

STATEMENT OF DR. JAMES D. PALMER, ADMINISTRATOR OF THE  
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TRANSPORTATION, BEFORE THE SENATE COMMERCE, SCIENCE AND  
TRANSPORTATION SUBCOMMITTEE ON CONSUMER

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Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to discuss with your Subcommittee the Department of Transportation's (DOT) pipeline safety programs and, in particular, to express our strong support for Senate bill 411. In addition to authorizing appropriations for DOT's pipeline programs for fiscal years 1980 and 1981, S. 411 provides DOT with the needed ability to more effectively and efficiently carry out those programs.

As you know, Secretary Adams, in testimony before Senator Cannon on February 8 of this year, detailed the more important pipeline safety activities undertaken by the Department in the last year. These included a reorganization of the Materials Transportation Bureau (MTB) for better management of the pipeline programs, increased staffing to almost 90 percent of authorized positions, achieving the long-awaited permanent appointments for the directors of MTB and the Office of Pipeline Safety, the large and sustained effort on our comprehensive LNG rulemaking proposal, and concerted rulemaking action aimed at reducing the risks associated with the pipeline transportation of highly volatile liquids. Rather than repeat the Secretary's testimony, I merely echo his belief in the importance of these activities to the public safety.

No less important is the continued improvement in the cooperative Federal/State relationship on pipeline safety. The pipeline safety program in the United States is dependent, in large part, upon the representatives of State offices

who carry out compliance and enforcement responsibilities. 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 S. 411 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.

I would like to now turn my attention to Senate bill 411. Again, I will not take the Subcommittee's time by repeating the detailed discussion on S. 411's provisions that was contained in the Secretary's February 8, testimony. Rather, I will speak to the need for this legislation.

Based on the good Federal/State relationship, the cooperative interplay between DOT and industry, and the 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 Senate bill 411, 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 S. 411 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 S. 411, 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 (1971-1978), 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 S. 411 would provide for uniform Federal standards for these 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 Senate bill 411 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.

issue you find that no one solution presents itself as a panacea. Sometimes it becomes necessary to get a fix on technology as it exists, instead of waiting to see what is just around the corner that may be better. My sentiment is that we should do that with cabin materials. I intend to bring this issue to a near-term resolution. I don't want to appear before you in two or three years, or for a successor of mine to have to do so, to tell you that we are still wrestling with the problem. The FAA is going to grab on to this issue and we are going to make the best decision we can with what we now know. I will keep this Subcommittee fully apprised of our progress toward that goal through written reports and briefings, if you like. Further, the issue of cabin materials will be the first subject we will ask the SAFER Committee to tackle when they meet in two weeks. We expect them to be of substantial assistance to us as we move toward a prompt resolution of this problem which has been with us too long.

Mr. Chairman, that completes my prepared statement. My associates and I would be pleased to respond to any questions you may have at this time.

