

STATEMENT OF M. CYNTHIA DOUGLASS, ADMINISTRATOR  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
BEFORE THE  
SURFACE TRANSPORTATION SUBCOMMITTEE  
OF THE  
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
APRIL 24, 1984

Good morning. I am delighted to be here today in my new capacity as Administrator of the Research and Special Programs Administration (RSPA) to discuss authorization of our pipeline and hazardous materials transportation safety programs.

My statement today will highlight the recent progress we have made toward fulfilling our mandates under the three statutes that guide RSPA's program - the Natural Gas Pipeline Safety Act of 1968 (NGPSA), the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA), and the Hazardous Materials Transportation Act of 1974 (HMTA).

We are seeking the following authorizations for fiscal year 1985:

- o Under the NGPSA, a total of \$6.9 million - \$3.4 million for the associated expenses of the Federal natural gas pipeline safety program conducted by the Materials Transportation Bureau and \$3.5 million for grants-in-aid to help support state-administered gas pipeline safety programs;
- o Under the HLPSA, \$900,000 to carry out the hazardous liquid pipeline safety program; and
- o Under the HMTA, \$7.3 million to meet our hazardous materials transportation safety responsibilities.

## PIPELINE SAFETY

### Natural Gas Pipeline Safety Act

The Natural Gas Pipeline Safety Act (NGPSA) of 1968 provides for Federal safety regulation of facilities used in the transportation of natural and other gases by pipeline. The NGPSA provides a framework for assuring pipeline safety that comprises three components - the primary jurisdiction of the Federal government over interstate pipelines, the State program mechanism by which States oversee intrastate pipeline safety, and an agency relationship between the Federal government and the States whereby the latter exercises the inspection authority of the Federal government on interstate pipelines. The Department's responsibility for safety regulation of natural gas pipelines involves more than 2,300 operators of a gas pipeline network of over 1.5 million miles.

The cornerstone of the Federal gas pipeline safety program is the cooperative program we have established with the States. The NGPSA provides that States that undertake to establish regulatory and enforcement authority for intrastate natural gas pipelines may be reimbursed for up to 50 percent of expenses incurred in running their programs. Participating States have adopted the Federal pipeline safety regulations and enforce them with sanctions substantially the same as those employed by the Department. The Federal government is currently reimbursing the States for approximately 30 percent of their costs.

The efforts of State programs have encouraged natural gas pipeline operators to devote increased resources and improved state-of-the-art technology to the design, construction, operation, and maintenance of their systems and to develop more effective training and public awareness programs. Operator improvements have mitigated the deterioration of thousands of miles of pipelines and have resulted in the replacement of substantial portions of obsolete and degraded systems.

The most tangible indication of the success of RSPA's natural gas pipeline safety program is the reduction we have seen in the number of pipeline accidents and casualties resulting from those accidents: gas pipeline accidents decreased 24 percent between 1978 and 1983, fatalities resulting from such accidents declined 61 percent and injuries 39 percent in the same period.

The most common cause of serious pipeline accidents is outside force damage, usually caused by excavation or drilling and usually beyond the control of a pipeline operator. In an attempt to reduce such accidents, RSPA a year ago put into effect new pipeline regulations to require pipeline operators to participate in damage prevention programs. These programs, typically involving the participation of the pipeline operator in a local "one-call" utility locator system, serve to alert persons contemplating excavation in the area where a pipeline is located of the exact placement of the pipe so that it may be avoided.

We are in the process of evaluating the impact of the new standard. Early indications are that it is having the intended effect of reducing outside force damage to pipelines, and, thus, of reducing serious pipeline accidents still further.

#### Hazardous Liquid Pipeline Safety Act

The Hazardous Liquid Pipeline Safety Act (HLPSA) of 1979 granted the Department of Transportation substantial new regulatory authority over pipelines transporting hazardous liquids (e.g., gasoline, fuel oil) that mirrors that granted by the NGPSA for gas pipelines. The act includes provisions that allow for Federal safety standards for hazardous liquid pipelines; a Federal/State partnership for regulating intrastate pipelines with Federal financial assistance to State agencies participating in the program; and establishment of civil enforcement remedies for violations of the Federal standards.

RSPA has exerted its authority over interstate hazardous liquid pipelines, but has delayed formal implementation of the Federal/State cooperative program over intrastate hazardous liquid pipelines to allow States the necessary time to determine the extent of intrastate involvement, to enact enabling legislation, and to develop the other regulatory tools required to administer statewide programs.

Sixteen States have now established jurisdiction including California and Texas and six others are seeking jurisdiction from their State legislatures for intrastate hazardous liquid pipelines. Most of the States we consider to be essential to a successful Federal/State partnership program for hazardous liquid pipelines - that is, those with significant liquid pipeline populations - have established or are seeking jurisdiction. In support of these State program developments, last month we issued a notice of proposed rulemaking to extend application of the Federal regulations to intrastate hazardous liquid pipelines. This represents the first step toward implementation of a cooperative Federal/State program for hazardous liquid pipeline safety.

One additional pillar of both pipeline safety programs has been the establishment of technical pipeline safety advisory committees. These committees, mandated by statute, are composed of representatives of industry, government and the public. The committees meet periodically and give the RSPA advice on our pipeline safety regulatory program. The work of these committees has helped to assure the success of our program.

## HAZARDOUS MATERIALS

The Hazardous Materials Transportation Act of 1974 provides the primary legislative authority for our hazardous materials safety program. That act makes DOT responsible for assuring the safe transportation of hazardous materials by all modes.

To meet this responsibility, RSPA conducts a multi-faceted regulatory program that consists of five interrelated parts:

- o We develop and maintain regulations governing all aspects of hazardous materials transportation;
- o We provide for enforcement of the regulations to assure industry-wide compliance;
- o We train those charged with enforcing the regulations;
- o We interact with constituency groups concerned with hazardous materials transportation safety; and
- o We provide assistance to those who must respond to hazardous materials transportation accidents.

I would like to address each of these program parts in turn.

### Regulatory Program

The RSPA develops and issues regulations governing hazardous materials transportation by all modes (excluding bulk transportation by vessel, standards for which are developed by the U.S. Coast Guard). The Federal regulations cover definitions and descriptions of hazardous materials; hazard communication, including preparation of shipping papers, package labeling, and vehicle placarding; packaging requirements and specifications for containers authorized for shipment of hazardous materials; and loading and handling procedures for shippers and carriers. The regulations apply to air, rail, vessel, and highway transport.

Recent accomplishments of the hazardous materials regulatory program include:

- o An ongoing program of regulatory revision and reform that has made substantial progress toward clearer, more concise regulations that allow for technological advances and innovative practices. In 1984, we expect to complete revision of the standards applicable to transportation of explosives to eliminate areas of confusion and redundancy and to make them consistent with international shipping standards.
- o Last month we issued, in concert with EPA, rules requiring the use by transporters of hazardous wastes of a Uniform Hazardous Waste manifest form. This form will facilitate the implementation of the mandate of the Resource Conservation and Recovery Act that hazardous wastes be tracked from the point of generation to the point of final disposal. The Uniform Manifest has the added benefit of replacing a multiplicity of State manifest forms, thereby contributing to a greater likelihood of compliance by transporters.
- o Review and improvement of the regulations applicable to cargo tanks used to transport hazardous materials. In 1983, RSPA established a new specification for the manufacture of cargo tanks that carry cryogenic liquid and added greater flexibility for use of certain tank cars and cylinders for cryogenic liquid service. This rulemaking resulted from an operating history developed over several years under exemptions issued by DOT.

- o Continued leadership in the work of international standards-setting organizations to promote both enhanced safety and an increased level of international regulatory harmony that simplifies the movement of hazardous commodities between nations. In this regard, we are proceeding with development of a notice of proposed rulemaking that would incorporate the accepted international scheme of performance standards for non-bulk hazardous materials packagings into the domestic hazardous materials transportation regulations.

#### Enforcement Program

Responsibility for enforcement of the Federal hazardous materials transportation regulations is divided among several of the Department's operating administrations. RSPA is responsible for enforcement of regulations other than those applicable to a single mode of transportation. We thus place primary emphasis on enforcement of regulations for manufacturers, reconditioners, and retesters of DOT specification containers and multimodal shippers of hazardous materials. The other operating administrations -U.S. Coast Guard, Federal Aviation Administration, Federal Highway Administration, and Federal Railroad Administration - retain jurisdictional responsibility for enforcement action relating to transportation by water, air, highway, and rail respectively.

Because of the vast numbers of trucks carrying hazardous materials, the assurance of regulatory compliance is virtually unachievable through an exclusively Federal enforcement effort. A Federal/State enforcement effort is absolutely essential to the Federal regulatory program. Therefore, several years ago, we established the State Hazardous Materials Enforcement Development Program. The purpose of the program was to engage the States in complementary enforcement activities. Under this program, we furnish technical and financial support to states that have provided for adoption of the Federal hazardous materials transportation safety regulations. Our assistance enables states to develop enforcement capabilities within existing public safety agencies (most commonly the highway patrol), thereby vastly increasing resources devoted to enforcing nationally uniform transportation safety standards. Twenty-five States have received Federal assistance under this program.

Last year the program was boosted by Congressional passage of the Surface Transportation Assistance Act. Section 402 of that Act created a new grant-in-aid program for motor carrier safety enforcement, administered by the Bureau of Motor Carrier Safety, a large share of which concerns hazardous materials. Members of the Senate Commerce Committee were the original sponsors of this provision.

By the close of Fiscal Year 1985, we are hopeful that all 50 States will have essentially adopted the Federal hazardous materials transportation standards and be participating in this program.

While this Federal/State cooperative effort will greatly enhance our hazardous materials transportation safety program, there remain hazardous materials enforcement problems that require capability not available within the States or within the DOT modal administrations responsible for enforcement. Accordingly we have requested FY 1985 appropriations to enable a small but critical expansion of the current RSPA enforcement effort. This increase in appropriations will enable the RSPA to hire seven enforcement specialists with the management and technical capability needed to handle transportation problems that transcend geographical boundaries, modal limits, or agency jurisdictions. With the cooperation of state and local governments, other Federal agencies, foreign countries, and international agencies concerned with hazardous materials transportation, the augmented RSPA enforcement staff will investigate major cross-cutting non-compliance problems and be able to move quickly to effect appropriate corrective actions. Your support of this expansion of our program would be most helpful.

### Training

A particularly important aspect of the national program to assure safety in the transportation of hazardous materials is the provision of appropriate training to the public and private sector personnel who work in the field.

Under the Hazardous Materials Transportation Act, DOT's primary role is one of accident prevention through standard-setting and enforcement. Our major training effort, therefore, is directed at Federal and state enforcement personnel.

The Secretary of Transportation established the Transportation Safety Institute (TSI) in 1971 as part of the Department's effort to reduce the number of transportation accidents in the United States. In broad terms, TSI's mission is to improve transportation safety and security management, technology, and operating procedures by designing and conducting training programs responsive to modal and intermodal requirements. Hazardous materials transportation safety is one of the subject areas for which TSI provides training services. This training is made available to Federal, state, and local government personnel, as well as to industry and international government agencies.

Until recently, the bulk of TSI's training program was available only at its training center in Oklahoma City, which meant that class size was limited and that state and local governments had to provide travel and living expenses for those sent to TSI for training. In the last several years, however, TSI has implemented a program designed to make hazardous materials training courses more generally available, more easily accessible, and less expensive to attend by conducting a series of training programs at various field locations throughout the country. The sessions have been well-received and very well-attended, and current plans call for this decentralized approach to continue and expand as resources permit.

RSPA has developed a self-study course for state enforcement specialists which TSI has used very successfully in combination with its own resident enforcement training. When an enforcement specialist completes the self-study course prior to attending TSI training, that enforcement specialist requires only one week of resident training compared to the normal two weeks needed without prior home study. This approach to training allows us to provide technical information and guidance to a significantly greater proportion of our constituency than could be reached within the same budget by exclusive reliance upon direct classroom instruction.

### Constituent Consultation

Another very important part of our hazardous materials transportation program is our contact and interaction with members of the regulated community, concerned public citizens, and the State and local government officials responsible for implementing related government policy at a regional level.

RSPA has engaged in close and frequent dialogue with representatives of state and local government, other concerned Federal officials, and with industry organizations. Our contacts with these parties have generally been informal. A number of recent suggestions from various program constituents have persuaded us that our process for obtaining advice and information from knowledgeable and interested outside parties should be made more formal and structured.

We have accordingly established a new National Hazardous Materials Transportation Advisory Committee, under authority of HMTA and the Federal Advisory Committee Act, to advise the Secretary on matters relating to our hazardous materials safety program. We expect it to provide a uniquely apt forum for the development, consideration, and communication of information from a knowledgeable independent perspective. The Committee will be a valuable resource for identifying issues of common concern, evaluating approaches and solutions, and communicating broad-based, non-Federal recommendations resulting from joint deliberations.

### Emergency Response

The aforementioned developments give me confidence that we are moving surely and steadily towards an effective national scheme for enforcing the hazardous materials safety regulations. But even so we cannot eliminate all accidents involving the release of hazardous materials.

In the event of such an accident it is vital that efforts to mitigate the hazards be initiated as rapidly as possible. For this prompt response to be possible, a number of actions must be taken, including: (1) notification of appropriate Federal, State, and local government agencies that a hazardous materials incident has occurred; (2) proper identification of the physical or chemical properties of the released material; (3) determination of the most effective way to safeguard life, property, and facilities from the associated hazards; and (4) use of the most effective methods to clean up the spill and to restore normal conditions. State and local jurisdictions have the primary role in responding to transportation emergencies because of the infinite number of possible accident sites, the wide range of materials which may be involved, and the critical need for immediate action. Our primary objective in the area of emergency preparedness is to assist local jurisdictions by providing guidance and information for emergency response.

An important, RSPA-supported mechanism for assisting government agencies in providing emergency services when hazardous materials incidents occur is the Coast Guard-operated National Response Center (NRC). The NRC, which was established in August 1974, provides a communications network which can notify appropriate State and local officials of a hazardous materials incident.

The NRC is data-linked to CHEMTREC, a service of the Chemical Manufacturers Association, which provides a centralized source of chemical emergency response information and assistance on a round-the-clock basis. CHEMTREC does not operate under a legislative mandate, but rather is a chemical industry-supported system for providing assistance to anyone requesting help during an emergency arising from the accidental release of chemicals. CHEMTREC maintains a data base containing specific information concerning more than 18,000 chemicals. Both the NRC and CHEMTREC response centers provide toll-free, 24-hour service to emergency services personnel who are responding to hazardous materials incidents.

As part of the effort to improve emergency response capabilities at the state and local levels of government, we have developed and distributed to all known State and local fire and police departments a Hazardous Materials Emergency Response Guidebook (ERG). The ERG is designed to meet the needs of various government agencies directly involved in responding to accidental releases of hazardous materials during transportation, and is being biennially updated to reflect changing information and technology. Under a mandatory identification system, four-digit numbers identifying the hazardous material being transported must be shown on orange display panels or on the placards that are required on tank trucks, rail cars, and portable tanks carried on vehicles. The ERG enables persons who are unfamiliar with chemical names to identify a hazardous material through the use of the four-digit number, and to determine what safety measures should be taken immediately in the event of an accidental release. It is intended for use by fire fighters, police, and other emergency services personnel as a guide for initial actions to be taken to protect themselves and the public when they are called on to

handle incidents involving hazardous materials. Initial emergency response guidance is provided for virtually all hazardous materials that are transported in the United States.

The ERG was updated and reissued this year. We are in the process of distributing 750,000 copies to State and local emergency responders.

Notwithstanding these efforts, many State and local officials continue to assert that their emergency response agencies lack the sufficient training, equipment, information and guidance to properly plan for and respond to hazardous materials emergencies. Representatives of industry, government, and the general public have encouraged greater Federal involvement in emergency response planning.

Most recently, this "Coalition for Hazardous Materials Transportation Safety" has proposed that State and local emergency preparedness and training programs be funded through a "registration fee" to be collected from hazardous materials shippers and carriers and disbursed by DOT. The Coalition has also proposed amending the HMTA to establish exclusive Federal regulatory authority over shipper, carrier, and container manufacturing standards and to allow concurrent Federal, State and local jurisdiction over hazardous materials routing and notification standards.

We have studied the Coalition proposal carefully and see much merit in it. We have substantial reservations, however, concerning specific features of the proposal, in particular, with the creation of a new categorical trust fund and its cumbersome associated administrative apparatus.

Secretary Dole has directed the RSPA to develop alternative proposals to accomplish the worthy objectives of the Coalition proposal while avoiding its procedural shortcomings. We have given this project the highest priority. I am most hopeful that we will succeed in formulating an acceptable practical solution.

Members of the Committee, that concludes my statement. I will be pleased to respond to any questions you may have.

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