AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 112–297
Part 1

PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011

DECEMBER 1, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MICA, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2845]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2845) 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.

CONTENTS

	Page
Purpose of the Legislation and Summary	10
Background and Need for the Legislation	10
Legislative History	11
Hearings	11
Committee Votes	12
Committee Oversight Findings	12
New Budget Authority and Tax Expenditures	12
Congressional Budget Office Cost Estimate	12
Performance Goals and Objectives	16
Advisory on Earmarks	16
Federal Mandates Statement	16
Preemption Clarification	16
Advisory Committee Statement	16
Applicability to the Legislative Branch	16
Section-by-Section Analysis	17
Changes in Existing Law Made by the Bill, as Reported	21
Exchange of Letters	32

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 Safety, Regulatory Certainty, and Job Creation 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. Automatic and remote-controlled shut-off valves.
Sec. 5. Integrity management.
Sec. 6. Public education and awareness.
Sec. 7. Cast iron gas pipelines.
Sec. 8. Leak detection.
Sec. 9. Accident and incident notification.
Sec. 10. Transportation-related onshore facility response plan compliance.
Sec. 11. Transportation-related oil flow lines.
Sec. 12. Cost recovery for design reviews.
Sec. 13. Biofuel pipelines.
Sec. 14. Carbon dioxide pipelines.
Sec. 15. Study of transportation of diluted bitumen.
Sec. 16. Study of non-petroleum hazardous liquids transported by pipeline.
Sec. 17. Clarifications.
Sec. 18. Maintenance of effort.
Sec. 19. Administrative enforcement process.
Sec. 20. Gas and hazardous liquid gathering lines.
Sec. 21. Authorization of appropriations.

SEC. 2. CIVIL PENALTIES.

(a) GENERAL PENALTIES; PENALTY CONSIDERATIONS.—Section 60122 is amended—

(1) in subsection (a)(1)—

(A) in the first sentence by striking "$100,000" and inserting "$175,000"; and

(B) in the last sentence by striking "$1,000,000" and inserting "$1,750,000"; and

(2) in subsection (b)(1)(B) by striking "the ability to pay,".

(b) OPERATOR ASSISTANCE IN INVESTIGATIONS.—Section 60118(e) is amended to read as follows:

"(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

"(1) ASSISTANCE AND ACCESS.—If the Secretary or the National Transportation Safety Board investigates an accident involving a pipeline facility, the operator of the facility shall—

"(A) 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

"(B) afford all reasonable assistance in the investigation of the accident.

"(2) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

"(A) IN GENERAL.—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.

"(B) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) OBSTRUCTS.—The term 'obstructs' includes actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.

"(ii) GOOD CAUSE.—The term 'good cause' includes, at a minimum, restricting access to facilities that are not secure or safe for non-pipeline personnel or visitors.".

(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 this title" and inserting "under this chapter".

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, at a minimum, shall 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.—In order to qualify for a grant under section 6106, 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) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2)(B) by striking "(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. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.

Section 60102 is amended—

(1) by striking subsection (j)(3); and

(2) by adding at the end the following:

"(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES FOR NEW TRANSMISSION PIPELINES.—

"(1) IN GENERAL.—The Secretary may require by regulation, if determined appropriate by the Secretary, the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule containing such requirement.

"(2) FACTORS FOR CONSIDERATION.—In determining whether to proceed with a rulemaking under paragraph (1), the Secretary shall consider the factors specified in subsection (b)(2).".

SEC. 5. INTEGRITY MANAGEMENT.

(a) EVALUATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall evaluate—

(1) whether integrity management system requirements, or elements thereof, should be expanded beyond high consequence areas; and

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

(b) REPAIR CRITERIA.—In conducting the evaluation under subsection (a), the Secretary shall consider applying repair criteria, such as pressure reductions and special requirements for scheduling remediation, to areas that are not high consequence areas.

(c) REPORT.—Based on the evaluation to be conducted under subsection (a), 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 containing the Secretary's analysis and findings regarding—

(1) expansion of integrity management requirements, or elements thereof, beyond high consequence areas; and

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

(d) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a).

(e) 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 the extension.".

(f) RULEMAKING REQUIREMENTS.—

(1) REVIEW PERIOD DEFINED.—In this subsection, the term "review period" means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date that is 1 year after the date of completion of the report under subsection (c); or

(B) the date that is 3 years after the date of enactment of this Act.

(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (c) and implement appropriate recommendations, the Secretary shall not, during the review period, proceed with a rulemaking to prescribe regulations described in paragraph (3).

(3) STANDARDS.—Following the review period, the Secretary may, as appropriate, prescribe regulations that—

(A) expand integrity management system requirements, or elements thereof, beyond high consequence areas; and

(B) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under section 60109(c)(2) of title 49, United States Code.

(4) SAVINGS CLAUSE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may proceed to a rulemaking to prescribe regulations described in paragraph (3), and may prescribe the regulations, if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the rulemaking will address the risk or hazard.

(B) IMMINENT HAZARD DEFINED.—In subparagraph (A), the term "imminent hazard" means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

(g) REPORT TO CONGRESS ON RISK-BASED PIPELINE REASSESSMENT INTERVALS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall evaluate—

(1) whether risk-based reassessment intervals are a more effective alternative for managing risks to pipelines in high-consequence areas once baseline assessments are complete when compared to a 7-year reassessment interval;

(2) the number of anomalies found in baseline assessments required under section 60109(c)(3)(A) of title 49, United States Code, as compared to the number of anomalies found in reassessments required under section 60109(c)(3)(B) of such title; and

(3) the progress made in incorporating the recommendations in GAO Report 06–945 and the current relevance of recommendations not incorporated to date.

(h) HIGH CONSEQUENCE AREA DEFINED.—In this section, the term "high consequence area" means an area described in section 60109(a) of title 49, United States Code.

SEC. 6. PUBLIC EDUCATION AND AWARENESS.

(a) NATIONAL PIPELINE MAPPING SYSTEM.—

(1) MAP OF HIGH CONSEQUENCE AREAS.—The Secretary of Transportation shall—

(A) maintain, as part of the National Pipeline Mapping System, a map of all designated high consequence areas (as described in section 60109(a) of title 49, United States Code) in which pipelines are required to meet integrity management safety regulations, excluding any proprietary or sensitive security information; and

(B) update the map biennially.

(2) PROGRAM TO PROMOTE AWARENESS OF NATIONAL PIPELINE MAPPING SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and implement a program promoting greater awareness of the existence of the National Pipeline Mapping System to State and local emergency responders and other interested parties. The program shall include guidance on how to use the National Pipeline Mapping System to locate pipelines in communities and local jurisdictions.

(b) INFORMATION TO EMERGENCY RESPONSE AGENCIES.—

(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to emergency response agencies of the communities and jurisdictions in which those facilities are located.

(2) CONSULTATION.—Before issuing guidance under paragraph (1), the Secretary shall consult with owners and operators of pipeline facilities to determine the extent to which the owners and operators are already providing system-specific information about their pipeline facilities to emergency response agencies.

SEC. 7. CAST IRON GAS PIPELINES.

(a) FOLLOW-UP SURVEYS.—Section 60108(d) is amended by adding at the end the following:

"(4) Not later than December 31, 2012, and every 2 years thereafter, the Secretary shall conduct a follow-up survey to measure the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.".

(b) STATUS REPORT.—Not later than December 31, 2013, the Secretary of Transportation shall transmit 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 that—

(1) identifies the total mileage of cast iron gas pipelines in the United States; and

(2) evaluates the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

SEC. 8. LEAK DETECTION.

(a) LEAK DETECTION REPORT.—

(1) IN GENERAL.—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.

(2) CONTENTS.—The report shall include—

(A) 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; and

(B) an analysis of the feasibility of establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks, and the safety benefits and adverse consequences of requiring operators to use leak detection systems.

(b) RULEMAKING REQUIREMENTS.—

(1) REVIEW PERIOD DEFINED.—In this subsection, the term "review period" means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date that is 1 year after the date of completion of the report under subsection (a); or

(B) the date that is 2 years after the date of enactment of this Act.

(2) CONGRESSIONAL AUTHORITY.—In order to provide Congress the necessary time to review the results of the report required by subsection (a) and implement appropriate recommendations, the Secretary shall not, during the review period, proceed with a rulemaking to prescribe regulations described in paragraph (3).

(3) STANDARDS.—Following the review period, the Secretary may, as appropriate, prescribe regulations that—

(A) require operators of hazardous liquid pipeline facilities to use leak detection systems; and

(B) establish technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

(4) SAVINGS CLAUSE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary, during the review period, may proceed to a rulemaking to prescribe regulations described in paragraph (3), and may prescribe the regulations, if the Secretary determines that a condition that poses a risk to public safety, property, or the environment is present or an imminent hazard exists and that the rulemaking will address the risk or hazard.

(B) IMMINENT HAZARD DEFINED.—In subparagraph (A), the term "imminent hazard" means the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

SEC. 9. ACCIDENT AND INCIDENT NOTIFICATION.

(a) REVISION OF REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall revise regulations issued under sections 191.5 and 195.52 of title 49, Code of Federal Regulations, to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center.

(b) MINIMUM REQUIREMENTS.—In revising the regulations, the Secretary, at a minimum, shall—

(1) establish time limits for telephonic or electronic notification of an accident or incident to require such notification not less than 1 hour and not more than 2 hours after discovery of the accident or incident;

(2) review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers, for the jurisdictions in which those pipeline facilities are located in the event of an accident or incident, and revise such procedures as appropriate; and

(3) require such owners and operators to revise their initial telephonic or electronic notice to the Secretary and the National Response Center with an estimated amount of the product released, an estimated number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 24 to 48 hours of the accident or incident, to the extent practicable.

(c) UPDATING OF REPORTS.—After receiving revisions described in subsection (b)(3), the National Response Center shall update the initial report on an accident or incident instead of generating a new report.

SEC. 10. 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 each amended by striking "Administrator or" and inserting "Administrator, the Secretary of Transportation, or".

(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. 11. TRANSPORTATION-RELATED OIL FLOW LINES.

Section 60102, as amended by this Act, 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. 12. COST RECOVERY FOR DESIGN REVIEWS.

(a) IN GENERAL.—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, the Secretary may require the person 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 subsection, 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 subsection. 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 $3,400,000,000, as adjusted for inflation, based on a good faith estimate developed by the person proposing the project; or

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

"(2) NOTIFICATION.—For any new pipeline facility construction project for which the Secretary will conduct design reviews, the person 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. If the Secretary determines that the proposed design of the project is inconsistent with pipeline safety, the Secretary shall provide written comments, feedback, and guidance on the project on or before the 60th day following the date of receipt of the design specifications, construction plans and procedures, and related materials for the project.

"(3) PIPELINE SAFETY DESIGN REVIEW FUND.—

"(A) ESTABLISHMENT.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States.

"(B) DEPOSITS.—The Secretary shall deposit funds paid under this subsection into the Fund.

"(C) USE.—Amounts in the Fund shall be available to the Secretary, in amounts specified in appropriations Acts, to offset the costs of conducting facility design safety reviews under this subsection.

"(4) NO ADDITIONAL PERMITTING AUTHORITY.—Nothing in this subsection shall be construed as authorizing the Secretary to require a person to obtain a permit before beginning design and construction in connection with a project described in paragraph (1)(B).".

(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. 13. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended—

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

(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. 14. CARBON DIOXIDE PIPELINES.

Section 60102(i) is amended to read as follows:

"(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—

"(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state.

"(2) STANDARDS APPLICABLE TO CERTAIN PIPELINES.—For pipelines that transport carbon dioxide in both a liquid and gaseous state, the Secretary shall apply standards, in effect on the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, for the transportation of carbon dioxide by pipeline in a liquid state to the transportation of carbon dioxide by pipeline in a gaseous state.".

SEC. 15. STUDY OF 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. 16. 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. 17. 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. 18. MAINTENANCE OF EFFORT.

Section 60107(b) is amended by adding at the end the following: "For each of fiscal years 2012 and 2013, the Secretary shall grant such a wavier to a State if the 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 subsection due to economic hardship in that State. For fiscal year 2014 and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.".

SEC. 19. ADMINISTRATIVE ENFORCEMENT PROCESS.

(a) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—Not later than 2 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);

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

(E) prohibiting ex-parte communication relevant to the question to be decided in the case by parties to an investigation or hearing.

(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, notices relating to civil penalty assessments, notices relating to compliance, or notices of proposed corrective actions.

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

SEC. 20. GAS AND HAZARDOUS LIQUID GATHERING LINES.

(a) REVIEW.—The Secretary of Transportation shall complete a review of existing Federal and State regulations for gas and hazardous liquid gathering lines located onshore and offshore in the United States, including within the inlets of the Gulf of Mexico.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—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 review.

(2) RECOMMENDATIONS.—The report shall include the Secretary's recommendations with respect to—

(A) the sufficiency of existing Federal and State laws and regulations to ensure the safety of gas and hazardous liquid gathering lines;

(B) quantifying the economical and technical practicability and challenges of applying existing Federal regulations to gathering lines that are currently not subject to Federal regulation when compared to the public safety benefits; and

(C) subject to a risk-based assessment, the need to modify or revoke existing exemptions from Federal regulation for gas and hazardous liquid gathering lines.

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

"(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), there is authorized to be appropriated to the Department of Transportation for each of fiscal years 2012 through 2015, from fees collected under section 60301, $88,014,000, of which $4,686,000 is for carrying out such section 12 and $34,461,000 is for making grants.

"(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1), there is authorized to be appropriated for each of fiscal years 2012 through 2015 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), $18,905,000, of which $2,185,000 is for carrying out such section 12 and $4,985,000 is for making grants.".

(b) EMERGENCY RESPONSE GRANTS.—Section 60125(b)(2) is amended by striking "2007 through 2010" and inserting "2012 through 2015".

(c) ONE-CALL NOTIFICATION PROGRAMS.—Section 6107 is amended—

(1) in subsection (a) by striking "2007 through 2010." and inserting "2012 through 2015.";

(2) in subsection (b) by striking "2007 through 2010." and inserting "2012 through 2015."; 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 is authorized to be appropriated to the Secretary to provide grants under this section $1,500,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.".

(e) COMMUNITY PIPELINE SAFETY INFORMATION GRANTS.—Section 60130 is amended—

(1) in subsection (b)—

(A) by inserting "to grant recipients and their contractors" after "this section"; and

(B) by inserting ", for any type of advocacy activity for or against a pipeline construction or expansion project," after "for lobbying"; and

(2) in subsection (d) by striking "2010" and inserting "2015".

(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) in subsection (d) by adding at the end the following:

"(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—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 every 2 years.

"(B) CONSULTATION.—The Secretary of Transportation shall comply with the consultation requirements of subsection (d)(2) when preparing the program plan and in the selection and prioritization of research and development projects.

"(C) FUNDING FROM NON-FEDERAL SOURCES.—When carrying out research and development activities, the Secretary, to the greatest extent practicable, shall obtain funding for research and development projects from non-Federal sources."; and

(2) in subsection (f) by striking "2003 through 2006." and inserting "2012 through 2015.".

PURPOSE OF THE LEGISLATION AND SUMMARY

H.R. 2845 amends title 49, United States Code, to reauthorize the federal pipeline safety programs administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation (USDOT) for fiscal years 2012 through 2015. H.R. 2845 provides for enhanced safety in pipeline transportation and provides for enhanced reliability in the transportation of the Nation's energy products by pipeline. The bill also ensures regulatory certainty which will help create a positive environment for job development.

BACKGROUND AND NEED FOR LEGISLATION

The Nation's pipelines are a transportation system that enables the safe movement of extraordinary quantities of energy products to industry and consumers, literally fueling our economy and way of life. Pipelines are the arteries of the Nation's energy infrastructure, as well as the safest and least costly ways to transport energy products.

PHMSA is the federal safety authority for the Nation's 2.3 million miles of natural gas, petroleum and other hazardous liquid pipelines. PHMSA's pipeline safety programs ensure the safe design, construction, testing, operation, maintenance, and emergency response of U.S. hazardous liquid and natural gas pipeline facilities.

The federal pipeline safety programs were last authorized under the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Public Law 109–468), a four-year authorization for fiscal years 2007 through 2010. The federal pipeline safety programs expired on September 30, 2010. This bill authorizes these programs through fiscal year 2015.

The bill increases the maximum amount of civil penalties the U.S. can seek from pipeline owners or operators who violate pipeline safety rules and regulations. H.R. 2845 requires states to

eliminate most exemptions to their "Call Before You Dig" programs in order to receive federal grant funding. The bill allows the Secretary to issue a rulemaking requiring the installation of automatic and remote-controlled shutoff valves on newly constructed transmission pipelines but does not require operators to retrofit existing pipelines.

The bill requires the Secretary to study expanding pipeline integrity management requirements and leak detection systems but gives Congress the final say in whether or not the requirements should be expanded or the leak detection systems should be installed. H.R. 2845 requires USDOT and pipeline operators to provide information to first responders on the location of pipelines in their jurisdiction. The bill requires USDOT to review regulations regarding accident reporting requirements for pipeline operators.

The bill authorizes funding to be appropriated for several pipeline safety programs. Specifically, the bill authorizes $107 million a year to be appropriated for safety inspections. The bill also authorizes grants to states funded from pipeline safety fees collected from pipeline operators. Further, it authorizes approximately $13 million a year to be appropriated out of the General Fund for emergency response grants and damage prevention programs.

LEGISLATIVE HISTORY

The federal pipeline safety programs expired on September 30, 2010. This bill authorizes these programs through fiscal year 2015. On September 7, 2011, Subcommittee Chairman Shuster and Committee Chairman Mica introduced H.R. 2845. On September 8, 2011, the Committee on Transportation and Infrastructure met in open session to consider H.R. 2845, and ordered the bill reported favorably to the House by voice vote with a quorum present.

HEARINGS

On May 10, 2010, the Subcommittee on Railroads, Pipelines and Hazardous Materials held an oversight hearing on PHMSA's progress implementing the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006.

On June 29, 2010, the Subcommittee on Railroads, Pipelines and Hazardous Materials held an oversight hearing on the federal and state pipeline safety regulatory regime for hazardous liquid pipelines.

On July 15, 2010, the Subcommittee on Railroads, Pipelines and Hazardous Materials held an oversight hearing on how federal integrity management system requirements impact the safety of hazardous liquid pipelines.

On July 18, 2010, the Subcommittee on Railroads, Pipelines and Hazardous Materials held an oversight hearing on public awareness and education programs carried out by pipeline owners and operators.

On September 15, 2010, the Committee on Transportation and Infrastructure held a hearing to receive testimony on the Enbridge pipeline failure that occurred on July 25, 2010, in Marshall, Michigan.

On July 14, 2011, the Subcommittee on Railroads, Pipelines and Hazardous Materials held an oversight hearing entitled "Silvertip

Pipeline Oil Spill in Yellowstone County, Montana," to examine the July 1, 2011, release of crude oil from the Silvertip Pipeline in Yellowstone County, Montana.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 2845, no recorded votes were taken. The bill was reported to the House with a favorable recommendation after a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Transportation and Infrastructure's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the estimated annual funding levels authorized for the programs funded from pipeline safety fees collected from pipeline operators under H.R. 2845 are the same annual funding levels authorized for such programs under current law in fiscal year 2010. The estimated annual funding levels authorized for pipeline safety programs authorized to be appropriated out of the General Fund under H.R. 2845 are equal to the annual funding levels appropriated out of the General Fund in FY 2010. This legislation does not authorize any new or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2845, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 2011.

Hon. JOHN L. MICA,
Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2845, the Pipeline Safety, Regulatory Certainty, and Job Creation 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. 2845—Pipeline Safety, Regulatory Certainty, and Job Creation 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, H.R. 2845 would authorize gross appropriations of $505 million over the 2012–2016 period. CBO expects, however, that about $434 million of those appropriations would be offset by fees paid by pipeline operators over the four-year period. In addition, subject to provisions in appropriation acts, CBO estimates that the bill would authorize PHMSA to collect and spend about $10 million over the 2012–2016 period to recover its costs of conducting safety reviews at a pipeline project in the state of Alaska. CBO estimates that implementing H.R. 2845 would have a net cost of $45 million over the 2012–2016 period, assuming appropriation of the specified and estimated amounts.

Pay-as-you-go procedures apply because enacting the legislation could affect revenues. H.R. 2845 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 over the next 10 years. Enacting the bill would not affect direct spending.

H.R. 2845 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). Because many of the mandates on private entities would depend on future regulations, CBO cannot determine whether 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. 2845 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	2011–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Spending for Pipeline Safety:						
Estimated Authorization Level	124	125	125	126	5	505
Estimated Outlays	61	107	120	125	66	479
Offsetting Collections from User Fees and Alaska Pipeline Design Review:						
Estimated Authorization Level	−106	−107	−107	−109	−5	−434
Estimated Outlays	−106	−107	−107	−109	−5	−434
Estimated Net Spending:						
Estimated Authorization Level	18	18	18	18	0	72
Estimated Outlays	−45	0	13	16	61	45

Basis of estimate: For this estimate, CBO assumes that H.R. 2845 will be enacted near the end of 2011 and that the authorized amounts for the 2012–2016 period 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. 2845 would reauthorize the laws that govern PHMSA's role in pipeline safety. CBO estimates that the bill would authorize the appropriation of $505 million for PHMSA's pipeline safety activities over the 2012–2016 period. (In 2011, PHMSA appropriations for pipeline safety totaled $106 million.) The bill would require PHMSA to revise certain pipeline safety regulations and to complete a number of studies and reports concerning pipeline safety. CBO estimates that implementing those provisions would cost $479 million, assuming appropriation of the specified and necessary amounts. However, CBO expects that more than 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 from User Fees and Alaska Pipeline Design Review. Under provisions of the bill, CBO estimates that PHMSA would collect $434 million in user fees over the 2012–2016 period. Those amounts include user fees authorized under current law based on the appropriated level of funding and new fees for PHMSA activities related to the approval of a large pipeline in Alaska.

Revenues

H.R. 2845 would increase the maximum penalties PHMSA can impose for certain violations of safety regulations that cause serious environmental damage or result in serious injuries or death. The bill also would permit the imposition of new penalties for obstructing inspections or investigations by PHMSA. Based on PHMSA's past penalty collections, CBO estimates that those provisions would result in revenue increases of less than $500,000 in any year 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. Enacting H.R. 2845 would have a negligible effect on revenues.

Intergovernmental and private sector impact: H.R. 2845 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). Because many of the mandates on private entities would depend on future regulations, CBO cannot determine whether the aggregate cost of the private-sector mandates 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

Integrity Management. The bill would authorize PHMSA to 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 authorize PHMSA to require operators of transmission pipelines to install shut-off valves in new transmission pipelines and in ones that are entirely replaced. According to industry sources, such valves currently cost $100,000 to $500,000 per valve 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.

Notification and Reporting Requirements. The bill would require pipeline operators to notify emergency responders of accidents or incidents within specified time limits. The bill also would require operators of cast iron gas pipelines to provide information on the management and replacement of pipelines to PHMSA. CBO estimates that the cost of those mandates to public and private entities would be minimal.

Mandates that apply to private entities only

Leak Detection. The bill would require operators of hazardous liquid pipelines, such as oil pipelines, to use leak detection technologies where feasible. Under the bill, PHMSA would be authorized to designate pipelines from a total of 176,000 miles of pipeline. Because the cost of the mandate would depend on such future PHMSA regulations, CBO has no basis for determining the cost of this mandate.

Oil Flow Lines. The bill could impose a mandate on pipeline operators that transport oil by allowing PHMSA to collect additional 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.

Fees. The bill would authorize PHMSA to collect new fees on construction projects that are large or use new technology. Based on information from PHMSA on the expenses it would incur because of the bill, CBO estimates that PHMSA would charge an average of $107 million in additional fees per year to pipeline operators over the 2012–2015 period as a result of enactment of the bill.

Other Requirements. The bill would impose two other new requirements on pipeline operators. Specifically, the bill would impose additional safety requirements on pipelines transporting biofuels 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 estimate: 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. That bill would authorize the pipeline safety activities conducted by PHMSA for three years; funds for the agency would be authorized for four years. The gross authorization of appropriations in S. 275 totaled $420 million. The CBO cost estimates reflect those differences.

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.

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

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance and goals of H.R. 2845 are to improve the safety of pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and to create jobs by providing regulatory certainty.

ADVISORY OF EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2845 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

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 (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2845 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE 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 (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS

The following describes the bill as reported by the Committee.

Section 1. Short title; Amendment of Title 49, United States Code; Table of contents

This section provides the title of the bill; clarifies that except where otherwise expressly provided, changes made in this Act are considered to be made to a section or other provision of title 49, United States Code; and provides a table of contents.

Section 2. Civil penalties

This section increases civil penalties for certain violations from $100,000 to $175,000, increases the maximum civil penalty for a related series of violations from $1,000,000 to $1,750,000, and strikes "the ability to pay" from the Secretary of Transportation's considerations when determining the amount of a civil penalty.

This section provides the Secretary the authority to impose civil penalties for certain violations on a person who obstructs or prevents the Secretary from carrying out certain inspections or investigations.

This section removes the cap on the maximum amount of civil penalties for administrative enforcement actions under section 60122.

Section 3. Pipeline damage prevention

Subsection (a) revises the minimum standards for State One-call Notification Programs by prohibiting exemptions for municipalities, state agencies, or their contractors.

Subsection (b) prohibits exemptions for municipalities, state agencies, or their contractors in State Damage Prevention Programs.

Subsection (c) sets an effective date for this section of 2 years after the date of enactment of this Act.

Subsection (d) requires the Secretary to conduct a study on the impact of third party damage on pipeline safety and submit a report on the results of the study to Congress no later than 2 years after the date of enactment of this Act.

Section 4. Automatic and remote-controlled shut-off valves

This section provides the Secretary the authority to require, if the Secretary determines appropriate, the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on new transmission pipeline facilities. This does not impact existing pipeline facilities.

Section 5. Integrity management

Subsection (a) requires the Secretary to evaluate whether integrity management system requirements should be expanded beyond high consequence areas (high population density areas and environmentally sensitive areas) and, with respect to gas transmission pipeline facilities, whether applying integrity management program

requirements to additional areas would mitigate the need for class location requirements.

Subsection (b) requires the Secretary to consider applying repair criteria requirements to areas beyond high consequence areas in the evaluation in subsection (a).

Subsection (c) requires the Secretary to submit a report to Congress based on the evaluation in subsection (a).

Subsection (d) requires the Secretary to collect any relevant data necessary to complete the evaluation required by subsection (a).

Subsection (e) provides for up to an additional 6 month extension to the once every 7 years periodic reassessment requirements for gas transmission pipelines.

Subsection (f) outlines the rulemaking process for the expansion of the integrity management program. This section provides Congress a period of time to make legislative changes to the integrity management program after the report described in subsection (c) is completed. However, this subsection also allows the Secretary to move forward with a rulemaking before Congress acts if the Secretary determines that a risk to public safety, property, or environment or imminent hazard exists.

Subsection (g) requires the Inspector General of the Department of Transportation to evaluate risk-based pipeline reassessment intervals.

Section 6. Public education and awareness

Subsection (a) requires the Secretary to maintain, as part of the National Pipeline Mapping System, a map of all designated high consequence areas in which pipelines are required to meet integrity management safety regulations (excluding any proprietary or sensitive security information) and to update the map biennially. Additionally, subsection (a) requires the Secretary to develop and implement a program to promote awareness of the National Pipeline Mapping System.

Subsection (b) requires the Secretary to issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to the emergency response agencies of the communities in which those facilities are located.

Section 7. Cast iron gas pipelines

Subsection (a) requires the Secretary to conduct a survey to measure the progress that owners and operators of pipelines facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

Subsection (b) requires the Secretary to submit a report to Congress that identifies the total mileage of cast iron gas pipelines in the U.S. and evaluate the progress that owners and operators have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

Section 8. Leak detection

Subsection (a) requires the Secretary to submit a report to Congress on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines.

Subsection (b) outlines the rulemaking process for the setting of standards and requirements for pipeline leak detection systems. This section provides Congress a period of time to make legislative changes to leak detection standards and requirements after the report described in subsection (a) is completed. However, this subsection also allows the Secretary to move forward with a rulemaking before Congress acts if the Secretary determines a risk to public safety, property, or environment or imminent hazard exists.

Section 9. Accident and incident notification

Subsection (a) requires the Secretary to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center.

Subsection (b) requires the Secretary to, at a minimum, establish time limits that are not less than 1 hour and not more than 2 hours; review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers; and requires owners and operators to revise their initial notice with revised estimates of product releases and any fatalities or injuries within 24 to 28 hours of an accident or incident.

Subsection (c) requires the National Response Center to, after receiving revisions described in subsection (b), update the initial report on an accident or incident instead of generating a new report.

Section 10. Transportation-related onshore facility response plan compliance

This section clarifies that the Secretary has the authority to review transportation-related onshore facility response plans.

Section 11. Transportation-related oil flow lines

This section authorizes the Secretary to collect information on transportation-related oil flow lines but clarifies that this language does not authorize the Secretary to prescribe standards for the movement of oil through production flow lines.

Section 12. Cost recovery for design reviews

This section authorizes the Secretary to require pipeline operators to pay for the costs associated with DOT safety design reviews of any pipeline construction or expansion project over $3.4 billion.

Section 13. Biofuel pipelines

This section clarifies DOT's authority to oversee the safe transportation of biofuels by pipeline.

Section 14. Carbon dioxide pipelines

This section requires that the Secretary prescribe the current safety standards for pipeline transportation of carbon dioxide in a liquid state to the transportation of carbon dioxide in a gaseous state.

Section 15. Study of the transportation of diluted bitumen

This section requires the Secretary to complete a comprehensive review of hazardous materials liquid pipeline facility regulations to determine whether these regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen. This section also requires the Secretary to provide a report to Congress regarding the results of this review.

Section 16. Study of non-petroleum hazardous liquids transported by pipeline

This section provides that the Secretary 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 from chemical production facilities across land areas not owned by the producer that are accessible to the public. This section also requires the Secretary to provide a report to Congress regarding the results of any analysis.

Section 17. Clarifications

Subsections (a) and (b) provide for minor technical corrections.

Section 18. Maintenance of effort

This section outlines the process by which the Secretary can grant waivers to maintenance of effort requirements for pipeline safety programs.

Section 19. Administrative enforcement process

This section requires the Secretary to prescribe regulations that: require hearings under sections 60122, 60117, 60118, and 60122 of Title 49 to be convened before a presiding official; provide the opportunity for any person requesting a hearing under 60112, 60117, 30118, or 60122 to arrange for a transcript of that hearing at the expense of the requesting person; ensures expedited review of any order issued pursuant to section 60122(e); implements a separation of functions between personnel involved with investigative and prosecutorial activities and advising the Secretary on findings and determinations; and prohibits ex-parte communication.

Section 20. Gas and hazardous liquid gathering lines

Subsection (a) requires the Secretary to complete a review of existing federal and state regulations for gas and hazardous liquid gathering lines located onshore and offshore in the United States.

Subsection (b) requires the Secretary to submit a report to Congress on the results of the review.

Section 21. Authorization of appropriations

This section authorizes funding to be appropriated for pipeline safety programs; $107 million a year is authorized to be appropriated from pipeline safety fees collected from pipeline operators and about $13 million a year is authorized to be appropriated from the General Fund for emergency response grants and grants to states.

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

* * * * * * *

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, at a minimum, shall 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.—In order to qualify for a grant under section 6106, 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.] *2012 through 2015.*

(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.] *2012 through 2015.*

[(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.]

* * * * * * *

SUBTITLE VIII—PIPELINES

* * * * * * *

CHAPTER 601—SAFETY

§ 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.—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.]

(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—

(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state.

(2) STANDARDS APPLICABLE TO CERTAIN PIPELINES.—For pipelines that transport carbon dioxide in both a liquid and gaseous state, the Secretary shall apply standards, in effect on the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, for the transportation of carbon diox-

ide by pipeline in a liquid state to the transportation of carbon dioxide by pipeline in a gaseous state.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—(1) * * *

* * * * * * *

[(3) REMOTELY CONTROLLED VALVES.—(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

[(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.]

* * * * * * *

(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES FOR NEW TRANSMISSION PIPELINES.—

(1) IN GENERAL.—The Secretary may require by regulation, if determined appropriate by the Secretary, the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule containing such requirement.

(2) FACTORS FOR CONSIDERATION.—In determining whether to proceed with a rulemaking under paragraph (1), the Secretary shall consider the factors specified in subsection (b)(2).

(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. *For each of fiscal years 2012 and 2013, the Secretary shall grant such a wavier to a State if the 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 subsection due to economic hardship in that State. For fiscal year 2014 and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.*

* * * * * * *

§ 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.

* * * * * * *

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

* * * * * * *

(4) Not later than December 31, 2012, and every 2 years thereafter, the Secretary shall conduct a follow-up survey to measure the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

§ 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 the extension.

* * * * * * *

§ 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, the Secretary may require the person 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 subsection, 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 subsection. 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 $3,400,000,000, as adjusted for inflation, based on a good faith estimate developed by the person proposing the project; or

(ii) uses new or novel technologies or design.

(2) NOTIFICATION.—For any new pipeline facility construction project for which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and pro-

vide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. If the Secretary determines that the proposed design of the project is inconsistent with pipeline safety, the Secretary shall provide written comments, feedback, and guidance on the project on or before the 60th day following the date of receipt of the design specifications, construction plans and procedures, and related materials for the project.

(3) PIPELINE SAFETY DESIGN REVIEW FUND.—

(A) ESTABLISHMENT.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States.

(B) DEPOSITS.—The Secretary shall deposit funds paid under this subsection into the Fund.

(C) USE.—Amounts in the Fund shall be available to the Secretary, in amounts specified in appropriations Acts, to offset the costs of conducting facility design safety reviews under this subsection.

(4) NO ADDITIONAL PERMITTING AUTHORITY.—Nothing in this subsection shall be construed as authorizing the Secretary to require a person to obtain a permit before beginning design and construction in connection with a project described in paragraph (1)(B).

§ 60118. Compliance and waivers

(a) * * *

* * * * * * *

[(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.**]**

(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

(1) ASSISTANCE AND ACCESS.—If the Secretary or the National Transportation Safety Board investigates an accident involving a pipeline facility, the operator of the facility shall—

(A) 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

(B) afford all reasonable assistance in the investigation of the accident.

(2) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

(A) IN GENERAL.—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.

(B) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) OBSTRUCTS.—The term "obstructs" includes actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.

(ii) GOOD CAUSE.—The term "good cause" includes, at a minimum, restricting access to facilities that are not secure or safe for non-pipeline personnel or visitors.

* * * * * * *

§ 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 this title] *under this chapter* 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) A 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) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated 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 [$100,000] *$175,000* 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 violations is [$1,000,000] *$1,750,000*.

* * * * * * *

(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

* * * * * * *

§ 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.

[(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) 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), there is authorized to be appropriated to the Department of Transportation for each of fiscal years 2012 through 2015, from fees collected under section 60301,

$88,014,000, of which $4,686,000 is for carrying out such section 12 and $34,461,000 is for making grants.

(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1), there is authorized to be appropriated for each of fiscal years 2012 through 2015 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), $18,905,000, of which $2,185,000 is for carrying out such section 12 and $4,985,000 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] *2012 through 2015* to carry out this subsection.

* * * * * * *

§ 60130. Pipeline safety information grants to communities

(a) * * *

(b) PROHIBITED USES.—Funds provided under this section *to grant recipients and their contractors* may not be used for lobbying*, for any type of advocacy activity for or against a pipeline construction or expansion project,* 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] *2015*. Such amounts shall not be derived from user fees collected under section 60301.

* * * * * * *

§ 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)[.]*; 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 is authorized to be appropriated to the Secretary to provide grants under this section

$1,500,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

* * * * * * *

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**]** *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 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**]** *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 or Secretary, upon presentation of appropriate credentials, may—

(i) * * *

* * * * * * *

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.—

(A) IN GENERAL.—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 every 2 years.

(B) CONSULTATION.—The Secretary of Transportation shall comply with the consultation requirements of subsection (d)(2) when preparing the program plan and in the selection and prioritization of research and development projects.

(C) FUNDING FROM NON-FEDERAL SOURCES.—When carrying out research and development activities, the Secretary, to the greatest extent practicable, shall obtain funding for research and development projects from non-Federal sources.

* * * * * * *

(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.] *2012 through 2015.*

* * * * * * *

EXCHANGE OF LETTERS

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225-2927
Minority (202) 225-3641

June 18, 2011

The Honorable John L. Mica
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Mica:

Thank you for your letter regarding H.R. 1938, the North American-Made Energy Security Act. The Committee on Energy and Commerce recognizes that the Committee on Transportation and Infrastructure has primary jurisdiction over H.R. 1938, and I appreciate your effort to facilitate consideration of this bill.

I concur with you that foregoing action on H.R. 1938 does not in any way prejudice the Committee on Transportation and Infrastructure with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I will support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or related legislation.

I also concur with you that the Committee on Transportation and Infrastructure is the Committee of primary jurisdiction on legislation to reauthorize the federal pipeline safety programs and agree to not take action before September 20, 2011 at full committee on such legislation, allowing the Committee on Transportation and Infrastructure to take action on such legislation.

I appreciate your cooperation regarding this legislation and I will include our letters on H.R. 1938 in the Congressional Record during House floor consideration of the bill.

Sincerely,

Fred Upton
Chairman

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

John L. Mica
Chairman

James W. Coon II, Chief of Staff

Nick J. Rahall, II
Ranking Member

James H. Zoia, Democrat Chief of Staff

June 24, 2011

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton:

I write concerning H.R. 1938, the North American-Made Energy Security Act, which is expected to be scheduled for floor consideration the week of July 25, 2011.

As you know, the Committee on Transportation and Infrastructure was listed as the Committee of primary jurisdiction when H.R. 1938 was introduced on May 23, 2011. I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee will forgo action on the bill.

The Committee on Transportation and Infrastructure takes this action with our mutual understanding that by foregoing consideration of H.R. 1938 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation. Further, I request your support in the appointment of conferees from the Committee on Transportation and Infrastructure during any House-Senate conference convened on this legislation.

As you are aware, the Committee on Transportation and Infrastructure is the Committee of primary jurisdiction on any legislation to reauthorize federal pipeline safety programs. As such, our agreement to forego consideration of H.R. 1938 is also conditional on our mutual understanding that the Committee on Energy and Commerce will not take any Full Committee action on legislation related to the reauthorizing of the federal pipeline safety programs until the Committee on Transportation and Infrastructure has acted on such legislation.

I would appreciate your response to this letter, confirming this understanding, and would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during Floor consideration.

Sincerely,

John L. Mica
Chairman

cc: Ranking Member Nick J. RaHall, II
Chairman Bill Shuster
Ranking Member Corrine Brown

RALPH M. HALL, TEXAS
CHAIRMAN

EDDIE BERNICE JOHNSON, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
2321 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
www.science.house.gov

November 22, 2011

The Honorable John L. Mica
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Mica:

I am writing to you concerning the jurisdictional interest of the Committee on Science, Space, and Technology in H.R. 2845, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. The bill contains provisions that fall within the jurisdiction of the Committee on Science, Space, and Technology, including those amending Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C 60101 Note; Public Law 107-355).

I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, I will waive further consideration of this bill in Committee. This, of course, being conditional on our mutual understanding that language negotiated with the Science, Space, and Technology Committee will be included in this or similar legislation considered on the House floor. However, agreeing to waive consideration of this bill should not be construed as waiving, reducing, or affecting the jurisdiction of the Committee on Science, Space, and Technology.

Additionally, the Committee on Science, Space, and Technology expressly reserves its authority to seek conferees on any provision within its jurisdiction during any House-Senate conference that may be convened on this, or any similar legislation. I ask for your commitment to support any request by the Committee for conferees on H.R. 2845 as well as any similar or related legislation.

I would also like to take this opportunity to thank you for the positive outcome of the negotiation between our Committees resulting in provisions that seek to ensure a continued positive role for the National Institute of Standards and Technology in the area of pipeline transportation research and development.

I ask that a copy of this letter and your response be included in the report on H.R. 2845 and also be placed in the Congressional Record during consideration of this bill on the House floor.

I look forward to working with you on matters of mutual concern.

Sincerely,

Ralph M. Hall

Ralph M. Hall
Chairman
Committee on Science, Space, and Technology

Enclosure

cc: The Hon. John Boehner, Speaker,
The Hon. Eric Cantor, Majority Leader
The Hon. Eddie Bernice Johnson, Ranking Member, Committee on Science, Space, and Technology
The Hon. Nick J. Rahall, Ranking Member, Committee on Transportation and Infrastructure
Mr. John Sullivan, Parliamentarian

H.R. 2845
SECTION 21. AUTHORIZATION OF APPROPRIATIONS

(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) in subsection (d) by adding at the end the following:

"(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT-

`(A) IN GENERAL- After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation shall, in coordination with the Director of the National Institute of Standards and Technology as appropriate, 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 every 2 years. The biennial report shall include a summary of updated research needs and priorities identified through the consultation requirements of subsection (d)(2).

`(B) CONSULTATION- The Secretary of Transportation shall comply with the consultation requirements of subsection (d)(2) when preparing the program plan and in the selection and prioritization of research and development projects.

`(C) FUNDING FROM NON-FEDERAL SOURCES- The Secretary shall ensure at least 30 percent of the cost of program-wide research and development activities is carried out using non-Federal sources." ; and

U.S. House of Representatives
Committee on Transportation and Infrastructure

John L. Mica
Chairman

James W. Coon II, Chief of Staff

Washington, DC 20515

November 21, 2011

Nick J. Rahall, II
Ranking Member

James H. Zoia, Democrat Chief of Staff

The Honorable Ralph M. Hall
Chairman
~~Committee on Science, Space, and Technology~~
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

~~Thank you for your letter regarding H.R. 2845, the "Pipeline Safety, Regulatory~~ Certainty, and Job Creation Act of 2011." The Committee on Transportation and Infrastructure recognizes the Committee on Science, Space, and Technology has a jurisdictional interest H.R. 2845, and I appreciate your effort to facilitate consideration of this bill.

I concur with you that forgoing action on this bill does not in any way prejudice the Committee on Science, Space, and Technology with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation.

I will include our letters H.R. 2845 in the *Congressional Record* during House Floor consideration of the bill. Again, I appreciate your cooperation regarding this legislation and I look forward to working with the Committee on Science, Space, and Technology as the bill moves through the legislative process.

Sincerely,

John L. Mica
~~Chairman~~

cc: The Honorable John Boehner
The Honorable Eric Cantor
The Honorable Kevin McCarthy
The Honorable Eddie Bernice Johnson
The Honorable Nick J. Rahall, II
Mr. John Sullivan, Parliamentarian