

Opening Remarks
As Prepared For Delivery By
Brigham A. McCown, Acting Administrator
Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dangerous Goods Advisory Council
27th Annual Conference
Intercontinental Buckhead
Atlanta, Georgia
8:35 – 9:00 a.m.
November 10, 2005

It is a pleasure to be here with you today, and it is a pleasure to attend this conference with so many hazardous materials stakeholders dedicated to the common goal of a safer and more secure hazardous materials transportation system for all Americans.

On behalf of the Bush Administration and Transportation Secretary Mineta, I would like to take just a moment to thank each of you, for your dedication to the safe transportation of dangerous goods.

Before I report on the recent activities of the Department of Transportation, I would also like to take just a little time to mark the accomplishments of a giant in the hazardous materials safety community.

Al..., rumor is that you are retiring from your position as President of the Dangerous Goods Advisory Council. I hope that in retirement you will have the opportunity to slow down and enjoy life, especially since rumor has it you're headed off to the great State of Texas.

Seriously though, you leave behind a legacy of accomplishment, both here at D.G.A.C., and also from your days as Associate Administrator for Hazardous Materials Safety at the department.

While a government servant, you managed to transform the Federal regulatory program for hazmat transportation safety. Additionally, your work as Chairman of the U.N. Committee of Experts on the Transport of Dangerous Goods did much to harmonize worldwide standards.

Al..., I hope that you truly enjoy your second retirement. You leave a legacy that will be hard to fill. Once again, thank you for your service as a government service, and as a tireless voice within the stakeholder community. You will most certainly be missed.

As you may already know, Secretary Mineta spearheaded the Administration's reorganization of the Research and Special Programs Administration into two distinct modal administrations. The Research and Innovative Technology Administration, and the Pipeline and Hazardous Materials Safety Administration.

With insightful input from YOU, the stakeholders, the Bush Administration moved forward to place the Offices of Pipeline Safety and Hazardous Materials Safety into their own agency solely focusing on safety..., thereby ensuring these key transportation safety programs, and the issues surrounding them, get the attention they deserve.

Fast on the heels of the agency's reorganization came Congressional reauthorization of the Hazardous Materials Safety Program. And just this past August, President Bush signed the reauthorization bill, known as SAFETEA-LU, into law. Again, it was through the combined and tireless efforts of all stakeholders that the reauthorization bill became reality.

SAFETEA-LU is important in many ways. Not only does it provide for unprecedented investment in our Nation's roads, bridges, mass transit systems, and safety programs, it also incorporates significant reforms requested by the Bush Administration in the way the programs. Significantly, SAFETEA-LU gives state and local governments' significant discretion and flexibility to invest in and manage their own transportation systems while opening the door to increasing amounts of private sector investment and innovation.

SAFETEA-LU strengthens financial stewardship by ensuring every dollar spent, will yield the maximum benefit in terms of saved lives, reduced congestion, and increased mobility.

Closer to home for PHMSA, reauthorization included many changes to our existing program. Items of interest included transfer of responsibility under the Safe Food Transportation Act from DOT.

It increased the criminal and civil penalties for infractions to the Federal HazMat Regulations, it authorized Federal inspectors to open outer packaging; and authorized emergency orders to abate imminent hazards.

No sooner had SAFETEA-LU, been signed, that the Nation was rocked by the devastation of hurricane Katrina and Rita.

Even before the storms came ashore, your DOT team was already at work. . . . pre-positioning assets, establishing lines of communication with federal, state, and local governments, and preparing for our response. Although the devastation brought about by these storms was worse than predicted, we moved quickly to restore the flow of vital materials into, and out of the affected areas.

Secretary Mineta dispatched a seasoned team of executives to the affected areas. . . directly assisting the decision-makers on the ground, and providing a direct link with Washington. Together in partnership with the private sector, the flow of energy products to the nation, and to the region were quickly resumed. The quick response in the aftermath of such devastation is perhaps one of the greatest untold successes of the government's response to the hurricane.

I am proud to say that the men and women of the USDOT were working around the clock in Washington, and in the affected areas to ensure emergency responders and relief efforts could concentrate on relief operations without having to worry if they would have energy and life sustaining supplies to continue operations.

During an emergency, we know every second can count, so the Department acted quickly to expedite requests for permits and exemptions. We also issued emergency delegations, enabling on scene officials to streamline waivers.

By working together with our sister agencies, state and local partners, and stakeholders, these actions saved lives, and resulted in many significant contributions to relief efforts.

The loss of even one life is a tragedy. Yet, the recent tragic deaths of 23 nursing home evacuees in a bus fire outside of Dallas, Texas, while fleeing in advance of Hurricane Rita, was horrific.

Although the National Transportation Safety Board investigation is still underway concerning this incident, it appears that oxygen generators or cylinders may have been involved.

As public safety is always a paramount concern at DOT, PHMSA acted swiftly to issue industry-wide safety guidance to bus and train operators. The guidance listed key safety recommendations and precautions to assure the safe and secure transport of medical oxygen for personal use.

Working closely with our hazmat and pipeline partners, critical commodities that keep America's economy moving and growing were made available, when and where they are needed most. It is through our continued collaboration with D.G.A.C., and others with similar interests, that PHMSA and the Department succeeds in keeping hazmat transportation safe and secure.

PHMSA has just passed it's six month anniversary of its creation and overall, we're off to a pretty good start, but there is also much more work to be done. Together with you, we will be looking at lessons learned from our first 6 months, and one of those items will be how our agency can further enhance our ability to assist in the initial phases of emergency response.

In using our own transportation system against the nation, it goes without saying that the attacks of 9/11 have had a dramatic impact upon our lives. Our job in protecting our transportation infrastructure is to anticipate, plan for, and be ready to respond to any potential act of terrorism.

DOT's hazmat program has historically focused on reducing risks related to the unintentional release of hazardous materials. Since 9/11, we have moved aggressively to recognize and address security vulnerabilities associated with the commercial transportation of hazardous materials.

In 2003, DOT published a final rule – known as HM-232 – requiring shippers and carriers of certain hazardous materials to develop and implement security plans.

We at DOT regulate the transportation of almost 1 million daily shipments of hazardous materials -- Materials moving by plane, train, truck, or vessel. . . in quantities ranging from several ounces to many thousands of gallons.

These shipments frequently move through densely populated or sensitive areas, where the consequences of an incident could be loss of life, serious injury, or significant environmental damage. Our communities count on each and every one of these shipments being safe and secure.

A transportation system involving hazardous materials cannot be safe if it is not secure. This is why DOT works in concert with other Federal agencies, to achieve an interrelated regulatory safety and security framework.

Congress recognized this synergy when it passed the Homeland Security Act of 2002. The Act amended existing federal hazardous materials transportation law and authorized the Secretary to prescribe regulations for the safe transportation, *including security*, of hazardous materials in commerce.

DOT takes very seriously its responsibility to ensure the safe and secure movement of hazardous materials. I look forward to working with you, to achieve our safety and security goals while at the same time, minimizing the burden and costs to commerce.

Government cannot go it alone; security is a shared responsibility. It takes a truly functional partnership involving Federal, state and local governments, as well as the private sector, and an active and alert citizenry, to meet... together... our security challenges. It is a necessary partnership which greatly benefits the American people, their well being and safety, and... now – more than ever... their security.

A quick review of your agenda shows that security is a major issue for this Conference and I can report that hazmat security has been an ongoing and daily topic of discussion for DOT.

As we examine modified or enhanced hazardous materials transportation security measures, we will be using risk-based analyses to determine whether additional requirements are necessary.

These analyses include factors such as:

- Assessing the relative risk for diversion;
- misuse of hazardous materials transported in commerce; and
- the potential for harm arising from various combinations of hazardous materials.

Together with you, we continue to seek ways to enhance the security of hazmat shipments. For example, in consultation with the Department of Homeland Security, we are considering ways to enhance the security of rail shipments of toxic inhalation (TIH) materials. Specifically, we are examining the feasibility of specific security enhancements, which may include:

- improvements to security plans;
- modification of methods used to identify shipments;
- enhanced requirements for temporary storage;
- strengthened tank car integrity; and
- implementation of tracking and communication systems.

Some of you may be familiar with a two-year national field operational study completed in December 2004 by the Federal Motor Carrier Safety Administration. The study reviewed existing technologies offering enhanced solutions to the security of motor carrier shipments of hazardous materials.

The test evaluated the costs, benefits, and operational processes required for wireless communications systems, including GPS tracking and digital telephones. It also evaluated in-vehicle technologies, such as on-board computers, panic buttons, and electronic cargo seals. Furthermore, it included evaluation of personal identification systems, geofencing, and vehicle-trailer tracking systems.

We are now considering whether, and to what extent, communications and tracking systems should be required for motor carriers transporting hazardous materials.

Less than two weeks ago, DOT and DHS testified before the House Committee on Homeland Security to discuss our ongoing efforts to improve the secure and safe transportation of hazardous materials, and specifically, whether the hazardous materials Commercial Driver License background check requirements should be altered.

Like our colleagues at the Department of Homeland Security, DOT is open to undertaking a risk-based analysis to determine whether the checks, which are part of the USA PATRIOT ACT, should be modified.

In considering various approaches to narrow the current list of materials required for a background check, we must first analyze the relative risk for diversion and misuse of these materials.

Second, the review cannot be limited to individual materials, but rather the potential for harm, which comes from various combinations of products.

Third, any modifications to the list of materials triggering a driver background check should be based on a security risk assessment that considers potential scenarios -- scenarios under which a truck could be diverted for terrorist use, and evaluates the degree to which driver background checks would address these factors.

Lastly, but very importantly, the role fulfilled by our State partners must be adequately explored. It is necessary that any modifications to the current regime be done in full partnership with them. Establishing a new endorsement on the CDL could likely require costly revisions to the information technology systems in all 50 States and the District of Columbia.

The Department of Transportation has considerable expertise in assessing both the safety and security risks associated with the transportation of hazardous materials, and we look forward to working very closely with DHS on hazmat transportation security issues.

PHMSA continues to work with the other modal administrations at DOT to administer a comprehensive, nationwide program designed to protect our Nation from the risks inherent in the commercial transportation of hazardous materials.

I thank YOU, the stakeholders for doing your part, through increased vigilance over your shipments, assessing risks and threats, and developing hazmat security plans.

Before closing, I would like to take a moment to talk about our regulatory philosophy.

Regulations are an important component of an effective safety or for that matter, security program.

Regulations provide direction, and focus. The Bush Administration's pledge to you is that we will take a very hard look at all proposed regulations. We will listen to stakeholders during every phase of the rulemaking process. It is our responsibility to ensure we promulgate rules that are clear, well written, and narrowly tailored to address the purpose for which they are promulgated.

Moreover, regulations must be scientifically based upon qualitative risk analyses. We strive to regulate in a way that maximizes our return on safety, but we look for ways to do so while at the same time minimizing cost to our economy.

We'll do our best to live up to these goals as we move forward together. To be successful however, it is crucial that we solicit, and carefully consider all points of view.

Our communities, particularly the public and workers engaged in hazardous materials commerce, count on the safe and secure transport of these shipments.

We are all partners in a very fluid and multi-modal global hazmat transportation system. Together we can develop and promote key programs and issues needed to keep America safe, secure, and competitive on the world stage.

I look forward to working with each of you. Thank you again for allowing me to be a part of your program.

[END]