

PIPELINE INFRASTRUCTURE AND COMMUNITY
PROTECTION ACT OF 2011

NOVEMBER 16, 2011.—Ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 2937]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2937) to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; DEFINITIONS; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Infrastructure and Community Protection Act of 2011”.

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) **DEFINITIONS.**—Any term used in this Act that is defined in chapter 601 of title 49, United States Code, shall have the meaning given that term in that chapter.

(d) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of title 49, United States Code; definitions; table of contents.
 Sec. 2. Civil penalties.
 Sec. 3. Pipeline damage prevention.
 Sec. 4. Offshore gathering lines.
 Sec. 5. Automatic and remote-controlled shut-off valves.
 Sec. 6. Excess flow valves.
 Sec. 7. Integrity management.
 Sec. 8. Public education and awareness.
 Sec. 9. Cast iron gas pipelines.
 Sec. 10. Hazardous liquid pipeline leak detection.
 Sec. 11. Incident notification.
 Sec. 12. Transportation-related onshore facility response plan compliance.
 Sec. 13. Pipeline infrastructure data collection.
 Sec. 14. International cooperation and consultation.
 Sec. 15. Transportation-related oil flow lines.
 Sec. 16. Alaska project coordination.
 Sec. 17. Cost recovery for design reviews.
 Sec. 18. Special permits.
 Sec. 19. Biofuel pipelines.
 Sec. 20. Carbon dioxide pipelines.
 Sec. 21. Study of the transportation of diluted bitumen.
 Sec. 22. Study of non-petroleum hazardous liquids transported by pipeline.
 Sec. 23. Clarifications.
 Sec. 24. Additional resources.
 Sec. 25. Maintenance of effort.
 Sec. 26. Administrative enforcement process.
 Sec. 27. Maximum allowable operating pressure.
 Sec. 28. Cover over buried pipeline.
 Sec. 29. Onshore gathering lines.
 Sec. 30. Natural gas pipeline leak detection report.
 Sec. 31. Report on minority or woman-owned or disadvantaged businesses.
 Sec. 32. Authorization of appropriations.

SEC. 2. CIVIL PENALTIES.

(a) **PENALTY CONSIDERATIONS; MAJOR CONSEQUENCE VIOLATIONS.**—Section 60122 is amended—

(1) by striking “the ability to pay,” in subsection (b)(1)(B);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(3) by inserting after subsection (b) the following:

“(c) **PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.**—

“(1) **IN GENERAL.**—A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has committed a major consequence violation of section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$250,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of major consequence violations is \$2,500,000.

“(2) **PENALTY CONSIDERATIONS.**—In determining the amount of a civil penalty for a major consequence violation under this subsection, the Secretary shall consider the factors prescribed in subsection (b).

“(3) **MAJOR CONSEQUENCE VIOLATION DEFINED.**—In this subsection, the term ‘major consequence violation’ means a violation that contributed to a pipeline facility incident resulting in—

“(A) 1 or more deaths;

“(B) 1 or more injuries or illnesses requiring in-patient hospitalization; or

“(C) environmental harm exceeding \$250,000 in estimated damages to the environment including property loss, other than the value of natural gas or hazardous liquid lost and damage to pipeline facility equipment.”.

(b) **PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.**—Section 60118(e) is amended by adding at the end the following: “The Secretary may impose

a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.”.

(c) ADMINISTRATIVE PENALTY CAPS INAPPLICABLE.—Section 60120(a)(1) is amended by adding at the end the following: “The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.”.

(d) JUDICIAL REVIEW OF ADMINISTRATIVE ENFORCEMENT ORDERS.—Section 60119(a) is amended—

(1) in the subsection heading by striking “AND WAIVER ORDERS” and inserting “, ORDERS, AND OTHER FINAL AGENCY ACTIONS”; and

(2) by striking “about an application for a waiver under section 60118(c) or (d) of” and inserting “under”.

SEC. 3. PIPELINE DAMAGE PREVENTION.

(a) MINIMUM STANDARDS FOR STATE ONE-CALL NOTIFICATION PROGRAMS.—Section 6103(a) is amended to read as follows:

“(a) MINIMUM STANDARDS.—

“(1) IN GENERAL.—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

“(A) appropriate participation by all underground facility operators, including all government operators;

“(B) appropriate participation by all excavators, including all government and contract excavators; and

“(C) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

“(2) EXEMPTIONS PROHIBITED.—A State one-call notification program may not exempt municipalities, State agencies, or their contractors from its one-call notification system requirements.”.

(b) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134(a) is amended—

(1) by striking “and” after the semicolon in paragraph (1);

(2) by striking “(b).” in paragraph (2)(B) and inserting “(b); and”; and

(3) by adding at the end the following:

“(3) does not provide any exemptions to municipalities, State agencies, or their contractors from its one-call notification system requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

(d) THIRD PARTY DAMAGE.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on the impact of third party damage on pipeline safety.

(2) CONTENTS.—The study shall include—

(A) an analysis of the frequency and severity of different types of third party damage incidents;

(B) an analysis of exemptions to the one-call notification system requirements in each State;

(C) a comparison of exemptions to the one-call notification system requirements in each State to the types of third party damage incidents in that State; and

(D) an analysis of the potential safety benefits and adverse consequences of eliminating all exemptions for mechanized excavation from State one-call notification systems.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation a report on the results of the study.

SEC. 4. OFFSHORE GATHERING LINES.

Section 60108(c) is amended by adding at the end the following new paragraph:

“(8) Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The exceptions described in section 60102(k)(3) shall apply to the requirements of this paragraph. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.”.

SEC. 5. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.

Section 60102 is amended by adding at the end the following:

“(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.—

“(1) **STANDARDS FOR NEW TRANSMISSION PIPELINES.**—Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipelines constructed or entirely replaced after the date on which the Secretary issues a final rule.

“(2) **RETROFIT REVIEW AND ANALYSIS.**—The Secretary shall conduct a review of transmission pipeline facility operators’ ability to respond to a hazardous liquid or gas release from a pipeline segment located in a high consequence area (as described in section 60109(a)). The Secretary’s analysis shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of nearest response personnel, and the costs, risks, and benefits of installing automatic and remote-controlled shut-off valves. Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall report the results of such review and analysis to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.”.

SEC. 6. EXCESS FLOW VALVES.

Section 60109(e)(3) is amended—

- (1) by redesignating subparagraph (B) as subparagraph (C); and
- (2) by inserting after subparagraph (A) the following:

“(B) **DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.**—Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.”.

SEC. 7. INTEGRITY MANAGEMENT.

(a) **IN GENERAL.**—Section 60109 is amended by adding at the end the following new subsection:

“(g) **INTEGRITY MANAGEMENT.**—

“(1) **EVALUATION.**—Within 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall evaluate—

“(A) with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, whether integrity management requirements, or elements thereof, should be expanded beyond high consequence areas (as described in subsection (a)); and

“(B) with respect to gas transmission pipeline facilities, whether applying integrity management requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

“(2) **FACTORS.**—In conducting the evaluation under paragraph (1), the Secretary shall consider factors including the following:

“(A) The continuing priority to enhance protections for public safety.

“(B) The continuing importance of reducing risk in high consequence areas, as so defined at the time the Secretary conducts such evaluation.

“(C) The incremental costs of applying integrity management standards to pipelines outside of high consequence areas where operators are already conducting assessments beyond what is required under this chapter.

“(D) The need to undertake integrity management assessments and repairs in a manner which is achievable and sustainable, and which does not disrupt pipeline service.

“(E) The options for phasing in the extension of integrity management requirements beyond high consequence areas, as so defined at the time the Secretary conducts such evaluation, including the most effective and efficient options for decreasing risks to an increasing number of people living or working in proximity to pipeline facilities.

“(3) **REPORT.**—Based on the evaluation described in paragraph (1), the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce containing the Secretary’s analysis and findings regarding—

“(A) with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, expansion of integrity management requirements, or

elements thereof, beyond high consequence areas (as described in subsection (a)); and

“(B) with respect to gas transmission pipeline facilities, whether applying the integrity management requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

“(4) STANDARDS.—Not later than 2 years after completion of the evaluation, the Secretary shall, as appropriate, prescribe regulations, after notice and an opportunity for a hearing, that—

“(A) with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, expand integrity management requirements, or elements thereof, beyond high consequence areas (as described in subsection (a)); and

“(B) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under subsection (c)(2).

“(5) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by paragraph (1) and may collect such additional data pursuant to regulations promulgated under paragraph (3) as may be necessary.”

(b) TECHNICAL CORRECTION.—Section 60109(c)(3)(B) is amended to read as follows:

“(B) Subject to paragraph (5), periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods described in subparagraph (A). Such deadline shall be extended for an additional 6 months if the operator submits written notice to the Secretary that includes an explanation of the need for such extension.”

SEC. 8. PUBLIC EDUCATION AND AWARENESS.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

“§ 60138. Public education and awareness

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall—

“(1) maintain a monthly updated summary of all completed and final natural gas and hazardous liquid pipeline facility inspections conducted by or reported to the Pipeline and Hazardous Materials Safety Administration that includes—

“(A) identification of the operator inspected;

“(B) the type of inspection;

“(C) the results of the inspection, including any deficiencies identified;

and

“(D) any corrective actions required to be taken by the operator to remediate such deficiencies;

“(2) maintain a detailed summary of each approved emergency response plan written by the operator that includes the key elements of the plan, but which may exclude—

“(A) proprietary information;

“(B) sensitive security information, including as referenced in section 1520.5(a) of title 49, Code of Federal Regulations;

“(C) specific response resources and tactical resource deployment plans;

and

“(D) the specific amount and location of worst-case discharges, including the process by which an operator determines the worst-case discharge; and

“(3) maintain, as part of the National Pipeline Mapping System, a map of all currently designated high consequence areas (as described in section 60109(a)) in which pipelines are required to meet integrity management safety regulations, excluding any proprietary or sensitive security information, and update the map annually.

“(b) PUBLIC AVAILABILITY.—The requirements of subsection (a) shall be satisfied if the information required to be made public is made available on the Pipeline and Hazardous Materials Safety Administration’s public Web site.

“(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60137 the following:

“60138. Public education and awareness.”

SEC. 9. CAST IRON GAS PIPELINES.

(a) SURVEY UPDATE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a follow-on survey to the survey conducted under section 60108(d) of title 49, United States Code, to determine—

(1) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron pipelines;

(2) the elements of the plan, including the anticipated rate of replacement; and

(3) the progress that has been made.

(b) SURVEY FREQUENCY.—Section 60108(d) is amended by adding at the end the following new paragraph:

“(4) The Secretary shall conduct a follow-up survey to measure progress of plan implementation biennially.”.

SEC. 10. HAZARDOUS LIQUID PIPELINE LEAK DETECTION.

(a) LEAK DETECTION REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce a report on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines. The report shall include an analysis of the technical limitations of current leak detection systems, including the systems’ ability to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies.

(b) STANDARDS.—Not later than 2 years after submission of the report under subsection (a), the Secretary shall, as appropriate, based on the findings of such report, prescribe regulations, after notice and an opportunity for a hearing, that require an operator of a hazardous liquid pipeline facility to use leak detection systems, employing technically, operationally, and economically feasible standards established by the Secretary for the capability of such systems to detect leaks.

SEC. 11. INCIDENT NOTIFICATION.

(a) REVIEW OF PROCEDURES.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall review procedures for the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials and revise such procedures as appropriate.

(b) TELEPHONIC NOTICE OF CERTAIN INCIDENTS.—

(1) IN GENERAL.—Chapter 601, as amended by this Act, is further amended by adding at the end the following:

“§ 60139. Telephonic notice of certain incidents

“(a) IN GENERAL.—An owner or operator of a pipeline facility shall provide immediate telephonic notice of—

“(1) a failure of a hazardous liquid pipeline facility described in section 195.50 of title 49, Code of Federal Regulations; and

“(2) an incident, as defined in section 191.3 of title 49, Code of Federal Regulations.

“(b) IMMEDIATE TELEPHONIC NOTICE DEFINED.—In subsection (a), the term ‘immediate telephonic notice’ means telephonic notice, as described in section 191.5 of such title, to the National Response Center at the earliest practicable moment following confirmed discovery and not later than one hour following the time of such confirmed discovery.

“(c) ESTIMATES OF RELEASE VOLUMES.—When providing immediate telephonic notice under subsection (a), the owner or operator of a pipeline facility shall estimate the general volume of a release using ranges such as ‘small’, ‘medium’, ‘large’, and ‘very large’, with the volume of such ranges, but shall not be required to provide a numerical estimate of the size of the release. The owner or operator shall be required to revise an estimate to provide more specific information, including, but not limited to, a numerical estimate of the size of the release within 48 hours, to the extent practicable.

“(d) REFERENCES.—Any reference to a regulation in this section means the regulation as in effect on the date of enactment of this section.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60138 the following:

“60139. Telephonic notice of certain incidents.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that the Secretary prescribes regulations under subsection (c).

(c) STANDARDS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall prescribe regulations, after notice and an opportunity for comment, defining the meaning of the terms “discovery”, “small”, “medium”, “large”, and “very large” as used in section 60139(c) of title 49, United States Code, as added by subsection (b) of this section.

SEC. 12. TRANSPORTATION-RELATED ONSHORE FACILITY RESPONSE PLAN COMPLIANCE.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 311(m)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)(2)) are amended to read as follows:

“(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, as the case may be, may require to carry out the objectives of this section.

“(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, upon presentation of appropriate credentials, may—

“(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

“(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).”

(b) CONFORMING AMENDMENT.—Section 311(b)(6)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(6)(A)) is amended by striking “operating or” and inserting “operating, the Secretary of Transportation, or”.

SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.

(a) IN GENERAL.—Section 60132(a) is amended—

(1) in the text preceding paragraph (1), by striking “and gathering lines”; and

(2) by adding at the end the following:

“(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines is necessary to carry out the purposes of this section. Such data shall include data relating to the depth of buried pipelines. The Secretary shall give reasonable notice to operators that the data are being requested.”

(b) DISCLOSURE LIMITED TO FOIA REQUIREMENTS.—Section 60132 is amended by adding at the end the following:

“(d) PUBLIC DISCLOSURE LIMITED.—The Secretary may not disclose information collected pursuant to subsection (a) except to the extent permitted by section 552 of title 5.”

SEC. 14. INTERNATIONAL COOPERATION AND CONSULTATION.

Section 60117 is amended by adding at the end the following:

“(o) INTERNATIONAL COOPERATION AND CONSULTATION.—

“(1) INFORMATION EXCHANGE AND TECHNICAL ASSISTANCE.—If the Secretary determines that it would benefit the United States, subject to guidance from the Secretary of State, the Secretary may engage in activities supporting cooperative international efforts to share information about the risks to the public and the environment from pipeline facilities and means of protecting against those risks. Such cooperation may include the exchange of information with domestic and appropriate international organizations to facilitate efforts to develop and improve safety standards and requirements for pipeline transportation in or affecting interstate or foreign commerce.

“(2) CONSULTATION.—To the extent practicable, subject to guidance from the Secretary of State, the Secretary may consult with interested authorities in Canada, Mexico, and other interested authorities, as needed, to ensure that the respective pipeline facility safety standards and requirements prescribed by the Secretary and those prescribed by such authorities are consistent with the safe and reliable operation of cross-border pipeline facilities.

“(3) DIFFERENCES IN INTERNATIONAL STANDARDS AND REQUIREMENTS.—Nothing in this section requires that a standard or requirement prescribed by the Secretary under this chapter be identical to a standard or requirement adopted by a foreign or international authority.”

SEC. 15. TRANSPORTATION-RELATED OIL FLOW LINES.

Section 60102, as amended by section 5, is further amended by adding at the end the following:

“(o) TRANSPORTATION-RELATED OIL FLOW LINES.—

“(1) DATA COLLECTION.—The Secretary may collect geospatial or technical data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

“(2) TRANSPORTATION-RELATED OIL FLOW LINE DEFINED.—In this subsection, the term ‘transportation-related oil flow line’ means a pipeline transporting oil off of the grounds of the well where it originated across areas not owned by the producer, regardless of the extent to which the oil has been processed, if at all.

“(3) LIMITATION.—Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of wells.”.

SEC. 16. ALASKA PROJECT COORDINATION.

(a) IN GENERAL.—Chapter 601, as amended by this Act, is further amended by adding at the end the following:

“§ 60140. Alaska project coordination

“The Secretary may provide technical assistance to the State of Alaska for the purpose of achieving coordinated and effective oversight of the construction and operation of new and prospective pipeline facility systems in Alaska. The assistance may include—

“(1) conducting coordinated inspections of pipeline facility systems subject to the respective authorities of the Department of Transportation and the State of Alaska;

“(2) consulting on the development and implementation of programs designed to manage the integrity risks associated with operating pipeline facility systems in the unique conditions of Alaska;

“(3) training inspection and enforcement personnel and consulting on the development and implementation of inspection protocols and training programs; and

“(4) entering into cooperative agreements, grants, or other transactions with the State of Alaska, the Joint Pipeline Office, other Federal agencies, and other public and private agencies to carry out the objectives of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60139 the following:

“60140. Alaska project coordination.”.

SEC. 17. COST RECOVERY FOR DESIGN REVIEWS.

(a) Section 60117(n) is amended to read as follows:

“(n) COST RECOVERY FOR DESIGN REVIEWS.—

“(1) IN GENERAL.—

“(A) REVIEW COSTS.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a new gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. The Secretary shall not collect design safety review fees under this chapter and section 60301 for the same design safety review.

“(B) PROJECTS TO WHICH APPLICABLE.—Subparagraph (A) applies to any project that—

“(i) has design and construction costs totaling at least \$1,000,000,000, as adjusted for inflation; or

“(ii) uses new or novel technologies or design.

“(2) NOTIFICATION.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. Within 90 days of receiving such design specifications, construction plans and procedures, the Secretary shall provide written comments, feedback, and guidance on such project.

“(3) DEPOSIT AND USE.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States. The Secretary shall deposit funds paid under this subsection into the Fund. Funds deposited under this subsection are authorized to be appropriated for the purposes set forth in this chapter.

Fees authorized under this subsection shall be available for obligation only to the extent and in the amount provided in advance in appropriations Acts.”

(b) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue guidance to clarify the meaning of the term “new or novel technologies or design” as used in section 60117(n) of title 49, United States Code, as amended by subsection (a) of this section.

SEC. 18. SPECIAL PERMITS.

(a) IN GENERAL.—Section 60118(c)(1) is amended to read as follows:

“(1) ISSUANCE OF WAIVERS.—

“(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to the facility on terms the Secretary considers appropriate, if the Secretary finds that the waiver is not inconsistent with pipeline facility safety.

“(B) CONSIDERATIONS.—In determining whether to grant a waiver, the Secretary shall consider—

“(i) the applicant’s compliance history;

“(ii) the applicant’s accident history; and

“(iii) any additional factors the Secretary considers relevant.

“(C) EFFECTIVE PERIOD.—A waiver of one or more pipeline facility operating requirements shall be reviewed by the Secretary 5 years after its effective date. In reviewing a waiver, the Secretary shall consider any change in ownership or control of the pipeline facility, any change in the conditions around the pipeline facility, and other factors as appropriate. The Secretary may modify, suspend, or revoke a waiver after such review in accordance with subparagraph (E).

“(D) PUBLIC NOTICE AND HEARING.—The Secretary may act on a waiver under this subsection only after public notice and an opportunity for a hearing, which may consist of publication of notice in the Federal Register that an application for a waiver has been filed and providing the public with the opportunity to review and comment on the application. If a waiver is granted, the Secretary shall state in the order and associated analysis the reasons for granting it.

“(E) NONCOMPLIANCE AND MODIFICATION, SUSPENSION, OR REVOCATION.—After notice to a holder of a waiver and opportunity to show cause, the Secretary may modify, suspend, or revoke a waiver issued under this subsection for failure to comply with its terms or conditions, intervening changes in Federal law, a material change in circumstances affecting safety, including erroneous information in the application, or any other reason. If necessary to avoid a significant risk of harm to persons, property, or the environment, the Secretary may waive the show cause procedure and make the action immediately effective.”

(b) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall publish a rule, after notice and an opportunity for comment, describing the additional factors the Secretary considers relevant under section 60118(c)(1)(B)(iii) of title 49, United States Code, as amended by subsection (a) of this section.

(2) EFFECTIVE DATE.—The requirements for consideration under section 60118(c)(1)(B) of title 49, United States Code, as amended by subsection (a) of this section, shall not take effect until the date on which the Secretary publishes a rule under paragraph (1).

SEC. 19. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended—

(1) by striking “and” after the semicolon in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) non-petroleum fuels, including biofuels, that are flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities; and”.

SEC. 20. CARBON DIOXIDE PIPELINES.

Section 60102(i) is amended—

(1) by inserting “(1)” after “CARBON DIOXIDE REGULATION.—”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state. In establishing the standards, the Secretary shall consider whether applying the minimum safety standards

in part 195 of title 49 of the Code of Federal Regulations, as in effect on the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011 for the transportation of carbon dioxide in a liquid state, to the transportation of carbon dioxide in a gaseous state would ensure safety. Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treating of carbon dioxide or its preparation for transportation by pipeline at production, refining, or manufacturing facilities.”.

SEC. 21. STUDY OF THE TRANSPORTATION OF DILUTED BITUMEN.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a comprehensive review of hazardous liquid pipeline facility regulations to determine whether these regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen. In conducting this review, the Secretary shall conduct an analysis of whether any increase in risk of release exists for pipeline facilities transporting diluted bitumen. The Secretary shall report the results of this review to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.

SEC. 22. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

The Secretary of Transportation may conduct an analysis of the transportation of non-petroleum hazardous liquids by pipeline facility for the purpose of identifying the extent to which pipeline facilities are currently being used to transport non-petroleum hazardous liquids, such as chlorine, from chemical production facilities across land areas not owned by the producer that are accessible to the public. The analysis should identify the extent to which the safety of the pipeline facilities is unregulated by the States and evaluate whether the transportation of such chemicals by pipeline facility across areas accessible to the public would present significant risks to public safety, property, or the environment in the absence of regulation. The results of the analysis shall be made available to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.

SEC. 23. CLARIFICATIONS.

(a) **AMENDMENT OF PROCEDURES CLARIFICATION.**—Section 60108(a)(1) is amended by striking “an intrastate” and inserting “a”.

(b) **OWNER AND OPERATOR CLARIFICATION.**—Section 60102(a)(2)(A) is amended by striking “owners and operators” and inserting “any or all of the owners or operators”.

SEC. 24. ADDITIONAL RESOURCES.

(a) **IN GENERAL.**—To the extent funds are appropriated, the Secretary of Transportation shall increase the personnel of the Pipeline and Hazardous Materials Safety Administration by a total of 39 full-time employees to carry out the pipeline safety program and the administration of that program, of which—

- (1) 9 employees shall be added in fiscal year 2011;
- (2) 10 employees shall be added in fiscal year 2012;
- (3) 10 employees shall be added in fiscal year 2013; and
- (4) 10 employees shall be added in fiscal year 2014.

(b) **FUNCTIONS.**—In increasing the number of employees under subsection (a), the Secretary shall hire employees—

- (1) to conduct inspections of pipeline facilities to determine compliance with applicable regulations and standards;
- (2) to conduct data collection, analysis, and reporting;
- (3) to develop, implement, and update information technology;
- (4) to provide administrative, legal, and other support for pipeline facility enforcement activities; and
- (5) to support the overall pipeline safety mission of the Pipeline and Hazardous Materials Safety Administration, including training of pipeline enforcement personnel.

SEC. 25. MAINTENANCE OF EFFORT.

Section 60107(b) is amended by adding at the end the following: “The Secretary may grant such a waiver if a State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this section due to economic hardship in that State.”.

SEC. 26. ADMINISTRATIVE ENFORCEMENT PROCESS.

(a) **ISSUANCE OF REGULATIONS.**—

(1) **IN GENERAL.**—Not later than two years after the date of enactment of this Act, the Secretary shall prescribe regulations—

(A) requiring hearings under sections 60112, 60117, 60118, and 60122 to be convened before a presiding official;

(B) providing the opportunity for any person requesting a hearing under section 60112, 60117, 60118, or 60122 to arrange for a transcript of that hearing, at the expense of the requesting person;

(C) ensuring expedited review of any order issued pursuant to section 60112(e); and

(D) implementing a separation of functions between personnel involved with investigative and prosecutorial activities and advising the Secretary on findings and determinations.

(2) **PRESIDING OFFICIAL.**—The regulations prescribed under this subsection shall—

(A) define the term “presiding official” to mean the person who conducts any hearing relating to civil penalty assessments, compliance orders, safety orders, or corrective action orders; and

(B) require that the presiding official must be an attorney on the staff of the Deputy Chief Counsel that is not engaged in investigative or prosecutorial functions, including the preparation of notices of probable violations, orders relating to civil penalty assessments, compliance orders, or corrective action orders.

(3) **EXPEDITED REVIEW.**—The regulations prescribed under this subsection shall define the term “expedited review” for the purposes of paragraph (1)(C).

(b) **STANDARDS OF JUDICIAL REVIEW.**—Section 60119(a) is amended by adding at the end the following new paragraph:

“(3) All judicial review of agency action under this section shall apply the standards of review established in section 706 of title 5.”.

SEC. 27. MAXIMUM ALLOWABLE OPERATING PRESSURE.

(a) **ESTABLISHMENT OF RECORDS.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall require pipeline facility operators to conduct a verification of records for all interstate and intrastate gas transmission lines in high consequence areas (as described in section 60109(a) of title 49, United States Code) constructed before July 1, 1970, that accurately reflect the pipeline’s physical and operational characteristics and confirm the established maximum allowable operating pressure of those pipelines.

(2) **ELEMENTS.**—Verification of each record under paragraph (1) shall include such elements as the Secretary considers appropriate.

(b) **REPORTING.**—

(1) **DOCUMENTATION OF CERTAIN PIPELINES.**—Not later than 18 months after the date of enactment of this Act, pipeline facility operators shall submit to the Secretary documentation of all interstate and intrastate gas transmission pipelines in high consequence areas (as described in section 60109(a) of title 49, United States Code) constructed before the July 1, 1970, where the records required under subsection (a) are not sufficient to confirm the established maximum allowable operating pressure of those pipelines.

(2) **EXCEEDENCES OF MAXIMUM ALLOWABLE OPERATING PRESSURE.**—All pipeline facility operators shall report any exceedence of the maximum allowable operating pressure for gas transmission pipelines that exceed the build-up allowed for operation of pressure-limiting or control devices to the Secretary not later than 5 working days after the exceedence occurs. Notice of exceedence by intrastate gas transmission pipelines shall be provided concurrently to appropriate State authorities.

(c) **DETERMINATION OF MAXIMUM ALLOWABLE OPERATING PRESSURE.**—

(1) **IN GENERAL.**—For any transmission line reported in subsection (b), the Secretary shall require the operator of the transmission line to reconfirm a maximum allowable operational pressure as expeditiously as economically feasible.

(2) **INTERIM ACTIONS.**—For cases described in paragraph (1), the Secretary shall determine what actions are appropriate for a pipeline facility operator to take to maintain safety until a maximum allowable operating pressure is confirmed. In determining what actions an operator should take, the Secretary shall take into account consequences to public safety and the environment, impacts on pipeline facility system reliability and deliverability, and other factors, as appropriate.

SEC. 28. COVER OVER BURIED PIPELINE.

(a) **AMENDMENT.**— Chapter 601 is amended by adding at the end the following:

“§ 60141. Cover over buried pipeline

“Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall complete an evaluation to determine whether or not current regulations regarding cover over buried pipeline at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark are sufficient to prevent a release of hazardous liquid. If, based on the evaluation, the Secretary determines that such current regulations are insufficient to provide adequate protection against the risk of a release of a hazardous liquid to the extent provided for under section 60102, not later than 2 years after the completion of the evaluation, the Secretary shall by regulation, after notice and an opportunity for a hearing, ensure the adequacy of cover over buried pipelines at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark by addressing cover over such buried pipelines or requiring equivalent protection.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60140 the following:

“60141. Cover over buried pipeline.”

SEC. 29. ONSHORE GATHERING LINES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a review of all onshore gas and hazardous liquid gathering lines not regulated under title 49, United States Code, and submit a report based on such review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce containing the Secretary’s recommendations with respect to—

- (1) the sufficiency of existing Federal and State laws and regulations to ensure pipeline safety;
- (2) the economical and technical practicability of applying existing regulations to currently unregulated onshore gathering lines; and
- (3) subject to a risk-based assessment, the modification or revocation of existing statutory or regulatory exemptions.

SEC. 30. NATURAL GAS PIPELINE LEAK DETECTION REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce a report on the technologies available for detecting leaks from natural gas pipelines. The report shall include an analysis of the effectiveness, benefits, costs, and feasibility of adoption of available technologies, as well as the utility of the data generated by such available technologies for enhancing safety, and what can be done to foster development of additional technologies.

SEC. 31. REPORT ON MINORITY OR WOMAN-OWNED OR DISADVANTAGED BUSINESSES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall, based upon available information, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce a report on—

- (1) the number of minority-business enterprises, woman-business enterprises, and disadvantaged-business enterprises that have been granted permits to build or operate pipeline facilities; and
- (2) the extent to which pipeline facility operators utilize the services of companies that are minority-business enterprises, woman-business enterprises, or disadvantaged-business enterprises.

SEC. 32. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—

(1) Section 60125(a)(1) is amended by striking subparagraphs (A) through (D) and inserting the following:

“(A) For fiscal year 2011, \$92,206,000, of which \$9,200,000 is for carrying out such section 12 and \$36,958,000 is for making grants.

“(B) For fiscal year 2012, \$96,144,000, of which \$9,600,000 for carrying out such section 12 and \$39,611,000 is for making grants.

“(C) For fiscal year 2013, \$99,876,000, of which \$9,900,000 is for carrying out such section 12 and \$41,148,000 is for making grants.

“(D) For fiscal year 2014, \$102,807,000, of which \$10,200,000 is for carrying out such section 12 and \$42,356,000 is for making grants.”

- (2) Section 60125(a)(2) is amended by striking subparagraphs (A) through (D) and inserting the following:
- “(A) For fiscal year 2011, \$18,905,000, of which \$7,562,000 is for carrying out such section 12 and \$7,864,000 is for making grants.
- “(B) For fiscal year 2012, \$19,661,000, of which \$7,864,000 is for carrying out such section 12 and \$7,864,000 is for making grants.
- “(C) For fiscal year 2013, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants.
- “(D) For fiscal year 2014, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants.”.
- (b) EMERGENCY RESPONSE GRANTS.—Section 60125(b)(2) is amended by striking “2007 through 2010” and inserting “2011 through 2014”.
- (c) ONE-CALL NOTIFICATION PROGRAMS.—Section 6107 is amended—
- (1) by striking “2007 through 2010.” in subsection (a) and inserting “2011 through 2014.”;
 - (2) by striking “2007 through 2010.” in subsection (b) and inserting “2011 through 2014.”; and
 - (3) by striking subsection (c).
- (d) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134 is amended by adding at the end the following:
- “(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this section \$2,000,000 for each of fiscal years 2011 through 2014. The funds shall remain available until expended.”.
- (e) COMMUNITY PIPELINE SAFETY INFORMATION GRANTS.—Section 60130 is amended—
- (1) by striking “\$50,000” in subsection (a)(1) and inserting “\$100,000”;
 - (2) by inserting “, for direct advocacy for or against a pipeline,” after “for lobbying” in subsection (b); and
 - (3) by striking “\$1,000,000 for each of the fiscal years 2003 through 2010. Such amounts shall not be derived from user fees collected under section 60301.” in subsection (d) and inserting “\$2,000,000 for each of the fiscal years 2011 through 2014.”.
- (f) PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—
- (1) by adding at the end of subsection (d) the following:

“(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation shall prepare a research and development program plan every 5 years thereafter and shall transmit a report to Congress on the status and results-to-date of implementation of the program each year that funds are appropriated for carrying out the plan.”; and
 - (2) by striking “2003 through 2006.” in subsection (f) and inserting “2011 through 2014.”.

PURPOSE AND SUMMARY

H.R. 2937, the “Pipeline Infrastructure and Community Protection Act of 2011,” was introduced by Rep. Fred Upton (for himself and Rep. John Dingell) on September 15, 2011. The legislation provides for enhanced safety and environmental protection in pipeline transportation by directing the Secretary of Transportation to enforce numerous requirements for pipeline operators and perform several studies on pipeline safety standards and technology. Additionally, the bill reauthorizes pipeline safety programs administered by the Department of Transportation through fiscal year 2014.

BACKGROUND AND NEED FOR LEGISLATION

Over 2.5 million miles of pipelines transport oil, natural gas, transportation fuel, and other volatile or flammable material across the United States. While pipelines have been the safest and most efficient manner of transporting and delivering vital energy supplies to power plants, refineries, industrial facilities, and homes, a series of recent pipeline failures have led to catastrophic results.

These accidents demonstrate the need to examine, update, and strengthen Federal pipeline safety laws and regulations.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation (DOT) is the lead Federal agency charged with setting and enforcing safety standards and requirements for the nation's network of hazardous liquid and natural gas pipelines. PHMSA's statutory authority is derived from Title 49, Chapter 601 of the United States Code.

Congress's last reauthorization—the Pipeline Inspection, Protection, Enforcement, and Safety (PIPES) Act of 2006—enacted several major improvements to pipeline safety laws. The now-widespread and highly successful 811 “Call-Before-You-Dig” program was established in PIPES 2006. Before PIPES 2006, the Pipeline Safety Improvement Act of 2002 established integrity management principles for pipeline operators—a landmark set of regulations that vastly improved the effectiveness and efficiency of pipeline inspection practices.

Despite these achievements, a series of high-profile pipeline accidents occurred in 2010 and 2011. On July 26, 2010, a large oil pipeline ruptured in Marshall, Michigan, and spilled over 20,000 barrels of oil into Talmadge Creek, a tributary of the Kalamazoo River. On September 9, 2010, a natural gas pipeline exploded in a suburban neighborhood in San Bruno, California, killing eight residents and destroying dozens of homes. On February 9, 2011, a natural gas pipeline in Allentown, Pennsylvania, exploded and killed five people. And on July 1, 2011, a pipeline buried underneath the Yellowstone River in Montana ruptured and spilled over 1,000 barrels of crude oil into the nation's longest undammed waterway.

Many of these accidents exposed regulatory gaps, which the Committee has the opportunity to correct. In the case of the Marshall, Michigan, incident, the pipeline's operator lacked the capability to confirm the presence of a leak for some 12 hours. It then took nearly two hours for the operator to inform the National Response Center of the spill. In San Bruno, California, a substantial lack of technical data on the ruptured pipeline led to it operating at pressure levels beyond what it could safely manage. After the explosion occurred, a fireball raged for 95 minutes before the operator was able to shut down the line. The Pipeline Infrastructure and Community Protection Act is designed to prevent such incidents in the future and minimize their impact by addressing current statutory and regulatory shortcomings.

HEARINGS

The Subcommittee on Energy and Power held two days of hearings on pipeline safety in the 112th Congress as part of the “American Energy Initiative” series. On the first day of hearings, June 16, 2011, Members received testimony on the current status of pipeline safety. The Subcommittee took testimony from the Honorable Cynthia L. Quarterman, Administrator of the Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation; Andrew J. Black, President, Association of Oil Pipe Lines (and on behalf of the American Petroleum Institute); Christopher A. Helms, Executive Vice President and Group CEO, NiSource Gas Transmission and Storage (on behalf of the Interstate Natural Gas Association of America); Carl Weimer, Executive

Director, Pipeline Safety Trust; Charles F. Dippo, Vice President of Engineering Services & System Integrity, South Jersey Gas Company (on behalf of the American Gas Association); and Anthony Swift, Energy Analyst, International Programs, Natural Resources Defense Council.

On the second day of hearings, on July 15, 2011, which focused on the Discussion Draft of the Pipeline Infrastructure and Community Protection Act, testimony was received from the Honorable Cynthia L. Quarterman, Administrator of the Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation; Randall S. Knepper, Director, Safety Division, New Hampshire Public Utilities Commission (on behalf of the National Association of Pipeline Safety Representatives); Andrew J. Black, President, Association of Oil Pipe Lines (and on behalf of the American Petroleum Institute); Daniel B. Martin, Senior Vice President, Pipeline Safety, El Paso Pipeline Group (on behalf of the Interstate Natural Gas Association of America); Rick Kessler, Executive Director, Pipeline Safety Trust; Charles F. Dippo, Vice President of Engineering Services & System Integrity, South Jersey Gas Company (on behalf of the American Gas Association); and Gary Pruessing, President, ExxonMobil Pipeline Company.

COMMITTEE CONSIDERATION

On July 27, 2011, the Subcommittee on Energy and Power of the Committee on Energy and Commerce met in open markup session and ordered a Discussion Draft of H.R. ____, the Pipeline Infrastructure and Community Protection Act of 2011 favorably reported to the Full Committee, as amended, by a voice vote, a quorum being present. On September 21, 2011, the Committee on Energy and Commerce met in open markup session and ordered H.R. 2937 favorably reported to the House, as amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Upton to order H.R. 2937, reported to the House, as amended, was agreed to by a record vote of 51 Yeas and 0 Nays. The following reflects the recorded votes taken during the Committee consideration, including the names of those Members voting for and against.

**COMMITTEE ON ENERGY AND COMMERCE -- 112TH CONGRESS
ROLL CALL VOTE # 64**

BILL: H.R. 2937, the "Pipeline Infrastructure and Community Protection Act of 2011"

AMENDMENT: A motion by Mr. Upton to order H.R. 2937 favorably reported to the House, as amended. (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 51 yeas to 0 nays.

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|-----------------------|------|------|---------|------------------|------|------|---------|
| Mr. Upton | X | | | Mr. Waxman | X | | |
| Mr. Barton | X | | | Mr. Dingell | X | | |
| Mr. Stearns | X | | | Mr. Markey | | | |
| Mr. Whitfield | X | | | Mr. Towns | X | | |
| Mr. Shimkus | X | | | Mr. Pallone | X | | |
| Mr. Pitts | X | | | Mr. Rush | X | | |
| Mrs. Bono Mack | X | | | Ms. Eshoo | X | | |
| Mr. Walden | X | | | Mr. Engel | | | |
| Mr. Terry | X | | | Mr. Green | X | | |
| Mr. Rogers | X | | | Ms. DeGette | X | | |
| Mrs. Myrick | | | | Mrs. Capps | X | | |
| Mr. Sullivan | X | | | Mr. Doyle | X | | |
| Mr. Murphy | X | | | Ms. Schakowsky | X | | |
| Mr. Burgess | X | | | Mr. Gonzalez | X | | |
| Mrs. Blackburn | X | | | Mr. Inslee | X | | |
| Mr. Bilbray | X | | | Ms. Baldwin | X | | |
| Mr. Bass | X | | | Mr. Ross | X | | |
| Mr. Gingrey | X | | | Mr. Matheson | X | | |
| Mr. Scalise | X | | | Mr. Butterfield | X | | |
| Mr. Latta | X | | | Mr. Barrow | X | | |
| Mrs. McMorris Rodgers | X | | | Ms. Matsui | X | | |
| Mr. Harper | X | | | Mrs. Christensen | X | | |
| Mr. Lance | X | | | Ms. Castor | X | | |
| Mr. Cassidy | X | | | | | | |
| Mr. Guthrie | X | | | | | | |
| Mr. Olson | X | | | | | | |
| Mr. McKinley | X | | | | | | |
| Mr. Gardner | X | | | | | | |
| Mr. Pompeo | X | | | | | | |
| Mr. Kinzinger | X | | | | | | |
| Mr. Griffith | X | | | | | | |

09/21/2011

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 2937 provides for enhanced safety and environmental protection in pipeline transportation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND
TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the committee finds that H.R. 2937, the Pipeline Infrastructure and Community Protection Act of 2011 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues

EARMARKS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the committee finds that H.R. 2937, the Pipeline Infrastructure and Community Protection Act of 2011, contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

OCTOBER 21, 2011.

Hon. JOHN D. ROCKEFELLER IV,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2937, the Pipeline Infrastructure and Community Protection Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2937—Pipeline Infrastructure and Community Protection Act of 2011

Summary: The Pipeline and Hazardous Materials Safety Administration (PHMSA) oversees the safety of pipelines that transport gas or hazardous liquids and provides grants to states for programs to ensure pipeline safety. For those activities, CBO estimates that H.R. 2937 would authorize gross appropriations of \$433 million over the 2012–2016 period. CBO expects that about \$355 million of those amounts would be offset by fees paid by pipeline operators over that period. In addition, subject to provisions in appropriation acts, CBO estimates that the bill would authorize PHMSA to col-

lect and spend about \$20 million over the 2012–2016 period to recover its costs of conducting safety reviews of certain large pipeline projects. Altogether, CBO estimates that implementing H.R. 2937 would have a net cost of \$47 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

H.R. 2937 would increase certain civil penalties for violating pipeline safety regulations. Civil penalties are recorded in the budget as revenues and deposited in the general fund of the Treasury. However, CBO estimates that any increase in civil penalties would be small and would have no significant effect on the federal budget. Pay-as-you-go procedures apply because enacting the legislation could affect revenues. Enacting the bill would not affect direct spending.

H.R. 2937 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new requirements on both public and private operators of natural gas pipelines. The bill would impose additional private-sector mandates on operators of hazardous liquid pipelines. Because of the relatively small number of public entities affected, CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall below the annual threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation). Based on information from PHMSA and industry sources, CBO estimates that the aggregate cost of the private-sector mandates would exceed the annual threshold established in UMRA (\$142 million in 2011, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2937 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|------|------|------|------|-----------|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2012–2016 |
| SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Spending for Pipeline Safety: | | | | | | |
| Estimated Authorization Level | 134 | 143 | 146 | 5 | 5 | 433 |
| Estimated Outlays | 66 | 120 | 138 | 75 | 23 | 422 |
| Offsetting Collections from User Fees and Pipeline Design Review: | | | | | | |
| Estimated Authorization Level | –114 | –124 | –127 | –5 | –5 | –375 |
| Estimated Outlays | –114 | –124 | –127 | –5 | –5 | –375 |
| Estimated Net Spending: | | | | | | |
| Estimated Authorization Level | 20 | 19 | 19 | 0 | 0 | 58 |
| Estimated Outlays | –48 | –4 | 11 | 70 | 18 | 47 |

Basis of estimate: For this estimate, CBO assumes that H.R. 2937 will be enacted near the start of fiscal year 2012 and that the specified and necessary amounts will be appropriated each year. Estimates of spending are based on historical spending patterns for pipeline safety programs.

Spending Subject to Appropriation

Spending for Pipeline Safety. H.R. 2937 would reauthorize the laws that govern PHMSA’s role in pipeline safety. The bill would authorize the appropriation of \$433 million, CBO estimates, for PHMSA’s pipeline safety activities over the 2012–2016 period. (In 2011, PHMSA’s gross appropriation for pipeline safety was \$106

million.) H.R. 2937 would authorize PHMSA to hire 39 new employees to analyze and inspect pipelines over the 2012–2014 period. The bill also would require PHMSA to complete a number of studies, update certain industry standards, and issue new regulations on pipeline safety more quickly than under current law. CBO estimates that implementing those provisions would cost \$422 million over the 2012–2016 period, assuming appropriation of the specified and necessary amounts. However, CBO expects that about 85 percent of those costs would be recovered by PHMSA via user fees. CBO also expects that most of the remaining spending would be appropriated from fees deposited into the Oil Spill Liability Trust Fund.

Offsetting Collections for User Fees and Pipeline Design Reviews. Under provisions of the bill, CBO estimates that PHMSA would collect \$375 million in user fees over the 2012–2016 period. Those amounts include user fees authorized under current law and are based on the appropriated level of funding as well as new fees for PHMSA activities related to reviewing construction designs for pipeline projects estimated to cost more than \$1 billion. Based on information from PHMSA, CBO estimates that costs and fees related to such designs would total about \$5 million per year.

Revenues

H.R. 2937 would increase the maximum penalties PHMSA may impose for certain violations of safety regulations that cause serious environmental damage or result in serious injuries or death. The bill also would permit new penalties to be imposed for obstructing inspections or investigations by PHMSA. Based on PHMSA's past penalty collections, CBO estimates that those provisions would result in increased revenue of less than \$500,000 over the 2012–2021 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 2937 would have a negligible effect on revenues.

Intergovernmental and private sector impact: H.R. 2937 would impose mandates on public and private entities that operate natural gas pipelines and additional private-sector mandates on operators of hazardous liquid pipelines. Because of the relatively small number of public entities affected, CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall below the annual threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation); we estimate that the aggregate cost of the private-sector mandates in the bill would exceed the annual threshold established in UMRA (\$142 million in 2011, adjusted annually for inflation).

Mandates that apply to both public and private entities

Operating Pressure. The bill would require operators of transmission pipelines for natural gas that were constructed before July 1, 1970, and in areas at risk of significant damage from spills to confirm safe operating pressures for pipelines. The mandate would require such operators to ensure they have accurate records, test pipelines for which records are not sufficient, and report when pressure exceeds acceptable limits. According to PHMSA, about

24,000 to 30,000 miles of transmission pipelines are in affected areas. Published estimates indicate that the cost of testing pipelines could range from \$150,000 to \$500,000 per mile; according to industry sources, approximately 20 percent of pipelines in areas at risk of significant damage from spills might require testing. Based on that information, CBO expects that compliance costs to pipeline operators in the private sector could total hundreds of millions of dollars. Most of those costs would be incurred in the first few years the mandate is in effect. Because public entities operate a relatively small fraction of transmission pipelines for natural gas, CBO estimates the cost to state and local governments would total less than \$20 million annually in the first few years after the mandate takes effect.

Integrity Management. H.R. 2937 would extend existing planning, testing, and safety requirements to additional pipelines. CBO cannot determine the costs of the mandates for private-sector entities because they would depend on future regulations. However, based on information from PHMSA and industry sources about the cost to comply with existing standards, the cost of imposing such standards on additional pipelines could be significant. Because of the relatively small number of public entities affected, CBO estimates that the cost to state and local governments would be small.

Shut-Off Valves. The bill would impose a mandate on operators of transmission pipelines by requiring them to install shut-off valves in new or entirely replaced transmission pipelines. According to industry sources, such valves currently cost \$100,000 to \$500,000 each depending on the size of the pipeline. The number of valves to be installed would depend on the spacing required between valves and areas where operators would have to install them. Because such requirements would be developed as part of future regulations, CBO has no basis for determining the cost of the mandate to private-sector entities. Because of the relatively small number of public entities affected, CBO estimates the cost to state and local governments would be small.

Fees. The bill would authorize PHMSA to collect new fees on construction projects that are large or use new technology. The bill also would increase existing user fees that pipeline operators submit to PHMSA. Based on information from PHMSA, CBO estimates that the additional fees to pipeline operators over the 2012–2014 period would average \$31 million annually for private-sector entities and less than \$1 million annually for state and local governments.

Reporting Requirements. The bill would require pipeline operators to report additional information to PHMSA and provide information on the management and replacement of cast iron pipelines for natural gas. Industry sources indicate that the cost of those mandates to private entities would amount to tens of millions of dollars annually. Based on information from industry sources, CBO estimates that the cost of those mandates to publicly owned pipeline operators could be significant because many such operators are small and lack resources to comply with the new reporting requirements. However, CBO estimates the costs to state and local governments would total less than \$15 million annually.

Excess Flow Valves. H.R. 2937 would require operators of distribution pipelines for natural gas to install valves designed to pre-

vent natural gas leaks in areas to be determined by PHMSA. According to industry sources, each valve would add about \$30 to the cost of installation and approximately 200,000 installations per year could require such valves. CBO estimates that the cost of the mandate to public and private entities would be small.

Notification Requirements. The bill would require pipeline operators to notify state and local governments and emergency responders of accidents or incidents within specified time limits. CBO estimates that the cost of the mandate to public and private entities would be minimal.

Mandates that apply to private entities only

Leak Detection. The bill would impose a mandate by requiring the operators of hazardous liquid pipelines, such as oil pipelines, to use leak detection technologies where feasible. Under the bill, PHMSA would designate pipelines from a total of 176,000 miles. In addition, the bill could impose a mandate on operators of pipelines that transmit hazardous liquids across inland bodies of water at least 100 feet wide by authorizing PHMSA to issue regulations to ensure protection against leaks. Because the cost of those mandates would depend on future PHMSA regulations, CBO has no basis for determining the cost of this mandate.

Reporting Data on Oil Flow Lines. H.R. 2937 could impose a mandate on pipeline operators that transport oil by allowing PHMSA to collect additional geospatial, technical, or other data on oil flow lines. Because CBO does not know what information PHMSA would require operators to report, we have no basis for determining the cost of the mandate.

Safety Standards for Offshore Gathering Pipelines. H.R. 2937 would impose a mandate by requiring operators of pipelines used to gather hazardous liquids to follow additional safety requirements. According to industry sources, the mandate would apply to about 5,000 miles of pipeline. Because the cost of the mandate would depend on future PHMSA regulations, CBO has no basis for determining the cost of the mandate.

Other Requirements. The bill would impose several other new requirements on pipeline operators. Specifically, the bill would impose additional safety requirements on pipelines transporting biofuels; require PHMSA to regularly review waivers on safety requirements it provides to pipeline operators; and impose minimum safety standards for pipelines transporting carbon dioxide in a gaseous state. Based on information from industry sources and PHMSA, CBO estimates that the cost of each of those mandates would fall well below the annual threshold established in UMRA.

Previous CBO estimates: On June 9, 2011, CBO transmitted a cost estimate for S. 275, the Pipeline Transportation Safety Improvement Act of 2011, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 5, 2011. On September 27, 2011, we transmitted a cost estimate for H.R. 2845, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, as ordered reported by the House Committee on Transportation and Infrastructure on September 8, 2011. The CBO cost estimates reflect the different amounts that the bills would authorize to be appropriated for PHMSA activities.

Estimate prepared by: Federal spending: Sarah Puro; Federal revenues: Kalyani Parthasarathy; Impact on state, local, and tribal governments: Ryan Miller; Impact on the private sector: Amy Petz and Vi Nguyen.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1—Short title

Section 1 provides the short title of “Pipeline Infrastructure and Community Protection Act of 2011.”

Section 2—Civil penalties

Section 2(a) amends section 60122 by eliminating the “ability to pay” from the Secretary of Transportation’s penalty considerations. Civil penalties for “major consequence violations” are increased from \$100,000 per violation to \$250,000 per violation, with the maximum for a series of violations to increase from \$1,000,000 to \$2,500,000. Finally, a “major consequence violation” is defined as an incident resulting in one or more deaths, one or more injuries requiring in-patient hospitalization, or environmental harm and property damage exceeding \$250,000.

Section 3—Pipeline damage prevention

State-administered one-call notification (811 “call-before-you-dig”) programs must be certified by PHMSA under section 6013(a). These programs must meet minimum standards to be eligible for federal grant funding. Section 3 revises these standards to expressly prohibit State programs from providing exemptions for municipalities, State agencies, or their contractors. Additionally, PHMSA is directed to conduct an extensive study of third-party damage to pipelines and the role of one-call exemptions in pipeline incidents.

Section 4—Offshore gathering lines

Certain gathering lines—pipelines that transfer oil or gas from a well to a processing facility—are unregulated by PHMSA. Section 4 adds a new paragraph to section 60108(c) which enables PHMSA

to issue regulations for offshore gathering lines. The regulations will not apply to production and flow lines.

Section 5—Automatic and remote-controlled shut-off valves

Section 5 amends section 60102 by directing PHMSA to issue regulations requiring the use of remote or automatic shut-off valves in newly-constructed transmission lines where “economically, technically, and operationally feasible.” Additionally, PHMSA is required to complete an evaluation of pipeline operators’ ability to respond to a release in existing lines as well as the feasibility of retrofitting lines with automatic and remote-controlled shut-off valves.

Section 6—Excess flow valves

Section 6 amends section 60109(c)(3) by directing PHMSA to issue regulations requiring the use of excess flow valves in newly-constructed gas distribution branch services, multi-family facilities, and small commercial facilities where “economically, technically, and operationally feasible.” This section expands current law which only requires excess flow valves for new single-family residences (after June 2008).

Section 7—Integrity management

Section 7 amends section 60109 by instructing the Secretary of Transportation to issue rules which expand integrity management requirements and remove redundant class location requirements on pipeline segments that employ integrity management requirements. PHMSA is also instructed to report to Congress regarding the results of the evaluation leading to the required rulemaking.

Section 8—Public education and awareness

Section 8 adds a new section 60138 that requires PHMSA to make public a summary of all inspections and their results on a monthly basis. PHMSA must also produce a publicly available map of all high consequence areas as well as a summary of pipeline operators’ emergency response plans. Information on these inspections and maps will exclude proprietary and security-sensitive information.

Section 9—Cast iron pipelines

Section 9 directs PHMSA to continue with operator surveys on cast iron pipeline replacement mandated in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. Additionally, this survey will continue to be updated every two years.

Section 10—Hazardous liquid pipeline leak detection

Section 10 requires PHMSA to study the technical limits of current leak detection systems and what can be done to develop improved technologies. Subsequently, PHMSA shall issue regulations requiring liquid pipeline operators to use leak detection technologies and establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

Section 11—Incident notification

Section 11 requires PHMSA to evaluate and revise incident notification procedures between the National Response Center (NRC) and State and local emergency response officials. Additionally, this section adds a new section 60139, which directs PHMSA to issue regulations requiring operators to notify the NRC of an incident within one hour of confirmed discovery of an incident. For natural gas and hazardous liquid pipelines, the Committee suggests the one-hour time limit for incident notification should commence when the pipeline system operator determines an abnormal operating condition exists. Upon notification, the operator must characterize the release as small, medium, large, or very large. The operator shall revise its release estimate at a later point to a more precise, numerical figure. As part of the rulemaking, PHMSA must include a definition of what constitutes the point of discovery and what estimated volumes could be characterized as small, medium, large, and very large.

Section 12—Transportation-related onshore facility response plan compliance

Section 12 expands PHMSA's jurisdiction to the monitoring and enforcement of oil spill response plans by amending section 311(m)(2) of the Federal Water Pollution Control Act. Currently, the Environmental Protection Agency (EPA) and the Department of Homeland Security (DHS) share authority in this task.

Section 13—Pipeline infrastructure data collection

Section 13 amends section 60132(a) by allowing PHMSA to collect additional geospatial and technical data required for the maintenance of the National Pipeline Mapping System. Such data shall include the depth of buried pipelines at the time of their installation.

Section 14—International cooperation and consultation

Section 14 amends section 60117 by allowing PHMSA to engage in informational exchange and consultation activities among international organizations and regulatory bodies.

Section 15—Transportation-related oil flow lines

Section 15 amends section 60102 to allow PHMSA to collect data on transportation-related oil flow lines, but does not authorize PHMSA to prescribe standards on such lines.

Section 16—Alaska project coordination

Section 16 adds a new section 60140 which authorizes PHMSA to provide technical assistance to the State of Alaska for the construction of the future Alaska Natural Gas Pipeline.

Section 17—Cost recovery for design reviews

Section 17 amends section 60117(n) by allowing PHMSA to recover design review costs through new user fee authorities for new pipeline projects with costs exceeding \$1 billion or that use "new or novel technologies or design." Operators are directed to provide PHMSA with relevant design plans and data at least 120 days prior to groundbreaking, and PHMSA is directed to provide feed-

back within 90 days of receiving the plans. PHMSA is also directed to issue guidance on the definition of “new or novel technologies or design.” Design review funding can only be made available through appropriations acts.

Section 18—Special permits

Section 18 amends section 60118(c)(1) by allowing PHMSA to consider an operator’s compliance and accident history as well as “any additional factors considered relevant” when considering granting or extending a special permit, which waives certain safety, maintenance, and inspection standards for pipeline operators. The additional factors will be determined through rulemaking. The section requires PHMSA to review a waiver five years after its effective date. The section also grants PHMSA the authority to modify, suspend, or revoke a special permit in light of an operator’s failure to comply with its conditions, changes in pipeline safety or Federal law, or in an immediate effort to avoid significant risk to safety.

Section 19—Biofuel pipelines

Section 19 clarifies that all biofuels transported by pipeline are subject to PHMSA regulations by amending section 60101(a)(4).

Section 20—Carbon dioxide pipelines

Section 20 amends section 60102(i) by specifying that the Secretary shall prescribe minimum safety standards for carbon dioxide pipelines transporting carbon dioxide in a gaseous state. Additionally, if the Secretary deems it appropriate to ensure safety, PHMSA may apply existing liquid pipeline regulations to gaseous carbon dioxide pipelines.

Section 21—Study of the transportation of diluted bitumen

Section 21 directs PHMSA to conduct a comprehensive review of liquid pipeline regulations and determine whether these regulations are sufficient to regulate pipelines that transport diluted bitumen. The results of the review shall be reported to Congress within 18 months.

*Section 22—Study of non-petroleum hazardous liquids transported
By pipeline*

Section 22 authorizes a study on the extent to which pipelines are currently being used to transport non-petroleum hazardous liquids (e.g., chlorine) and if such pipelines present significant safety risks. Currently anhydrous ammonia and liquid CO₂ pipelines are the only non-petroleum hazardous liquid lines that are regulated by PHMSA.

Section 23—Clarifications

Section 23 amends section 60108(a)(1) to clarify that PHMSA’s authority to require operators to amend operating plans and procedures is not limited to intrastate pipeline facilities. It also clarifies that PHMSA’s authority for purposes of enforcement is not limited to an entity that is both the owner and operator of a pipeline.

Section 24—Additional resources

Section 24 authorizes PHMSA to hire 39 additional employees between 2011 and 2014 to carry out pipeline safety programs.

Section 25—Maintenance of effort

Currently, section 60107(b) authorizes PHMSA to withhold funding if it is determined that an entity or “agency is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent.” Section 25 amends section 60107(b) to clarify that PHMSA may take into account a State’s economic hardship when deciding whether to waive pipeline safety program funding requirements for that state.

Section 26—Administrative enforcement process

Section 26 directs PHMSA to prescribe regulations that require hearings on corrective action orders, accident reports, special permit reviews, and civil penalties. It also requires separation of personnel involved with advising the Secretary, investigation, and prosecution.

Section 27—Maximum allowable operating pressure (MAOP)

Section 27 requires gas pipeline operators, within 18 months, to confirm the established maximum allowable operating pressure of pipelines in high consequence areas constructed prior to 1970 MAOP regulations. Operators will have to submit data within 18 months for segments that cannot confirm MAOP and must report exceedences of MAOP within 5 working days. In determining what operators can do on an interim basis if MAOP cannot be confirmed, PHMSA “shall take into account consequences to public safety and the environment, impacts on pipeline system reliability and deliverability, and other factors, as appropriate.”

Section 28—Cover over buried pipeline

Section 28 adds a new section 60141 which requires PHMSA to review current regulations of pipelines buried under waterways to determine if such regulations are sufficient to prevent a release of hazardous liquid. As part of the evaluation, the Committee anticipates that PHMSA may examine whether current regulations should account for the flow rate and the magnitude and frequency of 100-year and 500-year flood levels of such waterways. If such regulations are found to be inadequate, PHMSA may prescribe new regulations addressing buried pipelines.

Section 29—Onshore gathering lines

Section 29 requires PHMSA to complete a review of all onshore gathering line exemptions and report to Congress on whether current laws and regulations are sufficient to ensure safety, whether new regulations are technically and economically practicable, and how PHMSA would propose modifying or revoking current exemptions.

Section 30—Gas pipeline leak detection study

Section 30 directs PHMSA to evaluate the status of leak detection technology for natural gas pipelines.

Section 31—Minority-owned business evaluation

This section directs PHMSA to evaluate the number of pipeline operators or contractors that are minority-, woman-, or disadvantaged business enterprises.

Section 32—Authorization of appropriations

Section 32 authorizes a gas and hazardous liquid program budget of \$111.1 million for FY2011, \$115.8 million for FY2012, \$119.9 million for FY2013, and \$122.81 million for FY2014. It authorizes \$2.0 million for State damage prevention programs for each fiscal year and \$10.0 million for emergency response grants for each fiscal year. It authorizes \$1.0 million for State one-call notification programs for each fiscal year and increases maximum Community Pipeline Safety Information Grants from \$50,000 to \$100,000 with an overall authorization of \$1.0 million for each fiscal year and eliminates the ban on user fees collected for such purposes. It also reauthorizes the pipeline transportation research and development program for FY2011–2014.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

* * * * *

CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

* * * * *

§ 6103. Minimum standards for State one-call notification programs

[(a) MINIMUM STANDARDS.—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

[(1) appropriate participation by all underground facility operators, including all government operators;

[(2) appropriate participation by all excavators, including all government and contract excavators; and

[(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.]

(a) MINIMUM STANDARDS.—

(1) *IN GENERAL.*—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

(A) appropriate participation by all underground facility operators, including all government operators;

(B) appropriate participation by all excavators, including all government and contract excavators; and

(C) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

(2) *EXEMPTIONS PROHIBITED.*—A State one-call notification program may not exempt municipalities, State agencies, or their contractors from its one-call notification system requirements.

* * * * *

§ 6107. Authorization of appropriations

(a) *FOR GRANTS TO STATES.*—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$1,000,000 for each of fiscal years [2007 through 2010.] *2011 through 2014.*

(b) *FOR ADMINISTRATION.*—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years [2007 through 2010.] *2011 through 2014.*

[(c) *GENERAL REVENUE FUNDING.*—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.]

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SUBTITLE VIII—PIPELINES

* * * * *

CHAPTER 601—SAFETY

Sec.

60101. Definitions.

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60138. *Public education and awareness.*

60139. *Telephonic notice of certain incidents.*

60140. *Alaska project coordination.*

60141. *Cover over buried pipeline.*

§ 60101. Definitions

(a) *GENERAL.*—In this chapter—

(1) * * *

* * * * *

(4) “hazardous liquid” means—

(A) petroleum or a petroleum product; [and]

(B) *non-petroleum fuels, including biofuels, that are flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities; and*

[(B)] (C) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property

when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas);

* * * * *

§ 60102. Purpose and general authority

(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

(1) * * *

(2) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to [owners and operators] *any or all of the owners or operators* of pipeline facilities;

* * * * *

(i) CARBON DIOXIDE REGULATION.—(1) The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe standards related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(2) *The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state. In establishing the standards, the Secretary shall consider whether applying the minimum safety standards in part 195 of title 49 of the Code of Federal Regulations, as in effect on the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011 for the transportation of carbon dioxide in a liquid state, to the transportation of carbon dioxide in a gaseous state would ensure safety. Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treating of carbon dioxide or its preparation for transportation by pipeline at production, refining, or manufacturing facilities.*

* * * * *

(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.—

(1) STANDARDS FOR NEW TRANSMISSION PIPELINES.—*Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipelines constructed or entirely replaced after the date on which the Secretary issues a final rule.*

(2) RETROFIT REVIEW AND ANALYSIS.—*The Secretary shall conduct a review of transmission pipeline facility operators' ability to respond to a hazardous liquid or gas release from a pipeline segment located in a high consequence area (as described in section 60109(a)). The Secretary's analysis shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of nearest response personnel, and the costs, risks, and benefits of installing automatic and remote-controlled shut-off valves. Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall report the results of*

such review and analysis to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.

(o) **TRANSPORTATION-RELATED OIL FLOW LINES.**—

(1) **DATA COLLECTION.**—*The Secretary may collect geospatial or technical data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.*

(2) **TRANSPORTATION-RELATED OIL FLOW LINE DEFINED.**—*In this subsection, the term “transportation-related oil flow line” means a pipeline transporting oil off of the grounds of the well where it originated across areas not owned by the producer, regardless of the extent to which the oil has been processed, if at all.*

(3) **LIMITATION.**—*Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of wells.*

* * * * *

§ 60107. State pipeline safety grants

(a) * * *

(b) **PAYMENTS.**—*After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. *The Secretary may grant such a waiver if a State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this section due to economic hardship in that State.**

* * * * *

§ 60108. Inspection and maintenance

(a) **PLANS.**—(1) Each person owning or operating [an intrastate] a gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

* * * * *

(c) PIPELINE FACILITIES OFFSHORE AND IN OTHER WATERS.—(1)
* * *

* * * * *

(8) *Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The exceptions described in section 60102(k)(3) shall apply to the requirements of this paragraph. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.*

(d) REPLACING CAST IRON GAS PIPELINES.—(1) * * *

* * * * *

(4) *The Secretary shall conduct a follow-up survey to measure progress of plan implementation biennially.*

§ 60109. High-density population areas and environmentally sensitive areas

(a) * * *

* * * * *

(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—
(1) * * *

* * * * *

(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

(A) * * *

[(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).]

(B) *Subject to paragraph (5), periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods described in subparagraph (A). Such deadline shall be extended for an additional 6 months if the operator submits written notice to the Secretary that includes an explanation of the need for such extension.*

* * * * *

(e) DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.—
(1) * * *

* * * * *

(3) EXCESS FLOW VALVES.—
(A) * * *

(B) *DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.—Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of excess flow valves, or equivalent technology, where economically, technically,*

and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.

[(B)] (C) REPORTS.—Operators of natural gas distribution systems shall report annually to the Secretary on the number of excess flow valves installed on their systems under subparagraph (A).

* * * * *

(g) **INTEGRITY MANAGEMENT.**—

(1) **EVALUATION.**—*Within 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall evaluate—*

(A) *with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, whether integrity management requirements, or elements thereof, should be expanded beyond high consequence areas (as described in subsection (a)); and*

(B) *with respect to gas transmission pipeline facilities, whether applying integrity management requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.*

(2) **FACTORS.**—*In conducting the evaluation under paragraph (1), the Secretary shall consider factors including the following:*

(A) *The continuing priority to enhance protections for public safety.*

(B) *The continuing importance of reducing risk in high consequence areas, as so defined at the time the Secretary conducts such evaluation.*

(C) *The incremental costs of applying integrity management standards to pipelines outside of high consequence areas where operators are already conducting assessments beyond what is required under this chapter.*

(D) *The need to undertake integrity management assessments and repairs in a manner which is achievable and sustainable, and which does not disrupt pipeline service.*

(E) *The options for phasing in the extension of integrity management requirements beyond high consequence areas, as so defined at the time the Secretary conducts such evaluation, including the most effective and efficient options for decreasing risks to an increasing number of people living or working in proximity to pipeline facilities.*

(3) **REPORT.**—*Based on the evaluation described in paragraph (1), the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce containing the Secretary's analysis and findings regarding—*

(A) *with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, expansion of integrity management requirements, or elements thereof, beyond high consequence areas (as described in subsection (a)); and*

(B) *with respect to gas transmission pipeline facilities, whether applying the integrity management requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.*

(4) *STANDARDS.*—Not later than 2 years after completion of the evaluation, the Secretary shall, as appropriate, prescribe regulations, after notice and an opportunity for a hearing, that—

(A) with respect to gas transmission pipeline facilities and hazardous liquid pipeline facilities, expand integrity management requirements, or elements thereof, beyond high consequence areas (as described in subsection (a)); and

(B) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under subsection (c)(2).

(5) *DATA REPORTING.*—The Secretary shall collect any relevant data necessary to complete the evaluation required by paragraph (1) and may collect such additional data pursuant to regulations promulgated under paragraph (3) as may be necessary.

* * * * *

§ 60117. Administrative

(a) * * *

* * * * *

[(n) COST RECOVERY FOR DESIGN REVIEWS.—

[(1) IN GENERAL.—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a liquefied natural gas pipeline facility, the Secretary may require the person requesting such reviews to pay the associated staff costs relating to such reviews incurred by the Secretary in section 60301(d). The Secretary may assess such costs in any reasonable manner.

[(2) DEPOSIT.—The Secretary shall deposit all funds paid to the Secretary under this subsection into the Department of Treasury account 69–5172–0–2–407 or its successor account.

[(3) AUTHORIZATION OF APPROPRIATIONS.—Funds deposited pursuant to this subsection are authorized to be appropriated for the purposes set forth in section 60301(d).**]**

(n) COST RECOVERY FOR DESIGN REVIEWS.—

(1) IN GENERAL.—

(A) REVIEW COSTS.—*For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a new gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. The Secretary shall not collect design safety review fees under this chapter and section 60301 for the same design safety review.*

(B) PROJECTS TO WHICH APPLICABLE.—Subparagraph (A) applies to any project that—

- (i) has design and construction costs totaling at least \$1,000,000,000, as adjusted for inflation; or*
- (ii) uses new or novel technologies or design.*

(2) NOTIFICATION.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. Within 90 days of receiving such design specifications, construction plans and procedures, the Secretary shall provide written comments, feedback, and guidance on such project.

(3) DEPOSIT AND USE.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States. The Secretary shall deposit funds paid under this subsection into the Fund. Funds deposited under this subsection are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this subsection shall be available for obligation only to the extent and in the amount provided in advance in appropriations Acts.

(o) INTERNATIONAL COOPERATION AND CONSULTATION.—

(1) INFORMATION EXCHANGE AND TECHNICAL ASSISTANCE.—If the Secretary determines that it would benefit the United States, subject to guidance from the Secretary of State, the Secretary may engage in activities supporting cooperative international efforts to share information about the risks to the public and the environment from pipeline facilities and means of protecting against those risks. Such cooperation may include the exchange of information with domestic and appropriate international organizations to facilitate efforts to develop and improve safety standards and requirements for pipeline transportation in or affecting interstate or foreign commerce.

(2) CONSULTATION.—To the extent practicable, subject to guidance from the Secretary of State, the Secretary may consult with interested authorities in Canada, Mexico, and other interested authorities, as needed, to ensure that the respective pipeline facility safety standards and requirements prescribed by the Secretary and those prescribed by such authorities are consistent with the safe and reliable operation of cross-border pipeline facilities.

(3) DIFFERENCES IN INTERNATIONAL STANDARDS AND REQUIREMENTS.—Nothing in this section requires that a standard or requirement prescribed by the Secretary under this chapter be identical to a standard or requirement adopted by a foreign or international authority.

§ 60118. Compliance and waivers

(a) * * *

* * * * *

(c) WAIVERS BY SECRETARY.—

[(1) NONEMERGENCY WAIVERS.—

[(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may

waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

[(B) HEARING.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.]

(1) ISSUANCE OF WAIVERS.—

(A) *IN GENERAL.*—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to the facility on terms the Secretary considers appropriate, if the Secretary finds that the waiver is not inconsistent with pipeline facility safety.

(B) *CONSIDERATIONS.*—In determining whether to grant a waiver, the Secretary shall consider—

- (i) the applicant's compliance history;
- (ii) the applicant's accident history; and
- (iii) any additional factors the Secretary considers relevant.

(C) *EFFECTIVE PERIOD.*—A waiver of one or more pipeline facility operating requirements shall be reviewed by the Secretary 5 years after its effective date. In reviewing a waiver, the Secretary shall consider any change in ownership or control of the pipeline facility, any change in the conditions around the pipeline facility, and other factors as appropriate. The Secretary may modify, suspend, or revoke a waiver after such review in accordance with subparagraph (E).

(D) *PUBLIC NOTICE AND HEARING.*—The Secretary may act on a waiver under this subsection only after public notice and an opportunity for a hearing, which may consist of publication of notice in the Federal Register that an application for a waiver has been filed and providing the public with the opportunity to review and comment on the application. If a waiver is granted, the Secretary shall state in the order and associated analysis the reasons for granting it.

(E) *NONCOMPLIANCE AND MODIFICATION, SUSPENSION, OR REVOCATION.*—After notice to a holder of a waiver and opportunity to show cause, the Secretary may modify, suspend, or revoke a waiver issued under this subsection for failure to comply with its terms or conditions, intervening changes in Federal law, a material change in circumstances affecting safety, including erroneous information in the application, or any other reason. If necessary to avoid a significant risk of harm to persons, property, or the environment, the Secretary may waive the show cause procedure and make the action immediately effective.

* * * * *

(e) *OPERATOR ASSISTANCE IN INVESTIGATIONS.*—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall

make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident. *The Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.*

* * * * *

§ 60119. Judicial review

(a) REVIEW OF REGULATIONS [AND WAIVER ORDERS], ORDERS, AND OTHER FINAL AGENCY ACTIONS.—(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued [about an application for a waiver under section 60118(c) or (d) of] *under* this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

* * * * *

(3) *All judicial review of agency action under this section shall apply the standards of review established in section 706 of title 5.*

* * * * *

§ 60120. Enforcement

(a) CIVIL ACTIONS.—

(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122. *The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.*

* * * * *

§ 60122. Civil penalties

(a) * * *

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

(1) the Secretary shall consider—

(A) * * *

(B) with respect to the violator, the degree of culpability, any history of prior violations, **the ability to pay,** and any effect on ability to continue doing business; and

* * * * *

(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.—

(1) IN GENERAL.—A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has committed a major consequence violation of section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$250,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of major consequence violations is \$2,500,000.

(2) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a major consequence violation under this subsection, the Secretary shall consider the factors prescribed in subsection (b).

(3) MAJOR CONSEQUENCE VIOLATION DEFINED.—In this subsection, the term “major consequence violation” means a violation that contributed to a pipeline facility incident resulting in—

(A) 1 or more deaths;

(B) 1 or more injuries or illnesses requiring in-patient hospitalization; or

(C) environmental harm exceeding \$250,000 in estimated damages to the environment including property loss, other than the value of natural gas or hazardous liquid lost and damage to pipeline facility equipment.

[(c)] (d) COLLECTION AND COMPROMISE.—(1) * * *

* * * * *

[(d)] (e) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

[(e)] (f) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

[(f)] (g) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

* * * * *

§ 60125. Authorization of appropriations

(a) GAS AND HAZARDOUS LIQUID.—

(1) IN GENERAL.—To carry out the provisions of this chapter related to gas and hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355), the following amounts are authorized to be appropriated to the Department of Transportation from fees collected under section 60301 in each respective year:

[(A) For fiscal year 2007, \$60,175,000 of which \$7,386,000 is for carrying out such section 12 and \$17,556,000 is for making grants.]

[(B) For fiscal year 2008, \$67,118,000 of which \$7,586,000 is for carrying out such section 12 and \$20,614,000 is for making grants.]

[(C) For fiscal year 2009, \$72,045,000 of which \$7,586,000 is for carrying out such section 12 and \$21,513,000 is for making grants.]

[(D) For fiscal year 2010, \$76,580,000 of which \$7,586,000 is for carrying out subsection 12 and \$22,252,000 is for making grants.]

(A) For fiscal year 2011, \$92,206,000, of which \$9,200,000 is for carrying out such section 12 and \$36,958,000 is for making grants.

(B) For fiscal year 2012, \$96,144,000, of which \$9,600,000 for carrying out such section 12 and \$39,611,000 is for making grants.

(C) For fiscal year 2013, \$99,876,000, of which \$9,900,000 is for carrying out such section 12 and \$41,148,000 is for making grants.

(D) For fiscal year 2014, \$102,807,000, of which \$10,200,000 is for carrying out such section 12 and \$42,356,000 is for making grants.

(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1) the following amounts are authorized from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355):

[(A) For fiscal year 2007, \$18,810,000 of which \$4,207,000 is for carrying out such section 12 and \$2,682,000 is for making grants.]

[(B) For fiscal year 2008, \$19,000,000 of which \$4,207,000 is for carrying out such section 12 and \$2,682,000 is for making grants.]

[(C) For fiscal year 2009, \$19,500,000 of which \$4,207,000 is for carrying out such section 12 and \$3,103,000 is for making grants.]

[(D) For fiscal year 2010, \$20,000,000 of which \$4,207,000 is for carrying out such section 12 \$3,603,000 is for making grants.]

(A) For fiscal year 2011, \$18,905,000, of which \$7,562,000 is for carrying out such section 12 and \$7,864,000 is for making grants.

(B) For fiscal year 2012, \$19,661,000, of which \$7,864,000 is for carrying out such section 12 and \$7,864,000 is for making grants.

(C) For fiscal year 2013, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants.

(D) For fiscal year 2014, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants.

(b) EMERGENCY RESPONSE GRANTS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years [2007 through 2010] 2011 through 2014 to carry out this subsection.

* * * * *

§ 60130. Pipeline safety information grants to communities

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). No grants may be awarded under section 60114(g) until the Secretary has established competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed [\$50,000] \$100,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

* * * * *

(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying, for direct advocacy for or against a pipeline, or in direct support of litigation.

* * * * *

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section [\$1,000,000 for each of the fiscal years 2003 through 2010. Such amounts shall not be derived from user fees collected under section 60301.] \$2,000,000 for each of the fiscal years 2011 through 2014.

* * * * *

§ 60132. National pipeline mapping system

(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines [and gathering lines]) shall provide to the Secretary of Transportation the following information with respect to the facility:

(1) * * *

* * * * *

(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines is necessary to carry out the purposes of this section. Such data shall include data relating to the depth of buried pipelines. The Secretary shall give reasonable notice to operators that the data are being requested.

* * * * *

(d) *PUBLIC DISCLOSURE LIMITED.*—*The Secretary may not disclose information collected pursuant to subsection (a) except to the extent permitted by section 552 of title 5.*

* * * * *

§ 60134. State damage prevention programs

(a) *IN GENERAL.*—*The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—*

(1) *has in effect an annual certification under section 60105 or an agreement under section 60106; [and]*

(2)(A) * * *

(B) *demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection [(b).] (b); and*

(3) *does not provide any exemptions to municipalities, State agencies, or their contractors from its one-call notification system requirements.*

* * * * *

(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated to the Secretary to provide grants under this section \$2,000,000 for each of fiscal years 2011 through 2014. The funds shall remain available until expended.*

* * * * *

§ 60138. Public education and awareness

(a) *IN GENERAL.*—*Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall—*

(1) *maintain a monthly updated summary of all completed and final natural gas and hazardous liquid pipeline facility inspections conducted by or reported to the Pipeline and Hazardous Materials Safety Administration that includes—*

(A) *identification of the operator inspected;*

(B) *the type of inspection;*

(C) *the results of the inspection, including any deficiencies identified; and*

(D) *any corrective actions required to be taken by the operator to remediate such deficiencies;*

(2) *maintain a detailed summary of each approved emergency response plan written by the operator that includes the key elements of the plan, but which may exclude—*

(A) *proprietary information;*

(B) *sensitive security information, including as referenced in section 1520.5(a) of title 49, Code of Federal Regulations;*

(C) *specific response resources and tactical resource deployment plans; and*

(D) *the specific amount and location of worst-case discharges, including the process by which an operator determines the worst-case discharge; and*

(3) maintain, as part of the National Pipeline Mapping System, a map of all currently designated high consequence areas (as described in section 60109(a)) in which pipelines are required to meet integrity management safety regulations, excluding any proprietary or sensitive security information, and update the map annually.

(b) **PUBLIC AVAILABILITY.**—The requirements of subsection (a) shall be satisfied if the information required to be made public is made available on the Pipeline and Hazardous Materials Safety Administration’s public Web site.

(c) **RELATIONSHIP TO FOIA.**—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.

§ 60139. Telephonic notice of certain incidents

(a) **IN GENERAL.**—An owner or operator of a pipeline facility shall provide immediate telephonic notice of—

- (1) a failure of a hazardous liquid pipeline facility described in section 195.50 of title 49, Code of Federal Regulations; and
- (2) an incident, as defined in section 191.3 of title 49, Code of Federal Regulations.

(b) **IMMEDIATE TELEPHONIC NOTICE DEFINED.**—In subsection (a), the term “immediate telephonic notice” means telephonic notice, as described in section 191.5 of such title, to the National Response Center at the earliest practicable moment following confirmed discovery and not later than one hour following the time of such confirmed discovery.

(c) **ESTIMATES OF RELEASE VOLUMES.**—When providing immediate telephonic notice under subsection (a), the owner or operator of a pipeline facility shall estimate the general volume of a release using ranges such as “small”, “medium”, “large”, and “very large”, with the volume of such ranges, but shall not be required to provide a numerical estimate of the size of the release. The owner or operator shall be required to revise an estimate to provide more specific information, including, but not limited to, a numerical estimate of the size of the release within 48 hours, to the extent practicable.

(d) **REFERENCES.**—Any reference to a regulation in this section means the regulation as in effect on the date of enactment of this section.

§ 60140. Alaska project coordination

The Secretary may provide technical assistance to the State of Alaska for the purpose of achieving coordinated and effective oversight of the construction and operation of new and prospective pipeline facility systems in Alaska. The assistance may include—

- (1) conducting coordinated inspections of pipeline facility systems subject to the respective authorities of the Department of Transportation and the State of Alaska;
- (2) consulting on the development and implementation of programs designed to manage the integrity risks associated with operating pipeline facility systems in the unique conditions of Alaska;
- (3) training inspection and enforcement personnel and consulting on the development and implementation of inspection protocols and training programs; and

(4) entering into cooperative agreements, grants, or other transactions with the State of Alaska, the Joint Pipeline Office, other Federal agencies, and other public and private agencies to carry out the objectives of this section.

§ 60141. Cover over buried pipeline

Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall complete an evaluation to determine whether or not current regulations regarding cover over buried pipeline at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark are sufficient to prevent a release of hazardous liquid. If, based on the evaluation, the Secretary determines that such current regulations are insufficient to provide adequate protection against the risk of a release of a hazardous liquid to the extent provided for under section 60102, not later than 2 years after the completion of the evaluation, the Secretary shall by regulation, after notice and an opportunity for a hearing, ensure the adequacy of cover over buried pipelines at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark by addressing cover over such buried pipelines or requiring equivalent protection.

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

TITLE III—STANDARDS AND ENFORCEMENT

* * * * *

OIL AND HAZARDOUS SUBSTANCE LIABILITY

SEC. 311. (a) * * *
 (b)(1) * * *

* * * * *

(6) ADMINISTRATIVE PENALTIES.—

(A) VIOLATIONS.—Any owner, operator, or person in charge of any vessel, onshore facility, or offshore facility—

(i) * * *

* * * * *

may be assessed a class I or class II civil penalty by the Secretary of the department in which the Coast Guard is [operating or] *operating, the Secretary of Transportation, or the Administrator.*

* * * * *

(m) ADMINISTRATIVE PROVISIONS.—

(1) * * *

(2) FOR FACILITIES.—

[(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such

records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator or Secretary, as the case may be, may require to carry out the objectives of this section.

[(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator or Secretary, upon presentation of appropriate credentials, may—

[(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

[(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).]

(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, as the case may be, may require to carry out the objectives of this section.

(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, upon presentation of appropriate credentials, may—

(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).

* * * * *

PIPELINE SAFETY IMPROVEMENT ACT OF 2002

* * * * *

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) * * *

* * * * *

(d) PROGRAM PLAN.—

(1) * * *

* * * * *

(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation shall prepare a research and development program plan every 5 years thereafter and shall transmit a report to Congress on the status and results-to-date of implementation of the program each year that funds are appropriated for carrying out the plan.

* * * * *

(f) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), \$3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years [2003 through 2006.] *2011 through 2014.*

* * * * *

