

14
78/4
89-12

PETROLEUM PIPELINE SAFETY

Y4
. In 8/4
89-12

GOVERNMENT

Storage

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION
AND AERONAUTICS

OF THE

COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

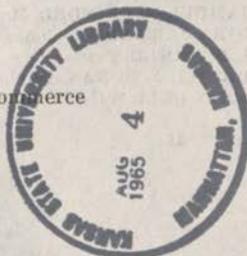
H.R. 5041

A BILL TO MODIFY THE DEFINITION OF THE TERM "CARRIER"
FOR THE PURPOSE OF ANY FEDERAL LAW DIRECTING THE
INTERSTATE COMMERCE COMMISSION TO FORMULATE CER-
TAIN REGULATIONS

MAY 18, 1965

Printed for the use of the
Committee on Interstate and Foreign Commerce

Serial No. 89-12



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1965

49-781

KSU LIBRARIES



111900 806674

AY
4/8 nT.
51-98

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

OREN HARRIS, Arkansas, *Chairman*

- | | |
|-------------------------------------|-----------------------------------|
| HARLEY O. STAGGERS, West Virginia | WILLIAM L. SPRINGER, Illinois |
| WALTER ROGERS, Texas | J. ARTHUR YOUNGER, California |
| SAMUEL N. FRIEDEL, Maryland | SAMUEL L. DEVINE, Ohio |
| TORBERT H. MACDONALD, Massachusetts | ANCHER NELSEN, Minnesota |
| JOHN JARMAN, Oklahoma | HASTINGS KEITH, Massachusetts |
| LEO W. O'BRIEN, New York | WILLARD S. CURTIN, Pennsylvania |
| JOHN E. MOSS, California | GLENN CUNNINGHAM, Nebraska |
| JOHN D. DINGELL, Michigan | JAMES T. BROYHILL, North Carolina |
| PAUL G. ROGERS, Florida | JAMES HARVEY, Michigan |
| HORACE R. KORNEGAY, North Carolina | TIM LEE CARTER, Kentucky |
| LIONEL VAN DEERLIN, California | HOWARD H. CALLAWAY, Georgia |
| J. J. PICKLE, Texas | |
| FRED B. ROONEY, Pennsylvania | |
| JOHN M. MURPHY, New York | |
| DAVID E. SATTERFIELD III, Virginia | |
| DANIEL J. RONAN, Illinois | |
| J. OLIVA HUOT, New Hampshire | |
| JAMES A. MACKAY, Georgia | |
| JOHN J. GILLIGAN, Ohio | |
| CHARLES P. FARNSLEY, Kentucky | |
| JOHN BELL WILLIAMS, Mississippi | |

W. E. WILLIAMSON, *Clerk*

KENNETH J. PAINTER, *Assistant Clerk*

Professional Staff

ANDREW STEVENSON
KURT BORCHARDT

JAMES M. MENDER, Jr.
WILLIAM J. DIXON

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS

HARLEY O. STAGGERS, West Virginia, *Chairman*

- | | |
|---------------------------------|-----------------------------|
| SAMUEL N. FRIEDEL, Maryland | SAMUEL L. DEVINE, Ohio |
| JOHN JARMAN, Oklahoma | GLENN CUNNINGHAM, Nebraska |
| J. J. PICKLE, Texas | HOWARD H. CALLAWAY, Georgia |
| DANIEL J. RONAN, Illinois | |
| JOHN BELL WILLIAMS, Mississippi | |



CONTENTS

	Page
Text of H.R. 5041.....	1
Report of—	
Bureau of the Budget.....	1
Federal Power Commission.....	3
Interstate Commerce Commission.....	2
Justice Department.....	2
Statement of—	
Bridwell, Hon. Lowell K., Deputy Under Secretary for Transportation, Department of Commerce.....	6
Corcoran, James, Congressional Liaison Officer, Interstate Commerce Commission.....	3
Durand, J. D., general counsel, Association of Oil Pipe Lines.....	17
Fair, Harry G., president, Phillips Pipe Line Co.....	17
Helmbrecht, Arthur J., executive vice president, Buckeye Pipe Line Co.....	17
Horner, J. A., president, Shell Pipe Line Corp.....	17
Lyon, Gen. Arch, Deputy Director, Office of Emergency Transportation, Department of Commerce.....	6
Milstead, Ben, Chief, Engineering Branch, Motor Carriers, Interstate Commerce Commission.....	3
Squire, Harris G., vice president, traffic, Service Pipe Line Co.....	17
Wagner, R. L., president, Great Lakes Pipe Line Co.....	17
Webb, Hon. Charles A., Chairman, Interstate Commerce Commission.....	3
Additional information submitted for the record by—	
Association of Oil Pipe Lines:	
Legislative history of S. 1491 and H.R. 5629 (85th Cong.) and S. 1806 (86th Cong.).....	33
Letter from J. D. Durand.....	33
Department of Commerce: Report on Movement of Dangerous Cargoes, an interagency study coordinated by Office of the Under Secretary for Transportation, September 30, 1963.....	6
Service Pipe Line Co., letter from W. S. Peeler.....	26
Southeastern Pennsylvania Landowners Association, statement of Edward W. James.....	34

PETROLEUM PIPELINE SAFETY

TUESDAY, MAY 18, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION
AND AERONAUTICS OF THE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman of the subcommittee) presiding.

Mr. STAGGERS. The subcommittee will come to order.

The Subcommittee on Transportation and Aeronautics is meeting this morning to conduct hearings on H.R. 5041, a bill introduced by our colleague, Mr. Jarman, of Oklahoma, for the purpose of authorizing the Interstate Commerce Commission in its issuance of regulations for the safe transportation of explosives and other dangerous articles for carriers engaged in interstate or foreign commerce, to exercise authority over, and issue regulations in this connection involving common carriers engaged in the transportation of oil.

It appears that in a revision several years ago of the Commission's authority and responsibility for the safety regulation of common carriers, pipelines inadvertently were omitted from the statute. The purpose of the hearings this morning is to determine the need for and character of such authority that should be placed on the statute books. (H.R. 5041, and the reports thereon, follow:)

[H.R. 5041, 89th Cong., 1st sess.]

A BILL TO modify the definition of the term "carrier" for the purpose of any Federal law directing the Interstate Commerce Commission to formulate certain regulations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, for the purpose of any Federal law directing the Interstate Commerce Commission to formulate regulations for the safe transportation within the United States of explosives and other dangerous articles, the term "carrier" as used in such laws includes a pipeline as that term is used in the Interstate Commerce Act, as amended.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C. May 18, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 5041, a bill to modify the definition of the term "carrier" for the purpose of any Federal law directing the Interstate Commerce Commission to formulate certain regulations.

The Department of Justice, in its report to your committee on this measure, recommends that it be amended to apply specifically to certain sections of title 18 of the United States Code.

PETROLEUM PIPELINE SAFETY

The Bureau of the Budget would have no objection to enactment of the proposed legislation if amended in the manner recommended by the Department.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C. May 18, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning H.R. 5041, a bill to modify the definition of the term "carrier" for the purpose of any Federal law directing the Interstate Commerce Commission to formulate certain regulations.

The bill would provide that for the purpose of any Federal law which directs the Interstate Commerce Commission to formulate regulations for the safe transportation of explosives and other dangerous articles, the term "carrier" shall include a pipeline.

While the Department of Justice has no objection to the purpose of the subject measure, we believe that its application should be made more definite. Chapter 39 of title 18, United States Code, provides that the Interstate Commerce Commission shall regulate the safe transportation by carrier of dangerous materials. However, section 831 of chapter 39 expressly excludes "pipelines" from the definition of the term "carrier" as used in that chapter. Accordingly, on the assumption that H.R. 5041 is intended to make the pipelines which are subject to the Commission's regulatory authority under the Interstate Commerce Act also subject to its regulatory authority under section 834 of title 18, we recommend that the bill amend section 831 to include "pipelines," as the term is used in the Interstate Commerce Act, within the definition of a "carrier."

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., March 11, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CHAIRMAN HARRIS: Your letter of February 19, 1965, addressed to the Chairman of the Commission, and requesting comments on a bill, H.R. 5041, introduced by Congressman Jarman, "To modify the definition of the term 'carrier' for the purpose of any Federal law directing the Interstate Commerce Commission to formulate certain regulations," has been referred to our Committee on Legislation. After consideration by that committee, I am authorized to submit the following comments in its behalf:

The purpose of H.R. 5041 appears to be to amend the definition of "carrier" contained in section 831, title 18 of the United States Code, to give the Interstate Commerce Commission specific statutory authority and responsibility for the safety regulation of all pipelines (other than those used for the transmission of water and gas) operating in interstate or foreign commerce.

Although the accident experience of these pipelines does not disclose any pressing need for Federal safety regulation, the proposed legislation does seem desirable in that it would protect interstate carriers against the threat of conflicting safety legislation by the States, and also enable the Commission to cope with any safety hazards which may arise in the future by virtue of changes in the operations or traffic consist of pipelines.

For these reasons we favor enactment of H.R. 5041.

Respectfully submitted,

COMMITTEE ON LEGISLATION,
CHARLES A. WEBB, *Chairman*,
JOHN W. BUSH,
EVERETT HUTCHINSON.

FEDERAL POWER COMMISSION,
Washington, D.C., March 12, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of February 19, 1965, for the views of the Federal Power Commission on H.R. 5041 (Jarman). This bill proposes to modify the term "carrier" as used in any Federal law directing the Interstate Commerce Commission to formulate regulations for the safe transportation within the United States of explosives and other dangerous articles, so as to include "a pipeline as that term is used in the Interstate Commerce Act, as amended." As we shall explain, as we read H.R. 5041 it would not include natural gas pipelines subject to the jurisdiction of the Federal Power Commission.

H.R. 5041 would modify the term "carrier" as used in the Transportation of Explosives Act, as amended (18 U.S.C.A. 318-837, 1964 Cum. Pocket Part), which authorizes the Interstate Commerce Commission to issue regulations for the safe transportation of explosives and other dangerous articles, including compressed gases, for carriers engaged in interstate or foreign commerce. As now defined in section 831 of the code, the term "carrier" excludes all pipelines. The proposed bill would partially remove this exclusion by redefining "carrier" to include "a pipeline as that term is used in the Interstate Commerce Act, as amended." Section 1(1)(b) of part I of the Interstate Commerce Act (49 U.S.C.A. 1(1)(b)) gives the Interstate Commerce Commission regulatory jurisdiction over "common carriers engaged in * * * [t]he transportation of oil or other commodity, except water and except natural or artificial gas, by pipeline, * * *" in interstate commerce. It would, therefore, appear that natural gas pipelines fall outside the class of carriers affected by the proposed bill and that they would not be subject to the safety regulations of the Interstate Commerce Commission under the provisions of the Transportation of Explosives Act as modified by H.R. 5041.

In our view H.R. 5041 would not and should not affect safety regulation of the interstate natural gas pipelines. As you know, the Federal Power Commission recently renewed its legislative recommendation to amend the Natural Gas Act to authorize the Commission to prescribe safety standards for the construction and operation of interstate natural gas pipelines. To the extent that Congress believes safety standards for such pipelines should be brought under Federal regulation we believe that such regulation should be prescribed solely by the Federal Power Commission for the reason that the Commission already has the regulator responsibility and expertise in this area.

In view of the foregoing, we do not believe the Federal Power Commission would be affected by the proposed bill and we, therefore, offer no comments on its merits.

Sincerely,

JOSEPH C. SWIDLER,
Chairman.

Mr. STAGGERS. Our first witness will be the Honorable Charles A. Webb, Chairman of the Interstate Commerce Commission.

Mr. Webb?

STATEMENT OF HON. CHARLES A. WEBB, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY BEN MILSTEAD, CHIEF, ENGINEERING BRANCH, MOTOR CARRIERS; AND JAMES CORCORAN, CONGRESSIONAL LIAISON OFFICER

Mr. WEBB. Thank you, Mr. Chairman. I would like to have join me Mr. Ben Milstead who is the Chief of our Engineering Branch, Motor Carriers, and Mr. James Corcoran, our congressional liaison officer.

Mr. Chairman, members of the committee, my name is Charles A. Webb. I am the Chairman of the Interstate Commerce Commission and I have served in that capacity since January 1 this year.

On behalf of the Commission, I want to thank you and the members of the committee for this opportunity to express our views on the

bill H.R. 5041, introduced by Congressman Jarman, to modify the definition of the term "carrier" for the purpose of any Federal law directing the Interstate Commerce Commission to formulate certain regulations.

The purpose of H.R. 5041 appears to be to amend the definition of "carrier" contained in section 831, title 18 of the United States Code, to give the Interstate Commerce Commission specific statutory authority and responsibility for the safety regulation of all pipelines (other than those used for the transmission of water and gas) operating in interstate or foreign commerce.

As you pointed out in your introductory statement, Mr. Chairman, the Explosives and other Dangerous Materials Act was amended 5 or 6 years ago so as to broaden the Commission's jurisdiction with respect to the transportation of explosives and dangerous articles.

Prior to that time, our jurisdiction was limited essentially to the transportation of explosives and other dangerous commodities by common carriers.

The act was amended to broaden our jurisdiction so that we were also entrusted with the responsibility for private carriers as well. But in the process of revision, as you pointed out, the definition of common carrier was defined more restrictively than it had been prior to the amendment, apparently inadvertently, and it was at that time that pipelines were excluded from the scope of that act.

We have been giving increasing attention at the Commission to the problems encountered in the motor and rail transportation of explosives and other dangerous articles. The problem is becoming increasingly serious because we have as you know, many exotic chemicals and fuels which constitute an increasing safety hazard on the highways and on the rails. The experience which we gain in those fields could be applied to a considerable extent to the regulation of pipelines.

Continuing with my prepared statement, we must say that the accident experience of oil pipelines does not disclose any pressing need for Federal safety regulation but the proposed legislation does seem desirable in that it would protect interstate carriers against the threat of conflicting safety legislation by the States.

It would also enable the Commission to cope with any safety hazards which may arise in the future by virtue of changes in the operations or if the traffic consists of pipelines.

For these reasons, Mr. Chairman, the Interstate Commerce Commission favors the enactment of H.R. 5041.

That concludes my prepared statement. I would be glad to answer any questions that you might have.

MR. STAGGERS. Thank you, Mr. Webb. That is one of the shortest and most precise statements I have heard before the committee.

Do you know of any opposition to this bill?

MR. WEBB. I am not aware of any opposition at all, Mr. Chairman.

MR. STAGGERS. In your position you should know that there is no opposition.

MR. WEBB. Yes, normally we would hear if there were any.

MR. STAGGERS. And you are for the bill?

MR. WEBB. We are; yes, sir.

MR. STAGGERS. All right.

MR. Friedel?

Mr. FRIEDEL. Mr. Webb, I will defer any questions I have. I will defer you to Mr. Jarman.

Mr. JARMAN. Mr. Webb, just two or three short questions for the record. Actually all that the bill does is restore the authority that the ICC had prior to September 6, 1960.

Mr. WEBB. Yes; that is correct.

Mr. JARMAN. Would not the bill bring about more consistency in the regulation of safety of interstate carriers subject to the jurisdiction of the ICC?

Mr. WEBB. That is correct. It would make our safety jurisdiction uniform and complete for all carriers except water carriers and they are regulated, I believe, by the Coast Guard.

Mr. JARMAN. And this legislation which places the jurisdiction of oil pipeline safety matters under the ICC would not preempt the field to the extent that a State could not pass safety regulations if it chose to do so?

All I am saying is that the States would still be able to pass safety legislation and regulations, if circumstances required?

Mr. WEBB. Yes. I assume that there might still be an area left for the operation of State laws and regulations as we find in the motor carrier field but it would preclude any conflicting legislation by the States and I should think it would relieve the carriers of attempting to comply with a multiplicity of State rules and regulations.

Mr. JARMAN. Thank you very much, Mr. Webb, for an excellent statement.

Mr. WEBB. Thank you, Mr. Chairman.

Mr. STAGGERS. Mr. Friedel?

Mr. FRIEDEL. Mr. Webb, in your statement here you say:

The proposed legislation does seem desirable in that it would protect interstate carriers against the threat of conflicting safety legislation by the States.

Would you elaborate on that a little bit, where the conflict is?

Mr. WEBB. I am not aware of any conflicting safety legislation by the States at the present time. I understand that the industry fears that possibility because of the withdrawal of Federal safety legislation in this area in 1960.

Mr. FRIEDEL. What I referred to, if you drive from Baltimore to Philadelphia, we have the harbor tunnel in Baltimore and carriers are prohibited from carrying certain chemicals through the tunnel.

Does this in any way affect the harbor tunnel regulations.

Mr. WEBB. No, this would have no effect on this whatever, Congressman Friedel. It relates only to pipelines.

Mr. FRIEDEL. Thank you very much.

Mr. STAGGERS. Thank you, Mr. Chairman, for coming up before us and presenting your views. I think that we understand very, very well.

Thank you again for your consideration.

Mr. WEBB. Thank you, Mr. Chairman.

Mr. STAGGERS. Our next witness will be Mr. Lowell K. Bridwell, Deputy Under Secretary of Commerce for Transportation.

You may identify yourself for the record and present your statement.

STATEMENT OF HON. LOWELL K. BRIDWELL, DEPUTY UNDER SECRETARY FOR TRANSPORTATION, U.S. DEPARTMENT OF COMMERCE; ACCOMPANIED BY GEN. ARCH LYON, DEPUTY DIRECTOR, OFFICE OF EMERGENCY TRANSPORTATION

Mr. BRIDWELL. Thank you. I am Lowell K. Bridwell, Deputy Under Secretary of Commerce for Transportation. I have with me Gen. Arch Lyon who is a Deputy Director of our Office of Emergency Transportation. General Lyon headed a task group which made a study of the movement of dangerous cargoes in 1963 and submitted a report which in part led to the legislation now before the subcommittee.

If I may, Mr. Chairman, I would like to read a prepared statement.

One of the important considerations brought to bear on transportation in the Nation is that it should adequately provide for the safety as well as the general well-being of the Nation. In this respect, the Department of Commerce is particularly desirous of removing gaps and inconsistencies in the uniform pattern of attention which should be given to this area under the national transportation policy promulgated by the Congress.

In the spring of 1963, the Department of Commerce undertook a study on the adequacy of existing statutes regarding the interstate movement of dangerous cargoes. The results of the interagency study appeared that fall in a publication titled "Report on Movement of Dangerous Cargoes."

Mr. Chairman, I would like to submit a copy of that report for the record.

Mr. STAGGERS. That may be inserted in the record at this point.
(Document referred to follows:)

REPORT ON MOVEMENT OF DANGEROUS CARGOES—AN INTERAGENCY STUDY COORDINATED BY OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION, SEPTEMBER 30, 1963

I

BACKGROUND

On March 23, 1961, the barge *Wychem 112* belonging to the Wyandotte Transportation Co. sank in the Mississippi River approximately 7 miles southwest of Natchez. The barge contained 2,200,000 pounds of liquefied chlorine gas in four pressurized cargo tanks.

Deep concern ensued because of the likelihood that rust and corrosion would cause the pressurized tanks lying in the bottom of the river to give way and disseminate the deadly gas over an area populated by more than 80,000 people. The passage of time increased the urgency for recovery and disposition of the tanks; but responsibility remained unclear. The President, acting under disaster authority, directed the Director of Emergency Planning to take action. Following an interagency meeting on September 6, 1962, the U.S. Army Corps of Engineers was given the task of recovering and disposing of the chlorine tanks. Expenditure of emergency disaster funds was approved for this purpose. The American Red Cross, the Office of Civil Defense, the Public Health Service, and local agencies were alerted to effect immediate evacuation of threatened areas, to provide public health services, and to take other appropriate measures should mishap occur during the attempt to remove the danger. The recovery operation was conducted without incident in November 1962; the hazard was completely eliminated and the danger was past. Emergency funds in the amount of approximately \$3 million were spent in the operation and the Government has filed a suit in Federal courts for the recovery of this sum.

On March 6, 1963, the Director of the Office of Emergency Planning in a letter to the Secretary of Commerce stated the need for a study to determine whether

proper statutory authority exists assigning to specific agencies the responsibility to control the movement of highly dangerous commodities on navigable waterways and public highways. He suggested that the Secretary of Commerce should direct and coordinate such a study, with participation by the interested departments and agencies, and prepare any needed legislation for introduction before Congress. (Letter, annex A.)

On April 3, 1963, the Secretary of Commerce advised the Director that the Department of Commerce is the appropriate agency to conduct and coordinate such a study and that he accordingly made an appropriate assignment. (Letter, annex B.)

II

CONDUCT OF THE STUDY

Responsibility for the study was assigned to the Office of the Under Secretary for Transportation and a task group consisting of Brig. Gen. A. W. Lyon (Office of Emergency Transportation), Dr. Daniel H. Mater (Office of the Under Secretary), and Mr. Robert M. O'Mahoney (Office of the General Counsel) was formed to direct and coordinate the interagency effort.

An initial, exploratory meeting was held May 7. A second interagency meeting was held on June 27. Followup discussions were held within and with the agencies primarily involved.

Problem areas were isolated and discussed in considerable detail. It was agreed that certain legislative gaps and inadequacies do in fact exist. In some cases corrective legislation already has been drawn up by the agency concerned.¹ The specific findings are set forth in the "Conclusions" section of this report. Recommendations for the correction of inadequacies found to exist and the identity of the agency best fitted to assume action responsibility in each case appear in part IV. Except as otherwise noted all participating agencies concur fully in the conclusions and recommendations. Those indicated as having followup responsibilities have acknowledged and accepted them.

Participants in the study included those Federal agencies which have direct or indirect responsibilities or concern in the problem. A list of these agencies and roster of the individuals representing them is provided at annex C. Recognition is given to the full measure of cooperation and assistance extended by each, without whose advice and support this study could not have been satisfactorily completed.

III

CONCLUSIONS

1. It was the general consensus that existing legislation adequately provides Federal safety regulation authority over interstate movement of dangerous cargoes by rail, highway, air and ocean shipping but not by inland waterway or pipeline. It was also agreed that there is no provision in Federal statutory law for recovery by the Government of costs incurred in the recovery and removal of dangerous cargoes from navigable waterways as in the case of the *Wychem 112* incident.

2. Safety regulation of carriers by inland waterway is a responsibility of the U.S. Coast Guard;² safety regulation of shippers by inland waterway is a responsibility of the Interstate Commerce Commission. However, the authority of the Coast Guard to establish standards, to inspect vessels, and to license and certificate operating personnel does not extend to diesel-driven towboats. Documentation for this conclusion is given at annex D. Legislation is needed to close this gap.

3. No Federal agency now has authority for safety regulation of pipelines.

(a) Under title 18, chapter 39, sections 831-835 of the United States Code entitled "Explosives and Other Dangerous Articles," the Interstate Commerce Commission is charged with the duty of formulating, administering, and enforcing regulations to provide for the safe transportation within the United States of explosives and other dangerous articles, which "shall be binding upon all carriers engaged in interstate or foreign commerce which transport explosives or other dangerous articles by land, and upon all shippers making shipments of

¹ One such proposal is H.R. 942, 88th Cong., a bill to require inspection and certification of towboats.

² 33 U.S.C. 151 to 232; 46 CFR 146.

explosives or other dangerous articles via any carrier engaged in interstate or foreign commerce by land or water."

(b) Prior to a revision of this act, approved September 6, 1960, this language was interpreted to include common carriers by pipeline (the act prior to that revision having application to common carriers only, and shippers by common carrier). The 1960 amendment extended the provisions of the act to carriers who were not common carriers, in addition to common carriers. A "carrier" is defined as "any person engaged in the transportation of passengers or property, by land, other than pipelines * * *." The reason for this exclusion of pipelines is not known. No other provision was then made or now exists for regulation of transportation of dangerous commodities, or other safety regulation, of pipelines.

(c) The Federal Power Commission, which has general regulatory authority for natural gas pipelines but none regarding their safety regulation, pointed out in its 1962 Annual Report to Congress the lack of such assignment of responsibility with respect to natural gas pipelines.³ Pertinent extract of this report is attached at annex E.

4. The Corps of Engineers, Department of the Army, is charged with the responsibility for the removal of hazards to navigation within the navigable waterways of the United States.⁴ It has no statutory authority or responsibility however for the removal of other types of hazards that may occur—such as the chlorine tanks which posed no impediment to river traffic but which presented a threat to the lives and safety of thousands of citizens resident in the vicinity. It seems only reasonable and proper that the role of the Corps of Engineers be extended to include the removal of hazards to public health and safety or for the supervision of such removal if performed by others.

5. There should also be a statutory requirement that, upon a finding by the Surgeon General of the Public Health Service, cargoes lost or abandoned by a carrier or owner within the navigable waterways of the United States constitute a potential hazard to public health and safety,⁵ the carrier or owner be required to recover and properly dispose of same at its own expense. If it should fail to do so within a reasonable time, the Government, through the Corps of Engineers, would effect the recovery and disposal, the costs thereof to be recovered to the Government from the carrier or owner.

6. There was considerable discussion regarding the validity and efficacy of placing limitations upon the quantity of given dangerous commodities which might be transported in a single transport vehicle or integrated group of vehicles. Opinion varied from support of strict limitations to virtually no maximums other than those resulting from State highway size and weight restrictions, (on the premise that danger from a relatively small quantity in transport is not significantly less than from a larger quantity of the same item which it is practicable and lawful to transport, with the added factor that, particularly as to highway movements, restriction of loads will necessarily result in multiplicity of individual vehicle movement and increases the numerical chances of collision or overturn). The task group feels that this is a technical matter that has not been adequately reviewed in recent years and that a comprehensive study would be in order. As noted, this is especially the case in inland waterways navigation. Such a study should consider all manner of dangerous cargoes including, but not limited to, explosives, flammables, chemicals, gases and radioactive materials. It should consider the hazards of movement of these commodities by all means; i.e., rail highway, air, inland waterway, lake, and ocean shipping. The characteristics of pipelines and pipeline operation are such that quantity limitations on movements would not be practicable. Pipelines therefore should not be included in such a study. The study might well be conducted by the respective agencies having appropriate jurisdiction over the various modes; i.e., the Interstate Commerce Commission for rail and highway; the Federal Aviation Agency for air; and the U.S. Coast Guard for inland waterway, lake and ocean shipping. Each would coordinate and exchange information with the other so that resulting regulations would have some degree of consistency.

³ 16 U.S.C. 824—18 CFR 151.

⁴ Wreck Statute of 1899, 33 U.S.C. 409, 414, and 415.

⁵ It might be desirable to make this legislation more extensive to cover all water pollution, including that hazardous to fish and wildlife, or creating community problems or nuisances of other varieties. However, the committee feels that it should deal only with the subject assigned. Water pollution can come from many sources of which transportation is but one—and a relatively minor one. Spills, leakages, dumping, or other disseminations of possible pollutants are attributable to many causes and may have a wide range of effects. We have therefore left this very broad subject to others for separate treatment on its own merits.

In its agency review of the foregoing proposal for an extensive study of quantity limitations and related factors in the movement of dangerous cargoes, the Interstate Commerce Commission submitted the following:

"The Interstate Commerce Commission and its staff often have considered proposals to restrict quantities of dangerous commodities in a single vehicle, car, or train. A number of major accidents involving dangerous commodities during the last 15 years have involved quantities which would reasonably be considered small, within the accepted standards of practicability in transport. In fact, the two most catastrophic cases of recent years have involved motor vehicles transporting relatively limited quantities. Quantity restrictions, arbitrarily fixed, may well result in increased hazard because of the added number of vehicles required to transport a given quantity, and the consequent increased exposure to accidents. The Commission, in the light of experience, continually reviews the need to modify its regulations, including proposals to restrict quantities of certain items. The Commission has the necessary statutory authority to act in this respect. It has considered it unwise to prescribe a general restriction although it has imposed such restrictions as to particular commodities in railway express service. For the foregoing reasons no such study is needed with respect to rail or highway transportation.

"For this reason, the study should be undertaken with respect to inland waterways only, and should consider all manner of dangerous cargoes moving via inland waterways."

The Federal Aviation Agency, while willing to participate in such a study as proposed, feels that theirs is a special problem related to the entire field of air safety. Problems and situations are met as they arise and regardless of the outcome of a study or positions taken by other agencies, the FAA must act on its own authority in all matters affecting air transportation.

7. Discussions also brought out that many dangerous and hazardous cargoes move intrastate and are not subject to Federal control or regulation. The hazards to life and property are just as real as for movements interstate. The laws of the respective States vary widely in the degree of control imposed from highly effective to very lax. Some are outdated, recognizing neither improved methods of handling nor the new hazards of new products. It appears obvious that State laws and regulations should also be given a careful review and examination. To this end it is appropriate that efforts be made to effect a uniform solution of this problem by the respective States.

In arriving at this finding we are not unaware of the efforts that have been made and are continuing—with the support and urging of many governmental, industry, civic, and private groups having concern for the hazards involved in the transportation of dangerous cargoes—to obtain more uniform and efficacious laws and regulations respecting this type of traffic within the various States. The intention here is to give recognition to the problem and to give support and impetus to corrective action.

IV

RECOMMENDATIONS

It is recommended that:

1. The authority and responsibility of the U.S. Coast Guard for the inspection of vessels and the licensing and certificating of operating personnel (i.e., masters and mates) should be extended to apply to all towing vessels (beyond certain minimums) regardless of the means of propulsion or where employed. The U.S. Coast Guard will propose legislation to this effect. (Annex F.)
2. The Interstate Commerce Commission should be given specific statutory authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines). (Annex G.)
- 3.^a The Federal Power Commission should be given specific statutory authority and responsibility for the safety regulation of gas pipelines operating in interstate or foreign commerce. The Federal Power Commission will seek legislation to this end. (Annex H.)
4. The authority and responsibility of the U.S. Army Corps of Engineers for the removal of "hazards to navigation" should include responsibility, after consultation with the Surgeon General of the Public Health Service, for the removal or for the supervision of the removal of "hazards to life, health and

^a The Department of the Interior does not concur in recommendations 2 and 3 as here stated and makes an alternate recommendation which is shown at annex K.

property" in navigable waterways of the United States. The Corps of Engineers will sponsor this legislation. (Annex L.)

5. It is recommended that legislation be considered which would extend the Government's statutory right of recovery of costs incurred in wreck or hazard; removal. The Corps of Engineers will prepare and propose appropriate legislation. (Annex I.)

6. It is recommended that an administrative review and evaluation be made of the adequacy and suitability of existing Federal laws and regulations with respect to quantities of dangerous cargoes now permitted to move within a single ship, barge, or other vessel operating on inland waterways, such study to be made by the U.S. Coast Guard. (Annex F.)

7. It is recommended that the States be encouraged to seek greater uniformity and effectiveness of legislation and regulations governing the intrastate movement of dangerous cargoes. It was the consensus of the interagency group that the several States should review and strengthen their statutes. It is suggested that the Council on State Governments be requested to develop and foster uniform statutes in consonance with Federal statutes governing such movements. A letter has been prepared for the signature of the Director of the Office of Emergency Planning asking that the council sponsor such action. (Annex J.)

ANNEX A

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
Washington, D.C., March 6, 1963.

HON. LUTHER H. HODGES,
Secretary of Commerce, Washington, D.C.

DEAR MR. SECRETARY: Recently the Federal Government disposed of a very serious problem that resulted from the sinking of the chlorine barge *Wychem 112* in the Mississippi River approximately 7 miles southwest of Natchez, Miss. At the time of the casualty the barge was loaded with 2,200,000 pounds of liquefied chlorine gas in four pressure-vessel cargo tanks.

The sunken barge and cargo became an item of concern to the White House and to the Office of Emergency Planning because it had all of the elements of a health hazard of major disaster proportions if the chlorine gas had escaped from the tanks. It was estimated that release of the cargo would have endangered the lives and health of 80,000 residents of the area. I discussed the entire incident with the President, and he agreed that the extreme dimensions of the problem necessitated immediate action by the Federal Government.

Representatives of the White House, Bureau of the Budget, Department of Justice, Department of Health, Education, and Welfare, Corps of Engineers, and Coast Guard met in my office last September to determine who had the responsibility to take action. As a result of our discussion, it appeared that a legislative void existed. There was serious doubt whether the responsibility for action could be identified with any specific department or agency. It was also recognized that consideration might properly be given to legislation for the control of traffic on the navigable waterways and public highways involving highly dangerous commodities, and thus avoid similar incidents in the future.

Because of the immediate need for Federal action, however, the President determined under the authority of Public Law 875, 81st Congress, as amended, that a potential hazard to health and safety in the vicinity of the liquid chlorine on the sunken barge threatened to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government. In the meantime, under the direction of the Office of Emergency Planning, the Corps of Engineers assumed primary responsibility for the salvage operation to remove the liquid chlorine and initiated operations.

The hazard was removed safely and successfully at a cost of approximately \$3 million to the Federal Government. The Justice Department has filed a suit in admiralty in the U.S. District Court for the Eastern District of Louisiana, Baton Rouge Division, for damages and other relief.

There still remains, however, an apparent need for legislation assigning authority for such operations to a specific agency or agencies, and, of equal importance, for the control of traffic of highly dangerous commodities on navigable waterways and public highways in order to avoid future accidents. Within the past few months alone, there have been many incidents of explosions, fires, and

other catastrophes as the result of damage to fuel and chemical carriers in interstate commerce. A brief description of several such accidents follow:

1. On February 22, 1963, in Norphlet, Ark., the entire town of 700 people was evacuated while firemen put out a fire which resulted from a train-truck collision. The fire threatened to blow up a boxcar of ammonia nitrate, but was successfully extinguished.

2. On December 16, 1962, in Sacramento, Calif., a tank truck containing 8,750 gallons of gasoline exploded and burned. There was one death and approximately \$135,000 in property damage. Fifty people were evacuated from nearby apartment houses and homes.

3. On November 30, 1962, in Essex Junction, Vt., a tank truck carrying 6,100 gallons of vinyl acetate rolled over and caught fire. Eleven persons were injured.

4. On February 15, 1962, in Belchertown, Mass., a semitrailer carrying 4,000 gallons of asphalt ran off the highway. The truck's gasoline tanks ruptured and the gasoline, in burning, ignited the asphalt. One death resulted.

In view of the major responsibilities of your Department in the transportation area, I feel that the Department of Commerce should direct and coordinate a study, in which the interested departments and agencies would participate, and prepare any needed legislation for introduction in this session of Congress.

I would appreciate your reaction to this proposal and will be available to meet with you and offer all possible assistance concerning any problem that may arise in this connection.

Best personal regards.

Sincerely,

EDWARD A. McDERMOTT.

ANNEX B

APRIL 3, 1963.

Hon. EDWARD A. McDERMOTT,
*Director, Office of Emergency Planning,
Washington, D.C.*

DEAR MR. McDERMOTT: With further reference to your letter of March 6 in the matter of transportation of dangerous materials, I agree with you that the Department of Commerce is the proper agency to make the proposed study.

I have accordingly asked the Under Secretary for Transportation to assign the task to a transportation specialist of his staff for the necessary study, research, and recommendations. My General Counsel will provide legal assistance and coordination will be effected with other Federal agencies concerned.

We will keep your office informed of significant progress and will provide you with our final recommendations when they have been arrived upon.

Sincerely yours,

LUTHER H. HODGES,
Secretary of Commerce.

ANNEX C

INTERAGENCY MEETING—INTERSTATE MOVEMENT OF DANGEROUS CARGOES

ROSTER OF PARTICIPANTS

Office of the President:

Office of Emergency Planning:

Mr. Robert Y. Phillips, Director, Government Readiness Office.

Mr. Charles Kendall, General Counsel.

Mr. Paul Revelle, Chief, Transportation Division.

Bureau of the Budget: Mr. Donald D. Kummerfeld, Legislative Analyst,
Office of Legislative Reference.

Atomic Energy Commission:

Mr. Joseph Scinto, Office of General Counsel.

Mr. Ed Patterson, Division of Operational Safety.

Lt. Adam Mehn, Division of Operational Safety.

U.S. Coast Guard:

Capt. Charles P. Murphy, Assistant Chief, Office of Merchant Marine Safety.

Capt. George C. Steinman, Assistant Chief, Merchant Marine Technical Division.

INTERAGENCY MEETING—INTERSTATE MOVEMENT OF DANGEROUS CARGOES—CON.

ROSTER OF PARTICIPANTS—continued

- U.S. Coast Guard—Continued
 Cmdr. Eric G. Grundy, Merchant Marine Technical Division.
 Capt. Joe L. Horne, Legal Division.
 Capt. George R. Reynolds, Chief, Ports Security and Law Enforcement Division.
- Civil Aeronautics Board: Mr. Bernard Doyle, Bureau of Safety.
- U.S. Army Corps of Engineers:
 Mr. E. H. Dominick, Chief, Miscellaneous Civil Branch, Operations Division, Civil Works Directorate.
 Mr. J. J. Lankhorst, Assistant General Counsel for Litigation.
 Mr. Lester Edelman, Assistant General Counsel for Legislation.
- U.S. Army, Chief of Transportation:
 Mr. Russell Armentrout, Office of the Chief of Transportation.
 Mr. John Herczogh, Safety Officer.
- General Services Administration: Mr. S. E. Mullikin, Chief, Procedures and Regulations for Transportation and Communications.
- Interstate Commerce Commission:
 Mr. Ernest G. Cox, Chief, Section of Motor Carrier Safety.
 Mr. V. E. Haninger, Chief, Explosives Branch, Bureau of Safety and Service.
- Department of the Interior: Mr. Robert Day, Office of the Secretary.
- Post Office Department: Mr. Earl Ellis, Bureau of Operations.
- Defense Traffic Management Service:
 Mr. C. T. Mayo, General Counsel.
 Lt. Col. S. F. Baxter, Chief, Freight Operations.
 Mr. Leonard P. Hynes, Freight Operations Division.
- Department of Commerce:
 Brig. Gen. A. W. Lyon, Office of Emergency Transportation.
 Dr. Daniel H. Mater, Transportation Economist.
 Mr. Robert M. O'Mahoney, Office of the General Counsel.
- Maritime Administration: Mr. Kenneth Burns, Office of General Counsel.
- Department of Justice: Mr. Thomas F. McGovern, Attorney, Admiralty and Shipping Section.
- Federal Maritime Commission: Mr. Allen Dawson, Bureau of Domestic Regulations.
- Department of Health, Education, and Welfare:
 Mr. A. James Thomas, Chief, Planning Division, Health Mobilization, Office of the Surgeon General.
 Mr. Ray Chapman, Food and Drug Administration.
 Mr. Sidney Edelman, General Counsel.
- Bureau of Public Roads:
 Mr. Norman E. Towson, Division of Defense Plans and Operations.
 Mr. L. Pavlinski, Office of Highway Safety.
- Federal Aviation Agency: Mr. Leon Janky, Flights Standard Service.
- Federal Power Commission: Mr. Murray Fine, Civil and Defense Planning Officer.
- National Aeronautics and Space Administration: Mr. James C. McCollom, Director, Transportation and Logistics.
- Tennessee Valley Authority: Mr. L. J. Van Mol, General Manager.

ANNEX D

Submitted by U.S. Coast Guard

DOCUMENTATION FOR CONCLUSION 2 IN SECTION III

The application of many laws requiring inspection and certification of vessels administered by the Coast Guard is complex. This application depends upon conditions and circumstances which often vary extensively. In effect, this results in a selective application of a specific law to a class or type of vessel in the commercial merchant marine. A law may apply because of the method of propulsion used by a vessel (steam, motor, sail, or non-self-propelled); or by a

vessel's length and/or gross tonnage; or by type of activity in which a vessel is engaged (passenger vessel, tank vessel, nautical schoolship, cargo or miscellaneous vessel); or by type of cargo a vessel carries (inflammable or combustible liquids, dangerous cargoes, etc.); or by category of waters on which a vessel operates (seagoing, coastwise, Great Lakes, inland, etc.); or by type of voyage in which a vessel is engaged (international voyage, Great Lakes' voyage, coastwise voyage, etc.); or by a combination of these factors.

For towing vessels the inspection and certification laws specifically applicable thereto are in title 46 (Shipping), United States Code, sections 391 (R.S. 4417) and 405 (R.S. 4427), for those towing vessels propelled by steam, and in section 367 (act of June 20, 1936), for those seagoing towing vessels of 300 gross tons and over propelled in whole or in part by internal-combustion engines (diesel-driven tugs). Depending on circumstances in individual cases, other laws may apply with respect to licensing of officers, manning, hours of labor permitted, loadlines, marine engineering requirements, etc.

One decision has been handed down by the Supreme Court of the United States. In *Kelley, Director, et al v. Washington* (decided November 8, 1937) (302 U.S. 1), the Court ruled on the right of the State of Washington to require inspection of the hulls and machinery of motor-driven towing vessels. The Court held that tugboats plying navigable waters of the United States are subject to regulation by Congress under the commerce clause. There is no express provision in Federal laws and regulations for inspection of hull and machinery, of motor-driven tugs. The Court also ruled that a State could require inspections in the interest of safety, but warned that: "If, however, the State goes further and attempts to impose particular standards as to structure, design, equipment and operation, which in the judgment of its authorities may be desirable but which pass beyond what is plainly essential to safety and seaworthiness, the State may encounter the principle that such requirements, if imposed at all, must be through the action of Congress, which can establish a uniform rule."

This decision which affirmed that Congress did not intend to require inspection of motor-driven towing vessels is the only decision of the Supreme Court covering this point.

A more recent court decision (1960) in this field was that of the U.S. District Court for the Eastern District of Pennsylvania in the case of *Charles McDevitt v. Donald C. Gunn, Howard T. Long and William A. Mayberry* (182 F. Supp. 335). In this case, the court ruled that McDevitt, holder of Coast Guard-issued license as master and first class pilot, was acting on the authority of his license while piloting the motor-driven tug *Atlantic No. 5* on inland waters. In his opinion, the judge stated that: "Section 405 of title 46, United States Code, requires that any person serving as master of a tug be licensed by the U.S. Coast Guard." After inserting the language of that statute, the Judge further stated: "The statute in clear and unambiguous language applies to every officer of every tug boat, towing boat and freight boat. The statute admits no exception." He also declared that sections 222 and 224 of title 46 required a complement of licensed officers. He stated: "Plaintiff apparently contends that the tug *Atlantic No. 5* is a diesel-powered vessel and therefore is not subject to the same laws as are steam-powered vessels * * *. Those statutes (title 46, United States Code, sections 405, 222, and 224) require every tug to be inspected and require her officers to be licensed by the Coast Guard." [Italic wording inserted for clarity.]

The McDevitt case was appealed, but the appeal was subsequently withdrawn.

ANNEX E

EXTRACT FROM 1962 ANNUAL REPORT, FEDERAL POWER COMMISSION

11. Safety regulations: Amend section 7 by the addition of a new subsection authorizing the Commission to prescribe safety regulations with respect to the construction and operation of interstate natural gas pipelines.

While the industry in general is doing a good job in this respect, the lack of any Federal regulation, and the scattered and nonuniform State regulation, cannot be considered entirely satisfactory. High-pressure interstate pipelines necessarily present elements of hazard and at least in the absence of adequate and uniform State laws every practicable step should be taken by the Federal Government to protect the public from inherent dangers.

ANNEX F

TREASURY DEPARTMENT,
U.S. COAST GUARD,
Washington, D.C., August 19, 1963.

Subject: Report on interstate movement of dangerous cargoes.

Brig. Gen. A. W. LYON,
Deputy Director for Defense Coordination, Office of Emergency Transportation,
U.S. Department of Commerce, Washington, D.C.

DEAR GENERAL LYON: As requested in your letter of August 1, the revised draft of the Report on Interstate Movement of Dangerous Cargoes has been reviewed and the following comments are offered.

Legislation for towboat inspection and regulation (par. 2 of sec. III and par. 1 of sec. IV): The Coast Guard acknowledges that it has proposed legislation to extend present authority and responsibility for the inspection and certification of motor towing vessels of over 15 gross tons which operate on inland waters and for the licensing of certain of their operating personnel. This legislation is necessary because 46 U.S.C. 367, 391, and 405, as interpreted by the Supreme Court, presently exempt, by omission, all inland motor towing vessels from inspection and certification. Further details are given in the enclosure.

Review of dangerous cargo size limitations for inland waters (par. 6 of sec. IV): The Coast Guard accepts responsibility for reviewing its controls over quantities of dangerous cargoes moving on navigable waters of the United States.

The mission of your study group is felt to be of great importance in assuring adequate and effective regulation of interstate transportation of dangerous cargoes. The Coast Guard appreciates having had the opportunity to participate.

Sincerely yours,

D. MCG. MORRISON,
Vice Admiral, U. S. Coast Guard, Acting Commandant.

ANNEX G

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., August 7, 1963.

Brig. Gen. A. W. LYON,
Deputy Director for Defense Coordination, Office of Emergency Transportation,
Department of Commerce, Washington, D.C.

DEAR GENERAL LYON: We suggest that the proposed draft be revised in certain respects, particularly as its relates to the responsibility and proposed actions which would affect the Interstate Commerce Commission. You have requested that we specifically acknowledge the indicated sponsorship of legislation to give this Commission statutory jurisdiction as to certain pipelines. I am not able to commit the Commission to the extent the draft contemplates until a specific proposal has been considered by the Legislative Committee of the Commission. However, the modified language proposed herein for recommendation No. 2 will, I believe, clearly indicate our willingness to consider this problem.

Sincerely yours,

LAURENCE K. WALRATH, *Chairman.*

ANNEX I

HEADQUARTERS, DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., August 6, 1963.

Brig. General A. W. LYON, U.S. Army,
Deputy Director for Defense Coordination, Office of Emergency Transportation,
Department of Commerce, Washington, D.C.

DEAR GENERAL LYON: I refer to your letter of August 1, 1963, Enclosing a revised draft of the Report on Interstate Movement of Dangerous Cargoes.

Paragraphs 4 and 5 of part III and paragraphs 4 and 5 of part IV have been noted particularly.

The Chief of Engineers acknowledges the responsibility placed upon him in the report for sponsoring corrective legislation to clarify and broaden existing law to include the removal of hazardous cargo and impose upon the owners or

underwriters of the vessels or cargoes concerned the responsibility for paying the cost of such removal.

Sincerely yours,

ROBERT J. KASPER,
*Colonel, Corps of Engineers,
Deputy Director of Civil Works.*

ANNEX J

Mr. BREVARD CRIFIELD,
*Executive Director,
Council of State Governments,
Chicago, Ill.*

DEAR MR. CRIFIELD: This office has recently caused to be undertaken a study of Federal statutory authority and responsibility for the safety control and regulation of the movement in interstate and foreign commerce of dangerous cargoes. This study was directed with a view to assuring a measure of control to minimize the probabilities of accident and the risks of consequent damage of life, health, and property.

The resulting report in part states:

"Discussions also brought out that many dangerous and hazardous cargoes move intrastate and are not subject to Federal control or regulation. The hazards to life and property are just as real as for movements interstate. The laws of the respective States vary widely in the degree of control imposed from highly effective to very lax. Some are outdated, recognizing neither improved methods of handling nor new hazards of new products. It appears obvious that State laws and regulations should also be given a careful review and examination. To this end it is appropriate that efforts be made to effect a uniform solution of this problem by the respective States.

"In arriving at this finding we are not unaware of the efforts that have been made and are continuing—with the support and urging of many governmental, industry, civic and private groups having concern for the hazards involved in the transportation of dangerous cargoes—to obtain more uniform and efficacious laws and regulations respecting this type of traffic within the various States. The intention here is to give recognition to the problem and to give support and impetus to corrective action.

"It is recommended that the States be encouraged to seek greater uniformity and effectiveness of legislation and regulations governing the intrastate movement of dangerous cargoes. It was the consensus of the interagency group that the several States should review and strengthen their statutes. It is suggested that the Council of State Governments be requested to develop and foster uniform statutes governing such movements. A letter has been prepared for the signature of the Director of the Office of Emergency Planning asking that the council sponsor such action."

I concur that the statutes and regulations of the various States concerning the control and regulation of dangerous cargoes moving intrastate should be reviewed and action taken to make them more effective and more consistent with each other. I also concur that the Council of State Governments should be the appropriate body to take the lead and to coordinate such action.

The staffs of the respective Federal agencies will be pleased to provide advice and information upon request.

I realize that there is a continuing effort along this line and that much progress has already been accomplished. An intensification of the effort in the interest of public safety may nevertheless prove beneficial.

I would appreciate your views concerning the undertaking of such a review and periodic advice of progress made.

ANNEX K

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 21, 1963.

DEAR GENERAL LYON: We urge that the two recommendations numbered 2 and 3 be deleted and that the following recommendation be inserted in lieu of them:

"2. It is recommended that the Bureau of the Budget further explore with the Interstate Commerce Commission, the Federal Power Commission and others

the possible need for safety regulation of pipelines by the Federal Government, determine which agency or agencies should administer any safety regulation of pipelines which may be warranted, and if it is determined that Federal statutory authority for such regulation should be sought, arrange for the preparation, interagency clearance, and submission of legislative proposals for such authority."

Our reasons for proposing the above-quoted recommendation are—

(1) The interagency group, whose deliberations have provided the basis for the report on interstate movement of dangerous cargoes, has not studied the need for safety regulation of pipelines, and therefore it does not have a basis for such firm recommendations as those now in the draft report; and

(2) The Bureau of the Budget is the agency to coordinate the preparation and clearance of any legislative proposals which may be warranted and to determine, or recommend, the related organizational assignment of functions.

One of the questions which the Bureau of the Budget should decide, assuming the establishment of a need for Federal safety regulation of pipelines, is whether the function should be performed with respect to all types of pipelines conveying hazardous substances, rather than just certain types of such pipelines, by the agency which presently has similar regulatory authority over land transportation of dangerous cargoes (i.e., the Interstate Commerce Commission).

ROBERT E. DAY,

Staff Assistant (Defense Activities).

Mr. BRIDWELL. One of the seven recommendations which it contained was that with the exception of water and gas pipelines, the Interstate Commerce Commission should be given specific statutory authority for the safety regulation of all pipelines operating in interstate and/or foreign commerce.

Prior to 1960, the Commission possessed the authority to make regulations on the safety of pipeline operations under the Explosives and Other Dangerous Materials Act (18 U.S.C. 831). However, when the act was revised primarily to incorporate the safety aspects of movements occasioned by commercial applications of radioactivity, the jurisdiction of the Commission over the safety regulation of pipelines was omitted.

The need for the restoration of this authority has been recognized by the interagency study already referred to above. The Interstate Commerce Commission has expressed its agreement with this restoration in addition to its agreement through its representation on the interagency study. The pipeline industry itself has expressed its awareness of the need, and has recommended that the previous regulatory authority be reinstated.

It therefore seems that those groups most cognizant of the conditions of pipeline carriage are joined together to restore Federal safety regulation over this important mode of transportation.

The Department of Commerce is pleased to note this apparent unanimity of concern in the uniform regulation of carrier safety by the Federal Government. It is highly important that this bill be enacted. Enactment of H.R. 5041 would be another step in the perfection of a rational, unified transportation policy, and it has the endorsement of the Department of Commerce.

Mr. STAGGERS. Thank you.

Do you know of any opposition to this?

Mr. BRIDWELL. No, sir, Mr. Chairman. During the course of preparing our comments on this I specifically inquired as to whether there was opposition and to the best of my knowledge there is none.

Mr. STAGGERS. In your interagency study, were most of the interested agencies contacted in the study?

Mr. BRIDWELL. Yes, sir. The study lists the various agencies that participated in or contributed to the study.

Mr. STAGGERS. Mr. Friedel.

Mr. FRIEDEL. No questions. I just want to compliment you on your very fine brief statement.

Mr. BRIDWELL. Thank you, sir.

Mr. STAGGERS. Mr. Jarman.

Mr. JARMAN. Mr. Bridwell, I will join in tribute to you on a precise and positive statement.

I think the one question I would ask would be: Does not the interagency study in chapter III headed "Conclusions" bring out that the reason for this exclusion of pipelines is not known?

Mr. BRIDWELL. Yes, sir. At the time the interagency task group undertook this study it attempts to determine why the omission of this form of carriage from the 1960 legislation. The legislative history was reviewed; the Interstate Commerce Commission was contacted; and we have correspondence in our files on this. We have simply been unable to find any reason for the omission or any indication that it was deliberately deleted.

In other words, to the best of our knowledge, it was an inadvertent omission.

Mr. JARMAN. Does not chapter IV, where the study sets out recommendations—the recommendation is made that the ICC should be given the specific statutory authority that it had prior to 1960?

Mr. BRIDWELL. Yes, sir. The recommendations go to a number of different subjects which was left to each program or regulatory agency as the case may be, to follow through with the appropriate legislation.

The recommendation you refer to was a recommendation which the ICC has acted upon and results in the legislation now before you.

Mr. JARMAN. And this study was approved by 22 separate Federal Government agencies, as I understand it.

Mr. BRIDWELL. Yes, sir; that is correct, and of course the Bureau of the Budget and the White House.

Mr. JARMAN. Thank you very much.

Mr. STAGGERS. Thank you, Mr. Bridwell, for your statement.

Mr. BRIDWELL. Thank you, sir.

Mr. STAGGERS. Our next witness will be Mr. J. D. Durand, general counsel of the Association of Oil Pipe Lines, and the gentlemen who are associated with him. You may bring them to the table if you would.

Identify yourself and also give your statement for the record.

STATEMENTS OF J. D. DURAND, GENERAL COUNSEL, ASSOCIATION OF OIL PIPE LINES; ARTHUR J. HELMBRECHT, EXECUTIVE VICE PRESIDENT, BUCKEYE PIPE LINE CO.; J. A. HORNER, PRESIDENT, SHELL PIPE LINE CORP.; R. L. WAGNER, PRESIDENT, GREAT LAKES PIPE LINE CO.; HARRY G. FAIR, PRESIDENT, PHILLIPS PIPE LINE CO.; AND HARRIS G. SQUIRE, VICE PRESIDENT, TRAFFIC, SERVICE PIPE LINE CO.

Mr. DURAND. I am J. D. Durand, general counsel of the Association of Oil Pipe Lines, which is composed of substantially all of the inter-

state common carrier oil pipelines subject to economic regulation by the Interstate Commerce Commission.

With me today at the table are the following executives of member companies of the Association of Oil Pipe Lines: On my immediate right Mr. A. J. Helmbrecht, executive vice president of the Buckeye Pipe Line Co., New York, N.Y.

Next to Mr. Helmbrecht, on his right, is Mr. R. L. Wagner, president of Great Lakes Pipe Line Co., Kansas City, Mo.

On my immediate left, is Mr. Harry G. Fair, president, Phillips Pipe Line Co., Bartlesville, Okla. I might add, Mr. Chairman, that Mr. Fair is chairman on the Association of Oil Pipe Lines, and Mr. Wagner is vice chairman of the Association of Oil Pipe Lines.

Continuing, on Mr. Fair's left is Mr. J. A. Horner, president of Shell Pipe Line Corp., Houston, Tex. Mr. Horner is a member of our executive committee.

Finally on the extreme left is Mr. Harris G. Squire, vice president, traffic, Service Pipe Line Co., Tulsa, Okla.

We are aware of the fact that the committee indicated pleasure with the brief statements that have been made by the Government witnesses and we will certainly attempt to keep our statements as brief as possible to conserve the time of the committee.

I think that since my statement is so short, Mr. Chairman, it would save time if I merely read it, rather than attempt to summarize it for the committee.

MR. STAGGERS. You may do that. We saved time on the other witnesses and we can afford it.

MR. DURAND. Thank you, sir.

The association, the membership of which is attached to the statement which is before you, Mr. Chairman, and the members of your subcommittee, appears before you today in support of H.R. 5041, which would vest in the Interstate Commerce Commission jurisdiction to prescribe safety regulations for the oil pipelines now subject to its economic jurisdiction.

Since the oil pipeline industry has not appeared before this committee for some time, I believe it would be helpful to the committee for me to summarize very briefly salient facts about the industry.

The interstate oil pipelines are common carriers of crude oil and petroleum products and have been subject to economic regulation by the Interstate Commerce Commission since 1906. They are not in the business of buying and selling oil, but merely transport it as common carriers, in competition with each other and with other modes of transportation.

The industry has developed on sound, private enterprise principles, without Government subsidy, and with adequate Federal economic regulation, into an interconnecting network of transport systems capable of serving all the important oil producing and refining areas of the Nation.

The interstate common carrier oil pipelines are subject to part I of the Interstate Commerce Act. In accordance with these requirements, tariffs must be filed with the Commission before transportation begins, and the rates and charges provided in the tariffs must be just and reasonable. Strict observance by the carrier with tariff provisions is required.

The carrier must provide transportation upon reasonable request therefor by shippers, and may not grant unreasonable preference to any shipper or unduly discriminate among shippers.

Furthermore, the carriers are required to establish reasonable through rates with other pipeline carriers, and are forbidden to pool traffic, service, or earnings with another carrier except with the specific approval of the Interstate Commerce Commission.

Finally, the pipeline carriers are required to keep their accounts and records in conformity with the uniform system prescribed by the Commission, and they are required to file such periodic reports as the Commission requires.

The common carrier interstate oil pipeline network today consists of 157,000 miles of crude and petroleum products lines, serving every State in the Union except Hawaii. There are two principal classes of oil pipelines: crude lines, which transport oil from the oil wells to the refineries; and products lines, which transport light petroleum products, such as gasoline, jet fuel, diesel fuel, and heating oil, from the refineries to distribution terminals.

As common carriers these oil pipeline companies carry crude oil and petroleum products tendered to them by the shipping public in accordance with the tariffs on file with the Interstate Commerce Commission.

The importance of the oil pipelines in the Nation's transportation system is evident from the fact that they are now the principal petroleum carriers in this country, moving 75 percent of all of the crude oil delivered to refineries and 45 percent of the light petroleum products leaving refineries.

While the oil pipelines are specialists in transportation, so great is the volume of crude oil and petroleum products which they transport, that they account for a substantial portion of the total intercity movement of goods, by all kinds of transportation, whether public or private.

The Interstate Commerce Commission publishes annually figures showing the ton-miles of intercity traffic in goods (freight, cargo, express, mail et cetera) moved by the various forms of (a) public transportation (railroads, motor carriers, water carriers, air carriers and pipelines) and, (b) private carriers on highways, waterways, and airways. Of this great volume of goods moving in intercity traffic, the pipelines carry slightly over 17 percent. That is 17 percent of the entire intercity movement of commodities.

I believe it is clear from the foregoing that the interstate common carrier oil pipelines are a well-established and important segment of our national transportation system. They are subject to economic regulation by the Interstate Commerce Commission and that regulation has been sound and adequate, and has assisted in the creation of an important transportation network.

As other witnesses will testify today, the safety record of the oil pipelines has been, and is, outstanding. However, in view of the interstate nature of their operations, the oil pipelines firmly believe that if there is to be safety regulation of the industry by a governmental body, Federal regulation would produce the uniformity and consistency which would be in the public interest.

This would be in accord with the basic concepts approved by Congress in the Interstate Commerce Act, the Federal Aviation Act, and the various merchant marine acts.

Mr. Arthur Helmbrecht, and the other witnesses who follow, will speak in more detail regarding this point. However, in summary, let me say that the interstate common carrier oil pipeline industry unanimously supports H.R. 5041.

Thank you, Mr. Chairman. I will try to answer any questions that the committee may have.

Mr. STAGGERS. Thank you for a brief statement, also.

Do you know of any opposition to this bill?

Mr. DURAND. No, sir; we do not.

Mr. STAGGERS. The pipeline industry is in accord because you are here in force testifying for it.

Mr. DURAND. Yes, sir. In addition to the five company executives who are here with me today, the 76 members of the Association of Oil Pipe Lines are unanimously for the legislation. Our membership consists of 76 of the common carrier interstate oil pipelines, and they are all in favor of this legislation.

Mr. STAGGERS. Now answer this: There has been no difficulty so far arisen in the Transportation Act because of lack of the statute, has there?

Mr. DURAND. I think other witnesses may want to speak to that more in detail, Mr. Chairman. There has been difficulty in that there have been occasions where we have had conflicting State requirements which impede the construction of pipelines. For that reason we think the uniform Federal regulation would be better.

Mr. STAGGERS. I perhaps would agree with you on that. I was just trying to find the reason for the legislation. I can see that if there are conflicting State regulations that perhaps the proposed legislation would be hindered and hold up. There usually has to be a reason for any legislation and I did not think we would anticipate any trouble unless some had arisen somewhere.

Mr. DURAND. I am anticipating the statement of Mr. Helmbrecht, and perhaps I should turn the microphone over to him. I think the reason there have been proposals for State legislation and in some cases actual legislation passed by States and ordinances by counties and townships, is the fact that at present there is a vacuum at the Federal level, and it is felt there is need for regulation.

I think if there were Federal regulation, even if it did not preempt the field, the States and the localities would say, "Well, there is a Federal standard, we are content."

I would suggest Mr. Helmbrecht speak further to that, Mr. Chairman, if you wish, because that is the thrust of his testimony.

Mr. STAGGERS. We will come back to that.

Do you have any questions, Mr. Friedel?

Mr. FRIEDEL. Mr. Durand, I want to compliment you on your history of pipelines and their safety.

On page 3 you mention "As common carriers these oil pipeline companies carry crude oil and petroleum products." Does that include natural gas?

Mr. DURAND. No, sir. The pipelines which are members of the Association of Oil Pipe Lines are exclusively engaged in the transportation of crude oil and of petroleum products, not natural gas.

Mr. FRIEDEL. Not natural gas?

Mr. DURAND. No, sir.

Mr. FRIEDEL. That is all.

Mr. STAGGERS. Mr. Jarman.

Mr. JARMAN. In line with Mr. Friedel's question, Mr. Chairman, I might mention that the committee has received a letter from the Federal Power Commission dated March 12, 1965, and signed by Chairman Joseph C. Swidler. In the letter the Chairman makes clear that the bill before us does not in any way affect the FPC's jurisdiction over gas pipelines and concludes by saying:

In view of the foregoing, we do not believe the Federal Power Commission would be affected by the proposed bill and we therefore offer no comments on its merits.

Mr. Chairman, perhaps at this point Chairman Swidler's letter might be inserted in the record.

Mr. STAGGERS. Without objection, it will be inserted at this point. (The letter referred to appears on p. 3.)

Mr. JARMAN. I would simply like to echo what my colleagues have said, Mr. Durand. I think you have made an excellent statement.

Mr. DURAND. Thank you.

Mr. STAGGERS. Mr. Pickle?

Mr. PICKLE. Have any States passed safety legislation in this field?

Mr. DURAND. Yes, sir; there have been State statutes on pipelines.

Mr. PICKLE. Can you tell me how many?

Mr. DURAND. May I defer to Mr. Helmbrecht on that, Mr. Pickle, because that will be the burden of his testimony and he will cover that?

Mr. PICKLE. That will be fine. Thank you, sir.

Mr. STAGGERS. Thank you very kindly.

I notice next on your list is Mr. J. A. Horner, chairman of Shell Pipe Line Corp.

Mr. DURAND. If it is satisfactory to the chairman, I would suggest that we hear next from Mr. Arthur J. Helmbrecht, executive vice president of Buckeye Pipe Line, who will make our principal statement.

Mr. STAGGERS. Do you have a prepared statement, Mr. Helmbrecht?

Mr. HELMBRECHT. Yes, I have.

Mr. STAGGERS. Mr. Helmbrecht, you may proceed.

Mr. HELMBRECHT. Thank you.

Mr. Chairman, and committee members, I am executive vice president of the Buckeye Pipe Line Co., which has its offices at 30 Rockefeller Plaza, New York City.

Buckeye operates approximately 5,000 miles of both crude oil pipelines and products lines. It transports all of the crude oil refined in Detroit, Toledo, and Cleveland, Ohio, area, and a large part of the crude oil refined in the Buffalo, N.Y., area.

Buckeye's refined product lines serve numerous terminals in Illinois, Indiana, Ohio, Michigan, Pennsylvania, New York, and New Jersey.

I have been employed by Buckeye for over 29 years. My responsibilities include the day-by-day operations of the pipeline and the management responsibility for design, construction, and maintenance.

I am a member of the subcommittee of the American Standards Association, currently updating the standard for oil transportation piping.

I am pleased to appear before the committee today in support of H.R. 5041. The oil pipeline industry has grown from a small number of isolated, small-diameter lines to a national network of pipeline systems which are now the prime movers of petroleum and light petroleum products in this country.

The first operationally successful oil pipeline was a short, 2-inch-diameter line laid in 1865 from an oilfield in western Pennsylvania to a station on the Oil Creek Railroad. From this small beginning, the oil pipeline industry is this year celebrating its 100th anniversary.

Since then the line pipe diameters have been increased to as much as 36 inches, and some pipeline companies operate over 10,000 miles of line crossing many State boundaries. Now, the pipelines are the principal petroleum carriers, moving 75 percent of crude oil from wells to the refineries and 45 percent of the light petroleum products from the refiners to points of ultimate distribution.

During these 100 years, there has developed a vast amount of know-how in respect to the economics, operation, and safety in the oil pipeline industry. The oil pipeline industry today represents the most efficient, most economical, and the safest method of transporting crude oil and petroleum products.

From another standpoint, the oil pipeline industry has had a long period of experience. It has been subject to economic regulation by the Interstate Commerce Commission since 1906, making the industry second only to the railroads in this respect.

In all these years a great amount of attention has been given to the safety factor in the construction and operation of the oil pipelines, in order to insure against injury to members of the public as well as employees, destruction of property, and loss of shippers' crude oil and petroleum products. As a result of these years of experience, there is a deep conviction in the industry that an unsafe pipeline is the most uneconomical pipeline, and, conversely, the safest possible line is the least costly in the long run.

The oil pipeline industry is justly proud of its safety record. In support of this statement, reference is made to an investigation conducted by the Interstate Commerce Commission entitled "In the Matter of Regulation for Transportation of Explosives and Other Dangerous Articles," which resulted in three surveys of the oil pipeline industry over a period of 10 years, for the purpose of ascertaining whether there existed a need for regulation for promoting safety in the transportation of petroleum and its products by pipeline.

On December 12, 1942, the Commission circulated a report by its Bureau of Service, from which I quote:

Responses to questionnaires circulated by us in 1940 appear to fully support recommendations made herein that no regulations should now be established, but that pipeline service should be kept under observation and when the need for regulations becomes more pressing it may be promptly met by appropriate action. Such regulations would reflect in large measure the high standards already set by the petroleum industry as a valuable contribution to the work.

At the present time, neither the Interstate Commerce Commission nor any other Federal agency has any authority or obligation to regulate oil pipelines in the field of safety.

When title 18 of the United States Code, sections 831-835, entitled "Explosives and Combustibles," was amended September 6, 1960, the Interstate Commerce Commission's safety jurisdiction over petroleum

pipeline transportation was eliminated, thus creating a complete void at the Federal level.

The reason for the exclusion of the pipelines is not known. Certainly the oil pipeline industry made no effort to be excluded. If questioned at the time of the enactment of the amendment, the oil pipeline industry would have vigorously urged the retention of the Commission's jurisdiction in the field of safety regulations for oil pipeline transportation.

Regardless of the oil pipeline industry's present and historically fine record in the field of safety, we fully support H.R. 5041, and recommend its passage. We are very glad to join with the Interstate Commerce Commission in support of this legislation.

Also we fully endorse the recommendation, on this subject, of the interagency study coordinated by the Office of the Under Secretary of Commerce for Transportation, in the report titled "Report on Movement of Dangerous Cargoes," dated September 30, 1963.

This report, which was approved by 22 Federal agencies, contained the following recommendation:

The Interstate Commerce Commission should be given specific authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines).

As pointed out, there presently is no Federal agency which has authority for safety regulations of oil pipe lines. This has left the field wide open to conflicting safety regulations by State, county, and local governments.

We strongly feel that if there is to be safety regulation of oil pipelines by a governmental body, it should be at the Federal level, and by the Interstate Commerce Commission. In this way, the regulations would be uniform throughout all of the States and more easily complied with by the industry and more easily enforced.

Also we feel that the vesting of this regulatory power in the Interstate Commerce Commission would be of great service to the public generally. Members of the public are entitled to know that oil pipelines are constructed and operated under proper codes dealing with all safety factors.

As stated, the industry's safety record is outstanding, but the average citizens are unaware of this and are sometimes apprehensive when new lines are being constructed on property owned by them or near where they live.

This situation has created a strong compulsion on the part of many State and local authorities to set up their own and separate safety regulations.

We believe that most of this apprehension would disappear if the public became aware that all oil pipelines are constructed and operated under a code of safety regulations set up and enforced by the Commission, uniformly throughout the country.

In conclusion, let me say again that safety is a byword in the oil pipeline industry. We would welcome sound, reasonable, uniform, safety regulations by the Interstate Commerce Commission.

Mr. Chairman, that concludes my statement, and I would be happy to elaborate on any of the previously given answers or answer any other questions that may arise.

Mr. STAGGERS. I would like to go back to Mr. Durand for one moment.

Is each of the gentlemen going to give a statement?

Mr. DURAND. Each of the remaining gentlemen has a short statement, Mr. Chairman.

Mr. STAGGERS. I believe it might be wise if we heard the rest of these gentlemen unless you would like to ask your questions now.

I believe it might be wise if you went on and let each give his statement and then we will question each individual at the end.

Mr. DURAND. All right.

Mr. STAGGERS. Would you tell us the next witness who is to testify?

Mr. DURAND. Yes. Mr. Horner will be the next to testify.

Mr. STAGGERS. All right. Mr. Horner, you may proceed.

Mr. HORNER. Mr. Chairman and members of the committee, I am J. A. Horner, president of the Shell Pipe Line Corp., Houston, Tex.

Shell Pipe Line Corp., owns in whole or jointly with others and operates 6,051 miles of oil pipelines; 2,083 miles are what we call field gathering lines and 3,900 miles are cross-country trunklines. These lines are located in the States of Louisiana, Texas, New Mexico, Oklahoma, Missouri, North Dakota, Illinois, and Montana.

In addition to the above-mentioned line, which we own in whole or in part, we also operate for other companies 1,827 miles of oil pipelines located in the States of Texas, New Mexico, Utah, Arizona, Colorado, California, Montana, and Wyoming.

After careful consideration we have concluded that enactment of H.R. 5041 would be in the best interests of the oil pipeline industry and of the general public.

The oil pipeline industry is predominantly interstate and we feel that regulation by the Federal Government would be much more effective and more efficient than the variety of local regulations which are possible under existing law.

Great strides have been made in recent years in metallurgy, inspection techniques, and in systems to combat corrosion. A single uniform code of safety applying the appropriate standards of construction and operation to oil pipelines that will be possible under this bill will enable our companies to continue the splendid safety record that has been established by the industry and insure protection for the public.

We strongly support the bill.

Thank you.

Mr. STAGGERS. Thank you, Mr. Horner.

Who will be your next witness?

Mr. DURAND. Mr. Wagner will be the next witness.

Mr. STAGGERS. All right.

Mr. Wagner, you may proceed. Do you have a prepared statement?

Mr. WAGNER. Yes.

Mr. STAGGERS. You may proceed.

Mr. WAGNER. Mr. Chairman and members of the committee, I am R. L. Wagner, president of Great Lakes Pipe Line Co., in Kansas City, Mo., which was incorporated in Delaware in 1930, and owns and operates a common carrier petroleum products pipeline system in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin, which transports various grades of gasoline and distillates.

In 1964 a total of 110,045,424 barrels of products were accepted for transportation over the system, consisting of 73,670,397 barrels of gasoline (including aviation gasoline and jet fuel) and 36,375,027

barrels of distillates (including kerosene, diesel fuel, and propane). The system has 6,228 miles of pipeline.

Products are received into the company's system from connected refineries and connected pipelines at points of entry located in Oklahoma, Kansas, Nebraska, Iowa, and Minnesota, and move northward and eastward on such lines. Seventeen refineries are directly connected to the system in Kansas, Oklahoma, and Minnesota, and 15 other ship products originating in Kansas, Oklahoma, and Texas through 8 connecting pipelines to the company's system.

Deliveries from the company's system are made in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin at 20 company-owned terminals, and to 25 shipper-operated terminals, 3 refineries, and 5 connected receiving pipelines.

Terminal tankage at the 20 company-owned terminals totals 456 tanks with a gross capacity of 12,002,900 barrels. In addition, there are 39 line tanks at pump stations with a gross capacity of 1,139,300 barrels and 4 line tanks at connecting pipeline interchanges with a gross capacity of 100,000 barrels.

The products transported by the system include 10 grades of gasoline, 4 of fuel oil, 3 of jet fuel, 2 of aviation gasoline, and 1 each of propane, kerosene, and diesel fuel. Six semirefined products are also transported.

The brief description of the extent and nature of our business reveals many of the built-in complexities in the operation of an interstate common carrier petroleum products pipeline company.

Operating in 10 States subjects us to 10 independent and different governmental jurisdictions. Actually, the number is much larger as within the States are innumerable local governing units, counties, townships, municipalities, drainage districts and rural fire protection districts, to name several.

At last count we were dealing with approximately 1,900 such units, but the number changes frequently as new units are added, and occasionally one is disbanded. Should these units issue their own safety regulations, with different and possibly contradictory concepts of the protection needed, the confusion can be easily imagined.

To avert this possibility and to maintain high safety standards, it is necessary that regulations be promulgated and administered by a central agency whose members are thoroughly familiar with the petroleum pipeline industry. And only a central authority can provide the uniformity of regulation necessary in an interstate operation.

Restoring to the Interstate Commerce Commission jurisdiction over pipeline safety regulations is not only logical, it is essential if the industry is to retain and carry forward its outstanding safety record.

Thank you.

Mr. STAGGERS. Thank you, Mr. Wagner.

Who is your next witness?

Mr. DURAND. Mr. Harry Fair is our next witness, Mr. Chairman.

Mr. STAGGERS. Mr. Fair, you may proceed.

Mr. FAIR. Gentlemen, I am Harry G. Fair, president of the Phillips Pipe Line Co. from Bartlesville, Okla. We own and operate 6,400 miles of oil pipelines made up of 3,700 miles of crude oil gathering and trunklines and 2,700 miles of products pipelines. In 1964 we transported 210 million barrels of oil.

Phillips Pipe Line Co. employs 800 people. Our latest Interstate Commerce Commission valuation is \$108 million and our pipelines operate in a total of nine States.

In addition to these operations we also operate terminals served by others in 30 additional States and we participate through stock ownership in 6 other pipeline companies.

We have carefully considered the legislation that is before this committee. It is our opinion H.R. 5041, which would place the regulation of safety in the Interstate Commerce Commission of the Federal Government, would result in a much more desirable situation than having a hodgepodge of rules and regulations which would be promulgated if such safety regulations were left to the various States and municipalities.

Although the oil pipeline industry has an excellent record of safety over its many years of operation, of the two choices of safety regulation certainly H.R. 5041 would better protect the public and be much preferable for the pipeline industry.

Thank you.

Mr. STAGGERS. Mr. Durand, your next witness?

Mr. DURAND. Yes. Our next and final witness is Mr. Harris Squire, Service Pipe Line Co.

Mr. SQUIRE. Mr. Chairman, I am vice president of traffic of Service Pipe Line, Tulsa, Okla. I do not have a prepared statement but with the chairman's permission, I would like to submit and make a part of the record a letter from W. S. Peeler, president of the Service Pipe Line, addressed to the chairman of the committee.

Mr. STAGGERS. That may be done.

(Letter referred to follows:)

SERVICE PIPE LINE CO.
Tulsa, Okla., May 14, 1965.

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

MY DEAR MR. STAGGERS: On behalf of Service Pipe Line Co., Tulsa, Okla., I would appreciate consideration of the following information and views in connection with the hearings on H.R. 5041, Tuesday, May 18, 1965.

Service is a wholly owned subsidiary of Standard Oil Co. (Indiana). Service's sole business is the transportation of crude petroleum by pipeline as a common carrier. Service's system consists of 14,500 miles of pipe in 15 States: New Mexico, Texas, Oklahoma, Kansas, Wyoming, Nebraska, Colorado, North Dakota, Arkansas, Louisiana, Illinois, Missouri, Indiana, Utah, and Iowa. We operate in or through 243 counties or parishes. We serve directly or through connecting carriers a total of 56 refineries. On the average, we delivered 914,000 barrels a day in 1964.

We have reviewed the interagency study entitled, "A Report on the Movement of Dangerous Cargoes," September 30, 1963, coordinated by the Office of the Under Secretary of Commerce for Transportation and approved by 22 separate Federal governmental agencies. Page 6 of this study recommends that:

"The Interstate Commerce Commission should be given specific statutory authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines)."

We support this recommendation and legislation that would revest safety jurisdiction over petroleum pipelines in the Interstate Commerce Commission. Title 18 of the United States Code, sections 831-835, inclusive, entitled, "Explosives and Combustibles," was amended September 6, 1960, by Public Law 87-710 (74 Stat. 808), eliminating the Interstate Commerce Commission's safety jurisdiction over petroleum pipeline transportation. The act applies to all other carriers engaged in the transportation of passengers or property by land as a

common, contract, or private carrier or freight forwarder as those terms are used in the Interstate Commerce Act.

In supporting the present proposal, we do not suggest that the oil pipeline industry is not adequately discharging its obligation to protect the public in the operation of its cross-country lines. Safety in operations has always been a matter of paramount importance to oil pipelines. We are and have been for many years engaged in a continuing study leading to the adoption of codes for safety in the construction and operation of oil pipelines. These studies have been made through the coordination of such professional groups as the American Society for Testing and Materials and American Standards Association.

We recognize that the primary obligation will always rest upon the oil pipeline owners to properly construct and operate their lines for the maximum protection to employees and the public. In view, however, of the many jurisdictions through which interstate oil pipelines operate, we think that governmental prescription of safety standards should, insofar as possible, be in one agency in order to obtain maximum uniformity.

Yours very truly,

W. S. PEELER.

Mr. SQUIRE. Just briefly I will say that Service Pipe Line is a wholly owned subsidiary of Standard Oil of Indiana. We operate approximately 15,000 miles of pipeline, transporting approximately 1 million barrels a day of crude oil as a common carrier to 56 different refineries.

We are subject as a common carrier to the jurisdiction of the Interstate Commerce Commission.

My testimony in regard to H.R. 5041 would be generally in accord with that that has previously been given by the preceding five gentlemen.

If there are any questions, I would be glad to answer.

Mr. STAGGERS. Thank you.

Does that complete your list of witnesses?

Mr. DURAND. Yes, sir; that completes our presentation.

Mr. STAGGERS. Mr. Durand, we appreciate the fact that you came and give us the benefit of your views. Our interest is to find out why you are here. You are here, as I gather it, because of your own self-interest, that is the reason you came in behalf of any legislation, and your interest is this, and correct me if I am wrong: that you have experienced some difficulties with local authorities during the past 5 years and you are participating no longer unless the vacuum is taken up by some Federal agency.

Now, am I correct in this statement? I would like for you or some of your organization to answer this.

Mr. DURAND. I would be very happy to answer that, Mr. Chairman. You are absolutely correct in your statement. There is a vacuum at the present time at the Federal level insofar as safety regulation is concerned. As a result of this vacuum, there is a feeling on the part of many States and localities that they need to regulate in the safety area. They do not have the expertise to do this, the Interstate Commerce Commission does.

If the Interstate Commerce Commission were given the authority to regulate in the safety field, I think that the various States and municipalities and townships and water districts would take cognizance of that regulation and that the people would feel assured that the construction and operation of the pipelines is under Federal control and regulation and there would not be the pressure that there now is for State and local regulation.

Since the pipelines are an interstate system, it is obvious, we think, that as other interstate systems are regulated—the railroads, the motor

carriers, the airlines—so the pipelines should be regulated safetywise at the Federal level.

That is a long-winded answer to say, Mr. Chairman, that you summarized the situation very well.

Mr. STAGGERS. Well, thank you. This is certainly a peculiar circumstance in that we have a statement here of the industry coming in asking for legislation to put them on regulation. Most of the time it is those who are resisting any kind of regulation, with the argument that it is interfering with their business and private enterprise.

So I say that I am trying to get behind the legislation to see why you are supporting it. You have not had any serious safety difficulties in the last 5 years as I get from the testimony of all of you. This is correct?

Mr. DURAND. That is correct, sir. The accident record of the oil pipeline industry has been excellent.

Mr. STAGGERS. And the reason you have not had difficulties is because that regulation was inadvertently left off when these new regulations were made in 1959.

Mr. DURAND. We have researched the problem and we have talked to people in the Government. We do not know why we were omitted. We did not ask to be omitted.

Mr. STAGGERS. Well, this is a new twist to legislation in that we have a segment of industry coming in asking to be included in the legislation.

Thank you all.

Mr. Friedel, do you have any questions?

Mr. FRIEDEL. Mr. Chairman, I just want to make a statement. Many times before the committee we hear that a particular bill is noncontroversial and then as we go into it it really busts wide open, but this is one time I can say that I have never seen such uniformity. Everybody is in favor of the bill and it is very gratifying.

Thank you.

Mr. STAGGERS. Mr. Devine.

Mr. DEVINE. Mr. Chairman, I, like you, am somewhat surprised, perhaps speechless, at the great free enterprise system coming to the Federal Government asking to be regulated and asking for Federal control.

I was going to ask any of you, have you had any major or minor safety disasters in the operation of the oil pipelines in the last 30 years? What gives rise to this need for regulation?

Mr. DURAND. The safety record is excellent, Mr. Devine. I know of no major catastrophes in the oil pipeline industry, but there is a feeling in the States and in the counties and townships that the oil pipelines are a relatively unknown transportation system. They are aware that high-octane gasoline, for example, moves through these lines under considerable pressure and they know that there is no overall regulatory authority.

Mr. DEVINE. Are you talking about the private property owners?

Mr. DURAND. Private property owners and people living near the pipeline, yes.

Mr. DEVINE. They are concerned because this is near their property and it might explode?

Mr. DURAND. That is correct.

Mr. DEVINE. You say they also know that there is no regulation.

Mr. DURAND. There is regulation in the sense that the industry working with the American Standards Association and other technical groups has agreed on certain standards of construction, for example, how deep the pipe should be buried and how thick the steel pipe should be.

So there are industry codes of construction which are excellent but this probably is not known by the people of the town through which the pipeline goes.

Mr. DEVINE. Tell me this: Are there any specific States that have legislation pending that would affect your industry right now?

Mr. DURAND. Mr. Helmbrecht can speak to that, Mr. Devine.

Mr. HELMBRECHT. Yes. I would not say that I am aware of all of the possible pending legislation but, specifically, Pennsylvania has a pending legislation which would require a pipeline being built in Pennsylvania to get the approval of the planning commission of every county through which it was proposed to be built.

Now the powers given to these planning commissions are rather broad and it is very difficult to read the proposed legislation and gage just how far those powers would go, but they seem to be broad enough to encompass all phases of design, operation, construction, and so forth.

Mr. DEVINE. Are there others to your knowledge?

Mr. HELMBRECHT. I know of no others pending at the moment other than this one in Pennsylvania. There are two States which already have regulation which was passed several years ago, namely, Connecticut and Michigan. There may also be others of which I am not aware.

Mr. DEVINE. Do you feel, then, if Mr. Jarman's bill was enacted that it would preempt the States from legislating in this area?

Mr. HELMBRECHT. I do not think it would preempt the field. I think it would permit the States or the other political entities to have their own regulation if they so chose. However, if we close this vacuum which now exists, I think the tendency would be for them to either rely on the Federal safety regulations or to adopt regulations which were identical to the Federal.

Mr. DEVINE. They would adopt uniform standards?

Mr. HELMBRECHT. Yes; I think it would go a great deal toward making the standards uniform even if they were in addition to the Federal level, adopted on State or county levels.

Mr. DEVINE. Let me say this: I feel by virtue of the commerce clause of the Constitution coupled with the interpretation by the Supreme Court of the commerce clause, that it certainly would be within the jurisdiction of the Congress to enact legislation in the oil pipeline industry because you clearly are in interstate commerce.

But I am just wondering whether this legislation would solve the problem that you hope it will. The States, still under the 10th amendment, would have the right to enact additional safety regulations on the operation or the depth of the pipe, or size, and things of that nature.

It may be that Federal regulations will be supplemented by State regulations in this area.

Mr. HELMBRECHT. We realize that does not foreclose that kind of thing, but we feel strongly that it would tend to make it uniform and this would be very desirable in our view.

Mr. DEVINE. Thank you.

That is all, Mr. Chairman.

Mr. STAGGERS. Mr. Jarman?

Mr. JARMAN. Mr. Durand, am I correct in understanding that the oil pipeline industry was not consulted about the 1960 amendment that excluded it from the coverage under the act? If it had been, would it not have supported retention of this authority by the ICC?

Mr. DURAND. That is correct, Mr. Jarman.

Mr. JARMAN. As a matter of fact, is it not true that in June of 1962 the Association of Oil Pipe Lines unanimously adopted a position that the pipelines should be included as a carrier subject to the Explosives and Combustibles Act?

Mr. DURAND. That is correct.

Mr. JARMAN. Mr. Chairman, the only other questions I would have would be of Mr. Helmbrecht.

What has been the recent trend in pipeline growth and development and what are your thoughts for the future in this area, and then specifically how does that have a bearing on the bill before us?

Mr. HELMBRECHT. Yes; Mr. Jarman.

The recent trend in pipelining insofar as crude oil pipelines are concerned, has been directed largely to improving the efficiency, increasing the capacity, upgrading the quality of the existing pipelines. The country is fairly well laced with crude oil pipelines from points of crude oil production to refining centers.

The great growth in recent years past and, in my opinion, in the future, will continue to be in the area of products pipelining where pipelines are and have been recently built to new consuming areas. As the population grows in the country, and shifts, it will probably continue to be necessary to extend new pipelines from existing refining centers to new or growing population centers.

I think that this indicates that the pipeline industry is a growing industry and will continue to have construction in the future and will continue to face the kinds of problems that this legislation will tend to mitigate.

Mr. JARMAN. Thank you very much.

Mr. STAGGERS. Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

Previously I had asked one of you gentlemen the number of States that had passed safety regulations in this field. How many States already have safety regulation?

Mr. DURAND. I don't have a complete listing with me, Mr. Pickle. If you desire, I would be happy to get it and supply it for the record.

Mr. PICKLE. Mr. Helmbrecht, you say many of the States passed. How many is many?

Mr. HELMBRECHT. I said I believe two of the States have, Connecticut and Michigan.

Mr. PICKLE. Connecticut and Michigan and one is pending.

Mr. HELMBRECHT. One is pending. Also New Jersey for 4 or 5 consecutive years has had a bill up, which never was passed, but it was raised each year.

Mr. PICKLE. I do not know whether the word exactly was "many," but as I understood it you said many of the States were passing or had passed legislation in this field. If many is only three, it does not represent any predominant number of States, does it?

I wonder if Mr. Horner would tell me whether Texas has such a regulation passed?

Mr. HORNER. No, Congressman Pickle, not specifically. There may be some general statutes that might apply, but they have never been applied. As you know, in Texas we have, you might say, split jurisdiction. We operate a lot of intrastate lines in connection which are subject to the jurisdictions of the railroad commission and we do file plans with the railroad commission, but as far as any detailed safety regulations, they do not exist.

There is another form of regulation of course, to which we are subjected and that is in the highway department on highway crossings and the like.

We abide by the specification so there are various forms of regulation which would not be usurped in any way by the overall codes we are speaking of here, but in Texas currently we have no detailed code of pipeline construction practices or operating procedures.

Mr. PICKLE. Thank you. One of the questions I wanted to ask was as to the language which has been used throughout the hearings this morning and that is that pipelines are interstate in character.

Now we do have intrastate lines in Texas.

Mr. HORNER. Yes.

Mr. PICKLE. I assume that none of you are intending by this bill to extend to the ICC any extension of intrastate jurisdiction.

Mr. DURAND. That is correct. The ICC would have jurisdiction under this bill of interstate common carrier pipelines only.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. DURAND. May I say one thing more to Congressman Pickle about the States where legislation has been adopted?

I do not know that we have the entire list in this group. I am sure we can get the information from our membership, which consists of 76 companies from all parts of the country. I think we could make a longer list than the actual States listed here this morning.

But an even longer list would be States in which legislation to impose safety regulation was introduced but was not passed by the State legislatures. This list continues to grow every year as there are more and more pipelines and the public becomes more aware of them and there is a vacuum at the Federal level. You have more and more pressure at the State level to adopt safety codes. So you have to look at two lists, really, Congressman: States that have passed safety laws; and States that are considering them. The latter would be quite a list.

Mr. PICKLE. I can understand why there would be a temptation by the States to get into this field because someone thinks the line should be so regulated. I do not suppose you can speak for States as such, but do you know of any individual States who oppose this legislation, that is the regulatory bodies within a State?

Mr. DURAND. We do not know, sir.

Mr. PICKLE. Thank you.

Mr. STAGGERS. Mr. Durand, I have listened to the testimony of all you gentlemen and I am sure that you are all leaders in your industry

eminently qualified to testify. I am puzzled just a little bit by the statement "inadvertently dropped" in the 1960 legislation.

The reason now that you are here is because in 1957 Senator Smathers introduced a bill, S. 149, which passed the U.S. Senate. Chairman Harris introduced a bill which was H.R. 5629 which was considered by this committee and the pipelines were included in either one of those bills and no pipeline industry is before this committee or Senate to oppose the passage.

Yet, it was inadvertently dropped in 1960. It appears to me that it is a little complex. I am not doubting your motive, understand. I believe that your last statement probably means this more than anything else, that there have been several bills introduced, and that there is at this time a vacuum. But this word "inadvertently dropped in 1960" I believe comes a little late because in 1957 it was in neither one of the bills and no segment of your industry appeared to oppose either one of the bills.

But problems have developed, I see, and have brought this more clearly to mind.

Now, do you have any comment?

Mr. DURAND. Mr. Chairman, I am not acquainted with the two bills, one by Senator Smathers and one by Chairman Harris that you refer to. Were they in the area of safety regulation?

Mr. STAGGERS. I have the bills here, the bills preliminary to the one that was finally passed and became law in 1960. These bills did not become law, they were only considered in the House side. As I say, neither one of these bills dealt with the area of safety regulation on pipelines. There was an excellent opportunity then to appear and say that your industry did not want regulation. I can see that problems have developed since that time which is what brought you here this morning.

Mr. DURAND. I do not remember the consideration that the industry gave to those bills. That antedates my tenure with the association. I do know that with regard to the 1960 amendment we were not aware that it was being considered until the bill had actually reached its final stages and it was too late for us to appear.

I found nothing in our files, in my research for this hearing, which indicates that we knew of the earlier bills or considered them.

Mr. STAGGERS. Perfectly all right. I was puzzled a little bit by it because of the fact that today the ICC and the Department of Commerce both have appeared in support of this legislation which you consider important to you and your industry.

I wish to thank all of you for coming to appear before our committee. You are an important part of our economy in the country and certainly this bill will be considered and we will take it up in executive session.

Thank you so very, very much for your contribution to the hearing.

Mr. DURAND. Thank you, Mr. Chairman. May I ask one question of the Chair?

Mr. STAGGERS. Surely.

Mr. DURAND. We will go back and take another look at our records regarding those earlier bills. If we find material that would be helpful to the committee, may we have the Chair's permission to submit it to you after the conclusion of this hearing and within a reasonable time?

Mr. STAGGERS. Surely.

I might say the record will be kept open for 10 days for any insertion. I think you have made your case very well, we have no doubt about that. I was trying to get a clear explanation of your point of view. That is the reason for my questions because I have always felt that anyone who appears here has some interest in the matter.

We are just trying, and I can see I believe that it is your anticipation of trouble that leads you to appear now.

Thank you all very kindly for coming.

Mr. DURAND. Thank you, Mr. Chairman.

Mr. STAGGERS. That concludes our hearing on the bill. We will adjourn into executive session.

(The following letter was later received from Mr. Durand:)

ASSOCIATION OF OIL PIPE LINES,
Washington, D.C., May 26, 1965.

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

DEAR MR. STAGGERS: You will recall that on May 18, 1965, near the end of the hearing before the Transportation and Aeronautics Subcommittee, on H.R. 5041, which would revest in the Interstate Commerce Commission safety jurisdiction over oil pipelines, you called our attention to several earlier bills which would have had the effect of depriving the Commission of such jurisdiction. You inquired whether, in the light of these bills, the exclusion of the oil pipelines from ICC safety jurisdiction by the 1960 revision of the Transportation of Explosives Act, was really inadvertent.

We have researched these earlier bills: S. 1491 and H.R. 5629 (85th Cong.), and S. 1806 (86th Cong.) which became the September 6, 1960, revision of the Transportation of Explosives Act, and I am attaching a memorandum which reflects the results of our research. It is clear that in recommending these three bills to Congress, the ICC had two principal purposes in mind: (a) to amend the Transportation of Explosives Act to make that act applicable to contract and private motor carriers, as well as common carriers, and (b) to include specifically under that act radioactive materials and etiologic agents (live bacteria and viruses).

In proposing such an extension of its jurisdiction, the Commission was not concerned with oil pipelines. Oil pipelines do not transport radioactive materials or etiologic agents. Presumably the Commission was unaware that by excluding oil pipelines from the definition of carrier, in these bills, it was terminating the sole basis of its jurisdiction to prescribe safety regulations for pipelines.

Similarly, the files of this association do not indicate that the oil pipeline industry related the announced purpose of these bills with the elimination of the Commission's safety jurisdiction over such pipelines. Consequently, the association took no interest in the consideration by Congress of these bills.

In view of the record, we believe it is fair to say that the elimination of the Commission's safety jurisdiction over oil pipelines, by the September 6, 1960, revisions in the Transportation of Explosives Act, was truly inadvertent.

Sincerely,

J. D. DURAND.

LEGISLATIVE HISTORY OF S. 1491 AND H.R. 5629 (85TH CONG.) AND S. 1806
(86TH CONG.)

S. 1491 and H.R. 5629 were bills similar to S. 1806 (86th Cong.) which became the 1960 amendment to Explosives and Combustibles Act, title 18, chapter 39, sections 831-835, of the United States Code.

Both S. 1491 and H.R. 5629 had as their purpose to amend sections 831-835 of chapter 39, title 18 of the Code to broaden the jurisdiction of the ICC over the transportation of explosives and combustibles to include specifically: (a) radioactive materials and etiologic agents (live bacteria and viruses) and (b) contract and private motor carriers, as well as common carriers (which previously came under the act).

The term "carrier" was defined in both S. 1491 and H.R. 5629 as meaning "any person engaged in the transportation of passengers and property, by land, other than pipelines * * *." [Italic added.]

S. 1491 was introduced in the Senate on March 5 (legislative day, March 2) 1957, by Senator Magnuson, by request. It was part of the legislative program of the Interstate Commerce Commission, for that year. It was referred to the Senate Commerce Committee and hearings were held on it and a number of other bills on March 20-21, 1957. The following witnesses testified on S. 1491: Owen Clarke, Chairman, Interstate Commerce Commission; Jim Hood, president, American Short Line Railroad Association; John V. Lawrence, managing director, American Trucking Associations, and Charles O. Porter, member of Congress, Fourth District, Oregon.

Statements were filed by D. L. Boland, general counsel, National Paint, Varnish, and Lacquer Association; C. H. Mayhood, National Chemists Association, and John V. Lawrence.

S. 1491 was reported to the Senate by Senator Smathers on May 2, 1957 (Senate Report No. 281), and it passed the Senate May 9, 1957. On May 10, 1957 it was referred to the House Committee on Interstate and Foreign Commerce. The record does not show that the House Commerce Committee took any action on this bill.

The House companion bill to S. 1491 was H.R. 5629. It was introduced by Chairman Harris on March 6, 1957, and referred to the Committee on Interstate and Foreign Commerce. The record does not indicate that the House Commerce Committee took any action on H.R. 5629.

The association does not know why the definition of "carrier" in S. 1491 and H.R. 5629 excludes pipelines. The Interstate Commerce Commission is unable to supply this information.

In proposing an extension of its jurisdiction to contract and private motor carriers and to radioactive or etiologic materials, the Commission, of course, was not concerned with pipelines. Pipelines do not transport radioactive or etiologic materials. Presumably the Commission was unaware that by excluding pipelines from the definition of "carrier," for the transportation of those commodities, it was terminating the sole basis of its jurisdiction to prescribe safety regulations for pipelines. While this cannot be demonstrated with certainty, it is our belief that it is correct.

A search has been made of the files and records of the Association of Oil Pipe Lines. They do not indicate that the association related the elimination of safety jurisdiction over oil pipelines with the announced purpose of the proposed legislation or took any interest in the consideration by Congress of S. 1491. Consequently, the association did not take any part in the Senate hearings on this bill.

S. 1806, 86th Congress, is the bill which became the September 6, 1960, revision of the Explosives and Combustibles Act. Like S. 1491 and H.R. 5629 (85th Cong.) it was recommended by the Interstate Commerce Commission. The Commission stated:

"The attached draft bill (S. 1806) would amend the Federal statutes, commonly known as the Transportation of Explosives Act, so as to include specifically radioactive materials and etiologic agents; would make the act applicable to contract and private carriers as well as to common carriers; and would delete the word "knowingly" from present section 835 and substitute therefor a more effective standard of proof."

S. 1806 is substantially similar to the two earlier bills. It contains the same definition of "carrier" and, thus, excludes pipelines from such definition. Presumably the same reason which caused the Commission not to include pipelines in S. 1491 and H.R. 5629, led the Commission to the same conclusion with respect to S. 1806.

Our files do not indicate any interest by the association in S. 1806, presumably because the association, like the Commission, did not realize that it would have the effect of terminating the sole basis of the Commission's safety regulatory authority over the pipelines.

(The following statement was submitted for the record):

STATEMENT OF EDWARD W. JAMES, P.E., ON BEHALF OF SOUTHEASTERN
PENNSYLVANIA LANDOWNERS ASSOCIATION

We wish to go on record against the passage of H.R. 5041 in its present form as introduced by Mr. Jarman.

(1) The matter of safety regulations for the construction and operation of interstate products pipelines is taking on vital importance as the size and num-

ber of lines increase. Today pipe diameters of 36 inches and flow rates of 28,000 gallons per minute of high octane gasoline are in use. The gasoline in such a pipeline on an average property would run an automobile for 5 years.

(2) Any code, to be a safety code, must have three attributes:

(a) Adequate technical provisions based on fundamental engineering and agreed to by all competent engineers.

(b) Mandatory status by law.

(c) Adequate policing by an independent agency representing the public whom the code purports to protect.

(3) State agencies have taken cognizance of this situation by promulgating and administering safety regulations for interstate pipelines (for example, State Fire Marshals' Office and P.U.C. in Connecticut; P.U.C. in Pennsylvania). It certainly seems appropriate that State authorities who are familiar with local conditions and the desires of their citizens should have this responsibility, so long as the Commerce clause is not violated.

(4) H.R. 5041 would result in Federal preemption in the area of interstate pipeline safety for products lines.

(5) H.R. 5041 would not result in the detailed technical provisions necessary to an effective safety code.

(6) H.R. 5041 would not result in an agency with the police power necessary to an effective safety code, but only jurisdiction in the case of complaints brought in a particular situation.

(7) Public protection under the act as amended by H.R. 5041 would not be acceptable, and serves the economic interests of the petroleum industry far better than it serves the public, upon whom it places the burden of protecting itself in an area requiring technical knowledge.

We strongly urge that either (1) products pipeline safety be left to the individual States for the promulgation of codes and administration, or (2) products pipeline safety be set forth in detailed provisions under the Interstate Commerce Act, together with the necessary authority to require approval of design, construction, and operation as a condition of operation.

(Whereupon, at 11:15 a.m., the subcommittee adjourned to proceed into executive session.)



