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.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pipeline Modernization and Consumer Protection Act''.

SEC. 2. REPLACEMENT PROGRAMS FOR HIGH-RISK NATURAL GAS PIPELINES.

(a) FINDINGS.—Congress finds that—

(1) Federal requirements related to repairing pipeline leaks are limited to ''hazardous'' leaks, which are leaks that represent an existing or probable hazard to persons or property and require immediate repair;

(2) there are no Federal requirements to address slower or less hazardous leaks, which can allow the leaks to persist unrepaired indefinitely;

(3) in States without a standard definition and methodology for calculating unaccounted-for gas (the difference between the amount of gas purchased by a utility and the amount used or sold to customers), data inconsistencies may be pervasive and these inconsistencies hinder the ability of regulators to monitor gas system and utility performance;

(4) the cost of leaked or otherwise unaccounted-for natural gas in the distribution system is typically passed on to ratepayers without limitation as an accepted cost of service, which removes financial incentive for utilities to minimize the leaks;

(5) methane, the primary constituent of natural gas, is a greenhouse gas at least 20 times more potent than carbon dioxide;

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

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

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

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

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

(b) NATURAL GAS DISTRIBUTION COMPANIES.—

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

"§ 60112A. Replacement programs for high-risk natural gas pipelines

''(a) DEFINITION OF GAS PIPELINE FACILITY.—In this section, the term 'gas pipeline facility' includes—

''(1) a distribution facility; and

''(2) a gas utility.

''(b) IN GENERAL.—Each operator of a gas pipeline facility shall, in accordance with an integrity management program required under section 60109 of this title, if applicable, accelerate the repair, rehabilitation, and replacement of gas piping or equipment that—

''(1) is leaking; or

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

''(A) inferior materials;

''(B) poor construction practices;

''(C) lack of maintenance; or

''(D) age.

''(c) POLICY OPTIONS.—

''(1) IN GENERAL.—In complying with subsection (b), each State regulatory authority and each nonregulated gas utility shall consider—

''(A) developing prioritized timelines to repair all leaks based on the severity of the leak, including non-hazardous leaks, or replace identified leaking or high-risk piping or equipment, including leaks identified as part of an integrity management plan developed under section 192.1007 of title 49, Code of Federal Regulations, if applicable;

''(B) adopting a cost-recovery program that includes—

''(i) replacement plans with targets and benchmarks for leaking or high-risk infrastructure replacement;

''(ii) consideration of the economic, safety, and environmental benefits of reduced gas leakage, including consideration of reduced operation and maintenance costs and reduced costs attributable to lost or unaccounted-for natural gas; and

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

''(C) adopting a standard definition and methodology for calculating and reporting unaccounted-for gas to improve data quality;

''(D) adopting limits on cost recovery for lost and unaccounted-for gas; and

''(E) requiring use of best available technology to detect gas leaks.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 601 of title 49, United States Code, is amended by inserting after the item relating to section 60112 the following:

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

(c) NON-BINDING GUIDELINES FOR IDENTIFYING AND CLASSIFYING HIGH-RISK PIPELINE INFRASTRUCTURE.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall, after consultation with State regulatory authorities, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Federal Energy Regulatory Commission, and other appropriate Federal agencies, and after notice and opportunity for comment, issue non-binding guidelines identifying best practices under section 60112A of title 49, United States Code (as added by subsection (b)).

(2) PRESERVING THE INTEGRITY OF ACTIONS ALREADY TAKEN BY STATE REGULATORY AUTHORITIES.—In formulating guidelines under paragraph (1), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall, to the extent practicable, preserve the integrity of, and be guided by, actions already taken by State regulatory authorities to ensure proper identification, classification, and timely repair of high-risk pipeline infrastructure and leaks, including actions taken after consideration of the standard under section 303(b)(6) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203(b)(6)).

(3) REVISION OF GUIDELINES.—Not less frequently than once every 7 years, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall review and, as appropriate, revise the guidelines issued under paragraph (1) to reflect changes in the composition and safety performance of the pipeline infrastructure in the United States.

SEC. 3. DATA STANDARDIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 1 year after the date of enactment of this Act, the Administrator of the Pipeline and Hazardous Materials Safety Administration and the heads

of other applicable Federal agencies shall, in consultation with State and local agencies under subsection (c), work jointly to establish and publish forms that adopt a standard definition and methodology for calculating and reporting unaccounted-for gas, including, when possible, information on the causes of unaccounted-for gas and the quantities associated with each cause, for use by applicable Federal agencies to standardize the data collected on unaccounted-for gas.

(b) ADMINISTRATION.—In carrying out this section, the Administrator of the Pipeline and Hazardous Materials Safety Administration and the heads of other applicable Federal agencies may—

(1) establish an interagency working group; and

(2) enter into a memorandum of understanding.

(c) CONSULTATION WITH STATE AND LOCAL AGENCIES.—The Administrator of the Pipeline and Hazardous Materials Safety Administration and the heads of other applicable Federal agencies shall offer to work with State and local regulatory authorities to adopt a standard definition and methodology for calculating and reporting unaccounted-for gas to standardize the data collected by Federal, State, and local governments.

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