

**Testimony of  
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on Behalf of the  
Association of Oil Pipe Lines (AOPL) and the American Petroleum Institute (API)**

**Before the House Committee on Homeland Security  
Subcommittee on Transportation Security entitled:**

**“Industry Perspectives: Authorizing the Transportation Security Administration  
for Fiscal Years 2012 and 2013”**

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Good afternoon Chairman Rogers and Ranking Member Jackson-Lee and members of the Subcommittee, my name is Ray Reese and I am the Corporate Health, Safety, and Security Leader for Colonial Pipeline. I appreciate this opportunity to appear before the subcommittee today on behalf of the Association of Oil Pipe Lines (AOPL) and the American Petroleum Institute (API). In addition, I serve as the Chair of the Oil and Natural Gas Sector Coordinating Council (ONG SCC), which I will discuss in further detail below.

Colonial Pipeline is headquartered in suburban Atlanta, Georgia, where we operate a pipeline system consisting of 5,519 miles of pipeline, beginning in Houston and crossing the South and East before terminating at the New York harbor. When measured by volume transported, Colonial is the largest refined products pipeline in the world, daily delivering about 100 million gallons of gasoline, diesel fuel, jet fuel, and home heating oil and fuels for the U.S. military.

AOPL is an incorporated trade association representing 49 liquid pipeline transmission companies. The American Petroleum Institute (API) represents more than 470 oil and natural gas companies, leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.2 million U.S. jobs, accounts for 7.7 percent of the U.S. economy, and delivers more than \$85 billion a day in revenue to the U.S. Treasury. Together, our organizations represent the operators of approximately 90 percent of total U.S. oil pipeline mileage in the United States.

Pipelines are the safest, most reliable, economical and environmentally favorable way to transport oil and petroleum products, other energy liquids, and chemicals, throughout our nation.

Liquid pipelines bring crude oil to the nation's refineries and petroleum products to our communities, including all grades of gasoline, diesel, jet fuel, home heating oil, kerosene, and propane. AOPL's and API's member companies provide hydrocarbon feedstocks for use by many other industries, including food, pharmaceuticals, plastics, chemicals, and road construction. America relies on the network of more than 170,000 miles of liquid pipelines to move the energy that fuels our nation's economic engine and delivers the products to keep our nation's industry in operation. Colonial as a company, and the pipeline industry as a whole, are committed to delivering these materials safely and efficiently.

I am pleased to have the opportunity to provide some perspective on behalf of the liquid pipeline industry as the subcommittee conducts its important oversight of the reauthorization of the Transportation Security Administration (TSA).

### **Pipeline operators insist on safety**

Pipeline operators have every incentive to invest in safety. Indeed, in our members' view, there are no incentives to cut corners on pipeline safety. Most important is the potential for injury or loss of life to members of the public, pipeline employees and contractors. As an industry we also recognize the impact we could have on the environment and to our country's economy. In addition to the public and third-party

impact, if a pipeline experiences a failure or a release, there are numerous potentially harmful consequences for the operator and its reputation. The operator could face litigation, fines, incur potentially costly repairs and cleanup costs. Further, the pipeline could suffer a significant loss of revenue and goodwill by not being able to serve its customers for extended periods of time. In short, when it comes to safety, pipeline operators have every reason to operate in a manner consistent with the public interest.

Pipeline operators invest millions of dollars annually to maintain their assets and comply with federal safety laws and regulations. A large percentage of liquid pipeline assets are inspected regularly and all are monitored continuously. Safety measures include proper pipeline route selection, design, construction, operation, and maintenance, as well as comprehensive public awareness and excavation damage prevention programs.

Pipeline safety is closely regulated by the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA is responsible for establishing and enforcing regulations to assure the safety of pipelines (Title 49 CFR Parts 190-199). Operators face a rigorous set of PHMSA regulations pertaining to pipeline construction, operation, and maintenance. Regulations also cover public awareness, reporting, design standards, construction methods, operational controls and limitations, pressure testing, maintenance standards, qualification of personnel, and emergency response. These same laws and regulations also address the leading causes of pipeline failures, including corrosion, excavation damage, materials and equipment failure, and operational errors.

### **Pipeline Security – Overview**

With regard to the security of the pipeline industry, the private and public sectors share the same goal: to protect our facilities from attack so that we can avoid loss of life, disruption of service, damage to our assets, injury to our employees and the public, and harm to the environment and the economy. We must, however, also recognize that our sectors share the same limitation: we must allocate resources through a risk-based approach that properly assesses the likelihood and consequence of an event at a facility.

I cannot stress enough that the key to effectively managing this risk requires what TSA has properly called a “partnership” between the private and public sectors. The success of this and any “partnership” is dependent upon communication and collaboration between the parties. In my view, the most effective security program will be one that is not static, but rather constantly changes and improves to ensure that we are staying ahead of increasingly sophisticated adversaries that would do us harm. Regular interaction with TSA through a strong partnership ensures that we are evolving at the greatest speed possible by taking advantage of the knowledge and strengths that each sector can provide.

Prior to the tragic events of September 11, 2001, pipeline safety and security were both under the jurisdiction of what is now PHMSA's Office of Pipeline Safety (OPS). On November 19, 2001, President George W. Bush signed the Aviation and Transportation Security ACT (ATSA) establishing TSA and designated it as the lead federal agency for transportation security including pipelines. Following these events, the Department of

Homeland Security (DHS) was created on November 25, 2002, transferring TSA into the newly created DHS. Federal guidance was published by OPS on September 5, 2002, through a circular notice that recommended pipeline operators identify critical facilities, develop security plans, an implementation schedule for these plans, and the need to review them annually. On December 17, 2003, President Bush issued Homeland Security Presidential Directive -7 (HSPD-7) that required DHS and other federal agencies to collaborate with appropriate private sector entities to assist in the protection of national critical infrastructure. Further, representatives of DHS and DOT signed a Memorandum of Understanding (MOU) in September of 2004, which reiterated DHS's jurisdiction for the security of all modes of transportation. In essence, the role of PHMSA's oversight is related to the safe operation, construction, and maintenance of pipelines, and PSD is responsible for ensuring that pipeline facilities are adequately secure from security-related threats.

PSD is located within the Office of Transportation Sector Network Management (TSNM) and has been directed to enhance the security preparedness of the nation's liquid and natural gas pipeline systems by:

- Developing security programs and conducting analysis to maintain pipeline and domain awareness with particular focus on critical systems and infrastructure;
- Identifying industry best practices and lessons learned; and,
- Maintaining a dynamic modal network through effective communications with the pipeline industry and government stakeholders.

### **PSD Activity**

Following the direction of HSPD-7, PSD developed a comprehensive security program that is predicated on the agency's interaction with the pipeline industry.

PSD regularly conducts Corporate Security Reviews (CSR) of major pipeline operators to assess their security plans and implementation. As the PSD staff conducts on-site reviews, the CSRs also help to establish working relationships with key security representatives in the pipeline industry.

To date, PSD has conducted 115 CSRs of the largest operators in the United States, and it has also conducted Critical Facility Inspections (CFI) of the most sensitive locations in the pipeline industry. The CFIs are in-depth reviews that focus on the implementation of security plans and actual practices at critical facilities. The results of these reviews have been used to develop security "smart practices" that can be shared across the industry. According to the PSD, they completed CFIs of all identified locations earlier this year.

PSD has also promoted the use of the Transportation Security Operations Center (TSOC) as a point of contact for pipeline operators to report any significant security incidents or suspicious activities. The TSOC is staffed 24 hours per day and disseminates the information it receives to the appropriate agency or division for response.

In May 2007, TSA issued the *Transportation Systems Sector Specific Plan and Pipeline Modal Annex* that is part of the *National Infrastructure Protection Plan*. The Pipeline Modal Annex has many items, including: a description of risk-based security programs, security program management, and site and program assessment.

Most recently, PSD completed more detailed and specific Pipeline Security Guidelines in December 2010. The pipeline industry has worked with PSD for several years in the development of the Pipeline Modal Annex and generally supports the recently issued Pipeline Security Guidelines. TSA built on the previous guidance issued in 2002 and the requirements of the 9/11 Commission Act of 2007 to provide specific federal recommendations for pipeline safety security practices.

### **TSA and Industry**

Communicating and coordinating with stakeholders enables the public sector to have an uninhibited view of the pipeline industry's approach to security. With this enhanced perspective, PSD not only gains a clear and accurate view of the industry's capabilities, but is also able to identify any gaps that may exist. The private sector benefits from this collaboration because any potential shortfalls identified by PSD can quickly and effectively be communicated to the industry and acted on immediately. Again, the goal of providing appropriate security for the pipeline industry as a component of our nation's critical infrastructure is one that is shared.

Overall, PSD has assumed a responsible approach to pipeline security. PSD has worked with other agencies, including DOT and the Department of Energy (DOE), and with industry, through the Oil and Natural Gas Sector Coordinating Council (ONG SCC) and the Pipeline Sector Coordinating Council (Pipeline SCC), to identify effective and practical security practices for pipeline operators.

In accordance with the National Infrastructure Protection Plan (NIPP), a Critical Infrastructure Partnership Advisory Council (CIPAC) Oil and Natural Gas (ONG) Joint Sector Committee was established to provide a legal framework for members of the Energy and Transportation Sector GCC and ONG SCC to engage in joint critical infrastructure protection discussions and activities, including those involved with pipeline security. Nineteen industry trade associations came together to form the ONG SCC to help facilitate communications between industry security professionals and representatives of the Energy Sector Government Coordinating Council. Soon after, the Pipeline Working Group (Pipeline Sector Coordinating Council) was formed to further improve communication and collaboration among pipeline operators and various government agencies.

The ONG SCC provides a forum for industry to discuss relevant security issues and coordinate and communicate with agency counterparts. Quarterly meetings are held with SCC representatives and also jointly with members of the Government Coordinating Council (GCC). The ONG SCC serves as a point of coordination for broad communication with the security representatives of the oil and natural gas industry as well as partners in state and federal government. Members of the ONG SCC provided

significant input to TSA during the development of the *Transportation Sector Specific (Security) Plan* that was included as part of the *National Infrastructure Protection Plan* process.

The ONG SCC has several different working groups that specialize in key security areas, such as Information Sharing – Homeland Security Information Network, Cyber Security, and Pipeline Security. The Pipeline Working Group includes representatives of industry operators and four of its major trade associations: AOPL, API, the American Gas Association (AGA), and the Interstate Natural Gas Association of America (INGAA). The Pipeline Sector Coordinating Council also meets periodically with its counterparts in the Pipeline Government Coordinating Council, which is chaired by a representative of PSD and includes representatives of DOT and other federal agencies. Members of the Pipeline Working Group have provided substantial input to TSA PSD to assist in its development of the 2010 Pipeline Security Guidelines. The Pipeline SCC and GCC have proven to be positive venues to improve communications between industry and the agencies.

PSD also interfaces with industry by providing important services and tools, such as Pipeline Security Training videos, conferences, and forums to share information and experiences to improve security at our nation's critical infrastructure. For example, TSA conducts an annual International Pipeline Security Forum in partnership with Natural Resources Canada that brings together pipeline security professionals and representatives of other appropriate federal agencies that have a nexus. These programs have not only provided a means of evaluating the actual security practices of the pipeline operators, but have also been a means of promoting industry familiarity with the responsibilities and personnel of the PSD.

### **Areas of Suggested Improvement**

As I have mentioned above, the pipeline industry has a constructive working relationship with PSD. In light of the oversight role today's hearing will play in the reauthorization of TSA, it is important to highlight a few areas of concern. Rarely will industry and regulators agree on every point or proposal, however, we believe there are some issues that could be resolved at DHS with improved communication and reasoned decision-making

For instance, this Subcommittee is well aware of the need and importance of the Chemical Facilities Anti-Terrorism Standards, also known as CFATS. Section 550 of the Homeland Security Appropriations Act of 2007 required DHS to establish risk-based security standards for chemical facilities. Contrary to initial indications from DHS, CFATS regulations were expanded to include operators of gasoline storage facilities by the incorporation of a "flammable mixtures" provision late in the regulatory development process. AOPL, API, and the National Petrochemical and Refiners Association (NPRA) filed joint comments asking DHS to review the technical deficiencies of its rulemaking, and industry suggested the creation of a technical panel comprised of independent experts to assist the agency in making its tiering decisions. For over two years, industry has awaited a formal reply from DHS in response to what we believe to be very legitimate

scientific concerns about how CFATS risk decisions were determined with respect to flammable mixtures in above-ground storage tanks.

Another, and less technical, example at DHS is the issue of proposed redundant background checks through proposals such as the Personnel Surety Program (PSP). The liquid pipeline industry and others within the Oil and Natural Gas Sector support strong and effective risk-based security standards of high-risk facilities in order to ensure safeguards are in place to protect critical infrastructure. Our industry supports credentialing programs that can efficiently and seamlessly check Personally Identifiable Information (PII) against the Terrorist Screening Database (TSDB). However, we are concerned that DHS's proposal would create significant new administrative burdens by making personnel vetting applicable to facilities rather than individuals, with no enhancement to security. Rather than creating a redundant PSP to be administered by the Chemical Compliance Division, it would be more logical for DHS to leverage the existing Transportation Worker Identification Credential (TWIC) program to provide personnel security clearances at chemical facilities. The TWIC program is already administered by TSA and the U.S. Coast Guard, and is widely accepted and utilized in the pipeline industry. Making specific enhancements to the existing, in-place TWIC program as opposed to initiating what appears to be a redundant and duplicative PSP effort is a more logical approach. Despite the many talented and well-intentioned individuals within DHS, this general lack of transparency in their decision-making process hampers productive dialogue between government and industry, and ultimately, threatens to errantly commit precious resources needed to help ensure a secure national infrastructure. I want to thank this Subcommittee and its members for addressing this issue in your recent mark-up of HR 901. It is our hope that this proposal will be a part of a final CFATS reauthorization bill this year.

In closing, thank you again for the opportunity to appear before you today and share my views and can personally attest to the productive working relations the pipeline industry has with PSD. I would be happy to answer any questions that you may have.