

113TH CONGRESS  
1ST SESSION

# S. 1767

To amend title 49, United States Code, to require gas pipeline facilities to accelerate the repair, rehabilitation, and replacement of high-risk pipelines used in commerce, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2013

Mr. MARKEY (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 49, United States Code, to require gas pipeline facilities to accelerate the repair, rehabilitation, and replacement of high-risk pipelines used in commerce, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pipeline Modernization  
5       and Consumer Protection Act”.

6       **SEC. 2. REPLACEMENT PROGRAMS FOR HIGH-RISK NAT-**  
7       **URAL GAS PIPELINES.**

8       (a) FINDINGS.—Congress finds that—

1           (1) Federal requirements related to repairing  
2 pipeline leaks are limited to “hazardous” leaks,  
3 which are leaks that represent an existing or prob-  
4 able hazard to persons or property and require im-  
5 mediate repair;

6           (2) there are no Federal requirements to ad-  
7 dress slower or less hazardous leaks, which can allow  
8 the leaks to persist unrepaired indefinitely;

9           (3) in States without a standard definition and  
10 methodology for calculating unaccounted-for gas (the  
11 difference between the amount of gas purchased by  
12 a utility and the amount used or sold to customers),  
13 data inconsistencies may be pervasive and these in-  
14 consistencies hinder the ability of regulators to mon-  
15 itor gas system and utility performance;

16           (4) the cost of leaked or otherwise unaccounted-  
17 for natural gas in the distribution system is typically  
18 passed on to ratepayers without limitation as an ac-  
19 cepted cost of service, which removes financial incen-  
20 tive for utilities to minimize the leaks;

21           (5) methane, the primary constituent of natural  
22 gas, is a greenhouse gas at least 20 times more po-  
23 tent than carbon dioxide;

24           (6) according to the Pipeline and Hazardous  
25 Materials Safety Administration, the United States

1 natural gas distribution system still includes 61,000  
2 miles of bare steel pipe without adequate corrosion  
3 protection and 32,000 miles of cast iron pipe, which  
4 was installed beginning in the 1830s and can be  
5 prone to failure;

6 (7) major recent pipeline explosions that led to  
7 human fatalities, including those in Austin, Texas,  
8 Philadelphia, Pennsylvania, and Allentown, Pennsyl-  
9 vania, have been traced to aging, leaking, and high-  
10 risk pipeline infrastructure;

11 (8) natural gas distribution utilities may be dis-  
12 couraged from making capital expenditures for the  
13 replacement of leaking and failure-prone pipelines  
14 because traditional ratemaking structures may not  
15 allow for cost recovery on a timely basis; and

16 (9) according to the Pipeline and Hazardous  
17 Materials Safety Administration, the natural gas  
18 pipeline replacement programs established as part of  
19 the ratemaking process in 27 States and the District  
20 of Columbia have played a vital role in enhancing  
21 public safety by better ensuring the prompt rehabili-  
22 tation, repair, or replacement of high-risk natural  
23 gas distribution infrastructure.

24 (b) NATURAL GAS DISTRIBUTION COMPANIES.—

1           (1) IN GENERAL.—Chapter 601 of title 49,  
2           United States Code, is amended by inserting after  
3           section 60112 the following:

4   **“§ 60112A. Replacement programs for high-risk nat-**  
5                           **ural gas pipelines**

6           “(a) DEFINITION OF GAS PIPELINE FACILITY.—In  
7           this section, the term ‘gas pipeline facility’ includes—

8                       “(1) a distribution facility; and

9                       “(2) a gas utility.

10          “(b) IN GENERAL.—Each operator of a gas pipeline  
11          facility shall, in accordance with an integrity management  
12          program required under section 60109 of this title, if ap-  
13          plicable, accelerate the repair, rehabilitation, and replace-  
14          ment of gas piping or equipment that—

15                       “(1) is leaking; or

16                       “(2) may pose high risks of leaking, or may no  
17          longer be fit for service, because of—

18                               “(A) inferior materials;

19                               “(B) poor construction practices;

20                               “(C) lack of maintenance; or

21                               “(D) age.

22          “(c) POLICY OPTIONS.—

23                       “(1) IN GENERAL.—In complying with sub-  
24          section (b), each State regulatory authority and each  
25          nonregulated gas utility shall consider—

1           “(A) developing prioritized timelines to re-  
2           pair all leaks based on the severity of the leak,  
3           including non-hazardous leaks, or replace iden-  
4           tified leaking or high-risk piping or equipment,  
5           including leaks identified as part of an integrity  
6           management plan developed under section  
7           192.1007 of title 49, Code of Federal Regula-  
8           tions, if applicable;

9           “(B) adopting a cost-recovery program  
10          that includes—

11               “(i) replacement plans with targets  
12               and benchmarks for leaking or high-risk  
13               infrastructure replacement;

14               “(ii) consideration of the economic,  
15               safety, and environmental benefits of re-  
16               duced gas leakage, including consideration  
17               of reduced operation and maintenance  
18               costs and reduced costs attributable to lost  
19               or unaccounted-for natural gas; and

20               “(iii) reporting on the reductions in  
21               lost or unaccounted-for gas as a result of  
22               pipeline replacements;

23          “(C) adopting a standard definition and  
24          methodology for calculating and reporting unac-  
25          counted-for gas to improve data quality;

1           “(D) adopting limits on cost recovery for  
2           lost and unaccounted-for gas; and

3           “(E) requiring use of best available tech-  
4           nology to detect gas leaks.”.

5           (2) TECHNICAL AND CONFORMING AMEND-  
6           MENT.—The table of sections for chapter 601 of  
7           title 49, United States Code, is amended by insert-  
8           ing after the item relating to section 60112 the fol-  
9           lowing:

“60112A. Replacement programs for high-risk natural gas pipelines.”.

10          (c) NON-BINDING GUIDELINES FOR IDENTIFYING  
11          AND CLASSIFYING HIGH-RISK PIPELINE INFRASTRUC-  
12          TURE.—

13           (1) IN GENERAL.—Not later than 1 year after  
14           the date of enactment of this Act, the Administrator  
15           of the Pipeline and Hazardous Materials Safety Ad-  
16           ministration shall, after consultation with State reg-  
17           ulatory authorities, the Secretary of Energy, the Ad-  
18           ministrator of the Environmental Protection Agency,  
19           the Federal Energy Regulatory Commission, and  
20           other appropriate Federal agencies, and after notice  
21           and opportunity for comment, issue non-binding  
22           guidelines identifying best practices under section  
23           60112A of title 49, United States Code (as added by  
24           subsection (b)).

1           (2) PRESERVING THE INTEGRITY OF ACTIONS  
2           ALREADY TAKEN BY STATE REGULATORY AUTHORI-  
3           TIES.—In formulating guidelines under paragraph  
4           (1), the Administrator of the Pipeline and Haz-  
5           ardous Materials Safety Administration shall, to the  
6           extent practicable, preserve the integrity of, and be  
7           guided by, actions already taken by State regulatory  
8           authorities to ensure proper identification, classifica-  
9           tion, and timely repair of high-risk pipeline infra-  
10          structure and leaks, including actions taken after  
11          consideration of the standard under section  
12          303(b)(6) of the Public Utility Regulatory Policies  
13          Act of 1978 (15 U.S.C. 3203(b)(6)).

14          (3) REVISION OF GUIDELINES.—Not less fre-  
15          quently than once every 7 years, the Administrator  
16          of the Pipeline and Hazardous Materials Safety Ad-  
17          ministration shall review and, as appropriate, revise  
18          the guidelines issued under paragraph (1) to reflect  
19          changes in the composition and safety performance  
20          of the pipeline infrastructure in the United States.

21 **SEC. 3. DATA STANDARDIZATION.**

22          (a) IN GENERAL.—Notwithstanding any other provi-  
23          sion of law, not later than 1 year after the date of enact-  
24          ment of this Act, the Administrator of the Pipeline and  
25          Hazardous Materials Safety Administration and the heads

1 of other applicable Federal agencies shall, in consultation  
2 with State and local agencies under subsection (c), work  
3 jointly to establish and publish forms that adopt a stand-  
4 ard definition and methodology for calculating and report-  
5 ing unaccounted-for gas, including, when possible, infor-  
6 mation on the causes of unaccounted-for gas and the  
7 quantities associated with each cause, for use by applicable  
8 Federal agencies to standardize the data collected on un-  
9 accounted-for gas.

10 (b) ADMINISTRATION.—In carrying out this section,  
11 the Administrator of the Pipeline and Hazardous Mate-  
12 rials Safety Administration and the heads of other applica-  
13 ble Federal agencies may—

- 14 (1) establish an interagency working group; and
- 15 (2) enter into a memorandum of understanding.

16 (c) CONSULTATION WITH STATE AND LOCAL AGEN-  
17 CIES.—The Administrator of the Pipeline and Hazardous  
18 Materials Safety Administration and the heads of other  
19 applicable Federal agencies shall offer to work with State  
20 and local regulatory authorities to adopt a standard defini-  
21 tion and methodology for calculating and reporting unac-  
22 counted-for gas to standardize the data collected by Fed-  
23 eral, State, and local governments.

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