered by such requirements are not justified by
15 the benefits resulting from that coverage; and

16 “(B) the costs to such person or persons by being
17 covered by such requirements would significantly in-
18 crease consumer rates or charges and such exemption
19 would not endanger the public health or safety.

20 The Secretary shall state in writing his reasons for any such
21 exemption.”.

22 (b) Section 7 is amended by inserting “or exemption”
23 after “waiver”.

1 (c) Section 14(a)(3) is amended by striking out "waiver
2 granted under section 3(e)" and inserting in lieu thereof
3 "waiver or exemption granted under section 3(d)".

4 COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH
5 RENTAL OR LEASE OF REAL PROPERTY

6 SEC. 105. Section 2, as amended, is amended by in-
7 serting at the end thereof the following new subsection:

8 "(c)(1) Unless paragraph (2) applies, there shall be in-
9 cluded within the meaning of subsection (a)(3) any pipeline
10 distribution of gas by any person in connection with the
11 rental or lease of real property by that person to others,
12 whether or not—

13 "(A) a separate charge is made for such gas;

14 "(B) the distribution to each rental or lease unit
15 is separately metered; or

16 "(C) the person distributing such gas is otherwise
17 treated as being engaged in local distribution of gas.

18 "(2) The Secretary shall, by regulation, provide that the
19 provisions of paragraph (1) not apply in cases in which the
20 public health and safety are adequately protected by reason of
21 the existence and enforcement of appropriate building or
22 housing codes or similar laws."

23 PIPELINE SAFETY INSPECTORS

24 SEC. 106. (a)(1) Section 3(b), as amended, is amended
25 by adding at the end thereof the following new paragraph:

1 “(3) Not later than 12 months after the date of the en-
2 actment of the Fuels Transportation Amendments Act of
3 1979, the Secretary shall provide that the Federal minimum
4 safety standards established under this section which relate to
5 inspection and other enforcement shall set forth mini-
6 mum training and educational requirements for pipeline
7 inspectors.”.

8 (2) Section 5(c) is amended by adding at the end thereof
9 the following new paragraph:

10 “(5) The Secretary may not make any payment under
11 this subsection to a State agency for any calendar year be-
12 ginning after December 31, 1982, unless such State agency
13 has demonstrated that from the payments to such agency for
14 such year funds will be applied for the training and educa-
15 tion of pipeline safety inspectors of such State agency in
16 order to enable them to better perform their responsibilities.
17 The amounts to be applied for such purposes are to be ade-
18 quate to assure that the pipeline safety inspectors maintained
19 by such State agency comply with any standards established
20 under section 3(a) for training and education of pipeline
21 inspectors.”.

22 (3) Certification and information requirements estab-
23 lished by regulation under the amendments made by para-
24 graph (1) shall not apply with respect to annual certifications

1 under section 5 during the 2-year period which begins on the
2 effective date of such regulation.

3 (b) Section 5(f) is amended to read as follows:

4 “(f)(1) The Secretary shall determine, after reasonable
5 notice and opportunity for hearing, the minimum number of
6 pipeline safety inspectors which must be maintained by a
7 State agency in order to assure adequate monitoring of com-
8 pliance with applicable safety standards within such State.

9 “(2) No State agency shall be considered to meet the
10 requirements for certification under subsection (a), nor may
11 the Secretary enter into any agreement under subsection (b)
12 or allow a State to act as his agent with respect to interstate
13 transmission facilities, unless the State agency involved has
14 demonstrated that such agency has and will continue to
15 maintain no less than the minimum number of pipeline in-
16 spectors determined by the Secretary under paragraph (1) to
17 be required for such State.”.

18 TECHNICAL PIPELINE STANDARDS COMMITTEE

19 SEC. 107. (a) Section 4(b) is amended—

20 (1) by striking out the first sentence and inserting
21 in lieu thereof the following: “The Secretary shall
22 submit to the appropriate Committee or Committees
23 any proposed standard under this Act, or any proposed
24 amendment to a standard under this Act, for their con-
25 sideration. Within 90 days after receipt by a Commit-

1 tee of any proposed standard or amendment, the Com-
2 mittee shall prepare a report on the technical feasibil-
3 ity, reasonableness, and practicability of such standard
4 or amendment. The Secretary may prescribe a final
5 standard or final amendment to a standard at any
6 time after the 90th day after its submission to the ap-
7 propriate Committee or Committees, whether or not
8 they have reported on such standard or amendment.”;

9 (2) by inserting after “published by the Secretary
10 and” the following “, if timely made,”; and

11 (3) by inserting before the last sentence thereof the
12 following new sentence: “Each Committee shall meet
13 with the Secretary (or his designee) not less frequently
14 than once every 6 months.”.

15 (b) Section 4(c) is amended by striking out “not to
16 exceed \$100 per diem” and inserting in lieu thereof “not to
17 exceed the daily equivalent of the maximum annual rate of
18 basic pay then currently payable under the General Sched-
19 ule under section 5332 of title 5, United States Code, for
20 each day”.

21 COST-BENEFIT ANALYSIS OF INCREASED FUELS

22 TRANSPORTATION SAFETY REGULATION

23 SEC. 108. (a) Within 12 months after the date of the
24 enactment of this section, the Secretary of Transportation,
25 after affording an opportunity for consultation and comment

1 *by persons operating pipeline facilities, State and local regu-*
2 *latory authorities with jurisdiction over pipeline safety, and*
3 *consumers shall conduct and complete a cost-benefit analysis*
4 *to determine whether additional Federal legislation on pipe-*
5 *line safety is beneficial and submit a report of his findings to*
6 *the Congress.*

7 (b) *As part of the cost-benefit analysis required by sub-*
8 *section (a), the Secretary of Transportation shall conduct a*
9 *study of the adequacy and effectiveness of existing pipeline*
10 *safety regulations. In addition to existing pipeline safety reg-*
11 *ulations, the study shall address the following issues:*

12 (1) *whether pipeline safety could be significantly*
13 *enhanced in a cost-effective manner by regulations re-*
14 *quiring pipeline facility operators to—*

15 (A) *prepare and maintain a general descrip-*
16 *tion of their pipeline facilities, including—*

17 (i) *the location of the pipeline and the*
18 *pipeline facilities;*

19 (ii) *the type, age, manufacturer, and*
20 *method of construction of such pipeline and*
21 *facilities;*

22 (iii) *the nature of the materials trans-*
23 *ported, the sequence in which they are trans-*
24 *ported, and the pressure at which they are*
25 *transported; and*

1 (iv) the climatic, geologic, seismic, and
2 conditions (including soil characteristics) as-
3 sociated with the areas in which the pipeline
4 facilities are located, and the existing and
5 projected population and demographic char-
6 acteristics associated with such areas;

7 (B) prepare, maintain, and submit to State
8 and local entities authorized to approve demoli-
9 tion, excavation, tunneling, or construction activi-
10 ties in the areas in which the pipeline facilities
11 are located a detailed description of the pipeline's
12 location;

13 (2) the cost-effectiveness of public safety programs
14 of persons operating pipeline facilities which have been
15 established voluntarily or under State or local law or
16 regulation, under which—

17 (A) notice is required to be provided to pipe-
18 line facility operators of proposed demolition, ex-
19 cavation, tunneling, or construction near or affect-
20 ing such facility; and

21 (B) such operators are required to identify
22 specific pipeline facilities which may be affected
23 by the proposed demolition, excavation, tunneling,
24 or construction, for the purpose of preventing
25 damage to such facilities;

1 (3) the cost-effectiveness, feasibility, and potential
2 benefits of establishing in the Department of Transpor-
3 tation a program for use in an electronic data-process-
4 ing system, which would be used to process and main-
5 tain pipeline-safety information obtained under exist-
6 ing and future Federal laws and regulations;

7 (4) whether it is necessary and cost-effective to
8 amend existing Federal law and regulations on the re-
9 porting of pipeline leaks to require the reporting of any
10 such future leak which—

11 (A) the person owning or operating the pipe-
12 line facility knew or reasonably should have
13 known existed;

14 (B) was not caused by operation, inspection,
15 or adjustment procedures which were properly
16 carried out; and

17 (C) posed a threat to public health or safety,
18 property, or the environment; and

19 (5) whether it is necessary and cost-effective to
20 amend the provisions of the Act to include any type or
21 class of facility or equipment used in the transporta-
22 tion on land of gas or liquefied petroleum gas, in inter-
23 state or foreign commerce, or storage in connection
24 with such transportation.

1 *APPROPRIATIONS AUTHORIZATION*2 *SEC. 109. Section 15 is amended to read as follows:*3 *"APPROPRIATIONS AUTHORIZED*4 *"SEC. 15. (a) For the purpose of carrying out the provi-*
5 *sions of this Act (other than provisions for which funds are*
6 *authorized to be appropriated under subsection (b)), there are*
7 *authorized to be appropriated—*8 *"(1) \$6,000,000, for the fiscal year ending Sep-*
9 *tember 30, 1980;*10 *"(2) \$7,000,000, for the fiscal year ending Sep-*
11 *tember 30, 1981; and*12 *"(3) \$8,000,000, for the fiscal year ending Sep-*
13 *tember 30, 1982.*14 *"(b)(1) For the purpose of carrying out the provisions of*
15 *section 5(c) of this Act, there are authorized to be appropri-*
16 *ated—*17 *"(A) \$4,500,000, for the fiscal year ending Sep-*
18 *tember 30, 1980;*19 *"(B) \$5,500,000, for the fiscal year ending Sep-*
20 *tember 30, 1981; and*21 *"(C) \$6,500,000, for the fiscal year ending Sep-*
22 *tember 30, 1982."*23 *EFFECTIVE DATE; INTERIM STANDARDS*24 *SEC. 110. Section 3 is amended by adding at the end*
25 *thereof the following new subsection:*

1 “(g)(1) *Except as expressly provided otherwise, stand-*
2 *ards, or amendments to standards, required under this sec-*
3 *tion by reason of the enactment of the Fuels Transportation*
4 *Safety Amendments Act of 1979 shall be prescribed not later*
5 *than thirty six months after the date of the enactment of such*
6 *Act.*

7 “(2) *As soon as practicable but not later than 3 months*
8 *after the enactment of such Act, the Secretary shall, by order,*
9 *adopt interim minimum Federal safety standards for pipeline*
10 *facilities and pipeline transportation to the extent not covered*
11 *by this Act immediately before the date of the enactment of*
12 *the Fuels Transportation Safety Amendments Act of 1979.*
13 *Such standards shall, to the extent the Secretary determines*
14 *appropriate, be—*

15 “(A) *the State standards regulating pipeline facil-*
16 *ities and pipeline transportation within such State on*
17 *such date of enactment; or*

18 “(B) *the standards in effect under part 195 of*
19 *title 49, Code of Federal Regulations, on the date of*
20 *the enactment of such Act, in any case in which no*
21 *such State standards are in effect on such date or the*
22 *State standards in effect on such date are less strin-*
23 *gent than the standards under such part 195.*

24 *Interim standards shall remain in effect until amended or*
25 *revoked pursuant to this section. Any State agency may*

1 *adopt such additional or more stringent standards for pipe-*
2 *line facilities and pipeline transportation not subject to Feder-*
3 *al ratemaking or safety jurisdiction under the Natural Gas*
4 *Act, the Interstate Commerce Act, or chapter 39 of title 18,*
5 *United States Code, as are not incompatible with the Federal*
6 *minimum standards, but may not adopt or continue in force*
7 *after the interim standards provided for above become effec-*
8 *tive any such standards applicable to interstate transmission*
9 *facilities.”.*

10 *TITLE II—SITING AND SAFETY OF LNG*
11 *FACILITIES*

12 *DEFINITIONS*

13 *SEC. 201. Section 2(a), as redesignated, is amended by*
14 *striking out “and” at the end of paragraph (10), by striking*
15 *out the period at the end of paragraph (11) and inserting a*
16 *semicolon in lieu thereof, and by adding at the end thereof*
17 *the following new items:*

18 *“(12) ‘LNG’ means natural gas in a liquid, semisolid,*
19 *or solid state;*

20 *“(13) ‘LNG facility’ means any storage tank, pipeline,*
21 *or other structure or equipment used for the transportation or*
22 *storage of LNG, or for LNG conversion, in interstate or for-*
23 *eign commerce, but does not include any structure or equip-*
24 *ment (or portion thereof) located in navigable waters (as de-*

1 *fined in section 3(8) of the Federal Power Act (16 U.S.C.*
2 *796(8))*;

3 “(14) ‘LNG conversion’ means conversions of natural
4 *gas into LNG (liquefaction or solidification) or the conver-*
5 *sion of LNG into natural gas (vaporization)*;

6 “(15) ‘Construction’ means construction, reconstruc-
7 *tion, or erection, and, with respect to any LNG facility, any*
8 *act which the Secretary, by regulation, determines would*
9 *result in the creation or substantial increase of capacity of*
10 *such facility for transporting or storing LNG or for LNG*
11 *conversion*;

12 “(16) ‘Existing LNG facility’ means any LNG facility
13 *for which an application for the approval of the siting, con-*
14 *struction, or operation of such facility was filed before March*
15 *1, 1978, with—*

16 “(A) *the Department of Energy or any predeces-*
17 *sor organization of the Department, or*

18 “(B) *the appropriate State or local agency, in the*
19 *case of any facility not subject to the jurisdiction of the*
20 *Department of Energy under the Natural Gas Act,*
21 *except that such term does not include any facility the con-*
22 *struction of which commences on or after the date of the en-*
23 *actment of this paragraph and such construction is not pur-*
24 *suant to such an approval*;

1 “(17) ‘New LNG facility’ means any LNG facility
2 other than an existing LNG facility;

3 “(18) ‘LNG accident’ means any release, burning, or
4 explosion of LNG resulting from—

5 “(A) a rupture or other failure of a storage tank,
6 pipeline, or other LNG facility;

7 “(B) natural hazards (including earthquakes,
8 hurricanes, and high winds);

9 “(C) sabotage; or

10 “(D) any other cause;
11 other than any such release, burning, or explosion which, as
12 determined in accordance with regulations prescribed by the
13 Secretary, does not pose a threat to public health or safety,
14 property, or the environment; and

15 “(19) ‘Interstate or foreign commerce’ means any trade,
16 traffic, transportation, exchange, or other commerce—

17 “(A) between any State and any place outside of
18 such State, or

19 “(B) which affects any trade, transportation, ex-
20 change, or other commerce described in subparagraph
21 (A).”.

22 SITING AND SAFETY STANDARDS

23 SEC. 202. (a) The Act is amended by redesignating sec-
24 tions 6 through 17 as sections 8 through 19, respectively, and
25 by inserting after section 5 the following new section:

1 “STANDARDS FOR LNG FACILITIES

2 “SEC. 6. (a)(1) Not later than 180 days after the date
3 of the enactment of this section, the Secretary shall establish,
4 by regulation—

5 “(A) minimum safety standards for determining
6 the location of any new LNG facility which is to be
7 stationary,

8 “(B) minimum standards for the construction of
9 any new LNG facility, and

10 “(C) minimum standards for the operation of any
11 new LNG facility.

12 “(2) After the date standards first take effect under this
13 section, no new LNG facility may be constructed unless such
14 construction is in accordance with the applicable standards
15 prescribed under this section. The Secretary shall ensure that
16 the facility will be constructed and operated in compliance
17 with such standards.

18 “(3) No new LNG facility may be operated unless the
19 person operating such facility has previously submitted a
20 contingency plan which sets forth those steps which are to be
21 taken in the event of an LNG accident and which is deter-
22 mined to be adequate by the Department of Energy or the
23 appropriate State agency, in the case of any facility not sub-
24 ject to the jurisdiction of the Department under the Natural
25 Gas Act.

1 “(b)(1) *The standards under subsection (a) shall not*
2 *apply in the case of siting or construction with respect to*
3 *which an application for approval was filed before March 1,*
4 *1978, with—*

5 “(A) *the Department of Energy or any predeces-*
6 *sor organization of the Department; or*

7 “(B) *the appropriate State or local agency, in the*
8 *case of any facility not subject to the jurisdiction of the*
9 *Department under the Natural Gas Act.*

10 “(2) *Nothing in this section shall preclude—*

11 “(A) *the application of standards under section 3*
12 *to pipeline facilities (other than LNG facilities) associ-*
13 *ated with LNG facilities;*

14 “(B) *the application of standards under section 3*
15 *in effect as of the date of the enactment of the Fuels*
16 *Transportation Safety Act Amendments of 1979 to*
17 *new LNG facilities until such time as standards are*
18 *established under this section; or*

19 “(C) *the application of section 3(a).*

20 “(c) *Not later than 270 days after the date of the enact-*
21 *ment of this title, the Secretary shall establish minimum*
22 *standards to be maintained with respect to the operation of*
23 *any existing LNG facility.*

1 “(d) In prescribing general safety standards under
2 subsections (a) and (c), the Secretary shall take into
3 consideration—

4 “(1) with respect to standards relating to the loca-
5 tion of any stationary new LNG facility—

6 “(A) the nature of the use of the facility;

7 “(B) criteria to be used in determining the
8 number and characteristics of other sites to be
9 considered as alternative locations for such LNG
10 facility;

11 “(C) the existing and projected population
12 and demographic characteristics associated with
13 each location considered;

14 “(D) the existing and proposed land uses
15 near each such location;

16 “(E) the meteorological, geological, topo-
17 graphical, seismic, and other natural physical as-
18 pects of each such location;

19 “(F) the medical, law enforcement, and fire
20 prevention capabilities existing near each such
21 location to cope with risks created by such a
22 facility;

23 “(G) the costs of constructing and operating
24 such LNG facility at each such location, includ-
25 ing the costs to the United States and to State

1 *and local governments which are associated with*
2 *such construction and operation; and*

3 “(H) *the need to encourage remote siting;*

4 “(2) *with respect to standards applicable to the*
5 *construction of any new LNG facility—*

6 “(A) *the thermal resistance and other charac-*
7 *teristics of materials to be used in the construction*
8 *of such facility as compared to alternative*
9 *materials;*

10 “(B) *design factors (such as multiple diking,*
11 *insulated concrete, and vapor containment bar-*
12 *riers);*

13 “(C) *the characteristics of the LNG to be*
14 *stored or converted at, or transported by, such fa-*
15 *ility (for example, whether it is to be in a liquid,*
16 *semisolid, or solid state); and*

17 “(D) *the public safety factors of the design*
18 *as compared to alternative designs (particularly*
19 *the ability under such a design to prevent and*
20 *contain an LNG spill); and*

21 “(3) *with respect to standards for the operation of*
22 *any LNG facility—*

23 “(A) *the conditions, features, and type of*
24 *equipment and structures with comprise, or which*
25 *are used in connection with, such facility;*

1 “(B) the fire prevention and containment
2 equipment at such facility;

3 “(C) the security measures to be used with
4 respect to the operation of such facility for the
5 prevention of sabotage or other intentional acts
6 which could cause an LNG accident;

7 “(D) maintenance procedures and equip-
8 ment;

9 “(E) the training of personnel with respect
10 to the equipment, structures, measures, and proce-
11 dures described in subparagraphs (A), (B), (C),
12 and (D); and

13 “(F) other factors and conditions relating to
14 the safe handling of LNG.

15 “(e) At any time after the effective date of standards
16 initially prescribed under subsections (a) and (c), the Secre-
17 tary shall, on his own motion or on the motion of any person,
18 amend such standards to the extent he considers necessary to
19 reflect changes in technology or to otherwise carry out the
20 purposes of this section.

21 “(f) Any standards prescribed under this section, and
22 amendments thereto, shall become effective 30 days after the
23 date of issuance of such standards unless the Secretary, for
24 good cause recited, determines an earlier or later effective
25 date is required as a result of the period reasonably necessary

1 for compliance and such date is specified in the order estab-
 2 lishing or amending such standard.

3 “(g) The provisions of subchapter II of chapter 5 of title
 4 5, *United States Code*, shall apply to all orders establishing,
 5 amending, or revoking, any standard established under this
 6 section. The Secretary shall afford interested persons an op-
 7 portunity to participate fully in the establishment of such
 8 safety standards through submission of written data, views,
 9 or arguments with opportunity to present oral testimony and
 10 argument.”.

11 (b)(1) Section 2(a)(4) (definition of pipeline transporta-
 12 tion), as redesignated, is amended by striking out “or affect-
 13 ing”.

14 (2) Section 2(a) (9) and (10) (definitions of interstate
 15 and intrastate transmission facilities), as redesignated, is
 16 amended by inserting “; LNG facilities,” after “pipeline
 17 facilities” the first place it appears therein.

18 (3) Section 3(d)(1) (relating to waiver of standards), as
 19 redesignated, is amended—

20 (A) by inserting “or LNG facilities” after “pipe-
 21 line facilities”; and

22 (B) by inserting after “in the same manner” the
 23 following: “and to the same extent”.

1 (4) Section 4(b) (relating to Technical Safety Commit-
2 tees) is amended by inserting “, LNG facilities,” after “pipe-
3 line facilities”.

4 (5) Section 9 (relating to cooperation), as redesignated,
5 is amended—

6 (A) by inserting “or LNG facility” after “affect-
7 ed pipeline facility” and after “gas pipeline”; and

8 (B) by inserting “or LNG facilities” after “pipe-
9 line facilities”.

10 (6) Section 10 (relating to compliance), as redesignated,
11 is amended by inserting “or LNG facilities” after “pipeline
12 facilities”.

13 (7) Section 13 (relating to injunction and jurisdiction),
14 as redesignated, is amended by inserting after “pipeline fa-
15 cility” the following: “or LNG facility”.

16 (8) Section 14 (relating to inspection and maintenance
17 plans), as redesignated, is amended—

18 (A) by inserting after “facilities” the following:
19 “or LNG facilities” each place it appears;

20 (B) by striking out “pipeline safety” each place it
21 appears and inserting in lieu thereof “pipeline and
22 LNG facility safety”; and

23 (C) by inserting in paragraph (2) after “pipeline
24 transportation” the following: “or LNG facility”.

1 (9) Section 15 (relating to records, etc.), as redesignat-
 2 ed, is amended by inserting after "pipeline facilities" each
 3 place it appears the following: "and LNG facilities".

4 (10) Section 17(a)(2) (relating to annual report), as re-
 5 designated, is amended by inserting after "pipeline" the fol-
 6 lowing: "or LNG facilities".

7 (11) Section 17(a)(4) (relating to annual report), as re-
 8 designated, is amended by striking out "and pipeline facili-
 9 ties" and inserting in lieu thereof ", pipeline facilities, and
 10 LNG facilities,".

11 FINANCIAL RESPONSIBILITY

12 SEC. 203. The Act, as amended by section 202 of this
 13 Act, is further amended by inserting after the new section 6
 14 the following new section:

15 "FINANCIAL RESPONSIBILITY FOR CERTAIN LNG
 16 ACTIVITIES; STUDIES

17 "SEC. 7. (a) Not later than 270 days after the date of
 18 the enactment of this section, the Secretary shall—

19 "(1) conduct a study of—

20 "(A) the risks associated with the production,
 21 transmission, and storage of LNG;

22 "(B) the risks associated with the produc-
 23 tion, transmission, and storage of liquefied petro-
 24 leum gas;

1 “(C) the methods of assuring adequate finan-
2 cial responsibility for those engaged in any such
3 activity; and

4 “(2) prepare and transmit to each House of the
5 Congress a report on the results of such study, together
6 with the recommendations of the Secretary for such
7 legislative or administrative action as he considers ap-
8 propriate.

9 “(b)(1) Whenever the Secretary has reason to believe
10 that any operator of an LNG facility is not maintaining
11 adequate insurance or otherwise does not have adequate fi-
12 nancial responsibility with respect to such facilities, he shall
13 issue and serve upon such operator notice thereof, together
14 with a statement of the amount of the financial responsibility
15 that the Secretary would consider adequate.

16 “(2) Any person issued notice under paragraph (1)
17 shall have a right to hearing on the record in accordance with
18 section 554 of title 5, United States Code, to be held not later
19 than 30 days after notice under paragraph (1), at which such
20 person has the right to show cause as to why an order should
21 not be issued by the Secretary requiring such person to dem-
22 onstrate and maintain financial responsibility at or above the
23 amount indicated in the notice under paragraph (1).

24 “(3) After an opportunity for hearing under paragraph
25 (2), the Secretary may, if he determines it is justified in the

1 public interest, order the person issued notice of such hearing
2 to demonstrate and maintain financial responsibility at or
3 above an amount determined appropriate by the Secretary,
4 taking into account any information, data, and views pre-
5 sented in such hearing.

6 “(4)(A) Any person aggrieved by an order issued under
7 paragraph (3) may seek judicial review of such order only by
8 filing a petition for review in the appropriate court of appeals
9 of the United States within 60 days after such order is
10 issued.

11 “(B) Upon receipt of notice of the filing of such petition,
12 the Secretary shall file in the court the record in the proceed-
13 ing, as provided in section 2112 of title 28, United States
14 Code. Upon such filing, the court may affirm, modify,
15 remand, or set aside the order of the Secretary, and may
16 enforce the order to the extent that such order is affirmed and
17 issue such writs as are ancillary to its jurisdiction or are
18 necessary in its judgment to prevent injury to the public pen-
19 dente lite. The findings of the Secretary as to the facts, if
20 supported by substantial evidence, shall be conclusive.

21 “(C) The judgment and decree of the court shall be
22 final, except that such judgment and decree shall be subject to
23 review by the Supreme Court upon certiorari, as provided in
24 section 1254 of title 28, United States Code.

1 “(c) For purposes of subsection (b) of this section, fi-
2 nancial responsibility may be maintained by any one of, or a
3 combination of, the following methods acceptable to the Sec-
4 retary:

5 “(1) evidence of insurance,

6 “(2) surety bonds,

7 “(3) qualification as a self-insurer, or

8 “(4) other evidence of financial responsibility.”.

9 ENFORCEMENT OF STANDARDS AND FINANCIAL

10 RESPONSIBILITY REQUIREMENTS

11 SEC. 204. (a) Section 11(a) (relating to civil penalty),
12 as redesignated by section 202 of this Act, is amended by
13 inserting “(1)” before “Any person” and by adding at the
14 end thereof the following new paragraph:

15 “(2) Any person who violates the provisions of section 6
16 or any order under section 7(b) shall be subject to a civil
17 penalty of not to exceed \$50,000, which penalty shall be in
18 addition to any other penalties to which such person may be
19 subject under this subsection.”.

20 (b) The Act is further amended by redesignating sec-
21 tions 12 through 19 (as redesignated) as sections 13 through
22 20, respectively, and by inserting after section 11 the follow-
23 ing new section:

1 “CRIMINAL PENALTY

2 “SEC. 12. Any person who willfully and knowingly
3 violates the provisions of section 6 or any order issued under
4 section 7(b) shall, on conviction thereof, be punished by a
5 fine of not more than \$50,000, or by imprisonment for not
6 more than five years, or both.”

7 INTERVENTION BY THE SECRETARY IN SAFETY

8 PROCEEDINGS

9 SEC. 205. (a) Section 16, as redesignated, is amended
10 by adding at the end thereof the following new subsection:

11 “(e) The Secretary may as a matter of right intervene
12 or otherwise participate in any proceeding before the Federal
13 Energy Regulatory Commission, or any State agency, which
14 involves safety requirements relating to LNG facilities. The
15 Secretary shall comply with rules of procedure of general
16 applicability governing the timing of intervention or partici-
17 pation in such proceeding or activity and, upon intervening
18 or participating therein, shall comply with rules of procedure
19 of general applicability governing the conduct thereof.”

20 (b) Section 16(a), as redesignated, is amended by strik-
21 ing out “section” and inserting in lieu thereof “subsection”.

22 (c) Section 16(b), as redesignated, is amended by in-
23 serting “, or any appropriate State agency,” after “Commis-
24 sion”.

1 *APPROPRIATIONS AUTHORIZATION*

2 *SEC. 206. Section 18(b) (relating to appropriations au-*
3 *thorization), as redesignated, is amended by adding at the*
4 *end thereof the following new paragraph:*

5 *“(2) For the purpose of carrying out sections 6 and 7 of*
6 *this Act, there are authorized to be appropriated—*

7 *“(A) \$2,000,000, for the fiscal year ending Sep-*
8 *tember 30, 1980; and*

9 *“(B) \$2,000,000, for the fiscal year ending Sep-*
10 *tember 30, 1981.”.*

11 *TITLE III—MISCELLANEOUS PROVISIONS*12 *WILLFUL DESTRUCTION OF INTERSTATE PIPELINE*13 *TRANSMISSION OR LNG FACILITIES*

14 *SEC. 301. Section 12 (as added by section 204 of this*
15 *Act) is amended by inserting “(a)” after “SEC. 12.” and by*
16 *adding at the end thereof the following new subsection:*

17 *“(b) Any person who willfully injures or destroys, or*
18 *attempts to injure or destroy—*

19 *“(1) any pipeline facility for the interstate trans-*
20 *mission of gas, liquefied petroleum gas, or petroleum,*
21 *including any facility or equipment covered under this*
22 *Act under section 2(b), or*

23 *“(2) any liquefied gas facility to which section 6*
24 *applies,*

1 shall be fined not more than \$15,000 or imprisoned not more
2 than fifteen years, or both."

3 APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OP-
4 ERATIONS AND DIRECTOR OF MATERIALS TRANSPOR-
5 TATION BUREAU

6 SEC. 302. (a) Notwithstanding any other provision of
7 law—

8 (1) no individual may serve for more than 180
9 days (in the aggregate) in an acting capacity in a posi-
10 tion the principal duties of which were identified as of
11 March 1, 1978, as assigned to the Director of the
12 Office of Pipeline Safety Operations, Department of
13 Transportation, or may serve as the Acting Director of
14 the Materials Transportation Bureau, Department of
15 Transportation, and

16 (2) if a person is not appointed to such position
17 within 180 days after a vacancy occurs in that posi-
18 tion, the Secretary shall personally carry out the func-
19 tions of such position until an appointment is made to
20 that position, and all delegations of authority under the
21 Fuels Transportation Safety Act shall be suspended
22 until such appointment is made.

23 (b) In the case of any vacancy in such positions on the
24 date of the enactment of this Act, periods of service before the

1 date of enactment shall not be taken into account for purposes
2 of subsection (a).

3 SIMPLIFICATION OF FILING REQUIREMENTS

4 SEC. 303. (a)(1) The first sentence of section 14, as
5 amended and redesignated, is amended by striking out "shall
6 file with the Secretary or, if a certification or an agreement
7 pursuant to section 5 of this Act is in effect, with the appro-
8 priate State agency, a plan for inspection and maintenance"
9 and inserting in lieu thereof "shall establish, and maintain
10 at such office or offices of that person as the Secretary deter-
11 mines appropriate, a plan for inspection and maintenance".

12 (2) The second sentence of such section 14 is amended
13 by striking out "file such plans" and insert in lieu thereof
14 "similarly establish and maintain such plans".

15 (b) Section 10(a)(2) as amended and redesignated, is
16 amended by striking out "file and comply with a plan of
17 inspection and maintenance required by section 14" and
18 insert in lieu thereof "establish and maintain a plan of in-
19 spection and maintenance required by section 14 and comply
20 with such plan".

21 TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

22 SEC. 304. (a) Section 2(a)(8) (relating to the national
23 organization of State commissions), as redesignated, is
24 amended by striking out "part II of the Interstate Commerce

1 Act” and inserting in lieu thereof “subchapter III of chapter
2 103 of title 49, United States Code”.

3 (b) Section 3 (relating to standards), as amended, is
4 amended by striking out subsection (a) and by redesignating
5 subsections (b) through (g) as subsections (a) through (f), re-
6 spectively.

7 (c) Section 3(b), as redesignated by subsection (b), is
8 amended by inserting after “period reasonably necessary for
9 compliance” the following: “and such date is specified in the
10 order establishing or amending such standard”.

11 (d) Clause (ii) of section 5(a) (relating to State certifi-
12 cations) is amended by inserting after “property damage ex-
13 ceeding \$1,000” the following: “(whether or not sustained by
14 a person subject to the safety jurisdiction of the State)”.

15 (e) Section 5(a) is amended by striking out “; except
16 that a State agency may file a certification under this sub-
17 section without regard to the requirement of injunctive and
18 monetary sanctions under State law for a period not to
19 exceed five years after the date of enactment of this Act”.

20 (f) Section 11(a)(1) (relating to civil penalties), as re-
21 designated, is amended by striking out “; Provided, That for
22 a reasonable period of time, not to exceed one year after the
23 date of enactment of this Act, such civil penalties shall not be
24 applicable to pipeline facilities existing on such date of enact-
25 ment”.

1 (g) Section 17(a)(3) (relating to annual reports), as re-
2 designated by sections 202 and 204 of this Act, is amended
3 by striking out "section 3(e)" and inserting in lieu thereof
4 "section 3(d)".

5 (h) The following provisions are each amended by strik-
6 ing out "Federal Power Commission" and inserting in lieu
7 thereof "Federal Energy Regulatory Commission":

8 (1) section 2(a) (9) and (10), as redesignated;

9 (2) section 9 (relating to cooperation), as redesi-
10 nated, including the section heading; and

11 (3) section 16(b) (relating to administration), as
12 redesignated.

13 (i) Paragraphs (9) and (10) of section 2(a), as redesi-
14 nated, are each amended by inserting "or the Interstate Com-
15 merce Act" after "the Natural Gas Act".

16 (j)(1) Section 5(a) is amended by striking out "section
17 12(b)", "section 12", "section 11", and "sections 9 and 10"
18 and inserting in lieu thereof "section 15(b)", "section 15",
19 "section 14", and "sections 11 (other than subsection (a)(2)
20 thereof) and 13", respectively.

21 (2) Section 5(a) is further amended by inserting "sec-
22 tion 20," before "and except as otherwise provided in this
23 section".

24 (3) Section 5(b)(2) is amended by striking out "section
25 11" and inserting in lieu thereof "section 14".

1 (4) Section 5(c)(2) is amended by striking out "section
2 15(b)" and inserting in lieu thereof "section 18(b)(1)".

3 (5) Section 10 (relating to compliance), as redesignated,
4 is amended by striking out "section 11" and "section 12"
5 and inserting in lieu thereof "section 14" and "section 15",
6 respectively.

7 (6) Section 11(a)(1) (relating to civil penalty), as reded-
8 igned, is amended by striking out "section 8(a)" and in-
9 serting "section 10" in lieu thereof.

10 (7) Section 13 (relating to injunction and jurisdiction),
11 as redesignated, is amended by striking out "section 9" each
12 place it appears and inserting in lieu thereof "section 11 or
13 12".

14 (k) Section 17(a) (relating to annual report), as redesign-
15 nated, is amended by striking out "March 17" and inserting
16 in lieu thereof "June 1".

17 (l) Any reference in any other provision of law, rule,
18 regulation, or order to the Natural Gas Pipeline Safety Act
19 of 1968 shall be considered to refer to the Fuels Transporta-
20 tion Safety Act.

Mr. HOWARD. We are happy to welcome the ranking member of the subcommittee, the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman. I simply ask unanimous consent that my opening statement be made a part of the record.

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

[The statement follows:]

OPENING REMARKS OF REPRESENTATIVE BUD SHUSTER OF PENNSYLVANIA

Mr. Chairman, if any of us needed a reminder that neither our modern industrial technology nor our system for regulating it is infallible, two recent events—one in the energy field and one in transportation—should dispel any illusions. It is particularly appropriate, then, that this subcommittee, with its broad transportation jurisdiction, examine the vital public safety implications raised by the legislation before us.

I, for one, welcome the opportunity to examine the totality of the systems for the transportation of LNG, LPG and other hazardous substances by pipeline or other mode, the hazards associated with each element of the system, and the regulatory response—both existing and proposed—to the risks involved.

Personally, I am convinced that no single domestic policy area has greater implications for our overall economic well-being, the underpinnings of our defense capability and our ability to pursue a balanced and independent foreign policy in our best long-term interests than does energy.

Transportation of energy is only a part, but a vital part, of that picture. Furthermore, its importance is heightened by the public safety implications involved.

In the case of most modes of transportation, such as automobile or air travel, the greatest risk is borne by the traveling public itself. The public also has greater control over the risk in its choice of modes; in the case of automobile travel, the driver can at least partially affect his own safety by the way he drives.

But, while those exposed to the risks we address here today may include the traveling public, they are more likely to be the often unsuspecting members of the general public when an accident involves a truck or rail car rolling through town or a nearby pipeline or storage or refining facility. And, of course, the employees of the carriers and the emergency workers in the area where the accident occurs.

The issues we will be examining will have less to do with regulation versus the absence of regulation than wise regulation versus unproductive and overly burdensome misregulation. One critical question will be the appropriate statutory mechanism for each substance or class of substances in terms of their transportation and related characteristics.

This is the perspective from which I will be examining the issues posed by this legislation before us in our hearing today and in subsequent legislative action.

In closing, I would like to express my recognition of the excellent groundwork laid by the Committee on Interstate and Foreign Commerce, whose jurisdiction we now share in light of our transportation responsibilities. Without that committee's work, this subcommittee could not hope to take up H.R. 51 and related legislation on the basis of a single day of hearings.

I look forward to hearing from our witnesses and to learning how the various proposals before us can be improved from a transportation standpoint. Thank you, Mr. Chairman.

Mr. SHUSTER. Thank you.

Mr. HOWARD. The first witness this morning is Dr. James D. Palmer, Administrator, Research and Special Programs Administration, Department of Transportation. Dr. Palmer, welcome to the subcommittee. For the record, please identify whoever is with you.

TESTIMONY OF DR. JAMES D. PALMER, ADMINISTRATOR, RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY LEON D. SANTMAN, DIRECTOR, MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

Dr. PALMER. I want to thank you for having us before you once again to testify in behalf of H.R. 2207 and H.R. 51, the two pipeline safety bills that you currently have under consideration. I will just

make a very short statement inasmuch as we have had an opportunity to discuss these two measures in some detail.

As you know, H.R. 2207 is the administration bill and we had submitted an identical bill, S. 411, to the Senate. This bill did pass the Senate on June 14, 1979, by unanimous consent. It was reported out with several amendments by the Senate.

The bill S. 411 does have the full support of the Department of Transportation, as amended. We understand it also has the support of major sectors of the gas and oil industry. I would urge the subcommittee to give close consideration to this bill in determining its position on H.R. 2207.

With regard to H.R. 51, we feel that it is possible that this bill would also serve to accommodate the purposes of 2207 and go along with S. 411.

We do think that perhaps several provisions in H.R. 51 might be better left to administrative effort. On the other hand, we feel that H.R. 51 could be amended to include the major part of H.R. 2207, the liquids portion. In other words take the best out of both bills and incorporate them together.

The important provisions of H.R. 2207 include the title to the liquid part which we call the Hazardous Liquid Pipeline Safety Act and the expanded enforcement powers under part I for the Department's gasoline program.

The present state of affairs with regard to the liquid areas, as DOT perceives it, is a patchwork of legislation and what we are seeking is a clear express safety authority over storage facilities of hazardous liquids over intrastate liquid pipelines to go along with the safety authority for interstate liquid pipelines.

The present status is perhaps described as being a bit ambiguous, although we are able under present laws to write rules and regulations to cover these particular concerns.

We finally wish to seek a clear statement of civil enforcement authority in the liquid area.

So with that, Mr. Chairman, we certainly support H.R. 2207 and H.R. 51 if it includes something in the liquid area as we attempt to consolidate our legislative program in the pipeline safety area. I would be pleased to answer any questions that you might have.

Mr. HOWARD. Thank you very much, Dr. Palmer.

What pipeline transportation is covered by the Transportation of Explosives Act?

Dr. PALMER. The Transportation of Explosives Act, title 18, covers liquid pipeline transportation by carriers engaged in interstate or foreign commerce.

Mr. HOWARD. Do you believe that liquid natural gas facilities should be treated differently from other pipeline facilities used in the transportation of gas?

Dr. PALMER. Yes. We have attempted to do it through regulation, and in fact I think we have for the committee a copy of the Federal Register that speaks to the concern that we have for liquefied natural gas facilities. We have attempted to speak directly to these under the general concept that liquid natural gas when it is transported over great distances is done so as a gas, thereby extending to us the coverage of this in the definition of gas in the Natural Gas Pipeline Safety Act.

Mr. HOWARD. If the Transportation of Explosives Act is repealed as recommended by the Department and title II is enacted, are you confident that the Department would retain the necessary authority to regulate all safety aspects of transportation now covered by the Transportation of Explosives Act?

Dr. PALMER. Our Chief Counsel assures us that title II will extend to us the full coverage that we currently have under title 18 in the Explosives Act.

Mr. HOWARD. Under H.R. 51, LPG would be regulated by the Natural Gas Pipeline Safety Act. How would other hazardous liquids be regulated?

Dr. PALMER. Of course if title II of H.R. 2207 is enacted, that provides us with the liquid authority.

Under H.R. 51, LPG would be regulated explicitly, and it is ambiguous as to whether other liquids would be included, even given the definition of what gas transportation is. We have some concern that H.R. 51 presently would not explicitly provide us with the authority in the areas of anhydrous ammonia, which is a similar kind of liquid, in that it is generated in a gaseous state and transported in a liquid state.

Mr. HOWARD. Would anhydrous ammonia be covered if H.R. 2207 is enacted?

Dr. PALMER. Yes, it would.

Mr. HOWARD. Would anhydrous ammonia be covered under H.R. 51?

Dr. PALMER. We feel that it would not be explicit.

Mr. HOWARD. How about oil under H.R. 51?

Dr. PALMER. As I read H.R. 51, it would not be included.

Mr. HOWARD. Crude oil?

Dr. PALMER. Crude oil would not.

Mr. HOWARD. Under H.R. 51, legislative guidelines are established for developing standards for LNG facilities. Currently, the Department is considering the issuance of standards for LNG facilities. If H.R. 51 were enacted, would the Department be required to revise those standards?

Dr. PALMER. I think that the standards are essentially consistent with the wording in H.R. 51, with the exception of the implementation date which would have to be changed.

Mr. HOWARD. If there are any important differences between H.R. 51 as reported and the proposals submitted by the Department, what are they?

Dr. PALMER. In reviewing both, there are no significant differences, that could not be corrected by incorporating in H.R. 51 the 2207 provisions dealing with all hazardous liquid pipeline transportation and broader civil enforcement authorities for both our gas and liquid pipeline programs.

Mr. HOWARD. The gentleman from Pennsylvania.

Mr. SHUSTER. Thank you, Mr. Chairman.

I presume that the language here as it relates to NG facilities could include trucks?

Dr. PALMER. That is correct. It could, although we have the authority under the Hazardous Materials Transportation Act explicitly to regulate truck carriage of hazardous materials.

Mr. HOWARD. What are the major differences, if any, between the legislation as you propose it and as H.R. 51 came out of the Interstate and Foreign Commerce Committee?

Dr. PALMER. I think the primary difference is the lack of clear definition over all hazardous liquids rather than naming LPG and attempting a definition that is intended to be inclusive. We feel that the major difference important to us is the ability to have a say over hazardous liquids in general, and so this represents the first major difference.

The second would be in some of the several penalty opportunities, magistrate court, the power to subpoena or to obtain materials when there has been a pipeline rupture, and the compliance orders that are really necessary for smaller systems. Those I think are the major differences.

Mr. SHUSTER. Thank you very much.

Mr. HOWARD. The gentleman from Minnesota.

Mr. STANGELAND. I have no questions.

Mr. HOWARD. The gentleman from California.

Mr. LEWIS. Nothing, thank you, Mr. Chairman.

Mr. HOWARD. Thank you very much for appearing here today. We look forward to receiving the information from you.

The next witness before the subcommittee this morning is Mr. Paul Rodgers, administrative director and general counsel, National Association of Regulatory Utility Commissioners, Washington, D.C.

We thank you very much for appearing before the subcommittee this morning. The members do have a copy of your testimony and, without objection, that will be made a part of the record at this point.

[The statement referred to follows:]

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION

STATEMENT OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS
1102 INTERSTATE COMMERCE COMMISSION BUILDING
CONSTITUTION AVENUE AND TWELFTH STREET, N.W.
POST OFFICE BOX 684, WASHINGTON, D. C. 20044
TELEPHONE (202) 628-7324

ON

H.R. 51, A BILL PROPOSING THE FUELS
TRANSPORTATION SAFETY AMENDMENTS ACT OF 1979

AND

H.R. 2207, A BILL PROPOSING
THE PIPELINE SAFETY ACT OF 1979

JUNE 8, 1979



Mr. Chairman and Members of the Subcommittee:

My name is Paul Rodgers. I am Administrative Director and General Counsel for the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC." I am accompanied today by Margo L. James, NARUC Director of Congressional Relations.

The NARUC is a quasi-governmental nonprofit organization. Our members include regulatory bodies of the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. The mission of the NARUC is to improve the quality and effectiveness of public regulation for the benefit of the American public.

The members of the NARUC appreciate your invitation to make their views known on H.R. 51, a bill to enact the "Fuels Transportation Safety Amendments Act of 1979" and H.R. 2207, a bill to enact the "Pipeline Safety Act of 1979." We welcome these attempts to improve the effectiveness of the natural gas pipeline safety program.

Before I make comments on specific aspects of these two bills, I would like to comment on the outstanding success of State participation under the Natural Gas Pipeline Safety Act of 1968, as amended (Act). This Act establishes a Federal program to improve natural gas pipeline safety. In achieving this important public goal, heavy reliance is placed on State participation.

The NARUC has repeatedly pointed to this Act, and the program established by its authority, to be a model for Federal-State cooperation. The success of this program, we believe, can be pointed to with pride as a shining example of what can be accomplished when jurisdictional disputes are set aside.

The Federal gas pipeline safety effort is not a partnership with participating States in name only. State personnel are not merely directed by Federal officials but are included in the planning stages, consulted regularly, and listened to.

The Act gives State governments the ability to voluntarily assume the responsibility for enforcing the gas pipeline safety standards. To assist the State agencies in fulfilling these responsibilities, Section 5(c) of the Act authorizes a grants-in-aid program to provide up to 50 percent of the program costs incurred by the States.

During 1978 forty-nine of the States,^{1/} the District of Columbia, and Puerto Rico were involved in enforcing natural gas pipeline safety standards under the Act, 48 by certification and 4 by agreement.^{2/} This represents an increase of two State agencies participating by certification from 1977 to 1978. (State participation in this program can be either by agreement or certification. Certification represents a more comprehensive and involved commitment of the State agency.)

Because of our membership's sustained and serious involvement in this program, we follow with great interest the various congressional proposals introduced which could affect it. On March 1, 1979 we testified before the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce regarding H.R. 51. (NARUC Bulletin No. 10-1979, pp. 8-12.) On April 25 we appeared before the Senate Commerce Committee regarding S. 411, the companion bill to H.R. 2207. (NARUC Bulletin No. 18-1979, pp. 3-7.)

In both instances, we recommended that specific aspects of the bills be modified in order to advance the mutual Federal-State goal of better protecting the public safety.

^{1/} The Alaska Public Service Commission withdrew from the program as of January 1, 1978.

^{2/} Delaware, Massachusetts, Nebraska, and New Jersey participated by agreement. Florida has two agencies (Fire Marshall and Public Service Commission) participating by certification.

In H.R. 51 we objected to its imposition of Federally-imposed minimum training and education requirements for State pipeline inspectors. We also took issue with its proposal to permit the Department of Transportation to prescribe a minimum number of inspectors which must be employed by a State agency in order to participate in the program. These provisions were nevertheless retained in Section 106 of the version of H.R. 51 reported out of the Committee on Interstate and Foreign Commerce last month.

Even a quick examination of the differences between the results under the gas pipeline safety program and those under the Federal Railroad Safety Act of 1970, which was modeled after the Natural Gas Pipeline Safety Act of 1968, can only lead to one inescapable conclusion: Federally-imposed, inflexible participation requirements are counter-productive. They act as stumbling blocks on the road to effective Federal-State cooperation toward the achievement of the mutually desired goal of public safety.

Under the rail safety act, the Department of Transportation's Federal Railroad Administration (FRA) has promulgated rules as rigid as those which could be imposed if Section 106 as reported were enacted. The result under the rail safety act has been disheartening, to say the least. Today, nine years after its enactment, only 27 States, slightly more than 50%, are participating in the rail safety program, the vast majority by agreement rather than full certification. The primary reason for this has been the unduly burdensome qualifications required of State inspectors, coupled with the FRA's inflexibility.

State participation in these two programs is not the only criterion we can use to compare their relative success. In the 1978 transportation fatality statistics prepared by the National Transportation Safety Board,^{1/} natural gas pipeline deaths decreased by 23% from 1977 figures (39 to 30), while railroad fatalities dropped by only 2% (644 to 632) over the same period. Indeed, gas pipeline transportation achieved the largest safety gains of all of the modes of transportation examined (highway, grade crossings, railroad, marine, aviation and pipeline).

The NARUC firmly believes that qualifications for State pipeline inspectors are best determined by the States since, it must be remembered, it is the primary purpose of the Federal-State cooperative program to allow each State a strong role in protecting the lives and property of its citizens. To ensure continued success, the natural gas safety program must remain flexible; State agencies must be allowed to set their own qualifications standards, including training and education standards, in light of State civil service rules and exigencies peculiar to that State.

The same types of considerations argue against setting State-by-State minimum numbers of pipeline inspectors. I cannot believe that a simple formulistic approach can meaningfully translate into an accurate measurement of State program effectiveness. Quality of staff, not quantity of staff, is a far more important factor in evaluating State program effectiveness. While we are talking about State program effectiveness, I would like to stress that overall State

1/ SB 79-39, May 12, 1979.

performance, not rigid qualifications or numbers is the important criterion in any evaluation of the success of the current program. To date, we have not heard of any major problems with the quality or amount of inspection effort provided by the vast majority of States engaged in gas pipeline inspection.

For example, during the annual inspection of each State program, the DOT Office of Pipeline Safety Operations (OPSO) presently (1) monitors the State program, (2) inspects all records and procedures, (3) observes pipeline inspections as conducted in the field by State inspectors, (4) provides a critique of the program, and (5) forwards a letter to any State agency which has been found deficient in any manner, informing the agency of the particular deficiency and of necessary corrective action. We assert that these procedures more than adequately protect the integrity of the Federal-State partnership and we firmly believe that no modification of an effective and workable system is required.

Indeed, the Act already contains, in Section 5(a), authorization for the DOT, after a hearing, to either disqualify a State or "take such other action as [it] deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction". This authority is, we believe, more than sufficient for effective Federal oversight of the State programs.

We urge this Subcommittee to recommend that this section of H.R. 51 not be adopted. [Our proposed amendments to H.R. 51 are attached as Appendix A.]

We were pleased to note that H.R. 51, Section 109, contains levels of authorized appropriations for the Section 5 grants-in-aid to States in excess of the amount requested by DOT in H.R. 2207, Section 110. H.R. 51 contains authorizations of \$4,500,000 for fiscal 1980, \$5,500,000 for fiscal 1981, and \$6,500,000 for fiscal 1982, whereas H.R. 2207 authorizes \$2,820,000 for fiscal 1980 and "such sums as may be necessary" for fiscal 1981.

During testimony before the Senate Commerce Committee on S. 411, we pointed out that this represented the same level of funding as for fiscal 1979. In light of the current economic picture, with sharply rising costs expected in 1980, it is clear that the same level of funding will not finance the same level of effort next year.

If a State agency does not assume safety responsibility for gas facilities within its borders, the Federal Government retains the responsibility and must bear 100 percent of the costs for enforcement. Consequently, without State participation in FY 1980, it would require at least twice the funds appropriated for the grants-in-aid program to achieve an equivalent national enforcement program. For this reason, Federal funds expended for State grants-in-aid are a very good investment, in our opinion.

As we have indicated, State participation is not a free ride. It requires a hard and fast, dollar and cent commitment to gas pipeline safety. Total expenditures for the 47 State agencies participating in the grants program rose to \$4.6 million in 1978. With this expenditure, these 47 State agencies checked 3,253 gas pipeline operators, devoted 15,500.75 person-days to these inspections and uncovered 6,543 non-record deficiencies.^{1/}

^{1/} Data supplied by U.S. Department of Transportation, Materials Transportation Bureau.

We thus support the levels of appropriations which would be authorized by H.R. 51 over those found in H.R. 2207.

We also urge an amendment permitting the States to adopt more stringent standards for interstate pipeline facilities provided they do not, of course, create an undue burden on interstate commerce.

The members of the NARUC were pleased to see that H.R. 51 continues the spirit of the present Act, in that Title II, regarding Siting and Safety of LNG Facilities, would set only minimum Federal standards for LNG siting and safety, thus leaving the individual States free to prescribe more stringent standards for facilities within the State. However, the State role in the siting process should, we believe, be more clearly defined.

A State must have a voice in the LNG facility siting process from the very beginning. The siting of such a facility is an issue of vital importance to the citizens of each State. The dangers and environmental problems inherent in LNG facilities are well-known, yet Title II as presently written does not ensure the States' role in this area.

Thus, to preserve the right of the States to protect the health and safety of its citizens and its environment, the NARUC respectfully suggests that the following amendment be made to Section 202(a) as reported, which adds a new section 6 to the Act:

"Sec. 6(h) Any State may adopt such additional or more stringent standards for the location, construction or operation of LNG facilities as are not incompatible with the minimum standards prescribed under this section."

(Amendment underlined.)

Also, in order to ensure timely and adequate input by State agencies as well as other Federal agencies in the LNG study required by Section 203 (which adds a new Section 7 to the Act) of H.R. 51 as

reported, we respectfully suggest that the following amendment be made:

"Sec. 7(a) Not later than 9 months after the date of enactment of this section, the Secretary shall--

(1) conduct a study, in consultation with appropriate State, local and other Federal agencies, of

(A) the risks associated with the production, transmission, and storage of LNG;

(B) the risks associated with the production, transmission, and storage of liquefied petroleum gas;

(C) the methods of assuring adequate financial responsibility for those engaged in any such activity;...."

(Amendment underlined.)

I would now like to turn to a discussion of H.R. 2207, the Administration-proposed gas pipeline bill. As I mentioned, we have already testified before the Senate on this bill, and were pleased to see several of our amendments incorporated in the bill reported out by the Senate Committee on Commerce, Science and Transportation and passed by the Senate on June 4.

H.R. 2207 contains measures of great importance to the State regulatory commissions: Title I amending the Natural Gas Pipeline Safety Act of 1968, as amended, and Title II proposing new law for the safety regulation of hazardous liquid pipeline transportation.

As we did with H.R. 51, we would like to make specific comments on sections which we feel could be improved in H.R. 2207 so as to strengthen and maintain the State role in these programs. (Specific NARUC recommendations, including suggested language, for amendment of the bill are set out in Appendix B.)

Title I proposes the "Natural Gas Pipeline Safety Act Amendments of 1979". According to the Department of Transportation, Title I is designed to clarify and update existing provisions of the Act, to

authorize appropriations for fiscal 1980 and 1981, and to provide needed improvements in the Department's ability to assure that gas pipeline facilities are constructed and operated in a manner that minimizes the risks to life and property.

The goals are laudable, it is true, but the Department has also discarded certain language and institutions which we believe have withstood the test of time.

First, while we are pleased that Section 105 of the bill preserves the right of State agencies to adopt additional or more stringent safety standards for intrastate pipelines, we see no purpose in omitting the clarifying word "minimum" when referring to the Federal standards. Such omission may lead to confusion in the future between the relationship of the Federal and State safety standards. We thus respectfully recommend that the phrase "Federal minimum standards" be kept in any rewrite of Section 3, in order to preserve the clearly understood relationship between the Federal and State standards. We further urge that States be permitted to adopt more stringent standards for interstate transmission facilities which do not create an undue burden on interstate commerce.

In addition, we note with dismay that Section 106 of the bill would do away with the Technical Pipeline Safety Standards Committee established by Section 4 of the Act. I find this proposal hard to understand, since the committee has been one of the most effective and responsible advisory committees existing under Federal law.

We were pleased that the Senate-passed version of this bill struck Section 106 and would recommend that, if the Subcommittee marks-up H.R. 2207, you strike it as well.

In this testimony I merely want to "hit the highlights" of the benefits obtained through the convening of this committee. However, a very detailed account of its accomplishments can be found in testimony we delivered in 1977 before the Senate Committee on Governmental Affairs, Subcommittee on Reports, Accounting and Management (1977 Report of the General Counsel on Congressional Legislation, 89th NARUC Annual Convention Proceedings, pp. 179-185).

The creation of the Technical Pipeline Safety Standards Committee was an integral part of the Natural Gas Pipeline Safety Act of 1968. The success of the gas pipeline safety effort to date, however, in no way justifies the elimination of this committee. In NARUC's estimation, the committee is symbolic of, and will continue to assist in the development of, the program's Federal-State partnership. It provides a forum where experts from both sides can head off program disruptions, resolve existing or potential conflicts, and bring their practical knowledge to bear on otherwise theoretical discussions.

Yet DOT would do away with this committee, with the only reason centering around DOT's concern that the committee permits certain industry representatives to have an advantage in shaping DOT regulations! While it is true that industry representatives serve on the committee, they compromise only 4 of the 15 members, and are chosen by DOT after consultation with industry representatives. Of the other 11 members, 5 are selected from State, local and Federal agencies and 6 from the general public. Two of the five government representatives are State commissioners selected by DOT after consultation with the NARUC. The legislation very

clearly requires that the members chosen shall be experienced in safety regulation of gas transportation and pipeline facilities or technically qualified by training and experience in related engineering fields.

I submit to you that Federal regulators derive great benefit from outside expertise. Federal agency decisions cannot be made, nor regulations written, in a vacuum. The regulatory process requires input from those in the trenches, those with the responsibility to implement the regulations, and those with the experience to head off potential problems, clarify confusing instructions, and eliminate bureaucratic tie-ups. We hope that the members of the Subcommittee can agree with our assessment and with their Senate colleagues, and retain this advisory committee as an integral part of the Act.

The members of the NARUC are concerned as well with Section 108(b) of H.R. 2207 which would amend Section 6--Judicial Review to authorize Federal court review of standards as well as orders issued under the Act. Since gas pipeline standards promulgated by States are not excepted by Section 108(b), it would appear that Federal courts would have jurisdiction over these standards as well. This would lead to a very undesirable result from the State regulatory perspective, since we believe State safety standards, which under the Act can apply only to intrastate pipeline facilities, should be subject to review in State, not Federal, courts. We thus suggest that the jurisdictional language be amended to read "standard or order issued by the Secretary under this chapter" (amendments underlined), if the Subcommittee decides to retain this amendment of Section 6.

Our final comment on Title I of H.R. 2207 concerns the level of funding contained in Section 110 for Federal grants-in-aid to the States. We have already explained why we find the funding authorizations for the States in H.R. 51 under the gas pipeline safety program to be preferable, and would urge that your Subcommittee support these levels of authorizations as well.

Title II of S. 411 proposes the "Hazardous Liquid Pipeline Safety Act of 1979", which would establish a safety program very similar to that for natural gas pipelines. The NARUC has advocated the establishment of such a program with respect to interstate pipelines since 1972 (Appendix C). The safety considerations associated with the transportation of hazardous liquids by pipeline would, we believe, lend themselves well to this type of Federal-State cooperative program if the Congress decides to assert jurisdiction over intrastate liquid pipelines. We are pleased that this proposal is now being given legislative consideration.

To provide a little background on what the States are doing, I would like to cite some figures. In 1977, the last year for which data is available, 21 States and Puerto Rico were involved in the regulation of petroleum pipeline companies, one of the industries which would be affected by this legislation. A list of these States and the number of regulated companies per State is found at Appendix D.

However, the NARUC does not support the assertion of jurisdiction over intrastate pipelines subject to State jurisdiction. Nevertheless, if the Congress decides to assert jurisdiction over these lines, we strongly support the establishment of this type of program for hazardous liquids. As you might expect, we do have some

suggestions for improvement to Title II. We believe the changes we recommend will help ensure an active commitment by the States in this proposed program.

Our first recommendation for amendment concerns language in Section 204, Regulations Governing Transportation of Hazardous Liquids and Pipeline Facilities. For the same reasons we set out in our discussion of Title I, possible confusion regarding the relationship of the Federal and State safety standards, we recommend that "minimum" be included in the language referring to Federal standards. This will ensure that the States are free to adopt standards over and above those established by DOT, in order to respond effectively to local needs and conditions. Also, we again urge that States be permitted to adopt more stringent standards for interstate pipeline facilities which do not create an undue burden on interstate commerce.

We notice with some concern that Title II completely omits any Federal grant-in-aid program to assist the States in carrying out hazardous liquid safety activities. In our opinion this is a very serious omission. If States are to be asked to get involved in a Federal program, and to help carry out Federal responsibilities, we believe some of the funding for this State effort should come from the Federal Government. Indeed, the DOT section-by-section analysis acknowledges that the States can "effectively assist the Department in carrying out its hazardous liquids pipeline safety responsibilities".^{1/} We have set out in Appendix B language to establish such a grant program as well as language to authorize appropriations for it.

^{1/} Congressional Record-Senate, February 9, 1979, p. S1438, §205.

We would like to note that the Senate-passed version included our recommendations to establish this grants program and authorized \$500,000 in grants for fiscal 1980 and \$535,000 for fiscal 1981.

We would also recommend that the scope of the Section 4 Technical Pipeline Safety Standards Committee be expanded to include liquid pipeline safety under Title II.

Lastly, in Section 206, Judicial Review of Standards and Orders, we recommend that it be amended to clarify that the only Federal court jurisdiction under this section would be limited to standards and orders issued by DOT, not those issued by the States. The reasons are outlined in our discussion of Title I.

Conclusion

I appreciate this opportunity to discuss with the Subcommittee these very important safety programs. We look forward to continuation of the solid working relationship between the States and DOT in the gas pipeline safety area, and also to the development of such a relationship in the hazardous liquids transportation area as well.

Thank you for your attention.

APPENDIX A

NARUC PROPOSED AMENDMENTS TO
H.R. 51, A BILL PROPOSING
THE FUELS TRANSPORTATION SAFETY AMENDMENTS ACT OF 1979
AS REPORTED BY THE HOUSE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE

1. Section 103(a) should be amended by inserting "by inserting 'which place an undue burden on interstate or foreign commerce' immediately after 'facilities' in the eighth sentence," immediately before "and".

2. Section 106 should be amended to read as follows:

"TRAINING AND EDUCATION OF PIPELINE SAFETY INSPECTORS

"SEC. 106. Section 5(c) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may not make any payment under this subsection to a State agency for any calendar year beginning after December 31, 1981, unless such State agency has demonstrated that from the payments to such agency for such year funds will be applied for the training and education of pipeline safety inspectors of such State agency as necessary to enable them to better perform their responsibilities."

3. Section 202(a) should be amended to include a new subsection (h) to new Section 6 of the Act, as follows:

"SEC. 6(h) Any State may adopt such additional or more stringent standards for the location, construction or operation of LNG facilities as are not incompatible with the minimum standards prescribed under this section."

4. Section 203 should be amended as follows:

"SEC. 7.(a) Not later than 9 months after the date of the enactment of this section, the Secretary shall--

"(1) conduct a study, in consultation with appropriate State, local, and other Federal agencies, of--

"(A) the risks associated with the production, transmission, and storage of LNG;

"(B) the risks associated with the production, transmission, and storage of liquefied petroleum gas;

"(C) the methods of assuring adequate financial responsibility for those engaged in any such activity;...."

(Amendment underlined.)

APPENDIX B

NARUC PROPOSED AMENDMENTS TO H.R. 2207
A BILL PROPOSING THE "PIPELINE SAFETY ACT OF 1979"

1. Amend Section 105, Standards, as follows:
 - (a) by inserting "minimum" immediately after the word "Federal" on p. 3, line 18 and on p. 5, line 4; and
 - (b) by amending p. 5, line 6 to read as follows:

"ble to interstate transmission facilities if such State safety standards place an undue burden on interstate or foreign commerce."
2. Strike Section 106, Advisory Committee.
3. Amend Section 108(b), Enforcement Powers, p. 13, line 21 by inserting the following immediately before the word "and":

" , by inserting the words 'by the Secretary' immediately before the word 'under' in subsection (a) ,"
4. Amend Section 110, Appropriations Authorization, p. 16, line 13, by inserting "3,050,000" in lieu of "2,820,000".
5. Strike Section 111(c).
6. Amend Section 204, Regulations Governing Transportation of Hazardous Liquids and Pipeline Facilities, as follows:
 - (a) by inserting "minimum" immediately after the word "Federal" on p. 19, line 13 and on p. 20, line 24; and
 - (b) by amending p. 21, line 2 to read as follows:

"of hazardous liquids associated with those facilities if such State safety standards place an undue burden on interstate or foreign commerce."
7. Amend Section 205, State Certifications and Agreements, by inserting a new subsection (g) to read as follows:

"(g)(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall 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 following calendar 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 with respect to interstate pipeline facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a

safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate pipeline facilities. 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 hazardous liquids safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding the date of enactment of this section.

"(2) Funds authorized to be appropriated by section 218 of this title shall be allocated among the several States for payments to aid in the conduct of hazardous liquids safety programs in accordance with paragraph (1) of this subsection.

"(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

"(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds."

8. Amend Section 206, Judicial Review of Standards and Orders, p. 27, line 5 by inserting "by the Secretary" immediately before the word "under".
9. Amend Section 214, Citizens Civil Action, p. 40, line 5 by inserting "minimum" immediately before the word "safety".
10. Add a new Section 218 to read as follows:

"Appropriations Authorization

"SEC. 218. There are authorized to be appropriated \$500,000 for the fiscal year ending September 30, 1980, and \$535,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out the Federal grants-in-aid provisions of section 205(g) of this title."

APPENDIX C

National Association of Regulatory Utility Commissioners

FRANCIS RIORDAN, President
Hampshire Public Utilities Commission
26 Pleasant Street
Concord, New Hampshire 03301

ARTHUR L. PADRUTT, First Vice President
Wisconsin Public Service Commission
432 Hill Farms State Office Building
Madison, Wisconsin 53702

LEN T. WIGGINS, Second Vice President
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334



3327 Interstate Commerce Commission Building
P.O. Box 684, Washington, D. C. 20044

Telephone
202-628-7325

PAUL ROGERS
General Counsel
Administrative Director

EVERETTE KREGER
Assistant General Counsel
Secretary-Treasurer

October 19, 1972

The Honorable Warren G. Magnuson
Chairman
Committee on Commerce
United States Senate
Washington, D.C. 20510

Re: An Act to amend the Natural Gas Pipeline
Safety Act of 1968, and for other purposes,
Public Law 92-401

Dear Senator Magnuson:

Section 5 of the above Act, approved August 22, 1972, directs the Secretary of Transportation to consult with the cooperating State agencies and the National Association of Regulatory Utility Commissioners (NARUC) in preparing a report on Federal-State cooperation under the program established by the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A., Sec. 1671, et seq.). The report is to be submitted to the President for transmittal to the Congress on March 17, 1973.

Section 6 of Public Law 92-401 permits the Secretary of Transportation to transfer the liquid pipeline safety function from the Federal Railroad Administration to the Office of Pipeline Safety within the Department of Transportation. This will result in having interstate gas and liquid pipeline safety regulated by the same organizational unit of the Department.

Although the Department's statutory authority^{1/} is presently limited to safety regulation of interstate liquid pipelines, we believe it would be very helpful to the Congress to obtain current information on State interest and action in the safety regulation of liquid pipelines and on the desirability

^{1/} 18 U.S.C., secs. 831-835, as amended by 49 U.S.C., sec. 1655(f)(3)(A), and Public Law 92-401, sec. 6.

The Honorable Warren G. Magnuson
 October 19, 1972
 Page 2

of a Federal-State cooperative liquid pipeline safety program comparable to the one covering gas pipeline safety. ^{2/}

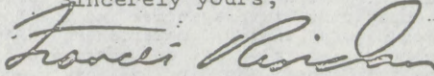
Obviously, State participation in the national liquid pipeline safety program would significantly strengthen it and would permit the Congress to maintain such an intensified program for far less than what it would otherwise cost for the Federal Government to assume the entire financial burden.

Federal staffing problems in the enforcement field are chronic and of longstanding duration. Accordingly, the public interest clearly requires that the Federal staff be supplemented by all available State inspectors as an integral part of a national liquid pipeline safety program.

Accordingly, we respectfully urge you to request the Secretary of Transportation to broaden the scope of the study directed by Section 5 of Public Law 92-401 to include both liquid and gas pipeline safety regulation.

With warm personal regards and best wishes, I am

Sincerely yours,



Francis Riordan
 President

FR/mm

cc: Honorable John A. Volpe, Secretary of Transportation.
 Honorable Benjamin O. Davis, Jr., Assistant Secretary
 for Safety and Consumer Affairs, Department of
 Transportation.
 Honorable Joseph C. Caldwell, Director, Office of
 Pipeline Safety, Department of Transportation.

^{2/} The Secretary of Transportation is presently authorized to "make such studies" and "obtain such information" as are needed to assist him in administering the liquid pipeline safety program. 18 U.S.C., sec. 835(b).

APPENDIX DPETROLEUM PIPELINE COMPANIES UNDER STATE JURISDICTION*

<u>State</u>	<u>Number of Companies</u>
Alaska	16
Arkansas	**
California	**
Colorado	3
Connecticut	1
Delaware	1
Idaho	1
Illinois	20
Iowa	10
Kansas	14
Kentucky	2
Louisiana	16
Montana	10
New Hampshire	1
New Jersey	3
New York	13
North Dakota	2
Ohio	6
Pennsylvania	7
Puerto Rico	1
Virginia	1
Washington	1
Wyoming	2

* 1977 Annual Report on Utility and Carrier Regulation, National Association of Regulatory Utility Commissioners, pp. 389-390.

** Data not available.

Mr. HOWARD. Please identify for the record, the person who is with you. You may proceed as you wish.

TESTIMONY OF PAUL RODGERS, ADMINISTRATIVE DIRECTOR AND GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, WASHINGTON, D.C., ACCOMPANIED BY MS. MARGO L. JAMES, DIRECTOR OF CONGRESSIONAL RELATIONS

Mr. RODGERS. Thank you very much.

Mr. Chairman and members of the committee, my name is Paul Rodgers. I am administrative director and general counsel for the National Association of Regulatory Utility Commissioners, commonly known as the NARUC. I am accompanied today by Margo L. James, NARUC Director of congressional relations.

The NARUC is a quasi-governmental nonprofit organization. Our members include regulatory bodies of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The mission of the NARUC is to improve the quality and effectiveness of public regulation for the benefit of the American public.

The members of the NARUC appreciate your invitation to make their views known on H.R. 51, a bill to enact the Fuels Transportation Safety Amendments Act of 1979 and H.R. 2207, a bill to enact the Pipeline Safety Act of 1979. We welcome these attempts to improve the effectiveness of the natural gas pipeline safety program.

Before I make comments on specific aspects of these two bills, I would like to comment on the outstanding success of State participation under the Natural Gas Pipeline Safety Act of 1968, as amended. NARUC has found that the Federal-State partnership established by the Natural Gas Pipeline Safety Act of 1968 is one of the most effective pieces of legislation we have had experience with, in terms of Federal-State cooperation. We are very pleased to see that the intent of the legislation would extend in large part these partnership arrangements to LNG facilities and to hazardous liquid pipelines.

During 1978, 49 of the States, the District of Columbia, and Puerto Rico were involved in enforcing natural gas pipeline safety standards under the act, 48 by certification and 4 by agreement.

In H.R. 51 we oppose the imposition of federally imposed minimum training and education requirements for State pipeline inspectors.

Under the Natural Gas Pipeline Safety Act, the Secretary of Transportation has ample authority to evaluate the overall effectiveness of a State program and to disallow or disenfranchise any program which does not meet Federal standards. To illustrate, under a parallel program we are very dissatisfied with, the Federal Railroad Safety Act of 1970, the Railroad Administration has undertaken to prescribe detailed standards for State participation. We think this violates the act's partnership concept, and has resulted in a substantial diminution of State participation.

For example, we only have 27 States participating under the Federal Railroad Safety Act. Unfortunately, the safety problems in this country are much more severe in the railroad field than in the natural gas pipeline field.

In the 1978 transportation fatality statistics prepared by the National Transportation Safety Board, natural gas pipeline deaths decreased by 23 percent from 1977 figures, while railroad fatalities dropped by only 2 percent over the same period. Indeed, gas pipeline transportation achieved the largest safety gains of all the modes of transportation examined: highway, grade crossings, railroad, marine, aviation, and pipeline.

We are pleased to note that H.R. 51, section 109, contains levels of authorized appropriations for the section 5 grants in aid to States in excess of the amount requested by DOT in H.R. 2207. H.R. 51 contains authorizations of \$4,500,000 for fiscal 1980, \$5,500,000 for fiscal 1981, and \$6,500,000 for fiscal 1982.

We think these amounts are sufficient, and greatly prefer these over those amounts contained in the administration bill.

If a State agency does not assume safety responsibility for gas facilities within its borders, the Federal Government retains the responsibility and must bear 100 percent of the costs for enforcement. Consequently, without State participation in fiscal year 1980, it would require at least twice the funds appropriated for the grants-in-aid program to achieve an equivalent national enforcement program. For this reason, Federal funds expended for State grants in aid are a very good investment, in our opinion.

We are pleased that H.R. 51 continues the spirit of the present act, in that title II, regarding siting and safety of LNG facilities, would set only minimum Federal standards for LNG siting and safety, thus leaving the individual States free to prescribe more stringent standards for facilities within the State. However, the State role in the siting process should, we believe, be more clearly defined.

A State must have a voice in the LNG facility siting process from the very beginning. The siting of such a facility is an issue of vital importance to the citizens of each State. The dangers and environmental problems inherent in LNG facilities are well known, yet title II as presently written does not insure the States' role in this area. We have submitted an amendment in our testimony to address this issue.

With regard to H.R. 2207, we are pleased section 105 of that bill preserves the right of State agencies to adopt additional or more stringent safety standards for intrastate pipelines. But we see no purpose in omitting the clarifying word "minimum" when referring to the Federal standards. Such omission may lead to confusion in the future between the relationship of the Federal and State safety standards. We thus respectfully recommend that the phrase "Federal minimum standards" be kept in any rewrite of section 3, in order to preserve the clearly understood relationship between the Federal and State standards.

We are also quite concerned with the proposed abolition of the act's Technical Pipeline Safety Standards Committee, found in section 106. We see no reason for this.

We believe the committee is functioning very effectively, and the Senate, which has already passed S. 411, the counterpart legislation to H.R. 2207, has struck section 106, and would recommend that, if the subcommittee marks up H.R. 2207, you strike it as well.

While it is true that industry representatives serve on the committee, they compromise only 4 of the 15 members, and are chosen by DOT after consultation with industry representatives. Of the other 11 members, 5 are selected from State, local, and Federal agencies and 6 from the general public. Two of the five Government representatives are State commissioners selected by DOT after consultation with the NARUC. The legislation very clearly requires that the members chosen shall be experienced in safety regulation of gas transportation and pipeline facilities or technically qualified by training and experience in related engineering fields.

Mr. HOWARD. Excuse me. There is a vote occurring on the House floor and we must leave now. The subcommittee will stand recessed for a few minutes.

[Recess.]

Mr. SHUSTER. We will reconvene the hearing.

Chairman Howard has asked me to reconvene so we may proceed.

Mr. Rodgers, please proceed as you see fit.

Mr. RODGERS. Thank you, sir. I was just about finished when the recess occurred.

We notice with some concern that title II completely omits any Federal grant-in-aid program to assist the States in carrying out hazardous liquid safety activities. In our opinion this is a very serious omission. If States are to be asked to get involved in a Federal program, and to help carry out Federal responsibilities, we believe some of the funding for this State effort should come from the Federal Government. Indeed, the DOT section-by-section analysis acknowledges that the States can "effectively assist the Department in carrying out its hazardous liquids pipeline safety responsibilities."

We brought those views to the attention of the Senate on S. 411. We would like to note that the Senate-passed version included our recommendations to establish this grants program and authorized \$500,000 in grants for fiscal 1980 and \$535,000 for fiscal 1981. We certainly hope this committee will do the same.

We would also recommend that the scope of the section 4 Technical Pipeline Safety Standards Committee be expanded to include liquid pipeline safety under title II.

Lastly, in section 206, judicial review of standards and orders, we recommend that it be amended to clarify that the only Federal court jurisdiction under this section would be limited to standards and orders issued by DOT, not those issued by the States. The reasons are outlined in our discussion of title I.

This concludes my statement which I have summarized to conserve the time of the committee since my full statement has been inserted in the record.

Mr. SHUSTER. The National Transportation Safety Board has testified that it has reservations about the establishment of specific minimum training and educational requirements for State responsibility. In addition NTSB testified this method was used to assure an adequate performance level for State and rail track inspectors and resulted in less States confusion and more willingness to participate in the program. Do you agree with the NTSB assessment?

Mr. RODGERS. Yes. We agree with the NTSB's assessment wholeheartedly. It conducted a very detailed investigation last year resulting from very tragic railroad accidents occurring in Tennessee and Florida. And they found that the Federal railroad safety program was woefully inadequate. One reason was the lack of State participation.

We realize that all of this legislation is essentially a Federal program, and we recognize that the Federal interest must be preserved, but we think that the DOT should address the overall effectiveness of the program. If the State does not have a good program, then the State should be pulled in and told to either correct it or be tossed out of the program. We do not think the Federal Government should go to the extent of prescribing qualifications and getting into the detailed aspects of the State enforcement program.

Mr. SHUSTER. Thank you very much. There being no further questions, we thank you for your testimony.

Mr. D'AMICO. Scheduled to appear next was Miss Hope Robertson, Washington representative of the Environment Policy Center. She is unable to appear, but has submitted a statement for the record.

Mr. SHUSTER. Without objection it will be made a part of the record.

[The statement referred to follows:]

STATEMENT OF HOPE ROBERTSON, WASHINGTON REPRESENTATIVE, ENVIRONMENTAL POLICY CENTER

Mr. Chairman and members of the Committee, I would like to thank you for inviting the Environmental Policy Center to testify today about legislation dealing with liquified natural gas (LNG). The Environmental Policy Center is a non-profit citizen's lobbying organization specializing in energy and water resources related issues.

As this committee knows, there have been several major changes in the status of LNG over the past year. There are now four major LNG import/export facilities in operation in the United States, with a fifth project in Louisiana to be completed in about another year. Two major projects were turned down late in 1978, leaving the grand total of one LNG import facility which potentially could be built in the near future, the Point Conception Project. In addition, Secretary Schlesinger has indicated that LNG is on the bottom of his current list of energy priorities.

Despite the fact that a proliferation of LNG import facilities does not seem likely in the near future, it is still important for the Committee to push ahead with this legislation. First, we do have the four, soon to be five, LNG facilities in operation which should be covered by such provisions as the operation standards and accident liability policies. Second, as the Department of Energy demonstrates on a regular basis, they could reverse their current policy towards LNG, thereby making the presence of a LNG law extremely useful. The highly controversial safety, pricing, liability and overall energy policy questions which must be addressed pose a significant challenge. Unfortunately, from the actions in the Senate and in the House Commerce Committee, and the Department of Energy, it appears that many of these issues will not be dealt with. Therefore, I urge this Committee to greatly strengthen the legislation currently before you. I have several general suggestions about LNG legislation and some specific changes to recommend in H.R. 51.

As I stressed last year when I testified, one of the most important issues which should be dealt with is what U.S. policy should be with regard to LNG imports, including its pricing. We currently do not have a national policy dealing with LNG imports, but rather a case by case determination of how to deal with it. This is a totally unsatisfactory approach.

Recent announcements of large gas fields in Western Canada, both oil and gas in Mexico and oil in Venezuela, make it necessary for DOE to totally reassess our energy development priorities, including LNG. The extremely high cost of LNG in relation to other sources of gas which we hopefully will have an opportunity to trade for with Mexico and Canada, may undermine the economics of any LNG

import facilities for the foreseeable future. Therefore, I hope this Committee will take the initiative to force DOE to come to grips with LNG and its role in U.S. energy supplies.

Second, if LNG is going to be dealt with properly, it seems to me that legislation should cover the entire subject, not one portion of it. If I remember correctly, Congress has criticized the inadequate and disorganized handling of both LNG and LPG due to the splintered jurisdiction within the federal government. At some point in the legislative process, I hope that treatment of onshore and offshore LNG facilities as well as tanker transportation and other related issues, are dealt with in one bill. This will hopefully begin to alleviate, not contribute to, the jurisdictional problems within the Administration.

Third, although the legislation begins to address LPG as well as LNG problems, there are still several areas which at least need to be explored. They include the controversial subject of how to control truck and rail transportation of these volatile liquids in densely populated areas; should there be federal involvement in this issue?; should smaller intrastate LPG and LNG facilities be subject to strong safety controls?; if LNG and LPG are going to be covered by legislation due to their safety hazards, should other liquidified gases equally hazardous, be included, such as anhydrous ammonia, ethylene oxide, methyl-chloride, or ethyl-chloride?

I would now like to make several specific recommendations regarding H.R. 51 which I hope the Committee will include in their mark-up of this legislation.

PREEMPTION OF STATE LAWS

Despite the fact that I strongly support the federal government taking the initiative to set national standards on the siting, construction, operation and transportation of these hazardous liquified gases, I am strongly opposed to pre-emption of a state's ability to impose more stringent standards than those of the federal government. Last year's legislation would have done this for both LNG and LPG. H.R. 51 still contains language in Sec. 110(g)(2)(B) which appears to eliminate a state's ability to impose stricter standards regulating LPG pipeline facilities and pipeline transportation. Because of the safety risk from these materials, I believe every state has the right to protect its citizens and their property from potential harm should an accident occur. To my knowledge, LPG and LNG used in interstate commerce will not behave differently in the event of an accident than the same gases used in interstate commerce. The only difference may be that the throughput of interstate facilities may be larger, which in my mind is all the more reason to allow states to enforce stronger controls if they so desire. I urge the Committee to respect the right of a state to impose more stringent standards on facilities regardless of whether the gas is to be used in the intrastate or interstate markets.

CONSISTENCY WITH COASTAL ZONE MANAGEMENT PLANS

An issue related to pre-emption is insuring that Federal siting decisions are consistent with a state's coastal zone management plan. H.R. 51 does not mention CZM consistency as one of the factors to be considered in siting. This should definitely be part of this legislation. An appropriate point to add this to the bill would be after Sec. 6(d)(1)(H).

APPLICABILITY OF LNG STANDARDS

The definition of existing and new LNG facilities, and the differentiation between the two in later provisions, as in Sec. 6, undermine the intent of this bill. This has been further aggravated by the addition of the term "local" during the Commerce Committee mark-up. As currently drafted, the definition exempts virtually all of the LNG facilities likely to be constructed in the near future (which potentially could be 1-4 depending upon the outcome of any appeals for the two projects rejected in 1978) from any of the siting, construction and possibly the operation standards. The cut-off date of March 1, 1978 for filing an application with federal, state or local government for a LNG facility, is a totally arbitrary date plugged in by the Commerce committee and has no justifiable explanation.

To insure maximum, but fair applicability of the new standards, existing LNG facilities should have two definitions, one for siting standards and one for construction and operations standards. Existing LNG facility with respect to the siting standards: shall be those facilities which filed an application prior to April 21, 1977. On April 21, 1977, the Office of Pipeline Safety Operations published an Advance Notice of Proposed Rulemaking on LNG facility safety standards in the Federal Register (42 Fed. Reg. 20776). If an application for siting was filed before this date or approved prior to the implementation of the new siting standards (180 days after

passage of this act), then it qualifies as an existing facility. All other LNG facilities filing after April 21, 1977 and not approved, would be new LNG facilities.

Existing LNG facilities with respect to the construction and operation standards shall be those facilities which have been approved and have begun the actual construction, prior to the implementation of the new construction and operation standards.

In light of the extreme safety hazard presented by these facilities, I believe it is totally reasonable to impose the standards in this fashion.

Conforming changes in the bill will have to be made throughout Sec. 6. Sec. 6(b)(1) should be dropped as unnecessary.

STANDARDS RELATING TO THE SITING OF LNG FACILITIES

In addition to the suggestion made earlier with regard to adding CZM consistency to the list of siting criteria, several siting factors should be included. The impacts from activities resulting from these facilities can occur both onshore and offshore. Therefore, under Sec. 6(d)(1)(D) consideration of "the existing and proposed land uses near each such location;" should be expanded to include water uses. Consistent with this change, (E) should be expanded to include the characteristics of the LNG tanker access routes to the facility.

An extremely important provision under Sec. 6(d)(1) is the consideration of remote siting. As a member of the environmental community, I must voice my strong reservations about the policy of using the wording "the need to encourage remote siting". I certainly recognize the serious threat these facilities pose to surrounding life and property. I therefore fully endorse the idea of discouraging and even prohibiting urban siting. However, at a time when there is a major struggle going on nationwide to preserve the few remaining remote and pristine coastal lands, I do not feel comfortable with establishing a policy to encourage remote siting unless strict conditions are placed on this policy. This is a reason why consistency with a State's CZM plan is so important. There is a chance that a policy promoting remote siting could, for example, produce conflicts with areas which might be under study for designation as Wild, Scenic and Recreational Rivers, estuarine sanctuaries, marine sanctuaries or acquisition by the Fish and Wildlife Sanctuaries Program or by the National Park Service.

LIABILITY FOR ACCIDENTS

As we clearly stated last year in our testimony, we are strongly opposed to any limits on liability for the companies owning and participating in any way in the operation of LNG or LPG facilities or its transportation. If these facilities and the tankers are as safe as the industry indicates they are, then the companies (which includes the parent companies, affiliates, etc.) should have no difficulty in assuming unlimited liability.

However, I do support the requirement for a study on this issue to determine what types of financial responsibility can be required of the companies. The study mandated in Sec. 7 is too vague, however. First, is the Secretary supposed to complete or begin a study within nine months of enactment of this law? Second, how can you study what methods of adequate financial responsibility are available when one of the key words in that phrase, "adequate," is not defined. If a study of any substantive value is going to be completed, I believe a greater amount of detail should be specified. For example, the risks associated with the production, transmissions (which I assume includes shipping by tanker), and storage of LNG, are risks to whom? Where? This will vary tremendously. What will be done with the information generated by the risk analysis? There is no provision for the results to be added into the development of standards for siting, construction, and operations. Will the risk analysis set up standards for insurance companies? Why isn't the subject of assuring adequate financial protection for those affected by the activity included? What about the question of financial commitment which might be necessary in the event of an accident, such as specific firefighting equipment which should be on hand for use by the Coast Guard, local fire departments, and the companies involved.

Sec. 7(b)(1) is absolutely meaningless. How can we know that the operator of an LNG facility is not maintaining adequate insurance, etc., if we do not even know how much is adequate. How is the Secretary to make this judgment?

Sec. 7(b)(2) should also allow any person who might be affected by the limits of insurance, to have a right to a hearing.

Finally, in an effort to impose unlimited liability on companies involved in LNG activities, a clear definition of "companies" should be included so that subsidiaries,

affiliates or parent companies gaining some of the profit from these operations, cannot be protected from liability by small "front" companies.

CITIZEN SUIT PROVISION

The language dealing with citizen's suits which was in last year's bill, H.R. 11622, seems to have been dropped from this year's bill. As LNG and LPG pose threats to public safety, it seems only reasonable that the public have the opportunity to play a role in the decision making process and when necessary, bring suit against anyone violating the provisions of the act. We would like to see this provision put back in the bill.

Thank you for your interest. If this Committee needs any further information, I would be happy to supply it.

Mr. SHUSTER. Our next witness is Mr. Dean Taylor, president of Phillips Pipeline Co.

Please proceed as you see fit.

TESTIMONY OF DEAN TAYLOR, PRESIDENT, PHILLIPS PIPELINE CO., BARTLESVILLE, OKLA., ACCOMPANIED BY PATRICK H. CORCORAN, EXECUTIVE DIRECTOR OF THE ASSOCIATION OF OIL PIPE LINES

Mr. TAYLOR. I am Dean Taylor, president of Phillips Pipeline Co., and vice chairman of the Association of Oil Pipe Lines, and chairman of the Central Committee on Pipeline Transportation of the American Petroleum Institute. Accompanying me is Patrick H. Corcoran, executive director of the Association of Oil Pipe Lines.

I am appearing before you today on behalf of the Association of Oil Pipe Lines (AOPL) and the American Petroleum Institute (API), which together represent virtually all U.S. companies that transport liquid petroleum and its products by pipelines.

In the past year either myself or another representative has appeared on behalf of AOPL and API before the Interstate and Foreign Commerce Committee of the House of Representatives and the Commerce Committee of the U.S. Senate, with respect to proposed legislation regarding liquid petroleum pipeline safety. The statements made before these committees are a part of the public record, and set forth in considerable detail information pertaining to the safety record of liquid petroleum pipelines and the distinctions between liquid petroleum and natural gas. In the interest of time, I am not reiterating these comments, but will provide the subcommittee with copies of them today.

Mr. SHUSTER. Without objection we will make them part of the record.

[The statements follow:]

Statement of
Dean B. Taylor
before the
U.S. Senate Committee on
Commerce, Science and Transportation
December 13, 1978

Good Morning Mr. Chairman. I am Dean B. Taylor, President of Phillips Pipe Line Company.

I appear before you on behalf of both the Association of Oil Pipelines and the American Petroleum Institute, which represent virtually all of the companies which transport by pipeline liquid petroleum and its products, including liquefied petroleum gas. We appreciate this opportunity to appear before the Committee and express our views.

The notice for these hearings refers to the term "liquefied energy gases (LEG)" to connote both liquefied petroleum gases (LPG) -- for example propane or butane -- and liquefied natural gases (LNG). We caution the use of this common designation, as it may imply similarities which do not exist.

Congress and the regulatory agencies have historically recognized the difference between LNG and liquid petroleum and therefore have dealt with those commodities in separate legislation and regulations and in all other considerations. This separation should be continued because the physical and chemical characteristics of these products are so significant that they require totally different approaches to storage and transportation facilities and procedures for each commodity. This fact cannot be overemphasized and should not be overlooked.

LPG is kept in a liquid state by pressure in pipelines rather than temperature. The storage of liquefied petroleum gas

is only slightly different from storage techniques used for other petroleum liquids. LPG is transported as liquid at the same ambient temperatures and operating pressures as other liquid petroleum products which in many instances routinely move through the same pipeline.

On the other hand, LNG is natural gas which has been cooled to -260°F to liquefy it for economical transportation and storage. LNG is maintained as a liquid at this temperature and atmospheric pressure. Such a cryogenic temperature requires that advanced technology and specially designed equipment, materials, vessels and site-specific facilities be employed for the safe transportation and storage of liquefied natural gas (LNG). Further, LNG is not carried in cross-country pipelines. Instead, this product is transported cross-country in pipelines in its gaseous state. Pipelining of LNG is limited to short distances and specialized purposes, such as the transportation from a dock where an LNG ship is being unloaded to a nearby storage facility. Thus, the different characteristics which distinguish liquid petroleum and liquefied petroleum gas (LPG) from liquefied natural gas (LNG) and the nature of the facilities required to safely handle each commodity, require separate classification and regulatory treatment.

Liquefied petroleum gas is the nation's fourth largest source of energy, supplying some 18 million customers or about three percent of our energy needs. Of this number, 1.4 million

or 51 percent of all the farms in the United States use LPG for a variety of purposes including crop drying and powering poultry brooders, stock heaters, tractors and irrigation pumps. Industrial customers use LPG as a supplement to natural gas, and, in many industries, such as the glass industry, it is stored on plant premises as a backup fuel. Utilities also employ LPG for peak shaving purposes in cold weather. Let me point out, Mr. Chairman, that it is the individual consumer -- all Americans -- who would have to bear the costs that any unreasonable legislation or regulation of LPG would bring.

To bring this energy form to its customers across the country, 95 percent of it is transported under pressure through approximately 70,000 miles of pipeline to distribution points. From there it is loaded into pressurized tank trucks or railroad tank cars and carried to rural and industrial customers. Only 3.4 percent of the LPG is transported the entire way by trucks and 0.9 percent in pressurized railcars.

The Comptroller General stated in part in its report^{1/} to the Congress: "The safest way to move LPG is by pipeline, and railcars are preferable to trucks." In order to indicate to you the relative safety of all liquid pipelines -- including those which carry LPG -- I have brought with me today this chart. Information on the safety measures which the industry undertakes to make possible this excellent safety record is shown in an attachment to my written statement for your review.

^{1/} Comptroller General of the United States, General Accounting Office, Liquefied Energy Gases Safety, July 31, 1978 (EMD-78-28).

The Comptroller General made a number of recommendations regarding more stringent federal safety requirements for pipeline transportation of LPG. Without, at this point, commenting on them specifically, practically all these recommendations deal with actions which could be taken by DOT and its Office of Pipeline Safety Regulation under existing law: to wit --

- o issue additional regulations for LPG pipelines
- o undertake a thorough review of existing pipeline safety regulations
- o conduct more operations compliance inspections
- o develop a systematic and comprehensive program of data collection and analysis, and
- o increase the staff and appoint a permanent director.

While these recommendations argue for a reappraisal of DOT ongoing and prospective programs, they do not justify additional legislation.

Those recommendations which might have called for federal legislation had to^{do} with (1) federal regulations for intrastate lines and certification of state programs and (2) civil penalty authority.

In this respect, the Comptroller General's report maintained that the DOT did have safety jurisdiction over intrastate lines. As to civil penalty authority, the AOPL, in testimony before the House Interstate and Foreign Commerce Committee suggested that if the ability to use civil penalties was found to be necessary, then the problem should be resolved by legislating for civil

penalties to be administered within the framework of existing liquid petroleum pipeline regulation.

A number of House and Senate bills have been introduced which address, among other issues, pipeline safety. One, HR 11622, passed the House. These bills appear to us to be an attempt to legislate what were perceived as ills in the GAO and Comptroller General's Report into specific actions by the DOT. They would specify the details of information gathering programs, the method of reporting leaks, the manner of educational programs, and the appointment of permanent Directors of the DOT's Office of Pipeline Safety Regulation and the Materials Transportation Bureau.

The AOPL testified on H.R. 11622 that such attempts to prescribe precise duties to DOT removed the flexibility of the regulatory process and limited the latitude of the Secretary. We stated that the appropriate procedure was for the Secretary of Transportation to consider the need for such regulations in a rule-making proceeding: In such a proceeding, we maintained, a full record could be developed to determine whether or not a specific proposal will enhance the safety of liquid pipelines.

As you know, H.R. 11622 did not pass the Congress. In the same time frame, however, the DOT Materials Transportation Bureau has, in the past few months, published in the Federal Register a series of proposed regulations affecting LPG pipelines including certain proposed operational requirements under authority of

existing law, closer valve spacing and new hydrostatic testing requirements. The industry is in the process of responding to these proposed regulations. This is, to us, a far more reasonable process for ensuring safe operations than the legislation of regulatory particulars.

Turning to the specific issues which were raised in the Committee in its notice for these hearings, we would like to make several observations on two items which we feel are applicable to LPG pipelines.

"Local fire officials feel helpless to control the transportation of volatile liquids through their towns and cities;"

Most fire officials recognize that pipelines are the safest method of transporting petroleum and its products.

We assume the Committee did not intend this question to infer that local fire officials should be able to "control the transportation of volatile liquids through their towns and cities." This is clearly not their role. However, fire officials play a very important role in working with industry to maintain public safety.

It is usual for liquid pipeline companies to contact fire and police officials in the localities that the pipeline traverses. Officials are provided information on the commodities to be transported and their chemical characteristics, the exact location of the pipeline, and contacts within the company should they need or desire any further information.

The DOT Office of Pipeline Safety Regulation is currently evaluating the role of the pipeline industry in distributing this type of information. In our comments to that agency the American Petroleum Institute stated our support of reasonable programs in this area: "Involvement of responsible public officials in a program to make them aware of an HVL (highly volatile liquid) pipeline's presence, its potential hazards, and the means to control hazards is a desirable level of education."

In addition to individual company efforts to inform the public through their appropriately appointed or elected officials, various federal and local governmental agencies have on file a wealth of information regarding pipelines through the ongoing permitting and reporting processes. Further, voluntary "one-call systems" exist in many states with accessible information about pipelines in the respective areas they cover.

The Committee notice also asked for views on the following:

"The Department of Transportation has insufficient personnel to work effectively in partnership with the States to enforce existing safety standards."

It is difficult for the industry to evaluate the level of personnel necessary for administration within the DOT. However, the safety record of the industry would seem to indicate that the present system of surveillance of various pipelines is adequate.

Before concluding I would like to make one other point regarding some of the bills which were introduced. They have attempted to fit liquid pipelines under provisions relating to

natural gas pipelines. Existing law and regulations properly recognize liquid and gas pipelines as different industries with different operating conditions and requirements. The DOT has appropriately developed two separate sets of regulations to cover the unique physical, chemical, and environmental characteristics of each category of commodities -- gas and liquids and the separation should be clearly maintained.

In summary, it remains our position that there is adequate Federal legislation to permit DOT's Office of Pipeline Safety Regulation to effectively regulate the liquid pipeline industry. Most of the recommendations contained in the GAO and Comptroller General's Reports are already being implemented by Department of Transportation regulatory rulemaking proceedings. We firmly believe that the liquid petroleum pipeline industry, including LPG pipelines, should not be the subject of any additional legislation.

Mr. Chairman, this concludes my remarks. We would be pleased to answer any questions you or other members of the Committee may have.

Thank you.

Pipelining is by far the safest means of transporting liquid petroleum. Unfortunately, although this fact is fully substantiated by federal government accident statistics, it is not widely recognized. In 1977, for example, petroleum pipelines moved approximately 500 billion ton-miles of petroleum. This volume represents 24 percent of the nation's intercity freight. Yet liquid pipeline transportation experienced 4 fatalities.

The outstanding record of oil pipeline safety is reflected clearly in statistics collected by the National Transportation Safety Board (NTSB) and the U.S. Department of Transportation Office of Pipeline Safety Regulation. This record has been maintained in spite of the:

- o Tremendous growth in pipeline mileage and the volumes transported;
- o Steady increase in the proportion of crude oil and products moved by pipeline; and
- o Surprisingly high proportion of all freight currently moved by pipeline.

This fact has been dramatically shown in a set of statistics developed by the NTSB, which considered fatality rates for all types of surface freight transportation for the years 1963 through 1968. Let me quote from that study:

"These calculations show that fluid pipelines are the safest mode of freight transportation; they had an average rate of only .011 fatalities per billion ton-miles moved during the six years studied.

"Though based upon incomplete data, marine transportation was next, with an average fatality rate of .31 deaths per billion ton-miles.

"The railroad industry had a very stable fatality rate, fluctuating between 2.4 and 2.6 deaths per billion ton-miles.

"We recognize that there are many factors that influence the choice of mode for a particular freight shipment.... However, we cannot overlook the fact that the ratio between the most safe and the least safe method of surface freight transportation is approximately 1,000 to one."

But, let's look for a moment at the statistics themselves: Since 1968 the number of liquid petroleum pipeline accidents has steadily declined from 500 to 238 in 1977. To put these accident statistics into perspective, in 1976 there were 52,154 fatalities as a result of transportation accidents. Those fatalities resulted from the following causes: Highway accidents accounted for 46,880 deaths; 7,364 pedestrians were fatally injured; motorcycle accidents accounted for 4,067 fatalities; bicycle accidents killed another 952 people; and marine transportation suffered 1,528 fatalities, 1,312 of which were recreation related. Airplane accidents claimed 2,049 lives; and accidents at railroad grade crossings claimed another 1,001. Of the 52,154 transportation related deaths in 1977, 4 were attributable to liquid petroleum pipeline accidents in the process of carrying one quarter of the nation's total intercity freight.

The low fatality rate for pipeline transport is directly attributable to the high state-of-the-art of pipeline technology that has developed over the years. I would like to turn, now, to that technology, and explain what has been -- and is being -- done to safeguard the pipeline shipment of crude oil and petroleum products in the United States. First, let's consider accident prevention.

Accident Prevention

Of all causes of pipeline accidents today, rupture of pipelines by outside forces is the most prevalent. These ruptures are usually the result of accidents involving construction equipment. Such activity is responsible for some 33 percent of reportable pipeline accidents.

The second most prevalent cause of pipeline leaks is corrosion -- from either inside or outside the pipe. This type of failure amounts for 25 percent of the total number.

The remaining 42 percent of accidents are caused by such problems as human error and construction defect/ material failure.

Thus we find that protecting pipelines against damage from outside forces is of primary importance. How can the risk of such damage be mitigated? Pipelines are routed so as to avoid congested residential and industrial areas wherever possible and practicable. In such areas existing regulations provide for extra depth. They are clearly marked above ground, especially at points where they cross highways, railroads, or rivers. Maps or easements on rights-of-way describe the location of the buried line, and these are filed as a matter of public record or furnished on request.

Aerial patrols, surveying for any signs of a leak, also watch for indications of construction activity near the line. Pilots report any such development, and a pipeline representative

arranges with the contractor to mark the line with special stakes, which equipment operators are supposed to observe.

In addition to aerial and ground patrols, a nationwide voluntary "one call" system is being implemented. Systems now in place allow contractors and the public to call one phone number prior to beginning construction work. At this number, they can obtain information on the location of oil pipelines, gas pipelines, sewers, water mains, and underground telephone cables.

The two most prevalent types of accidents caused by equipment activity, in 1977, were the digging of ditches or pits, and the grading of roads or land. This outside force type of accidents is rarely caused by oil pipeline company equipment or personnel.

The Department of Transportation (DOT) reports that progress is being made toward reducing the number of pipeline accidents from this cause. From 1968 to 1977, the yearly total of ruptures by earthmoving equipment declined by nearly 20 percent -- from 98 to 79. Further improvements are being sought. In addition to the efforts of individual companies, the matter is under continuing study by the NTSB and the Utility Location Coordination Council, in which representatives of liquid petroleum pipelines companies play an active role.

As I mentioned earlier, corrosion is the second most frequent cause of pipeline accidents. Protection against corrosion has improved dramatically in the last decade. In 1968, approximately

225 pipeline accidents were attributable to corrosion. By 1977, the number of accidents due to corrosion had fallen by more than 73 percent -- down to 60.

This remarkable improvement is due to many factors. Some of the most important ones are:

- o Quality of materials used;
- o Proper welding;.
- o Coatings;
- o Testing;
- o Inspections; and
- o Cathodic protection.

The quality of the material used to manufacture the pipe is extremely important. Only very high grade steel pipe which is extremely strong and coated to resist corrosion is used.

Second, one of the most critical jobs on the construction site is welding the joints of pipe together. Only highly qualified and experienced welders are permitted to work on this part of the job. Even then, their work is kept under continuous, close inspection, both visually and radiographically. Proper welds are actually stronger than the pipe itself.

Third, before the line is lowered into the ditch, the outside of the pipe is coated with an impervious, usually tar-like, material. It is then wrapped with a substance resembling heavy felt. Coating and wrapping are inspected with an electrical device that reveals any flaws. Any holes in the

coating are repaired before the pipe goes down and the ditch is backfilled.

Fourth, a final test is conducted before putting the line in operation. This test consists of filling every section with liquid and raising the pressure well above the highest level expected during operation. This "hydrostatic" test is continued for the prescribed time in accordance with DOT regulations. By that time, every element of the line has been tested to hold through the most rigorous conditions anticipated.

Finally, for added protection against external corrosion, pipelines are placed under what is called "cathodic protection." A low-voltage electric current is introduced into the pipe to counteract the natural pipe-to-ground currents that can eventually result in corrosion and leaks. Effective scraper programs and, where necessary, inhibitors are injected in the liquid stream during operation to protect the pipe against internal corrosion. In applicable situations, dehydration is also used for this purpose. Corrosion prevention technology has reached a state of the art where the life of steel pipe now has been greatly increased.

Safety Checks

Since quick detection of leaks is essential anywhere along the pipeline, if damage is to be kept to a minimum, modern trunk lines are kept under 24-hour-a-day surveillance during operation. In most instances, this day-and-night watch is kept by means of a

complex system of electronic monitoring, detecting, and data reporting devices. This system is designed to make continuous recordings, of such things as line pressures and flow rates, and transmit the information immediately to a dispatcher or other control operator.

When trouble occurs, such as a sudden increase or drop in pressure, alarm systems can alert an operator or dispatcher, or they may automatically take corrective action, such as shutting the line down.

Pressure and flow recording systems are an essential part of pipeline safety. At the same time, the industry is constantly working to perfect even more sensitive and reliable devices to measure what goes into the line at one end and what comes out at the other. An automatic comparison of the measurements will indicate if some oil has been lost along the way. Controls are being improved by the use of very accurate meters, and by computer-reporting of line flow that compensates for changes in gravity, viscosity, and temperature.

We recognize that, while early detection of leaks is important, the essence of safety is to prevent lines from leaking in the first place. To this end, lines are pressure-tested, given cathodic protection, monitored with devices to measure wall thickness and to discover corrosion, and operated at safe pumping pressures. When necessary, pipe is repaired and replaced.

As a final part of the total protection system, pipeline maintenance and the monitoring of operations are conducted around the clock. The effort to keep machinery control equipment and other pump-station facilities in repair, and to maintain trouble-free communications is as continuous as the flow of oil through the lines themselves. We believe that no other industry can surpass the record of trunk pipelines for continuity of service.

Maximizing Safety

Let me turn now to a practical matter of pipeline "philosophy." There is a myth that our industry is less committed than the government in recognizing the need to maximize safety. Nothing could be further from the truth. In fact, the outstanding safety record which the liquid petroleum industry has been able to achieve is no coincidence.

We are deeply interested in factors which affect the lives and health of our employees, the customers we serve, and the public in general. If anyone were injured from pipeline operations, the probability is that it would be someone from our own industry. I assure you that our employees represent our most valuable asset, and we take every reasonable precaution to protect our workers.

It is a fact that good safety practices reduce costs. Pipeline companies have a tremendous investment in equipment -- more than \$14 billion, as of 1977. It doesn't make sense to allow it to become impaired or destroyed. We have found from

experience that preventive maintenance pays off. Equipment failures mean interrupted production, consumer complaints, and reduced income -- factors which no sound business enterprise can accept as a practical alternative to proper maintenance. Moreover, without safe and reliable operations, people would not be willing to work for us, to sell us right-of-way, or to issue insurance at reasonable premiums. To be competitive, we must be dependable. It is one of our greatest selling points for pipeline transportation.

Statement of the
American Petroleum Institute and the
Association of Oil Pipe Lines
Regarding H.R. 51
Fuels Transportation Safety Amendments Act of 1979
March 1, 1979

These comments are presented in behalf of the American Petroleum Institute and the Association of Oil Pipe Lines, whose memberships represent virtually all the companies which transport by pipeline liquid petroleum and its products, including liquefied petroleum gas. We appreciate the opportunity to set forth our views on Title 1 of H.R. 51, the "Fuels Transportation Safety Amendments Act of 1979."

After careful review of the content of the bill, we submit that it should be withdrawn, insofar as it relates to liquid petroleum pipelines, for the following reasons:

- o The outstanding safety record of the nation's liquid petroleum pipeline operators is clear evidence that additional government legislation is not needed and would be counter-productive.

- o The U.S. Department of Transportation has sufficient existing statutory authority to address any liquid petroleum pipeline safety issues which have been raised either in the Congress or in other forums.

- o H.R. 51 is poorly conceived in that it seeks to address both liquid petroleum and natural gas pipelines coincidentally -- in spite of the overwhelmingly distinct differences in their respective operations.

o The costs to the industry -- and therefore the consuming public -- which will inevitably result from the reporting requirements and delays which are inherent in the bill, run directly counter to President Carter's anti-inflation drive.

o In view of its lack of safety benefit to the general public, H.R. 51 represents yet another impediment to one of the nation's most critical enterprises -- getting energy from its source to the consumer as quickly, safely, and efficiently as possible.

Pipelining is by far the safest means of transporting liquid petroleum. This fact is fully substantiated by federal government accident statistics. We urge that the Subcommittee give due consideration to this fact and to the factors enumerated above.

A discussion follows in which the above points are discussed in some detail.

1. Industry Safety Record

Pipelining is by far the safest means of transporting liquid petroleum. Unfortunately, although this fact is fully substantiated by federal government accident statistics, it is not widely recognized. In 1977, for example, petroleum pipelines moved approximately 500 billion ton-miles of petroleum. This volume represents 24 percent of the nation's intercity freight. Yet liquid pipeline transportation experienced 4 fatalities.

The outstanding record of oil pipeline safety is reflected clearly in statistics collected by the National Transportation Safety Board (NTSB) and the U.S. Department of Transportation Office of Pipeline Safety Regulation. This record has been maintained in spite of the:

- o Tremendous growth in pipeline mileage and the volumes transported;
- o Steady increase in the proportion of crude oil and products moved by pipeline; and
- o Surprisingly high proportion of all freight currently moved by pipeline.

Since 1968 the number of liquid petroleum pipeline accidents has steadily declined from 500 to 238 in 1977. To put these accident statistics into perspective, in 1977 there were 52,154 fatalities as a result of transportation accidents. Those fatalities resulted from the following causes: Highway accidents accounted for 46,880 deaths; 7,364 pedestrians were fatally injured; motorcycle accidents accounted for 4,067 fatalities; bicycle accidents killed another 952 people; and marine transportation suffered 1,528 fatalities, 1,312 of which were recreation related. Airplane accidents claimed 2,049 lives; and accidents at railroad grade crossings claimed another 1,001. Of the 52,154 transportation related deaths in 1977, 4 were attributable to liquid petroleum pipeline accidents in the process of carrying ^{1/} one quarter of the nation's total intercity freight.

1/ National Transportation Safety Board Annual Summary

We note that several parties which have advocated additional legislation for pipelines which carry liquefied petroleum gas have based their arguments on the historical safety record which LPG pipelines represent. However, by representing accident statistics of LPG pipelines in percentages of total liquid pipeline safety data instead of actual numbers, they have greatly distorted the true picture. In 1977, for example, no deaths and two injuries were reported as having been associated with LPG pipelines.

The low fatality rate for pipeline transport is directly attributable to the high state-of-the-art of pipeline technology that has developed over the years. Every precaution is taken to safeguard the public in the pipeline shipment of crude oil and petroleum products in the United States. First, let's consider accident prevention.

Accident Prevention

Of all causes of pipeline accidents today, rupture of pipelines by outside forces is the most prevalent. These ruptures are usually the result of accidents involving construction equipment. Such activity is responsible for some 33 percent of reportable pipeline accidents.

The second most prevalent cause of pipeline leaks is corrosion -- from either inside or outside the pipe. This type of failure amounts for 25 percent of the total number.

The remaining 42 percent of accidents are caused by such problems as human error and construction defect/ material failure.

Thus we find that protecting pipelines against damage from outside forces is of primary importance. How can the risk of such damage be mitigated? Pipelines are routed so as to avoid congested residential and industrial areas wherever possible and practicable. In such areas existing regulations provide for extra depth. They are clearly marked above ground, especially at points where they cross highways, railroads, or rivers. Maps or easements on rights-of-way describe the location of the buried line, and these are filed as a matter of public record or furnished on request.

Aerial patrols, surveying for any signs of a leak, also watch for indications of construction activity near the line. Pilots report any such development, and a pipeline representative arranges with the contractor to mark the line with special stakes, which equipment operators are supposed to observe.

In addition to aerial and ground patrols, nationwide voluntary "one call" systems are being developed throughout the country. Systems now in place allow contractors and the public to call a local phone number prior to beginning construction work. At this number, they can obtain information on the location of oil pipelines, gas pipelines, sewers, water mains, and underground telephone cables.

The two most prevalent types of accidents caused by equipment activity, in 1977, were the digging of ditches or pits, and the grading of roads or land. These outside force types of accidents are rarely caused by oil pipeline company equipment or personnel.

The Department of Transportation (DOT) reports that progress is being made toward reducing the number of pipeline accidents from this cause. From 1968 to 1977, the yearly total of ruptures by earthmoving equipment declined by nearly 20 percent -- from 98 to 79. Further improvements are being sought. In addition to the efforts of individual companies, the matter is under continuing study by the NTSB and the Utility Location Coordination Council, in which representatives of liquid petroleum pipelines companies play an active role.

As mentioned earlier, corrosion is the second most frequent cause of pipeline accidents. Protection against corrosion has improved dramatically in the last decade. In 1968, approximately 225 pipeline accidents were attributable to corrosion. By 1977, the number of accidents due to corrosion had fallen by more than 73 percent -- down to 60.

This remarkable improvement in accident reduction is due to many factors. Some of the most important ones are:

- o Quality of materials used;
- o Proper welding;.
- o Coatings;

- o Testing;
- o Inspections; and
- o Cathodic protection.

The quality of the material used to manufacture the pipe is extremely important. Only very high grade steel pipe which is extremely strong and coated to resist corrosion is used.

Second, one of the most critical jobs on the construction site is welding the joints of pipe together. Only highly qualified and experienced welders are permitted to work on this part of the job. Even then, their work is kept under continuous, close inspection, both visually and radiographically. Proper welds are actually stronger than the pipe itself.

Third, before the line is lowered into the ditch, the outside of the pipe is covered with an impervious, tar-like material. It is then wrapped with paper or heavy felt which protect the coating during construction. Coating and wrapping are inspected with an electrical device that reveals any flaws. Any defects in the coating are repaired before the pipe line is placed into the ditch and the ditch is backfilled.

Fourth, a final test is conducted before putting the line in operation. This test consists of filling every section with liquid and raising the pressure well above the highest level expected during operation. This "hydrostatic" test is continued for the prescribed time in accordance with DOT regulations. By that time, every element of the line has been tested to

hold pressure exceeding the most rigorous operating conditions anticipated.

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Safety Checks

Since quick detection of system upsets is essential anywhere along the pipeline to minimize damage, modern trunk lines are kept under 24-hour-a-day surveillance during operation. In most instances, this day-and-night watch is kept by means of a complex system of electronic monitoring, detecting, and data reporting devices. This system is designed to make continuous recordings, of such things as line pressures and flow rates, and transmit the information immediately to a dispatcher or other control operator.

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We recognize that, while early detection of leaks is important, the essence of safety is to prevent lines from leaking in the first place. To this end, lines are pressure-tested, given cathodic protection and operated at safe pumping pressures. When necessary, pipe is repaired or replaced.

As a final part of the total protection system, pipeline maintenance and the monitoring of operations are conducted around the clock. The effort to keep machinery control equipment and other pump-station facilities in repair, and to maintain trouble-free communications is as continuous as the flow of oil through the lines themselves. We believe that no other industry can surpass the record of trunk pipelines for continuity of service.

2. Existing Statutory Authority Sufficient

The authority for the Department of Transportation (DOT) to promulgate safety regulations for liquid petroleum pipelines is well established under the Transportation of Explosives Act (18 U.S.C. 831-835). We are not aware of any challenges that have been made to this authority. In fact, the industry strongly urged that the DOT be granted the powers to regulate interstate pipelines for safety when this matter was considered by Congress in 1967, in order to avoid the multiplicity of conflicting state and local pipeline safety regulations.

Other evidence that existing statutory authority is adequate is the outstanding industry safety record we have already described.

Also, the DOT has clearly exercised its authority. Regarding liquefied petroleum gas (LPG) the Department currently has three proposals in various stages of rulemaking. The formal comment period for each of these proposals has been completed and final rules are expected shortly. In addition, the DOT has just recently published an advance notice of proposed rulemaking to gather information on additional proposals which address LPG pipelines. A copy of each of the DOT proposals and the industry responses are appended to this statement.

3. Distinctions Between Gas and Liquid Pipelines

Congress and the regulatory agencies have historically recognized the differences between pipelines which carry natural gas and those which carry liquid petroleum and therefore have

dealt with those issues in separate legislation and regulations and in all other considerations. This separation should be continued because the physical and chemical characteristics of these products are so significantly different that they require totally different approaches to storage transportation facilities and operational procedures for each commodity. This fact cannot be overemphasized and should not be overlooked.

Natural gas is transported by pipelines and stored in a gaseous state; conversely liquefied petroleum gas and other petroleum commodities are transported and stored in a liquid state in pipeline facilities, often in conjunction with one another.

These distinctions are particularly evident in the differences in the transportation and storage of liquefied petroleum gas and liquefied natural gas, respectively.

LPG is kept in a liquid state by pressure in pipelines rather than temperature. The storage of liquefied petroleum gas is only slightly different from storage techniques used for other petroleum liquids. LPG is transported as liquid at the same ambient temperatures and operating pressures as other liquid petroleum products which in many instances routinely move through the same pipeline.

On the other hand, LNG is natural gas which has been cooled to -260°F to liquefy it for economical transportation and storage. LNG is maintained as a liquid at this temperature and

atmospheric pressure. Such a cryogenic temperature requires that advanced technology and specially designed equipment, materials, vessels and site-specific facilities be employed for the safe transportation and storage of liquefied natural gas (LNG).

Further, LNG is not carried in cross-country pipelines. Instead, this product is transported cross-country in pipelines in its gaseous state. Pipelining of LNG is limited to short distances and specialized purposes, such as the transportation from a dock where an LNG ship is being unloaded to a nearby storage facility.

Thus, the different characteristics which distinguish liquid petroleum and liquefied petroleum gas (LPG) from natural gas and liquefied natural gas (LNG) and the nature of the facilities required to safely handle each commodity, require separate legislative classification and regulatory treatment.

4. Inflationary Impact of Legislation

We are not aware of any analysis that the Subcommittee may have prepared which assesses the costs which would have to be borne by the consumer as a result of passage of H.R.51. However, it is certain that the burdens both on industry and government to implement this legislation would be substantial because of the additional reporting requirements and delays which we believe would result from increased government involvement.

In light of the fact that liquid petroleum pipelines are already demonstrably safe by any criteria, the provisions which pertain to these pipelines are a dramatic example of

governmental waste of resources. The costs would unnecessarily fuel the already extremely serious inflation problem, and thus is counter to the President's, and the public's, demand for reason in formulating legislation and regulation.

5. Impediment to Energy Transportation

There is no greater national need than the ability to deliver energy from its source to the consumer. Instead of making it easier to accomplish this goal, H.R.51 would create additional bureaucratic roadblocks.

Summary

The provisions of H.R.51 (Title I) that relate to liquid petroleum pipelines are unnecessary, duplicative, unduly inflationary and ill-constructed. We therefore urge that the subcommittee remove any references to liquid petroleum pipelines in H.R.51.

Mr. TAYLOR. I would like to make one other point with regard to these previous statements. The bills to which they were directed, H.R. 51 and S. 411, have been marked up since the presentation of the testimony. Therefore some of the observations contained in previous testimony may now be inappropriate.

It is my understanding that the subcommittee is particularly interested in pipelines which transport hydrocarbons normally classified as liquid petroleum gases including propane, ethane, and butanes, as well as anhydrous ammonia. For the sake of simplicity, I will refer to all of these as highly volatile liquids—HVL. Accordingly, permit me to provide the following brief background regarding these pipelines.

In 1978 a survey of all known liquid petroleum interstate pipelines was conducted by API with all but 11 of the 125 questionnaires answered. As a result of this study, the following information was developed. Thirty-two companies indicated that they were carriers of HVL in 1977. These reports showed that there were 31,912 miles of HVL pipelines in service. Of these, 17,588 miles were used in dedicated service and 14,324 in batched service.

A total of some 1.54 million barrels per day of HVL were shipped. About 1.1 million barrels per day of non-HVL products and about 1.4 million barrels per day of crude oil were carried in HVL pipelines. Total volumes of liquids carried by HVL pipelines thus were 4 million barrels per day. This was part of the total of over 28 million barrels per day handled by all interstate liquid petroleum pipelines for 1977.

About two-thirds of the volume of HVL was shipped through dedicated systems. Within batched systems, 21 percent of all barrel-miles were accounted for by HVL and 79 percent by non-HVL. Among individual pipeline systems, both these percentages varied considerably, from nearly zero to nearly 100 percent.

Demand for HVL is highly seasonal, concentrated with the winter heating season in some areas and the late-year crop drying season in other areas.

I hope this brief overview is of help to the subcommittee, and I will be glad to answer your questions.

Mr. SHUSTER. Thank you very much, Mr. Taylor. Do you regard LPG as a petroleum product?

Mr. TAYLOR. Yes, sir.

Mr. SHUSTER. Do you believe LPG should be regulated as a hazardous liquid under the Natural Gas Pipeline Safety Act or as a hazardous liquid under a separate statute?

Mr. TAYLOR. We are concerned about the separation of how it is regulated under the act. It can be regulated under the act as long as there is a distinct separation of natural gas versus LPG.

Mr. CORCORAN. If I might on that point, there are two acts in front of the committee. One is H.R. 51, an amendment to the Natural Gas Safety Act. The other is 2207, which creates a new act and new section applying to liquid pipelines.

Our position is we support S. 411, which is the companion bill to H.R. 2207 as it passed the Senate, was amended in the committee and passed the Senate on Monday.

If 2207 in the present condition were amended to conform to S. 411 as it passed, this industry would support that bill. That bill

would include your LPG's and all of your liquid lines. We believe as an additive consideration and also for other reasons which we will be glad to go into that you should have all your liquid pipelines under one act rather than putting a few in the Natural Gas Act and the rest under a new act.

Mr. SHUSTER. Thank you.

Congressman Anderson?

Mr. ANDERSON. No questions.

Mr. SHUSTER. Counsel?

Mr. D'AMICO. We have a letter from the National LP Gas Association dated June 3, 1979, to you with suggested amendments. We respectfully offer the letter, with the proposed amendments, for the record.

Mr. HOWARD [presiding]. Without objection, it will be made a part of the record at this point.

[The information follows:]

NATIONAL LP-GAS ASSOCIATION

1800 N. KENT STREET



ARLINGTON, VIRGINIA 22209

ARTHUR C. KREUTZER
EXECUTIVE VICE-PRESIDENT
& GENERAL COUNSEL

Phone: 703/525-5135

DANIEL N. MYERS
DIRECTOR, LEGISLATIVE SERVICES
& ASSOCIATE COUNSEL

June 7, 1979

Hon. James J. Howard, Chairman
Committee on Public Works & Transportation
Subcommittee on Surface Transportation
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The National LP-Gas Association offers the following comments on H.R. 51, the Fuels Transportation Safety Amendments Act of 1979, and H.R. 2207, the Natural Gas Pipeline Safety Act Amendments of 1979, and requests that they be considered by the Subcommittee and made part of the record of the hearing scheduled to be held on June 8, 1979.

The National LP-Gas Association (NLPGA) represents about 4000 members, including 45 affiliated states, and has been in existence since 1931. NLPGA is predominantly composed of LP-gas dealers who transport and distribute LP-gas, primarily propane, to the ultimate consumer. In presenting this statement, we reflect the concerns and opinions involved in this marketing of LP-gas. Due to our limited expertise regarding production, pipeline and marine transport, we are not attempting to speak for those interests except to urge that any additional regulation be carefully evaluated so as not to impede the essential flow of LP-gas to the consumer.

Since March 1978, the NLPGA has actively participated in hearings before both the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee as these bodies have developed the current legislative proposals embodied in H.R. 51 and S. 411, the Senate version of H.R. 2207. Our concerns and recommendations have focused on the need for clear and constructive safety regulatory mechanisms, and the elimination of duplication and needless regulation which is a burden to the small businessman and an added cost to the consumer. In this regard, we have noted the existing matrix of state and local regulation

which, in tandem with current DOT authorities under the Natural Gas Pipeline Safety Act, the Transportation of Explosives Act, the Hazardous Materials Transportation Act, and the Ports and Waterways Safety Act, among others, has been adequately protecting the public for many years.

We acknowledge, however, that there is always room for improvement and in this regard have endorsed H.R. 51 as approved by the House Interstate and Foreign Commerce Committee in Report No. 96-201, Part I. The significant features of that bill which we believe will clarify and improve current regulatory authorities are:

1. The definitions in the Natural Gas Pipeline Safety Act will be clarified by clearly distinguishing between "gas" and "liquefied petroleum gas";
2. The bill would require DOT to consider the distinguishing characteristics and different properties of gas and LP-gas when issuing standards; and,
3. A Technical LP-Gas Safety Standards Committee would be established as a counterpart to the existing gas pipeline committee to provide DOT with needed expertise in this area.

Our support for these provisions is grounded on ten years of experience in trying to work within the confines of a "natural gas" pipeline safety act containing terms not applicable to LP-gas in a few LP-gas installations where natural gas regulations are sought to be applied to LP-gas by virtue of a definition extending jurisdiction over any "flammable gas". This has caused confusion, overlap, and conflict with existing state law and regulation since LP-gas is stored and transported as a liquid in all stages of movement, except on the consumer's premises after it enters the consumer's system, where it is transformed into a gas for use. Thus, any interstate movement of the product is as a liquid and outside the jurisdiction of the Act. In some instances, however, the Office of Pipeline Safety Operations (OPSO) has sought to apply its regulations, written with natural gas transmission lines in mind, to small diameter copper pipe leading from the consumer storage tank into the home or place of business. Thus it is that we are heartened to see the House Commerce Committee state in their report on H.R. 51, on page 23, that "pipeline distribution is not intended to cover user storage or piping on the user's premises, unless physically connected to the pipeline transmission line."

Recommendation

In briefly outlining these factors we are not opposing the general approach of H.R. 2207 but urge that if the Surface Transportation Subcommittee determines that H.R. 2207 is a more appropriate legislative approach, the following three recommended changes, in consonance with the discussion above, be adopted.

Amendment No. 1 - Section 104(a) of H.R. 2207 (page 2, lines 21 - 23):

"(a) Section 2(2) is amended by inserting
'(including liquefied natural gas)' immediately
after 'natural gas' /s/ and by inserting
',but such term does not include liquefied
petroleum gas' after 'toxic or corrosive'."

This language is identical to H.R. 51 and furthers the intent of H.R. 2207 by clearly removing liquefied petroleum gas from the Natural Gas Pipeline Safety Act (Title I), and placing it squarely in the Hazardous Liquid Pipeline Safety Act (Title II).

Amendment No. 2 - Section 203(3) and (4) of H.R. 2207 (page 18, lines 6 - 16):

"(3) 'transportation of hazardous liquids'
means the movement of hazardous liquid by pipeline
or its pipeline connected storage in or affecting
interstate or foreign commerce;

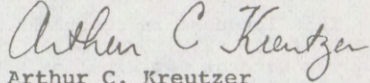
"(4) 'pipeline facilities' includes, without
limitation, new and existing pipe, rights-of-way
and any equipment, facility, or building used or
intended for use in the pipeline connected trans-
portation of hazardous liquids or the treatment

of hazardous liquids during the course of such transportation, but rights-of-way as used in this title does not authorize the Secretary to prescribe the location or the routing of any pipeline facility,"

The recommended language would reflect expressed intent of the Administration, and the quoted language from the House Commerce Committee's report on H.R. 51, not to extend coverage to consumer storage and equipment.

We appreciate this opportunity to comment on H.R. 2207 and H.R. 51 and urge your Subcommittee to give favorable consideration to our recommended amendments should you decide to report H.R. 2207 in lieu of H.R. 51.

Respectfully submitted,



Arthur C. Kreutzer
Executive Vice President and
General Counsel

Mr. HOWARD. The next witness will be a panel representing the American Gas Association. The panel is scheduled to consist of Max Levy, vice president, Columbia LNG Corp., Wilmington, Del.; David Skedgell, vice president, government relations, A.G.A., Rosslyn, Va.; James E. Wagner, assistant vice president, engineering and distribution, Boston Gas Co., Boston, Mass.; and Keith C. McKinney, president, Western LNG Terminal Associates, Los Angeles, Calif.

Gentlemen, we wish to thank you for appearing before the committee. We have a copy of your testimony, Mr. Skedgell, which without objection will be made a part of the record at this point.

[The statement referred to follows:]

TESTIMONY OF
DAVID A. SKEDGELL, VICE PRESIDENT,
GOVERNMENT RELATIONS
THE AMERICAN GAS ASSOCIATION
BEFORE THE
SURFACE TRANSPORTATION SUBCOMMITTEE
OF THE
HOUSE PUBLIC WORKS & TRANSPORTATION COMMITTEE
ON H.R. 51
FUELS TRANSPORTATION SAFETY AMENDMENTS ACT OF 1979
June 8, 1979

I am David A. Skedgell, Vice President, Government Relations, of the American Gas Association (A.G.A.). Accompanying me today are Max Levy, Vice President, Columbia LNG Corporation and Chairman of the A.G.A. LNG Supply Subcommittee; James E. Wagner, Assistant Vice President, Engineering and Distribution, of the Boston Gas Company; and Keith C. McKinney, President of Western LNG Terminal Associates.

As you may know, A.G.A. is a national trade association of approximately 300 companies providing natural gas transmission and distribution service to 160 million consumers in all 50 states. A.G.A. member companies currently provide about 85% of the nation's total natural gas utility sales.

We welcome this opportunity to testify on H.R. 51, the "Fuels Transportation Safety Amendments Act of 1979". Recognizing that the gentlemen with me today represent greater firsthand knowledge of the operation of pipeline and LNG facilities, I will discuss the role of different types of LNG facilities in the natural gas delivery system generally, and will address specific portions of H.R. 51 as they directly affect A.G.A.'s member companies.

I. IMPORTANCE OF LNG TO THE NATURAL GAS DELIVERY SYSTEM

Given this country's continued reliance upon oil imports as a prime method of meeting our increasing national energy needs, the natural gas industry, with the additional supplies of natural gas made available by the operations of LNG facilities, is in an excellent position to provide an alternative to the vagaries of the current world oil situation.

A. Importance of LNG Baseload Facilities to the United States

Natural gas currently provides a major contribution to the U.S. energy supply, accounting for almost 30% of all energy consumed in 1977. Gas supplies about 55% of all residences and commercial establishments in the U.S., and over 40% of the energy consumed by U.S. industry.

Domestic gas is becoming more difficult and costly to find and produce even though there are at least another 35 to 60 years of conventional U.S. gas supplies remaining at present annual gas consumption rates. Nevertheless, it is clear that beyond the early 1990's domestic production of conventional gas will slowly begin to decline. This decline, coupled with continued growth in total U.S. energy demand, even with vigorous conservation efforts, means that more gas will be needed to meet future demands.

As conventional domestic oil and gas production capabilities eventually decline, the burden of meeting growing U.S. energy requirements will fall upon three alternatives--oil imports, electricity generated from coal or nuclear power, and supplemental energy sources such as LNG. As we have stated, liquefied natural gas can serve a vital role in expanding U.S. gas supplies. Our projections indicate a potential contribution from LNG as a supply

supplement of 1.6 Tcf by 1985, 2.0 Tcf by 1990, 2.5 Tcf by 1995, and 3.0 Tcf in 2000. Increases in production from supplemental gas supplies such as LNG, coal gasification and Alaskan gas could be substantial enough by the 1990's to more than offset declining lower 48 state production of conventional natural gas.

It is widely agreed that for the foreseeable future the U.S. will be dependent at least partially on imported energy. Imported LNG should be viewed as a vital component of U.S. imports-- as an alternative to increased oil imports, rather than an addition to oil imports. Clearly, LNG is an alternative to imported oil, and national policy regarding LNG should reflect a detailed comparative assessment of the relative benefits of LNG vs. imported oil and other fuels. For a thorough economic analysis of the benefits of LNG imports, see An Economic Analysis of Imported LNG in Selected End Use Markets, prepared by Booz Allen & Hamilton in May, 1978. (Attachment 1).

Three LNG baseload facilities are currently in operation in the United States. They are located in Everett, Massachusetts; Cove Point, Maryland; and Elba Island, Georgia. These facilities provide a combined total annual gas supply of approximately 400 billion cubic feet of gas. [Gas Supply Review, American Gas Association, Vol. 7 No. 3, December, 1978.] By comparing the Btu value of 400 billion cubic feet to the Btu value of a barrel of imported oil (distillate), we emphasize that these LNG facilities are capable of displacing approximately 70 million barrels of oil each year. As a

matter of comparison, a refinery with a capacity of 175,000 barrels a day would require 400 days to process as many barrels (in Btu equivalents) as these three baseload facilities process in one year.¹ Clearly, LNG baseload facilities can play a significant role in reducing our dependence upon foreign oil imports and can provide a vital supplement to current energy supplies.

B. Importance of LNG to Peak Shaving Operations

Residential and commercial natural gas demand (comprising approximately 55% of all gas use) is high in the winter season and low in the summer months. Historically, the gas utility industry has balanced this demand both by drawing down seasonal and peak shaving supplies--underground storage, LNG, synthetic natural gas and propane-air--and by interrupting service to certain prearranged industrial customers. The need to load balance will increase as residential load increases, and each of these methods has its role, depending upon region and other factors.

¹These calculations are based upon the following conversion factors:

*Natural Gas:

1 Mcf = 1,020,000 Btu
1 MMcf = 1,020,000,000 Btu

**Fuel Oil:

Distillate	1 Barrel = 5,825,000 Btu
Residual	1 Barrel = 6,287,000 Btu

*The Btu data for natural gas were derived from Gas Facts, American Gas Association, 1977.

**The Btu data for fuel oil were derived from the Federal Energy Administration, Monthly Energy Review, June, 1978.

The liquefaction of natural gas at a temperature of -260 degrees F. shrinks the volume of the gas by a factor of 600, making it easy to store large quantities in compact spaces. Thus, large quantities of gas are readily available when consumers demand more gas than conventional storage can supply. Further, LNG provides a more economical and instantly available alternative peak supply source.

There are two ways in which LNG peak shaving has been used. First, is local needle peak shaving plants, and second is satellite peak shaving. For needle peak shaving (used on very cold winter days when demand is abnormally high) utilities have constructed and operated LNG storage facilities that can meet local winter heating demand of the distribution network. Most peak shaving facilities have storage capabilities in excess of 200,000 barrels; this is equivalent to 700 million cubic feet of gas. Satellite peak shaving requires a large and centrally located LNG facility to liquefy the LNG which is delivered by truck to remotely located facilities. The satellite storage containers are relatively small, having storage capacities of less than 100,000 barrels (or less than 350 million cubic feet).

The use of peak shaving capacity in New England during the winter of 1976-1977 is one of the best examples of the benefits of such facilities. While other parts of the country were suffering unprecedented gas shortages, no New England customers were curtailed, despite the fact that New England is very short of conventional storage capacity (in the gas phase, methane is generally stored in underground chambers, exhausted gas fields, or aquifers). Because

the LNG terminal at Everett, Massachusetts, was in operation, LNG imports moving through that facility averted an otherwise serious deficiency in domestic gas supplies.

During the past decade, LNG peak shaving plants have become a major means of meeting the peak gas requirements of U.S. utility gas customers.

- o Sixty-two U.S. gas utilities, which account for nearly 30% of total U.S. peak-day utility gas consumption, depend directly upon LNG peak shaving plants to supply an average of 19% of their peak-day gas needs.
- o Dependence upon LNG peak shaving is highest in the New England and South Atlantic regions where over half of the LNG peak shaving plants in the U.S. are located, supplying 26% and 31% respectively of the peak-day gas requirements in those regions for utilities having LNG peak shaving plants.
- o Of the total gas sendout of all U.S. gas utilities, including those which do not directly rely upon LNG peak shaving, LNG from some 119 peak shaving plants supplies 6% of peak-day gas requirements nationally.
- Nearly all of America's 44.9 million gas customers benefit from LNG peak shaving in lower gas costs resulting from a reduction of total production and transmission capacity required to provide reliable year-round service and by increased utilization of existing transmission and distribution systems.
- o According to the Pipeline and Gas Journal, for the 1977-78 winter season the gas industry had the largest peak shaving capacity in its history with over 64.21 Bcf per day total capacity. LNG storage in peak shaving satellites accounted for 7.63 Bcf.

Clearly, the LNG produced by the approximately 119 peak shaving facilities plays a vital role in filling seasonal peaks in energy demands more efficiently and economically than other alternative sources.

II. THE IMPORTANCE OF H.R. 51 TO THE INTERESTS OF THE GAS INDUSTRY AND THE PUBLIC

H.R. 51 represents two years of extensive research by Congress into the need for legislation amending the Natural Gas Pipeline Safety Act of 1968, as well as additional standards for LNG facilities. During the course of this intensive Congressional effort, A.G.A. has provided its suggestions to Congress regarding most of the pipeline safety and LNG portions of the legislation. With regard to pipeline safety, A.G.A. strongly supports the cost-benefit analysis mandated by Section 108 of H.R. 51. This section recognizes the important role occupied by pipeline facility operators and appropriate State and local agencies. It also affords the opportunity to provide meaningful input on the issue of whether additional Federal pipeline safety legislation is necessary. The considerable reporting requirements included in H.R. 51 as originally proposed would have required A.G.A. member companies to expend an estimated \$100 million for compliance, and would not have enhanced the Department of Transportation's ability to predict pipeline accidents. Consequently, A.G.A. urges that this Committee retain Section 108 of Title I in lieu of the reporting requirements in prior versions of this legislation.

All of A.G.A.'s LNG comments were motivated by our perception of the most effective manner of reconciling the unique needs of the gas industry with the public interest in providing for the operations of these LNG facilities as safely and efficiently as possible. The resulting language of H.R. 51 as amended and reported by the

House Committee on Interstate and Foreign Commerce on May 10, 1979, represents a major step toward satisfying public interest in increased gas supply and high safety standards as well as the the need to preserve the gas industry's ability to deliver gas to the consumer economically, efficiently, and safely.

For these reasons, A.G.A. urges this Subcommittee to limit its review of H.R. 51 in light of the considerable scrutiny to which it has thus far been subjected, and to report the bill favorably.

III. H.R. 51 AND LPG

Although A.G.A. believes H.R. 51 is satisfactory as it now stands, we wish to comment on the way in which H.R. 51 treats liquefied petroleum gas. H.R. 51 brings pipeline transportation of liquefied petroleum gas (or LPG) and the storage within the ambit of the Natural Gas Pipeline Safety Act of 1968 (NGPSA). Since natural gas, in both its gaseous and liquid states, is significantly different from LPG, and since the discrete characteristics of natural gas and LPG require different techniques in transportation and handling, A.G.A. believes LPG should be covered by a separate Act that would take account of these differences. A.G.A. has prepared (as an attachment to my testimony) a short summary comparing the physical properties of natural gas (gaseous and liquefied) with LPG and describing the transportation and handling techniques involved with both substances (Attachment 2).

Although Section 102 of H.R. 51 implicitly recognizes the distinction between natural gas and LPG in creating a Technical LPG Safety Standards Committee to work with the Secretary of Transportation, this approach is not sufficient to guarantee separate treatment of these substances in all aspects of pipeline safety regulation. Consequently, A.G.A. strongly recommends that LPG not be brought under the provisions of the NGPSA.

In contrast to H.R. 51, the Senate has chosen a bifurcated approach in its pipeline safety/LNG legislation, treating LPG under a separate title in S. 411 which constitutes a separate Act. S. 411 was reported, as amended, to the Senate on May 10, 1979 by the Senate Committee on Commerce, Science and Transportation and was passed by the Senate on June 4, 1979. The S. 411 approach which treats hazardous liquids pipelines in a separate Act, and not in the NGPSA, is consistent with the need to tailor legislation to meet the distinctive safety requirements of natural gas and LPG. Including such physically disparate substances as LPG and natural gas under the NGPSA could lead to regulatory confusion and the promulgation of uniform regulations for both substances. The House Commerce Committee felt this potential problem was of sufficient import to address it with report language as follows:

"In including LPG under the regulatory procedures for natural gas, the [Interstate and Foreign Commerce] Committee did not intend the same regulations should apply to both natural gas and LPG. LPG clearly presents greater and different hazards and should be separately subjected to regulations tailored to its unique properties." H.R. Rept. No. 201, 96th Cong., 1st Sess. 28.

Consequently, A.G.A. urges this Subcommittee to limit any changes in H.R. 51 to amendments which would remove LPG from Title I and which would ensure separate legislative treatment for natural gas and LPG, as their distinct physical characteristics require. Title II of S. 411 (as passed) would be the best vehicle for this separate approach, and we urge that it be incorporated in H.R. 51 as a substitute for the LPG provisions of Title I of H.R. 51.

CONCLUSION

A.G.A. appreciates this opportunity to testify on H.R. 51 and to address our specific concerns with the legislation. Any further occasion for A.G.A. to provide input to the Subcommittee on this legislation and related matters would be welcome. At this point, my colleagues and I would be pleased to answer any questions you may have.

Mr. HOWARD. Please proceed.

TESTIMONY OF MAX LEVY, VICE PRESIDENT, COLUMBIA LNG CORP., WILMINGTON, DEL.; DAVID SKEDGELL, VICE PRESIDENT, GOVERNMENT RELATIONS, AGA, ROSSLYN, VA.; JAMES E. WAGNER, ASSISTANT VICE PRESIDENT, ENGINEERING AND DISTRIBUTION, BOSTON GAS CO., ROXBURY, MASS.; AND KEITH C. MCKINNEY, PRESIDENT, WESTERN LNG TERMINAL ASSOCIATES, LOS ANGELES, CALIF.

Mr. SKEDGELL. We have some attachments to the testimony. I believe they have been submitted to the committee. I would like to ask that they be made a part of the record.

Mr. HOWARD. We have one, "An Economical Analysis of Imported LNG in Selected End-Use Markets," and without objection that will be made a part of the file; and attachment No. 2 entitled "Natural Gas and LPG: Different Materials That Need To Be Regulated by Different Rules," which will also be made a part of the committee file.

[Items referred to retained in subcommittee file.]

Mr. SKEDGELL. Thank you, Mr. Chairman. In the interest of time I will abbreviate our statement.

As you may know, AGA is a national trade association of approximately 300 companies providing natural gas transmission and distribution service to 160 million consumers in all 50 States. AGA member companies currently provide about 85 percent of the Nation's total natural gas utility sales.

We welcome this opportunity to testify on H.R. 51, the Fuels Transportation Safety Amendments Act of 1979. Recognizing that the gentlemen with me today represent greater firsthand knowledge of the operation of pipeline and LNG facilities, I will discuss the role of different types of LNG facilities in the natural gas delivery system generally, and will address specific portions of H.R. 51 as they directly affect AGA's member companies.

I. IMPORTANCE OF LNG TO THE NATURAL GAS DELIVERY SYSTEM

Given this country's continued reliance upon oil imports as a prime method of meeting our increasing national energy needs, the natural gas industry, with the additional supplies of natural gas made available by the operations of LNG facilities, is in an excellent position to provide an alternative to the vagaries of the current world oil situation.

Natural gas currently provides a major contribution to the U.S. energy supply, accounting for almost 30 percent of all energy con-

sumed in 1977. Gas supplies about 55 percent of all residences and commercial establishments in the United States, and over 40 percent of the energy consumed by U.S. industry.

Domestic gas is becoming more difficult and costly to find and produce even though there are at least another 35 to 60 years of conventional U.S. gas supplies remaining at present annual gas consumption rates. Nevertheless, it is clear that beyond the early 1990's domestic production of conventional gas will slowly begin to decline. This demand, coupled with continued growth in total U.S. energy demand, even with vigorous conservation efforts, means that more gas will be needed to meet future energy demands.

As conventional domestic oil and gas production capabilities eventually decline, the burden of meeting growing U.S. energy requirements will fall upon three alternatives—oil imports, electricity generated from coal or nuclear power, and supplemental energy sources such as LNG.

It is widely agreed that for the foreseeable future the United States will be dependent at least partially on imported energy. Imported LNG should be viewed as a vital component of U.S. imports—as an alternative to increased oil imports, rather than an addition to oil imports. Clearly, LNG is an alternative to imported oil, and national policy regarding LNG should reflect a detailed comparative assessment of the relative benefits of LNG versus imported oil and other fuels. For a thorough economic analysis of the benefits of LNG imports, I would invite the committee's attention to the attachments we have provided.

Residential and commercial natural gas demand—comprising approximately 55 percent of all gas use—is high in the winter season and low in the summer months. Historically, the gas utility industry has balanced this demand both by drawing down seasonal and peak shaving supplies—and by interrupting service to certain prearranged industrial customers. The need to load balance will increase as residential load increases, and each of these methods has its role, depending upon region and other factors.

The liquefaction of natural gas at a temperature of -260 degrees Fahrenheit shrinks the volume of the gas by a factor of 600, making it easy to store large quantities in compact spaces. Thus, large quantities of gas are readily available when consumers demand more gas than conventional storage can supply. Further, LNG provides a more economical and instantly available alternative peak supply source.

Mr. Chairman, I would like to move on to our specific comments on H.R. 51.

H.R. 51 represents 2 years of extensive research by Congress into the need for legislation amending the Natural Gas Pipeline Safety Act of 1968, as well as additional standards for LNG facilities. During the course of this intensive congressional effort, AGA has provided its suggestions to Congress regarding most of the pipeline safety and LNG portions of the legislation. With regard to pipeline safety, AGA strongly supports the cost-benefit analysis mandated by section 108 of H.R. 51. This section recognizes the important role occupied by pipeline facility operators and appropriate State and local agencies. It also affords the opportunity to provide meaningful input on the issue of whether additional Federal pipeline

safety legislation is necessary. The considerable reporting requirements included in H.R. 51 as originally proposed would have required AGA member companies to expend an estimated \$100 million for compliance, and would not have enhanced the Department of Transportation's ability to predict pipeline accidents. Consequently, AGA urges that this committee retain section 108 of title I in lieu of the reporting requirements in prior versions of this legislation.

All of AGA's LNG comments were motivated by our perception of the most effective manner of reconciling the unique needs of the gas industry with the public interest in providing for the operations of these LNG facilities as safely and efficiently as possible. The resulting language of H.R. 51 as amended and reported by the House Committee on Interstate and Foreign Commerce on May 10, 1979, represents a major step toward satisfying public interest in increased gas supply and high safety standards as well as the need to preserve the gas industry's ability to deliver gas to the consumer economically, efficiently, and safely.

For these reasons, AGA urges this subcommittee to limit its review of H.R. 51 in light of the considerable scrutiny to which it has thus far been subjected, and to report the bill favorably.

Although AGA believes H.R. 51 is satisfactory as it now stands, we wish to comment on the way in which H.R. 51 treats liquefied petroleum gas. H.R. 51 brings pipeline transportation of liquefied petroleum gas (or LPG) and the storage within the ambit of the Natural Gas Pipeline Safety Act of 1968—NGPSA. Since natural gas, in both its gaseous and liquid states, is significantly different from LPG, and since the discrete characteristics of natural gas and LPG require different techniques in transportation and handling, AGA believes LPG should be covered by a separate act that would take account of these differences. AGA has prepared as an attachment to my testimony a short summary comparing the physical properties of natural gas—gaseous and liquefied—with LPG and describing the transportation and handling techniques involved with both substances.

Although section 102 of H.R. 51 implicitly recognizes the distinction between natural gas and LPG in creating a Technical LPG Safety Standards Committee to work with the Secretary of Transportation, this approach is not sufficient to guarantee separate treatment of these substances in all aspects of pipeline safety regulation. Consequently, AGA strongly recommends that LPG not be brought under the provisions of the NGPSA.

In contrast to H.R. 51, the Senate has chosen a bifurcated approach in its pipeline safety/LNG legislation, treating LPG under a separate title in S. 411 which constitutes a separate act. S. 411 was reported, as amended, to the Senate on May 10, 1979, by the Senate Committee on Commerce, Science, and Transportation and was passed by the Senate, as was noted earlier, on June 4, 1979. The S. 411 approach which treats hazardous liquids pipelines in a separate act, and not in the NGPSA, is consistent with the need to tailor legislation to meet the distinctive safety requirements of natural gas and LPG. Including such physically disparate substances as LPG and natural gas under the Natural Gas Pipeline Safety Act could lead to regulatory confusion and the promulgation of uniform

regulations for both substances. The House Commerce Committee felt this potential problem was of sufficient import to address it with report language as follows:

In including LPG under the regulatory procedures for natural gas, the [Interstate and Foreign Commerce] Committee did not intend the same regulations should apply to both natural gas and LPG. LPG clearly presents greater and different hazards and should be separately subjected to regulations tailored to its unique properties. H.R. Rept. No. 201, 96th Cong., 1st Sess. 28.

Consequently, AGA urges this subcommittee to limit any changes in H.R. 51 to amendments which would remove LPG from title I and which would insure separate legislative treatment for natural gas and LPG, as their distinct physical characteristics require. Title II of S. 411 as passed would be the best vehicle in our view for this separate approach, and we urge that it be incorporated in H.R. 51 as a substitute for the LPG provisions of title I of H.R. 51.

Mr. Chairman, we appreciate the opportunity to testify and address our specific concerns on this legislation. I and the gentlemen who are with me stand ready to answer your questions.

Mr. SHUSTER [presiding]. Thank you very much.

First, do you regard LPG as a petroleum product?

Mr. SKEDGELL. Yes.

Mr. SHUSTER. Do you believe it should be regulated under the Natural Gas Pipeline Safety Act or as a hazardous liquid under a separate statute?

Mr. SKEDGELL. As we have indicated we believe it should be treated separately and not under the Natural Gas Pipeline Safety Act.

Mr. SHUSTER. Thank you very much.

Are there any questions?

Mr. STANGELAND. No.

Mr. SHUSTER. I understand Congressman Anderson has some questions. He is voting right now. If you would please remain here until he returns.

Mr. SKEDGELL. We will be happy to, Mr. Chairman.

Mr. HOWARD [presiding]. The subcommittee will please come to order.

The Chair recognizes the gentleman from California, Mr. Anderson.

Mr. ANDERSON. Mr. Chairman, I have a question I wanted to ask, but before I do I have a letter here directed to this committee from the Public Utilities Commission of California urging the support of H.R. 51 and explaining why they thought the exemption should be granted the Point Conception facility.

Mr. HOWARD. Without objection it will be made a part of the record.

[The letter referred to follows:]

PUBLIC UTILITIES COMMISSION,
State of California, June 4, 1979.

Re: H.R. 51, "Fuels Transportation Safety Amendments Act of 1979".

Hon. HAROLD T. JOHNSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN JOHNSON: It is our understanding that the above-entitled bill dealing with liquefied natural gas siting and safety criteria jurisdiction will be considered in the near future by the House Public Works and Transportation

Committee. Pursuant to the California Liquefied Natural Gas Terminal Act of 1977, the California Public Utilities Commission approved an application to construct California's first liquefied natural gas (LNG) facility at a site near Point Conception, California on July 31, 1978. Since that time this Commission has been conducting studies and holding hearings on various aspects of the LNG facility construction project including the development of extremely detailed construction and operating safety regulations.

H.R. 51 mandates that the Secretary of Transportation develop certain LNG siting and operating safety criteria and preempts any state regulations on these matters. If the provisions of this bill were to apply to the proposed Point Conception facility, the entire project could very well be terminated because of regulatory delay. The application for the subject LNG facility was originally made as part of the *Pacific Indonesian LNG Company* project in September, 1974. As of January, 1979 all evidentiary hearings before the Federal Energy Regulatory Commission have been concluded and a decision is imminent. The Indonesian suppliers of natural gas for this project have been very patient in extending the time of the gas purchase contract. Any delay caused by the need to evaluate the Point Conception LNG terminal could prove fatal to the project. Such a review is unnecessary because of the California safety standards already in existence.

H.R. 51, in its current form, appears to exempt the Point Conception LNG terminal from new Department of Transportation siting and operating safety standards although there is some ambiguity in the bill on the scope of this exemption. We believe it is in the best interest of the consumers of natural gas within the state of California to insure that the Point Conception facility is exempted from any Department of Transportation regulations made pursuant to H.R. 51. Your aid in this matter is greatly appreciated. The California Public Utilities Commission is available to assist you and your staff on this subject at any time.

Sincerely yours,

JOHN E. BRYSON, *President*.

Mr. ANDERSON. The question I wanted to ask is in regard to the concluding paragraph:

H.R. 51, in its current form, appears to exempt the Point Conception LNG terminal from new Department of Transportation siting and operating safety standards, however, there is some ambiguity in the bill on the scope of this exemption. We believe it is in the best interest of the consumers of natural gas within the State of California to ensure that the Point Conception facility is exempted from any Department of Transportation regulations made pursuant to H.R. 51. Your aid in this matter is greatly appreciated. The California Public Utilities Commission is available to assist you and your staff on this subject at any time.

My question is that they say "there is some ambiguity in the bill on the scope of this exemption." Could you please tell me what that ambiguity is and is it something we should clarify in H.R. 51?

Mr. MCKINNEY. Mr. Anderson, I believe the ambiguity is in the manner it was reported out of the House committee.

The ambiguity arises from apparently an error in the committee report, wherein it was indicated the Point Conception facility would not be excluded from the regs unless H.R. 51 was enacted before the regs were passed. That was an erroneous portion of the committee report and perhaps this committee can correct that and thereby remove the ambiguity.

Mr. ANDERSON. I want to thank you for your statement. I would also ask the staff to doublecheck on that ambiguity so if there is any question on their part we can correct it.

Speaking again for the public utilities commission approach here, our feeling is that we should not do anything that would unnecessarily delay the California Point Conception terminal facility. I know we are very energy-short in California and I hope this question will soon be cleared up.

Mr. HOWARD. Any further questions?

The gentleman from Tennessee.

Mr. BONER. No.

Mr. HOWARD. The gentleman from California.

Mr. ANDERSON. Staff was just telling me about the question of the fault. I wonder if you have anything to contribute on this.

Mr. MCKINNEY. I am sure you have reference to the so-called Arroyo Fault which is a feature in the southeast portion of the general site location near Point Conception.

The concern about the fault had expressed itself in California in the proposed regulations prepared and sponsored by the California Public Utilities Commission staff. There a consultant had come up with the concept of dividing faults into two categories, one being causative; that is, capable of generating an earthquake of a magnitude of 5 or greater on the Richter scale; the other faults were determined secondary.

The original decision of the California Public Utilities Commission as issued July 31, 1978, was conditioned with one condition precedent to the decision becoming final. That was to conduct seismic investigations, excavations onsite, to determine whether the Arroyo Fault was a causative fault or a secondary fault.

The evidence adduced in the safety hearings in California after July 31, 1978, directed a great deal of attention to the meaningfulness of the causative-fault proposition. The decision on the regulations was issued by the California Public Utilities Commission this last Tuesday, May 5.

There the judge and the commission found that the division of faults in these two categories had no real meaning in seismological or engineering reality; that it apparently was an engineering definition applying to land use planning. So they have stopped that definition.

We have, accordingly, petitioned PUC to make our findings final without any seismic excavations. We asked that the request be acted upon favorably.

Therefore, those excavations on the site will be for design purposes. This has clarified the situation in California and it is no longer a question of is the site acceptable or not but simply giving additional data for final design.

Mr. ANDERSON. You refer to the causative fault and noncausative, secondary, and so on. I have also heard of surface faults. Is that another distinction?

Mr. MCKINNEY. A surface fault is one of the things that appears in deposed regulations of DOT. It is an ambiguous term and we have so advised DOT. Surface faulting, again, in and of itself has no particular meaning unless you also define the extent of the faulting.

When people talk of surface faults, they think of the San Andreas Fault which has visible signs of perhaps pushing cracks a mile wide. Surface faulting, I believe one could attribute to the Arroyo Fault near the Point Conception area. It is almost unnoticable because the fault is a full 1-inch width.

Mr. ANDERSON. If there is a crack across your concrete driveway a quarter of an inch wide, could it be described as a surface fault?

Mr. MCKINNEY. It could be; that is what is called "folding"; and that is faulting. It is not whether it is a surface fault or whether it is a fault at all, it is what is the magnitude and exposure located near that. Our seismic expert is Dr. Nathan Newmark and he feels

it would not be appropriate to site facilities such as LNG facilities within perhaps a mile of something like a San Andreas Fault, which has large earthquake capability, but exclusions of 100 feet from a small fault is more than adequate. The California code requires us to offset faulting, certainly any active faulting, on the site by at least 100 feet. I think that is all it takes to avoid the kind of fault we have at Point Conception. These are not major faults, they are typical in the coastal plain of California.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. HOWARD. We wish to thank you for your statement. As you can see many Members of the Committee are on the House floor and they have questions that we will get to you. We hope we can get an early response because we are under something of a time bind. If some of the members of the subcommittee who are not present today have statements, they will be included in this record.

Mr. HOWARD. This concludes our hearings on this legislation. As I stated previously, I will discuss this matter with the chairman when he returns so that the committee can report this legislation by June 22, 1979, the date which the chairman has requested for final disposition of H.R. 51.

Furthermore, I and Chairman Johnson will discuss this matter with Chairmen Staggers and Dingell. Based upon what I have heard during the course of these hearings, I am convinced that the House Committee on Interstate and Foreign Commerce has reported a good piece of legislation. Consequently, I am confident that we can work together to pass legislation that will serve the public interest and provide maximum safety for all of our citizens.

The subcommittee stands adjourned.

[Whereupon, at 11:10 a.m., the subcommittee was adjourned, to reconvene upon the call of the Chair.]

[The following were received for the record:]

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS,
Washington, D.C., June 12, 1979.

SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Committee on Public Works and Transportation, U.S. House of Representatives,
Washington, D.C.

DEAR MR. FRYER: Please find enclosed the information you requested concerning which States were participating by certification and which by agreement in the Federal-State cooperative program established under the Natural Gas Pipeline Safety Act of 1968 (Appendix A).

While we cannot supply data pinpointing which States would not be able to continue their participation in the program if the Federal minimum training and education and Federally-set minimum numbers of inspectors proposed by H.R. 51 were enacted, we have supplied State participation statistics for the very similar (as enacted) rail safety program (Appendix B). The rail safety program, administered by the Department of Transportation's Federal Railroad Administration, has established just such rigid requirements as would be possible under H.R. 51, as it presently reads. An expanded comparison of these two programs can be found in the written statement we submitted, pages 3-5. You will note that only slightly more than 50 percent of the State agencies (27) participate to some extent under the rail safety program, while 52 (all but one) participate in the gas pipeline safety program.

Should you desire any more information about these programs, please do not hesitate to ask. With warm best wishes, I am

Sincerely yours,

MARGO L. JAMES,
Director of Congressional Relations.

APPENDIX A

STATE PARTICIPATION UNDER THE
NATURAL GAS PIPELINE SAFETY ACT OF 1968
AS OF JUNE 11, 1979

<u>STATE</u>	<u>TYPE OF PARTICIPATION</u>
Alabama	C
Alaska	N/A
Arizona	C
Arkansas	C
California	C
Colorado	C
Connecticut	C
Delaware	A
Florida--Fire Marshall	C
--Public Service Commission	C
Georgia	C
Hawaii	C
Idaho	C
Illinois	C
Indiana	C
Iowa	C
Kansas	C
Kentucky	C
Louisiana	C
Maine	C
Maryland	C
Massachusetts	A
Michigan	C
Minnesota	C
Mississippi	C
Missouri	C
Montana	C
Nebraska	A
Nevada	C
New Hampshire	C
New Jersey	A
New Mexico	C
New York	C
North Carolina	C
North Dakota	C
Ohio	C
Oklahoma	C
Oregon	C
Pennsylvania	C
Rhode Island	C
South Carolina	C
Tennessee	C
Texas	C
Utah	C
Vermont	C
Virginia	C
Washington	C
West Virginia	C
Wisconsin	C
Wyoming	C
District of Columbia	C
Puerto Rico	C

C--Certification; full compliance with Act and regulations.
A--Agreement; partial compliance with Act and regulations.

Appendix B

STATE PARTICIPATION AS OF MAY 15, 1979
UNDER FEDERAL RAILROAD SAFETY ACT OF 1970

State	Track	Equipment	Qualified/Trainee Track Inspector	Qualified/Trainee Equipment Inspector
Alabama	C	C	2/0	2/0
Arizona	FC	FC	2/1	2/0
Connecticut	A	--	0/1	--
Florida	C	C	1/0	2/0
Illinois	A	--	3/0	--
Indiana	A	--	1/0	--
Iowa	FC	--	3/0	--
Kansas	A	--	1/0	--
Louisiana	A	--	0/0	--
Maryland	C	FC	1/0	1/0
Massachusetts	--	C	--	1/0
Michigan	C	C	3/0	1/0
Minnesota	A	--	2/0	--
Missouri	A	--	3/0	--
Nebraska	A	--	1/0	--
New Hampshire	A	--	0/1	--
New Jersey	A	--	0/1	--
New York	A	A	3/0	4/0
North Carolina	A	A	0/1	0/1
Ohio	A	A	2/2	1/1
Oregon	FC	FC	2/0	2/0
Pennsylvania	FC	FC	4/0	4/0
Rhode Island	A	C	0/1	1/0
Utah	A	A	0/1	0/1
Vermont	A	--	2/0	--
Washington	FC	FC	2/0	2/0
West Virginia	A	FC	0/2	2/0
TOTALS:	27	5 FC 4 C 17 A	6 FC 3 C 4 A	38/11 25/3

FC--fully certified, total allocation of inspectors aboard
 C--certified, less than full complement, has evidenced intent for FC
 A--agreement, token participation

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., June 6, 1979.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation,
Washington, D.C.

DEAR CHAIRMAN JOHNSON: This is in response to a telephone request of May 22, 1979, from a member of the Committee's staff, Mr. John Fryer, for a legal memorandum concerning the Federal Energy Regulatory Commission's (FERC) statutory authority with respect to the regulation of safety aspects of LNG import/export facilities and/or natural gas pipelines. Or, stated differently, under what authority can the FERC prescribe higher or different safety standards for a pipeline or LNG facility than those imposed by the minimum safety standards prescribed by the Department of Transportation (DOT) pursuant to the Natural Gas Pipeline Safety Act (NGPSA)?

FERC's Jurisdiction. The FERC's predecessor agency, the Federal Power Commission (FPC), exercised broad jurisdiction over the safety requirements of LNG projects and gas pipelines in general. The FPC's mandate to engage in safety regulation was derived largely from the Natural Gas Act (NGA), as amended, 15 U.S.C. 717, *et seq.* Section 7(c) of the NGA requires a certificate of public convenience and necessity to be issued for the construction or extension of facilities used in the transportation or sale of natural gas for resale in interstate commerce. Section 7(e) of the NGA states the requirements an applicant must meet in order for the Commission to issue a certificate, and it further empowers the Commission to attach such reasonable terms and conditions to the issuance of the certificate as the public convenience and necessity may require. It is the public convenience and necessity standard of subsections 7 (c) and (e) upon which the FPC based its authority over pipeline safety by conditioning the grant of certificates upon the applicant's compliance with certain safety requirements.

The FPC also derived authority from section 3 of the NGA to impose safety standards for facilities related to the import and export of LNG. Pursuant to section 3, the FPC had authority to issue orders which authorized the importation or exportation of natural gas. It was the public interest standard of section 3 that authorized the FPC to condition such orders upon the applicant's compliance with safety requirements.

Section 402(a)(1)(D) of the Department of Energy Organization Act (DOE Act), Pub. L. No. 95-91, transferred the section 7 jurisdiction to the FERC. Accordingly, the FERC may continue to exercise jurisdiction over pipeline safety requirements in the manner exercised by the FPC pursuant to section 7 of the NGA.

Section 402(f) of the DOE Act provides, however, that no function which regulates the exports or imports of natural gas shall be within the jurisdiction of the FERC. The export and import authority of section 3 was, therefore, transferred to, and vested in, the Secretary of Energy pursuant to section 301(b) of the DOE Act. The Secretary's export and import authority may, however, be "assigned" in whole or in part to the FERC under subsections 402 (e) and (f) of the DOE Act. In addition, section 642 of the Act allows the Secretary to "delegate" any of his functions to any officers and employees of the Department he may designate, which would include the FERC.

The Secretary's authority to regulate imports and exports of natural gas was originally delegated to the Administrator of the Economic Regulatory Administration (ERA) on October 1, 1977 (Delegation Order No. 0204-4, 42 FR 60726, November 20, 1977).

Subsequently, on October 17, 1978, the Secretary issued two additional delegation orders concerning authority over imports and exports of natural gas—one to the Administrator of ERA (Delegation Order No. 0204-25, 43 FR 47769, October 17, 1978) and the other to the FERC (Delegation Order No. 0204-26, 43 FR 47769, October 17, 1978).

The delegation to the Administrator, which amends Delegation Order No. 0204-4, provides authority to the Administrator to determine whether a proposed import or export of natural gas is not inconsistent with the public interest within the meaning of section 3 of the NGA, based on certain considerations. In considering those aspects of an import or export application within his jurisdiction, the Administrator is also authorized to attach terms and conditions which he determines to be necessary to make the import or export not inconsistent with the public interest. The administrator was not, however, delegated the authority under section 3 of the NGA to approve or disapprove an import or export based upon the construction and operation of facilities, the site at which the facilities are to be located, or the place of entry for imported natural gas, although he may disapprove the siting, construction and operation of particular facilities and the selection of a place of entry on the

limited basis of: (1) with respect to imported natural gas, the security of supply and effect on the U.S. balance of payments; and (2) consistency with DOE regulations or statements of general policy specifically applicable to imports or exports of natural gas.

Finally, the delegation to the Administrator reserves to the Secretary the right to directly administer the functions vested in him if he determines it necessary or appropriate to do so.

With respect to Delegation Order No. 0204-26 to the FERC, the Commission is authorized to exercise all other functions under section 3 of the NGA which are not delegated to the Administrator and which have not been previously exercised by him. Also delegated to the FERC are all functions under sections 4, 5 and 7 of the NGA to the extent that authority under those sections may otherwise have been vested in the Secretary. Pursuant to the Delegation Order, the Commission has the authority to approve or disapprove the construction and operation of particular facilities and the site at which they would be located, and with respect to imports of natural gas, the place of entry. It should be noted that the Commission would determine the applicability of sections 4, 5 and 7 of the NGA in a particular case, subject only to judicial review.

The Commission was also delegated the function of issuing such orders, authorizations and certificates that are necessary or appropriate to implement the respective determinations made by the Administrator (to the extent that the Administrator determines a proposed import or export is not inconsistent with the public interest) and by the FERC. The Delegation Order requires that any authorization of an import or export issued by the FERC under section 3 of the NGA must include any terms and conditions previously attached by the Administrator, although the FERC would not be required to authorize an import or export if it determined that the application, as conditioned by the Administrator, is inconsistent with those provisions of the NGA vested in the FERC to administer or which have been delegated or assigned to the FERC to administer.

In addition to responsibility for the safety aspect of any facility in the Commission's certification procedure pursuant to section 7(c) of the NGA, the FERC has the responsibility pursuant to section 101(b) of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190, as construed by case law, to conduct its own safety evaluation as part of applicable environmental review procedure. See *Calvert Cliffs Coordinating Committee v. Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971).

Case Law Interpreting FERC Safety Authority. A substantial body of case law has evolved with respect to the Commission's safety jurisdiction. The holdings in these cases sustain the conclusion that the Commission has retained the authority to prescribe safety standards of a more stringent nature than those promulgated by DOT under the authority of the NGPSA.

The issuance of a certificate of public convenience and necessity by a regulatory agency, such as the Commission issues through a section 7 proceeding, has consistently been found to be an important public interest function. Courts have found the scope of an agency's authority in this regard to be wide-ranging, including the power to condition the certification.

The granting or denial of a certificate of public convenience and necessity is a matter peculiarly within the discretion of the Commission. *Oklahoma Natural Gas Co. v. Federal Power Commission*, 257 F.2d 634, 639 (D.C. Cir. 1958), quoted in *California Gas Producers Association v. Federal Power Commission*, 383 F.2d 645, 648 (9th Cir. 1967). In a certificate application, public interest is always involved and the Commission, as a guardian of this interest, must determine in every proceeding whether the certificate applied for is in the public interest or whether that interest calls for some other disposition. *Panhandle Eastern Pipe Line Co. v. Federal Power Commission*, 386 F.2d 607 (3d Cir. 1967).

For example, a certificate may be conditioned upon the applicant following a certain route to better meet the requirements of public convenience and necessity. *Municipal Distributors Group v. Federal Power Commission*, 467 F.2d 741, 745 (D.C. Cir. 1972). The Commission has ample authority to attach appropriate protective conditions to the issuance of certificates for the sale of gas. *United Gas Improvement Co. v. Callery Properties, Inc.*, 382 U.S. 223 (1965).

It has been held that the Commission must evaluate all factors bearing on the public interest in determining whether to grant a certificate. *Atlantic Refining Co. v. Public Service Commission*, 360 U.S. 378, 391 (1959), quoted in *Federal Power Commission v. Transcontinental Gas Pipe Line Corp.*, 365 U.S. 1, 8 (1961). Also See *Alice Henry v. Federal Power Commission*, 513 F.2d 395 (D.C. Cir. 1975).

In recognizing the authority of the FPC to attach conditions to certificates, the Court in *Panhandle Eastern Pipe Line Co. v. Federal Power Commission*, 169 F.2d

881, 883 (D.C. Cir. 1948), cert. denied, 335 U.S. 854 (1948), noted "Sec. 7(e) of the Act expressly authorizes the Commission to attach reasonable conditions to the issuance of the certificate and to the exercise of the rights attached thereunder." In this instance, the FPC granted the certificate upon condition that the company obtain approval of the Securities and Exchange Commission for its proposed financing plans, and the Court upheld the FPC's power to do so.

The Commission has a duty to exercise safety regulation in connection with its other responsibilities under the NGA. The FPC recognized this duty early in its history, and, accordingly, the safety and well being of the Nation were considered by the FPC in deciding whether to grant a certificate of public convenience and necessity for construction of a gas pipeline to support a facility operated by the Atomic Energy Commission. *National Coal Association v. Federal Power Commission*, 191 F. 2d 462 (D.C. Cir. 1951).

In *Panhandle Eastern Pipe Line Co.*, 39 FPC 581 (1968), a certificate proceeding involving a dispute between a municipal customer and pipeline as to additional facilities, a safety question arose as to the upgrading of a 36-year old delivery lateral. The Commission, agreeing with the Hearing Examiner's decision, found that upgrading would only be a temporary solution involving safety risks, so the plan was rejected as being unsound.

The FPC in *Mississippi River Transmission Corp.*, 41 FPC 741 (1969), authorized pipeline replacement, basing its decision on safety improvement, among other factors.

Upon passage of the NGPSA the FPC began, in accordance with the terms of the Act, to certificate applicants provided they had complied with the minimum safety standards of the Act. See *Montana-Dakota Utilities*, 45 FPC 1220 (1971); *Michigan Wisconsin Pipe Line Co.*, 47 FPC 936 (1972); and *Tennessee Gas Pipe Line Co.; Sea Robin Pipe Line Co.*, 47 FPC 1417 (1972).

With respect to LNG, it was determined in *Distrigas Corporation*, 47 FPC 752 (1972), Opinion No. 613, that LNG is "natural gas" within the meaning of the NGA, and that the FPC had jurisdiction over it to the same extent it had jurisdiction over natural gas in gaseous form. As noted above, pursuant to section 3 of the NGA, the FPC had authority to issue orders which authorized the importation or exportation of natural gas, provided the proposed importation or exportation was consistent with the public interest. The FPC's jurisdiction with respect to LNG safety was strengthened in *Distrigas Corporation, et al. v. Federal Power Commission*, 495 F. 2d 1057 (D.C. Cir. 1974), cert. denied, 419 U.S. 834 (1974). As presented to the Court, that case involved transportation and sale of the LNG solely within the state of importation (Massachusetts); thus, the FPC has no jurisdiction under section 7 of the NGA, which is premised on interstate sales and transportation.

The Court of Appeals held that the FPC could impose on the imports of natural gas by *Distrigas* the equivalent of section 7 requirements as a proper exercise of its section 3 authority if the Commission found that the application of such requirements to imports was necessary or appropriate to the public interest. The Court stated that the section 7 certification requirements applied both as to facilities and as to sales within and without the state of importation. *Distrigas*, therefore, prevents a regulatory gap from resulting where an importer of LNG proposes to make no interstate sales.

The authority delegated to the FERC in Delegation Order No. 0204-26, *supra*, transfers to the Commission the section 3 siting and safety jurisdiction that the FPC derived from the *Distrigas* case.*

Under NEPA guidelines, the Commission requires the presentation of more detailed information on safety for LNG facility certification. The substantive safety provisions of NEPA as they apply to Federal agencies may be found in section 101(b) of that Act:

Sec. 101(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means consistent with other essential considerations of national policy to im-

*It should be noted that the delegation order does not apply to the *Pac Indonesia* proceeding in ERA Docket No. 77-001-LNG. Pursuant to section 705 of the DOE Act, a final rule was promulgated on October 1, 1977 (42 FR 55534, October 17, 1977), which transferred the proceeding in *Pacific Indonesia LNG Co., et al.*, Docket No. CP74-160, et al., from the FPC to the Secretary of Energy. Those proceedings concern the receipt and processing of LNG from Indonesia. They are unique due to the final rule promulgated pursuant to the DOE Act; any future applications for the importation of LNG would be processed pursuant to the mechanism provided for in Delegation Order Nos. 0204-25 and 0204-26.

prove and coordinate Federal plans, functions, programs and resources to the end that the Nation may—

- * * * * *
- (2) assure for all Americans safe * * * surroundings;
 - (3) attain the widest range of beneficial uses of the environment without * * * risk to * * * safety.

The substantive policies contained in section 101 of NEPA are to be applied by Federal agencies through an implementation of the procedures described in section 102. Section 102(2)(C) of NEPA describes the procedures for the formulation of the environmental impact statement. Final environmental impact statements are also required to evaluate all reasonable alternatives and conditions that may be attached to the issuance of a certificate of public convenience and necessity. *National Resources Defense Council, Inc., v. Morton*, 458 F.2d 827 (D.C. Cir. 1972).

A major Federal action having a significant impact on the quality of the human environment triggers the necessity for the compilation of an impact statement. Certificate applications for LNG import facilities are virtually always major Federal actions involving major questions of siting, safety and potential environmental impact. The U.S. Court of Appeals held in *Davis v. Morton*, 469 F.2d 593, 597 (10th Cir. 1972) that "the only involvement necessary by the Federal Government to constitute a major Federal action is approving or licensing [a] project."

The Court in *Davis v. Morton* cited *Greene County Planning Board v. Federal Power Commission*, 455 F.2d 412 (2nd Cir. 1972), cert. denied, 409 U.S. 849 (1972), as authority for its holding. *Greene County* involved the licensing procedures of the FPC in a proceeding upon the application of the Power Authority of the State of New York for authorization to construct a high voltage transmission line. The court in *Greene County* held that the FPC could not delegate away its NEPA mandated duties to prepare its own environmental impact statement. This precedent was established in *Calvert Cliffs Coordinating Committee v. United States Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971).

In *State of Louisiana v. Federal Power Commission*, 503 F.2d, 844, 875 (5th Cir. 1974), the Circuit Court stated:

NEPA's purpose is to make an agency consider the environmental effects of its actions; the impact statement requires the agency fully to disclose that evaluation thus proving the evaluation has been made and warning interested parties of the probable environmental effects.

This litigation arose out of a gas curtailment proceeding under section 4 of the Natural Gas Act.

CONCLUSION

From the above analysis, it may be concluded that the Commission:

- (1) must consider public safety factors in granting certificates of public convenience and necessity;
- (2) in granting certificates of public convenience and necessity for LNG storage facilities, the Commission has made public safety an important criterion;
- (3) the NGPSA was not intended to preclude analysis of safety factors by the Commission; and
- (4) as a result of such authority, the Commission can impose additional safety requirements on certificates of public convenience and necessity relating to LNG storage facilities.

We hope this information will be helpful to your Committee in its preparation for hearings concerning pipeline safety legislation. Please let us know if we can be of further assistance.

Sincerely yours,

ROBERT R. NORDHAUS,
General Counsel.

STATEMENT OF PAUL G. DORAN

Good morning, Mr. Chairman. I am Paul Doran, President of Texas Eastern Products Pipeline Company. Accompanying me are James S. Brown of Union Oil Company and Patrick H. Corcoran, Executive Director of the Association of Oil Pipelines.

I am appearing before you, today, on behalf of the American Petroleum Institute (API) and the Association of Oil Pipe Lines (AOPL), which together represent virtually all U.S. companies that transport liquid petroleum and its products by pipeline. In addition, API represents a majority of the Nation's gatherers of natural gas and liquid petroleum. Therefore, our views and concerns relate to both liquid

petroleum pipelines, addressed in Title II, and natural gas and petroleum gathering lines, addressed in Titles I and II.

After careful review, we believe S. 411 should be withdrawn in its entirety for the following reasons:

First: The bill is a solution looking for a problem. The proponents of S. 411 have not been able to demonstrate any need for this bill. Under existing law the liquid petroleum pipeline industry has established a safety record unparalleled among U.S. transportation modes. The sweeping kind of legislation that Title II of S. 411 represents is, therefore, totally unwarranted.

Second: Addressing both natural gas and liquid petroleum pipelines in the same bill, albeit under separate titles, encourages continued confusion over the distinct differences which exist in the design, construction and operation of these types of pipelines.

Third: S. 411 would impose substantial inflationary costs on the public through duplicative government redtape.

Fourth: At a time when it is more critical than ever to move energy efficiently from its source to the consumer, S. 411 would only create delays and procedural hurdles with no corresponding benefit to the public.

Fifth: In addition to trunk lines and distribution lines, S. 411 would apply to production facility flow lines and gathering lines, most of which operate at low pressure and are often measured in feet rather than miles.

And finally: By terminating the Technical Pipeline Safety Standards Committee the bill would eliminate a valuable means of securing technical and public sector input into the regulatory process—input that is sorely needed.

I would now like to discuss each of these points in somewhat greater detail.

First: There is no need for S. 411. Under existing law, the nation's liquid pipeline systems and gathering lines have established a safety record that is prima facie evidence that additional legislation is not needed. The liquid petroleum pipeline industry is responsible for shipping approximately one quarter of the entire nation's intercity freight (all commodities). Yet, during the period January 1, 1968 through December 31, 1977, according to statistics reported by the DOT, liquid petroleum pipelines caused an average of 5.5 deaths per year—by far the best safety record of any mode of transportation.

I have attached the 1977 report of the National Transportation Safety Board which graphically illustrates the relative safety of liquid petroleum pipelines. The industry's practices, which make this outstanding record possible, were explained in the attachment to Mr. Dean B. Taylor's statement on liquefied energy gases before the Senate Commerce Committee, December 13, 1978.

In light of these industries' unparalleled safety record, generating more and more measures to regulate them can only serve to create additional bureaucratic expense and increase the costs of energy to the consumer. It may even serve to displace pipeline transportation in favor of other modes known to be less safe for the citizens of this nation.

Nonetheless, the apparent intent of the U.S. Department of Transportation and other proponents of S. 411 is to establish statutory authority to formulate a new set of regulations for liquid petroleum pipelines which would closely resemble the present regulations for natural gas pipelines.

In referring to the Department of Transportation, we would also like to point out that comments in Secretary Adams' transmittal letter to S. 411 relative to coverage of liquid petroleum pipelines under the Transportation of Explosives Act (TOEA) are, in our opinion, misleading. The TOEA of 1909 (18 USC 831-835) was amended in 1921 (41 Stat. 1445) to confer jurisdiction on the ICC to regulate pipelines for safety purposes. Over the next 20 years, the ICC reviewed the industry's safety practices several times. Each time, it determined that the safety standards were adequate and that no additional safety regulation was needed.

An amendment to the TOEA inadvertently excluded pipelines during 1960-1965. In 1965, however, the industry supported amendments to the TOEA to reaffirm federal government jurisdiction over liquid petroleum pipeline safety. At that time, Congress reviewed liquid petroleum pipeline safety again, and again it concluded that there was no need for additional regulation.

During the ensuing twelve years, the Department of Transportation has modified liquid petroleum pipeline regulations many times. In that period, the volume of petroleum shipped by pipeline increased dramatically but petroleum pipeline accidents steadily decreased.

Recently, the DOT has proposed a number of new regulations, related particularly to pipeline transportation of "highly volatile liquids," which include liquefied petroleum gas and anhydrous ammonia. A copy of these proposals, and industry responses to each, is attached to this statement for your review.

We are not aware of any challenges to the Department's authority to promulgate pipeline safety regulations under the TOEA. Therefore, the creation of sweeping new legislation under the guise of a "cleanup" of legislative authority for liquid petroleum pipelines is simply not warranted.

The second reason we believe S. 411 should be withdrawn is that there are numerous differences between liquid petroleum and natural gas pipelines which argue against their being regulated with the same umbrella legislation.

The differences in design, construction and operation of liquid petroleum and natural gas pipelines are great. It is true that the chemical composition of natural gas and liquid petroleum and its products is similar in that they are all of the hydrocarbon family. However, their physical properties are quite different, including flammability ranges, ignition temperatures and specific gravity. Gases are also more highly compressible than liquids and require facilities which can withstand the latent energy of natural gas.

The design parameters and construction of pipelines for natural gas are, therefore, different than for liquid petroleum pipelines. For example, the prime movers in each kind of pipeline system are drastically different in design and piping configuration. Gas pipelines and liquid lines both use reciprocating and centrifugal-type equipment. But they are not interchangeable, since the physical characteristics, such as compressibility, require distinct facilities. Because of its compressibility, gas also favors high pressure lines, with the result that suction pressure at the inlet of compressors is much higher than in liquid pumps. This means that gas pipelines can be operated at a higher average stress level than liquid lines.

At the pipeline end, the distribution patterns also differ. Gas is delivered to residences, schools, businesses or industrial plants through a multitude of small line distribution systems. Liquid fuels are delivered to large storage facilities for ultimate delivery to the consumer, usually by truck, rail or barge.

Because of the design variations I have described, operations of the two types of lines are different. For the most part, different skills are needed by operating personnel because of the dissimilar physical properties. The operation of liquid pipeline facilities is quite complex. It calls for sequential handling of multiple products or grades of crude oil. It also requires segregation in tankage or switching to different lines for delivery at marine, truck or rail loading facilities. By contrast, operation of natural gas facilities remains fairly constant on a day to day basis except for pressure variations which may occur as line operations change.

Congress, the Department of Transportation and the industry have traditionally recognized these differences by maintaining separate laws, regulations and technical codes for each type of pipeline system. We strongly recommend that this practice continue so that the special requirements of each type of pipeline system may be appropriately addressed.

Our third reason for opposing S. 411 is that it imposes costs which are wasteful and inflationary.

We believe that S. 411 runs directly counter to President Carter's announced desire to curb needless legislation and regulation and to combat inflation. If S. 411 were to become law, the costs to the country in increased administrative burdens to industry and government would be enormous.

In this transmittal letter to S. 411, Secretary Adams barely mentions the costs which the bill represents, and, then, he simply states his opinion that they would be insignificant. We believe that the Department of Transportation has an obligation to present an accurate evaluation of the potential costs of this legislation.

Ironically, the Department did state that the \$400,000 estimated annual costs (1975 figures) to satisfy the reporting requirements of the Mineral Leasing Act for 5,500 miles of federally controlled pipelines "... are not commensurate with the safety benefits desired ...".¹ If proportionate costs were applied to the 1,750,000 miles of privately owned natural gas and liquid petroleum pipelines, the annual cost to the consumer would be \$117,000,000, not including costs to the taxpayer for large increases in staff to implement S. 411. Yet, Mr. Adams' transmittal letter does not address these cost impacts.

We believe that it is incumbent upon the proponents of this legislation to demonstrate why added restrictions on the safest mode of transportation in the United States justify wasteful costs to the nation.

The fourth reason for withdrawing S. 411 is that it will cause delays in providing energy to U.S. consumers.

The Department of Transportation has optimistically suggested that imposition of S. 411 and its pre-construction approval requirement would not create delays in pipeline construction. But the need for governmental agency approvals has always

¹ Congressional Record, February 9, 1979, pg. S1438

delayed project completions. It is wishful thinking to suggest it will be otherwise. We should at least have learned something from the years of delay in building the Trans-Alaska Pipeline and the recent cancellation of the Sohio Pipeline (from California to Texas) precisely because of delays in getting some 700 approvals.

The nation needs energy for its continued well-being and security. An efficient transportation system—the key to which is pipelines—is critical for its timely delivery. The kinds of delays which S. 411 would create are as unwise as they are unnecessary. In short, this is simply not the time to increase the difficulties involved in moving energy from its source to its ultimate consumer.

Turning now to some of the specific provisions of S. 411, we believe there are several which are arbitrary, unnecessary, and duplicative extensions of Department of Transportation authority. I would like to cite a few of the major problems.

First, definitions. The bill introduces a new term in liquid petroleum pipeline transportation. Section 203(2) defines "hazardous liquid" as "a substance or material which is in liquid form (excluding liquefied natural gas) . . . which, as determined by the Secretary, may pose an unreasonable risk to life or property when transported by pipeline facilities. . . ." The definition includes "petroleum, petroleum products, and any other liquid that is flammable, corrosive, or toxic."

The introduction of this term serves no purpose other than to imply that pipeline transportation of liquid petroleum and its products is in some way particularly dangerous. This is not true, as the safety record indicates. The introduction of this term, therefore, creates an unwarranted and distorted impression of dangers inherent in this transportation mode.

The introduction of this new term is all the more confusing and inappropriate in light of DOT's own use of the term "highly volatile liquids," which includes liquefied petroleum gas and anhydrous ammonia, in its recent rulemaking proposals.

Moreover, the definitions for "pipeline facilities" could be interpreted to include storage and in-plant piping systems used in production, refining, and marketing functions of the petroleum and natural gas industries. However, these are areas in which DOT has neither expertise nor any legitimate role.

The second problem is pre-construction approval. S. 411 would give the Secretary of Transportation authority to grant or withhold pre-construction approval not only for all U.S. liquid petroleum pipelines, but also for all oilfield production facilities, such as gathering lines, wastewater lines, water injection lines and fuel lines. This would cause delays in service and higher costs for those pipelines selected for review, despite DOT's stated intention to minimize such delays. The concept of allowing the Secretary discretionary power to arbitrarily select lines for pre-construction review, without specific guidelines for such action, would interfere with the pipeline companies' ability to plan efficiently and provide the best possible service for shippers and consumers.

Presumably, the criteria which the Secretary would use to determine whether a pipeline should be granted a pre-construction approval are the same design and construction requirements which now exist as regulations (in 49 CFR Parts 192 and 195). The only justification for including such a provision in S. 411, therefore, would be the industry's failure to comply with current regulations. Since this is not the case, there is no reason for this arbitrary extension of the Secretary's powers.

The third problem lies in the area of extension of DOT jurisdiction to regulate liquid petroleum intrastate pipelines. There is no evidence to suggest that the states have been deficient or that there is a problem that they have not addressed. Moreover, federal-state arrangements, such as those set forth in section 205, have the potential to be an administrative burden due to multiplicity of agencies (each with jurisdiction, duplication of inspectors, reports, etc., and the probability of jurisdictional disputes).

We also believe that the degree of jurisdiction asserted by section 205 over intrastate pipelines raises serious constitutional questions under the Commerce Clause of the Constitution (Art. I, § 8, cl. 3).

The fourth problem is the judicial review of standards. The applicable scope of judicial review under the proposed legislation is unclear. Section 204 provides that regulations will be issued pursuant to the "informal" rulemaking procedures of section 553 of the Administrative Procedure Act (5 U.S.C. §§ 551-559, 701-706). Section 206(b) provides only that a reviewing court "shall have jurisdiction . . . in accordance with chapter 7 of title 5. . . ." Section 706 of the Administrative Procedures Act contains two standards of review: the "arbitrary and capricious" standard and the arguably more stringent "substantial evidence" standard. Uncertainty as to the applicable standard of judicial review would not further the Congressional objective of improving safety of liquid pipelines—even if there were, in fact, a need to improve their safety record.

The fifth problem is in the provision for inspection and maintenance. The requirement to forward pipeline inspection and maintenance plans to the Secretary or to an authorized state agency will automatically require the addition of competent reviewers to the agency's staff. This will not only be costly, it will also provide little likelihood of improvements in pipeline safety. The pipeline companies will also incur higher costs for preparing and handling additional reports and updating information.

Moreover, present DOT regulations already require written operation and maintenance plans for pipeline systems. These plans are ordinarily inspected by DOT personnel at the same time they inspect other records of the carrier. This has proved an efficient and economical way to review such plans. If necessary, a particular plan could be forwarded to the Secretary, upon request, for further evaluation. However, this would not require special legislation.

Finally, there are the powers and duties of the Secretary. S. 411 grants the Secretary the power to issue subpoenas and gives the Secretary entry rights, at his discretion, without warrant. We believe the power granted is far too sweeping to meet the legitimate needs of the agency in inspecting pipelines. In all cases, we believe inspection procedures should be consistent with this nation's due process laws and rights of pipeline owners.

Mr. Chairman, this concludes my remarks. We would be pleased to answer any questions you or other members of the Committee may have at this time.

Thank you.

