

PIPELINE SAFETY ACT OF 2016

—————  
JUNE 10, 2016.—Ordered to be printed  
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Mr. UPTON, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

[To accompany H.R. 5050]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5050) to amend title 49, United States Code, to provide enhanced safety in pipeline transportation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Safety Act of 2016”.

(b) REFERENCES TO TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or 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) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; references; table of contents.
- Sec. 2. Regulatory updates.
- Sec. 3. Statutory preference.
- Sec. 4. Integrity management review.
- Sec. 5. Technical safety standards committees.
- Sec. 6. Inspection report information.
- Sec. 7. Improving damage prevention technology.
- Sec. 8. Direct hire authority for Pipeline and Hazardous Materials Safety Administration.
- Sec. 9. Information-sharing system.
- Sec. 10. Nationwide integrated pipeline safety regulatory database.
- Sec. 11. Underground gas storage facilities.
- Sec. 12. Requirements for certain hazardous liquid pipeline facilities.
- Sec. 13. Response plans.
- Sec. 14. Unusually sensitive areas.
- Sec. 15. Emergency order authority.
- Sec. 16. Pipeline safety information grants to communities.
- Sec. 17. Transparency in interagency review.
- Sec. 18. Corrosion control review.
- Sec. 19. Study on propane gas pipeline facilities.
- Sec. 20. Standards for liquefied natural gas pipeline facilities.
- Sec. 21. Authorization of appropriations.

## SEC. 2. REGULATORY UPDATES.

(a) REPORTS.—

(1) IN GENERAL.—The Secretary of Transportation shall submit reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives regarding the status of a final rule for each outstanding regulation.

(2) DEADLINES.—The Secretary shall submit a report under this subsection not later than 120 days after the date of enactment of this Act, and every 90 days thereafter until a final rule has been issued for each outstanding regulation described in subsection (c)(2)(A).

(b) CONTENTS.—The Secretary shall include in each report submitted under subsection (a)—

- (1) a description of the work plan for each outstanding regulation;
- (2) an updated rulemaking timeline for each outstanding regulation;
- (3) current staff allocations with respect to each outstanding regulation;
- (4) any resource constraints affecting the rulemaking process for each outstanding regulation; and
- (5) any other details associated with the development of each outstanding regulation that affect the progress of the rulemaking process.

(c) OUTSTANDING REGULATION DEFINED.—In this section, the term “outstanding regulation” means a regulation relating to pipeline safety—

- (1) for which no final rule, including an interim final rule or direct final rule, has been issued; and

(2) that—

(A) is required under—

- (i) the Pipeline Safety Regulatory Certainty and Job Creation Act of 2011 (Public Law 112–90; 125 Stat. 1904); or
- (ii) any other law, for which more than 2 years have passed since the statutory deadline for the regulation; or

(B) is being developed under an authority not described in subparagraph (A), and is considered to be a significant regulatory action under Executive Order 12866.

## SEC. 3. STATUTORY PREFERENCE.

The Administrator of the Pipeline and Hazardous Materials Safety Administration shall complete the rulemaking process for each outstanding regulation described in section 2(c)(2)(A) before beginning any new rulemaking process after the date of the enactment of this Act, except that the Administrator may begin such a new rulemaking process before completing the rulemaking process for each such outstanding regulation if the Secretary of Transportation determines, in the Secretary’s discretion, that there is a significant need to do so, and notifies Congress of such determination.

## SEC. 4. INTEGRITY MANAGEMENT REVIEW.

(a) REPORTS.—

(1) **NATURAL GAS INTEGRITY MANAGEMENT REPORT.**—Not later than 18 months after the date of publication of a final rule regarding the safety of gas transmission pipelines, relating to the advance notice of proposed rulemaking published by the Administrator of the Pipeline and Hazardous Materials Safety Administration on August 25, 2011 (76 Fed. Reg. 53086), the Comptroller General of the United States shall submit to Congress a report regarding integrity management programs for natural gas pipeline facilities.

(2) **HAZARDOUS LIQUID INTEGRITY MANAGEMENT REPORT.**—Not later than 18 months after the date of publication of a final rule regarding the safety of hazardous liquid pipelines, relating to the proposed rule published by the Administrator of the Pipeline and Hazardous Materials Safety Administration on October 13, 2015 (80 Fed. Reg. 61610), the Comptroller General of the United States shall submit to Congress a report regarding integrity management programs for hazardous liquid pipeline facilities.

(b) **CONTENTS.**—The Comptroller General shall include—

(1) in the report submitted under subsection (a)(1), an analysis of the extent to which integrity management programs for natural gas pipeline facilities required under section 60109(c) of title 49, United States Code, have improved the safety of natural gas pipeline facilities;

(2) in the report submitted under subsection (a)(2), an analysis of the extent to which hazardous liquid pipeline integrity management programs in areas identified pursuant to section 60109(a) of title 49, United States Code, for operators of hazardous liquid pipeline facilities, as regulated under sections 195.450 and 195.452 of title 49, Code of Federal Regulations, have improved the safety of hazardous liquid pipeline facilities; and

(3) in each report submitted under subsection (a), with respect to the applicable pipeline facilities—

(A) an analysis of, and recommendations regarding, ways to enhance pipeline facility safety, taking into consideration issues relating to technical, operational, and economic feasibility, including, in the case of the report submitted under subsection (a)(2), an analysis of, and recommendations regarding, risk factors that may warrant a variance from the maximum allowable assessment interval;

(B) a description of any challenges affecting Federal or State regulators in their oversight of integrity management programs and how those challenges are being addressed; and

(C) a description of any challenges affecting operators in complying with the requirements of integrity management programs, and how those challenges are being addressed.

#### **SEC. 5. TECHNICAL SAFETY STANDARDS COMMITTEES.**

Section 60115(b)(4)(A) is amended by striking “State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals.” and inserting “State officials. The Secretary shall consult with national organizations representing State commissioners or utility regulators when making a selection under this subparagraph.”.

#### **SEC. 6. INSPECTION REPORT INFORMATION.**

Section 60108 is amended by adding at the end the following:

“(e) **IN GENERAL.**—Not later than 30 days after the completion of a pipeline safety inspection, the Secretary or the State authority for which a certification is in effect under section 60105, as applicable, shall—

“(1) conduct a post-inspection briefing with the operator of the pipeline facility, outlining any concerns; and

“(2) to the extent practicable, provide written findings of the inspection, which may include a final report, notice of amendment of plans or procedures, safety order, or corrective action order, or any other applicable report, notice, or order.”.

#### **SEC. 7. IMPROVING DAMAGE PREVENTION TECHNOLOGY.**

(a) **STUDY AND REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall conduct a study on improving the requirements for damage prevention programs for pipeline facilities, and shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of such study.

(b) **CONTENTS.**—The Secretary shall include in the report submitted under subsection (a)—

(1) an identification of any methods that could improve existing damage prevention programs through location and mapping practices or technologies to reduce unintended releases caused by excavation;

(2) an analysis of how increased use of global positioning system digital mapping technologies, predictive analytic tools, public awareness initiatives (including one-call initiatives), mobile devices, and other advanced technologies could supplement existing one-call notification and damage prevention programs to reduce the frequency and severity of incidents caused by excavation damage;

(3) an analysis of the feasibility of establishing a national data repository for pipeline excavation accident data to improve the storage and sharing of pipeline accident information;

(4) an identification of opportunities for stakeholder engagement in preventing excavation damage; and

(5) recommendations, which take into consideration technical, operational, and economic feasibility, regarding how to incorporate into existing damage prevention programs improvements identified or analyzed under paragraphs (1) through (4).

**SEC. 8. DIRECT HIRE AUTHORITY FOR PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.**

(a) **DIRECT HIRE AUTHORITY.**—

(1) **AUTHORITY.**—The Administrator of the Pipeline and Hazardous Materials Safety Administration may appoint qualified candidates to positions described in paragraph (2) without regard to sections 3309 through 3319 of title 5, United States Code.

(2) **APPLICABILITY.**—The authority under paragraph (1) applies with respect to candidates for any position that would likely allow increased activities relating to pipeline safety, as determined by the Administrator.

(3) **TERMINATION.**—The authority to make appointments under this subsection shall not be available after December 31, 2019.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter through calendar year 2019, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall submit to Congress a report on—

(1) the use of the authority granted under this section; and

(2) efforts of the Administration to hire women, minorities, and veterans as inspectors.

**SEC. 9. INFORMATION-SHARING SYSTEM.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall convene a working group to consider the development of a voluntary information-sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing with the purpose of improving natural gas and hazardous liquid pipeline facility risk assessment and integrity management.

(b) **MEMBERSHIP.**—The working group convened under subsection (a) shall include representatives from—

(1) the Pipeline and Hazardous Materials Safety Administration;

(2) industry stakeholders, including operators of pipeline facilities, inspection technology, coating, and cathodic protection vendors, and pipeline inspection organizations;

(3) safety advocacy groups;

(4) research institutions;

(5) State public utility commissions or State officials responsible for pipeline safety oversight;

(6) State pipeline safety inspectors; and

(7) labor representatives.

(c) **CONSIDERATIONS.**—The working group convened under subsection (a) shall consider and provide recommendations, if applicable, to the Secretary regarding—

(1) the management of proprietary or security-sensitive information, specific incident response resources, and information relating to a worst case discharge;

(2) the need for, and the identification of, a system to ensure that data gathered from field verification of pipeline integrity are shared with in-line inspection operators;

(3) actions to encourage or facilitate the exchange of pipeline inspection information and promote the development of advanced pipeline inspection technologies and risk assessment methodologies; and

(4) regulatory, funding, and legal barriers to information sharing.

(d) **PUBLICATION.**—The Secretary shall publish the recommendations provided under subsection (c) on a publicly available website.

**SEC. 10. NATIONWIDE INTEGRATED PIPELINE SAFETY REGULATORY DATABASE.**

(a) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to Congress on the feasibility of establishing a national integrated pipeline safety regulatory inspection database to improve communication and collaboration between the Pipeline and Hazardous Materials Safety Administration and State pipeline regulators.

(b) **CONTENTS.**—The report submitted under subsection (a) shall include—

(1) a description of any efforts underway to test a secure information-sharing system for the purpose described in subsection (a);

(2) a description of any progress in establishing common standards for maintaining, collecting, and presenting pipeline safety regulatory inspection data, and a methodology for the sharing of such data;

(3) a description of any inadequacies or gaps in data relating to Federal inspections, enforcement actions, geospatial information, or any other relevant pipeline safety regulatory information;

(4) a description of the potential safety benefits of a national integrated pipeline safety regulatory inspection database; and

(5) recommendations for how to implement a secure information-sharing system that protects proprietary and security-sensitive information and data for the purpose described in subsection (a).

(c) **CONSULTATION.**—In preparing the report under subsection (a), the Secretary shall consult with stakeholders, including each State authority operating under a certification to regulate intrastate pipelines under section 60105 of title 49, United States Code.

**SEC. 11. UNDERGROUND GAS STORAGE FACILITIES.**

(a) **DEFINED TERM.**—Section 60101(a) is amended—

(1) in paragraph (21), by striking the period at the end and inserting a semicolon;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon;

(3) in paragraph (24), by striking “and” at the end;

(4) in paragraph (25), by striking the period at the end and inserting “; and” ; and

(5) by adding at the end the following:

“(26) ‘underground gas storage facility’ means a gas pipeline facility that stores gas in an underground facility, including—

“(A) a depleted hydrocarbon reservoir;

“(B) an aquifer reservoir; or

“(C) a solution-mined salt cavern reservoir.”.

(b) **STANDARDS FOR UNDERGROUND GAS STORAGE FACILITIES.**—Chapter 601 is amended by inserting after section 60103 the following:

**“§ 60103a. Standards for underground gas storage facilities**

“(a) **MINIMUM SAFETY STANDARDS.**—Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation, in consultation with the heads of other relevant Federal agencies, shall issue minimum safety standards, incorporating, to the extent practicable, consensus standards for the operation and integrity management of, and environmental protection with respect to, underground gas storage facilities.

“(b) **CONSIDERATIONS.**—In developing safety standards under subsection (a), the Secretary shall—

“(1) consider the economic impacts of the standards on consumers, including individual gas customers, and minimize such impacts to the extent practicable; and

“(2) consider existing consensus standards.

“(c) **FEDERAL-STATE COOPERATION.**—The Secretary may authorize a State authority (including a municipality) to participate in the oversight of underground gas storage facilities in the same manner as provided in sections 60105 and 60106.

“(d) **RULES OF CONSTRUCTION.**—

“(1) **IN GENERAL.**—Nothing in this section may be construed to affect any Federal regulation relating to gas pipeline facilities that is in effect on the day before the date of enactment of this section.

“(2) **LIMITATIONS.**—Nothing in this section may be construed to authorize the Secretary—

“(A) to prescribe the location of an underground gas storage facility; or

“(B) to require the Secretary’s permission to construct an underground gas storage facility.”.

(c) **USER FEES.**—Section 60301 is amended—

(1) in subsection (b), by inserting “an underground gas storage facility,” before “or a hazardous liquid pipeline facility”;

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking “; and” and inserting a semicolon; and

(B) by adding at the end the following:

“(C) related to an underground gas storage facility may be used only for an activity related to underground gas storage safety under section 60103a; and”; and

(3) by adding at the end the following:

“(f) UNDERGROUND GAS STORAGE FACILITY ACCOUNT.—

“(1) ACCOUNT.—There is established, in the fund established in the Treasury of the United States pursuant to this section, an underground gas storage facility safety account.

“(2) DEPOSIT OF FEES.—A fee collected under subsection (a) from a person operating an underground gas storage facility shall be deposited in the account established under paragraph (1).”.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60103 the following:

“60103a. Standards for underground gas storage facilities.”.

#### **SEC. 12. REQUIREMENTS FOR CERTAIN HAZARDOUS LIQUID PIPELINE FACILITIES.**

Section 60109 is amended by adding at the end the following:

“(g) HAZARDOUS LIQUID PIPELINE FACILITIES.—

“(1) INTEGRITY ASSESSMENTS.—Notwithstanding any pipeline integrity management program or integrity assessment schedule otherwise required by the Secretary, each operator of a pipeline facility to which this subsection applies shall ensure that pipeline integrity assessments—

“(A) using internal inspection technology are completed not less often than once every 12 months; and

“(B) using pipeline route surveys, depth of cover surveys, pressure tests, external corrosion direct assessment, or other technology that the operator demonstrates can further the understanding of the condition of the pipeline facility are completed on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located.

“(2) APPLICATION.—This subsection shall apply to any underwater hazardous liquid pipeline facility located in a high consequence area—

“(A) that is not an offshore pipeline facility; and

“(B) any portion of which is located at depths greater than 150 feet under the surface of the water.

“(3) HIGH CONSEQUENCE AREA DEFINED.—For purposes of this subsection, the term ‘high consequence area’ has the meaning given that term in section 195.450 of title 49, Code of Federal Regulations.

“(4) INSPECTION AND ENFORCEMENT.—The Secretary shall conduct inspections under section 60117(c) to determine whether each operator of a pipeline facility to which this subsection applies is complying with this section.”.

#### **SEC. 13. RESPONSE PLANS.**

The Administrator of the Pipeline and Hazardous Materials Safety Administration shall require, and each operator of a pipeline facility shall ensure, that any response plan under part 194 of title 49, Code of Federal Regulations, includes procedures and a list of resources for responding, to the extent practicable, to a worst case discharge of oil and to a substantial threat of such a discharge, including when such discharge may impact navigable waters or adjoining shorelines that may be covered in whole or in part by ice.

#### **SEC. 14. UNUSUALLY SENSITIVE AREAS.**

Section 60109(b)(2) is amended by striking “have been identified as” and inserting “are part of the Great Lakes or have been identified as coastal beaches.”.

#### **SEC. 15. EMERGENCY ORDER AUTHORITY.**

Section 60117 of title 49, United States Code, is amended by adding at the end the following:

“(o) EMERGENCY ORDER AUTHORITY.—

“(1) IN GENERAL.—If the Secretary determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order described in paragraph (3) imposing emergency restrictions, prohibitions, and safety measures on owners and operators of gas or hazardous liquid pipeline fa-

cilities without prior notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

“(2) CONSIDERATIONS.—Before issuing an emergency order under paragraph (1), the Secretary shall consider, after consultation with appropriate Federal agencies, State agencies, or other entities, the following, as appropriate:

“(A) The impact of the emergency order on public health and safety.

“(B) The impact, if any, of the emergency order on the national or regional economy or national security.

“(C) The impact of the emergency order on owners and operators of pipeline facilities.

“(3) WRITTEN ORDER.—An emergency order issued by the Secretary pursuant to paragraph (1) with respect to an imminent hazard shall contain a written description of—

“(A) the violation, condition, or practice that constitutes or is causing the imminent hazard;

“(B) the entities subject to the order;

“(C) the restrictions, prohibitions, or safety measures imposed;

“(D) the standards and procedures for obtaining relief from the order;

“(E) how the order is tailored to abate the imminent hazard and the reasons the authorities under sections 60112 and 60117(l) are insufficient to do so; and

“(F) how the considerations were taken into account pursuant to paragraph (2).

“(4) OPPORTUNITY FOR REVIEW.—Upon receipt of a petition for review from an entity subject to, and adversely affected by, an emergency order issued under this subsection, the Secretary shall provide an opportunity for a review of the order under section 554 of title 5 to determine whether the order should remain in effect, be modified, or be terminated.

“(5) EXPIRATION OF EFFECTIVENESS ORDER.—If a petition for review of an emergency order is filed under paragraph (4) and an agency decision with respect to the petition is not issued on or before the last day of the 30-day period beginning on the date on which the petition is filed, the order shall cease to be effective on such day, unless the Secretary determines in writing on or before the last day of such period that the imminent hazard still exists.

“(6) JUDICIAL REVIEW OF ORDERS.—After a final agency action under the review process described in paragraph (4), or the issuance of a written determination by the Secretary pursuant to paragraph (5), an entity subject to, and adversely affected by, an emergency order issued under this subsection may seek judicial review of the order in a district court of the United States and shall be given expedited consideration.

“(7) REGULATIONS.—

“(A) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Pipeline Safety Act of 2016, the Secretary shall issue such temporary regulations as are necessary to carry out this subsection. The temporary regulations shall expire on the date of issuance of the final regulations required under subparagraph (B).

“(B) FINAL REGULATIONS.—Not later than 270 days after such date of enactment, the Secretary shall issue such regulations as are necessary to carry out this subsection. Such regulations shall ensure that the review process described in paragraph (4) contains the same procedures as subsections (d) and (g) of section 109.19 of title 49, Code of Federal Regulations, and is otherwise consistent with the review process developed under such section to the greatest extent practicable and not inconsistent with this section.

“(8) IMMINENT HAZARD DEFINED.—In this subsection, the term ‘imminent hazard’ means the existence of a condition relating to a gas or hazardous liquid pipeline facility that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of such death, illness, injury, or endangerment.

“(9) LIMITATION AND SAVINGS CLAUSE.—An emergency order issued under this subsection may not be construed to—

“(A) alter, amend, or limit the Secretary’s obligations under, or the applicability of, section 553 of title 5; or

“(B) provide the authority to amend the Code of Federal Regulations.”.

**SEC. 16. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.**

(a) **AUDIT.**—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to Congress a report containing—

- (1) an audit of recipients of a grant under section 60130 of title 49, United States Code, with respect to such grants; and
- (2) a review of compliance with such section by such grant recipients and the Secretary of Transportation.

(b) **PUBLIC PARTICIPATION LIMITATION.**—Section 60130(a)(4) is amended by inserting “on technical pipeline safety issues” after “public participation”.

**SEC. 17. TRANSPARENCY IN INTERAGENCY REVIEW.**

Section 60102(b) is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

“(7) **TRANSPARENCY IN INTERAGENCY REVIEW.**—For any standard that is proposed or issued by rule under this chapter, and which is reviewed by the Office of Management and Budget and subsequently noticed in the Federal Register, the Secretary shall—

“(A) make available to the public the factors considered under paragraph (2) and the results of the risk assessment conducted in accordance with paragraph (3), as applicable;

“(B) identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Office of Management and Budget for review and the proposed or final rule subsequently noticed; and

“(C) identify for the public the changes described in subparagraph (B) that were made at the suggestion or the recommendation of the Office of Management and Budget.”.

**SEC. 18. CORROSION CONTROL REVIEW.**

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on corrosion control for gas and hazardous liquid pipeline facilities.

(b) **REQUIREMENTS.**—The Comptroller General shall include in the report under subsection (a)—

(1) an analysis of corrosion control requirements for gas and hazardous liquid pipeline facilities;

(2) a review of—

(A) common causes of corrosion, including interior and exterior moisture buildup and the impacts of moisture buildup under insulation;

(B) corrosion control techniques;

(C) best practices relating to pipeline facility design, installation, operation, and maintenance, including training to recognize or prevent corrosion; and

(D) the cost and benefits, including safety benefits, associated with the use of such techniques and best practices;

(3) an evaluation of the effectiveness of corrosion control techniques, including pipeline coatings and cathodic protection; and

(4) recommendations on ways to improve corrosion control and reduce the incidence of corrosion-related pipeline failures.

**SEC. 19. STUDY ON PROPANE GAS PIPELINE FACILITIES.**

(a) **IN GENERAL.**—The Secretary of Transportation shall enter into an agreement with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board will conduct a study examining regulatory requirements, techniques, and best practices applicable to pipeline facilities that transport or store only petroleum gas or mixtures of petroleum gas and air to 100 or fewer customers, in accordance with the requirements of this section.

(b) **REQUIREMENTS.**—In conducting the study pursuant to subsection (a), the Transportation Research Board shall analyze—

(1) Federal, State, and local regulatory requirements applicable to pipeline facilities described in subsection (a);

(2) techniques and best practices relating to the design, installation, operation, and maintenance of such pipeline facilities; and

(3) the costs and benefits associated with such applicable regulatory requirements and the use of such techniques and best practices.

(c) **RECOMMENDATIONS.**—In conducting the study pursuant to subsection (a), the Transportation Research Board shall identify potentially inefficient or duplicative regulatory requirements analyzed pursuant to subsection (b) and develop rec-



ommendations to enhance safety, reduce unnecessary costs, and streamline Federal requirements associated with pipeline facilities described in subsection (a).

(d) PARTICIPATION.—In conducting the study pursuant to subsection (a), the Transportation Research Board shall consult with Federal, State, and local governments, private sector entities, and consumer and pipeline safety advocates, as appropriate.

(e) DEADLINE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress the results of the study conducted pursuant to subsection (a).

(f) DEFINITION.—In this section, the term “petroleum gas” has the meaning given that term in section 192.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

**SEC. 20. STANDARDS FOR LIQUEFIED NATURAL GAS PIPELINE FACILITIES.**

Section 60103 is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking “; and” and inserting a semicolon;

(B) in paragraph (6), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (6) the following:

“(7) national security.”; and

(2) in subsection (d)—

(A) in paragraph (5), by striking “; and” and inserting a semicolon;

(B) in paragraph (6), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (6) the following:

“(7) cybersecurity measures.”.

**SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended—

(1) in paragraph (1), by striking “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, \$90,679,000, of which \$4,746,000 is for carrying out such section 12 and \$36,194,000 is for making grants.” and inserting the following: “there are authorized to be appropriated to the Department of Transportation from fees collected under section 60301—

“(A) \$128,000,000 for fiscal year 2017, of which \$9,000,000 shall be expended for carrying out such section 12 and \$41,885,000 shall be expended for making grants;

“(B) \$131,000,000 for fiscal year 2018, of which \$9,000,000 shall be expended for carrying out such section 12 and \$44,885,000 shall be expended for making grants;

“(C) \$134,000,000 for fiscal year 2019, of which \$9,000,000 shall be expended for carrying out such section 12 and \$47,885,000 shall be expended for making grants;

“(D) \$137,325,000 for fiscal year 2020, of which \$9,000,000 shall be expended for carrying out such section 12 and \$51,100,000 shall be expended for making grants; and

“(E) \$140,733,000 for fiscal year 2021, of which \$9,000,000 shall be expended for carrying out such section 12 and \$54,550,000 shall be expended for making grants.”; and

(2) in paragraph (2), by striking “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), \$18,573,000, of which \$2,174,000 is for carrying out such section 12 and \$4,558,000 is for making grants.” and inserting the following: “there are authorized to be appropriated 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) \$22,123,000 for fiscal year 2017, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;

“(B) \$23,000,000 for fiscal year 2018, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;

“(C) \$23,000,000 for fiscal year 2019, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;

“(D) \$23,300,000 for fiscal year 2020, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants; and

“(E) \$23,600,000 for fiscal year 2021, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants.”.

(b) OPERATIONAL EXPENSES.—There are authorized to be appropriated to the Secretary for the necessary operational expenses of the Pipeline and Hazardous Materials Safety Administration the following amounts:

(1) \$22,000,000 for fiscal year 2017.

(2) \$22,000,000 for fiscal year 2018.

(3) \$23,000,000 for fiscal year 2019.

(4) \$23,000,000 for fiscal year 2020.

(5) \$24,000,000 for fiscal year 2021.

(c) ONE-CALL NOTIFICATION PROGRAMS.—

(1) IN GENERAL.—Section 6107 is amended to read as follows:

**“§ 6107. Funding**

“Of the amounts provided under section 60125(a)(1), \$1,058,000 shall be expended in each of fiscal years 2017 through 2021 to provide grants to States under section 6106.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6107 and inserting the following:

“6107. Funding.”.

(d) PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.—Section 60130(c) is amended to read as follows:

“(c) FUNDING.—Of the amounts made available under section 21(b) of the Pipeline Safety Act of 2016, \$1,500,000 shall be expended in each of fiscal years 2017 through 2021 to carry out this section. Such amounts shall not be derived from user fees collected under section 60301.”.

(e) PIPELINE INTEGRITY PROGRAM.—Section 12(f) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended by striking “2012 through 2015” and inserting “2017 through 2021”.

## PURPOSE AND SUMMARY

H.R. 5050, the “Pipeline Safety Act of 2016,” was introduced by Chairman Fred Upton, Ranking Member Frank Pallone, Subcommittee Chairman Ed Whitfield, and Subcommittee Ranking Member Bobby Rush on April 26, 2016. The legislation reauthorizes the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) pipeline safety program through fiscal year 2021 and contains targeted legislative mandates to increase transparency and accountability, complete overdue regulations, and improve safety.

## BACKGROUND AND NEED FOR LEGISLATION

More than 2.6 million miles of pipelines transport gas and hazardous liquids across the United States. The Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation (DOT) is the lead federal agency charged with developing and enforcing regulations to ensure the safe, reliable, and environmentally sound operation of pipelines. PHMSA’s statutory authority is derived from Title 49, Chapter 601 of the United States Code.

While pipelines are considered by many to be a safe and efficient way to transport and deliver gas and hazardous liquids to end users, the incidence of pipeline failures remains a cause for concern. Recent accidents, including a massive natural gas leak from a well within Aliso Canyon’s underground storage facility in California, and PHMSA’s failure to meet deadlines for legislatively-di-

rected safety standards, demonstrate the continuing need for Congress to examine, update, and strengthen Federal pipeline safety laws and regulations.

The most recent pipeline safety law passed by Congress, the “Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011” (P.L. 112–90, Pipeline Safety Act of 2011), contained pipeline safety program spending authorizations that expired in 2015. The Pipeline Safety Act of 2011 also imposed 42 mandates on PHMSA, including studies, new regulations, updated maps, and other elements to update the Federal pipeline safety program. While PHMSA has fulfilled some of these legislative mandates, and recently proposed new regulations to respond to others, 16 mandates remain incomplete, well beyond the statutorily imposed deadlines. Some examples of overdue safety regulations that could significantly improve pipeline safety include: regulations related to leak detection and emergency shutoff valves, integrity management for natural gas pipelines, public education and awareness efforts, and accident and incident notification.

H.R. 5050 addresses many of the statutory and regulatory shortcomings that have been exposed through the Committee’s oversight. The legislation contains targeted mandates of PHMSA to increase public transparency and accountability, which will facilitate the completion of overdue regulations. The legislation also strengthens safety standards for certain types of facilities, such as underground gas storage reservoirs and oil pipelines that cross under deep freshwater bodies. H.R. 5050 also requires a number of studies to inform Congress of emerging issues relating to pipeline integrity management, damage prevention, and corrosion control.

#### HEARINGS

The Subcommittee on Energy and Power held a hearing on a discussion draft of H.R. 5050 on March 1, 2016. The Hearing was entitled, “Legislative Hearing to Examine Pipeline Safety Reauthorization” and witnesses included the following:

- The Honorable Marie Therese Dominguez, Administrator, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation;
- Donald Santa, President and CEO, Interstate Natural Gas Association of America;
- Ron Bradley, Vice President of Gas Operations, PECO Energy, (on behalf of the American Gas Association);
- Andrew Black, President and CEO, Association of Oil Pipe Lines;
- Norman J. Saari, Commissioner, Michigan Public Service Commission, (on behalf of the National Association of Regulatory Utility Commissioners); and,
- Carl Weimer, Executive Director, Pipeline Safety Trust.

#### COMMITTEE CONSIDERATION

On March 16, 2016, the Subcommittee on Energy and Power met in open markup session and ordered a Discussion Draft of H.R. \_\_\_, the Pipeline Safety Act of 2016, favorably reported to the full Committee, without amendment, by a voice vote. On April 26, 27, and 28, 2016, the Committee on Energy and Commerce met in open

markup session and ordered H.R. 5050 favorably reported to the House, as amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 5050 reported.

COMMITTEE OVERSIGHT FINDINGS

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

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 5050 provides for enhanced safety and environmental protection in pipeline transportation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5050 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 5050 contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 3, 2016.*

Hon. FRED UPTON,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5050, the Pipeline Safety Act of 2016.

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

Sincerely,

KEITH HALL.

*H.R. 5050—Pipeline Safety Act of 2016*

Summary: The Pipeline and Hazardous Materials Safety Administration (PHMSA) oversees the safety of pipelines that transport natural gas or hazardous liquids and provides grants to states for programs to ensure pipeline safety. H.R. 5050 would require PHMSA to pursue a variety of regulatory and administrative activities related to such programs and would authorize appropriations for those purposes. The bill also would authorize PHMSA to establish safety standards for certain underground storage facilities for natural gas, assess fees on entities that operate such facilities, and spend such fees—subject to authority provided in advance in appropriation acts—to ensure that such facilities meet those standards.

CBO estimates that implementing H.R. 5050 would result in gross appropriations totaling \$900 million over the 2017–2021 period. CBO also estimates that those appropriations would be offset by \$696 million in fees paid by pipeline owners, which are considered offsets to discretionary spending. Assuming appropriation actions consistent with the specified and estimated amounts, CBO estimates that the resulting net outlays would total \$83 million over the 2017–2021 period.

In addition, CBO estimates that enacting H.R. 5050 would increase net revenues from assessments on entities that operate certain underground natural gas storage facilities by \$17 million over the 2017–2026 period. Pay-as-you-go procedures apply because enacting the legislation would affect revenues. Enacting H.R. 5050 would not affect direct spending.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5050 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by establishing new safety standards for natural gas storage facilities and pipelines and by imposing new fees. Based on information from PHMSA and industry sources, CBO estimates that the cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 million, adjusted annually for inflation). Primarily because one of the mandates on private entities would depend on future actions by the Secretary of Transportation, CBO cannot determine whether the aggregate cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 5050 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

|   | By fiscal year, in millions of dollars— |      |      |      |      |           |
|---|---|------|------|------|------|-----------|
|   | 2017                                    | 2018 | 2019 | 2020 | 2021 | 2017–2021 |
| INCREASES OR DECREASES (–) IN SPENDING SUBJECT TO APPROPRIATION |   |      |      |      |      |           |
| Spending for Pipeline Safety and Related Activities:            |   |      |      |      |      |           |
| Estimated Authorization Level .....                             | 150                                     | 154  | 157  | 160  | 165  | 786       |
| Estimated Outlays .....   | 74                                      | 131  | 149  | 158  | 162  | 674       |
| Offsetting Collections from User Fees:                          |   |      |      |      |      |           |
| Estimated Authorization Level .....                             | –134                                    | –138 | –138 | –141 | –145 | –696      |
| Estimated Outlays .....   | –134                                    | –138 | –138 | –141 | –145 | –696      |
| PHMSA Operational Expenses:                                     |   |      |      |      |      |           |
| Authorization Level .....                                       | 22                                      | 22   | 23   | 23   | 24   | 114       |
| Estimated Outlays .....   | 15                                      | 20   | 23   | 23   | 24   | 105       |
| Total Net Changes:  |   |      |      |      |      |           |
| Estimated Authorization Level .....                             | 38                                      | 38   | 42   | 42   | 44   | 204       |
| Estimated Outlays .....   | –45                                     | 13   | 34   | 40   | 41   | 83        |
| INCREASES IN REVENUES <sup>a</sup>                              |   |      |      |      |      |           |
| Assessments for Underground Natural Gas Storage Facilities ...  | 0                                       | 0    | 2    | 2    | 2    | 7         |

Notes: PHMSA = Pipeline and Hazardous Materials Safety Administration; Components may not sum to totals because of rounding.  
<sup>a</sup>CBO estimates that enacting H.R. 5050 would increase net revenues by \$17 million over the 2019–2026 period.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 5050 will be enacted near the start of fiscal year 2017 and the amounts authorized and estimated to be necessary over the 2017–2021 period will be appropriated each year. Estimates of outlays are based on historical spending patterns for pipeline safety programs.

#### *Spending subject to appropriation*

H.R. 5050 would reauthorize the laws that govern PHMSA’s role in pipeline safety and authorize appropriations for those activities as well as for the agency’s general operating expenses. The bill would specify new administrative requirements and authorize the agency to establish and enforce safety standards for certain underground storage facilities for natural gas. The bill also would require the Government Accountability Office (GAO) and other agencies to conduct a variety of studies and reports related to pipeline safety and other activities.

The bill would authorize appropriations for PHMSA totaling \$172 million in 2017 and \$900 million over the 2017–2021 period; additional amounts would be necessary for agencies other than PHMSA to complete required reports. (In addition, the bill would authorize appropriations totaling \$168 million in 2016, the same amount that has already been provided for that year.) The authorized and estimated amounts include:

- \$786 million specifically authorized for PHMSA’s pipeline safety programs;
- \$114 million specifically authorized for operating expenses of support organizations within PHMSA; and
- Less than \$500,000 estimated to be necessary for GAO and other agencies to carry out various reporting and administrative requirements.

Assuming appropriation of the authorized and estimated amounts, CBO estimates that resulting discretionary outlays would total \$779 million over the 2017–2021 period and \$121 million in later years. CBO also estimates that those outlays would be offset by \$696 million in fees paid by entities that operate pipelines and related facilities regulated by PHMSA. Under current law, such an-

nual fees are based on appropriations provided for pipeline safety and related activities and are recorded as discretionary offsetting collections.

*Revenues*

H.R. 5050 would authorize PHMSA to regulate the safety of certain underground natural gas storage facilities. To cover the cost of regulating such facilities, the bill would direct the Secretary of Transportation to impose fees on entities that operate such facilities. In CBO’s view, such regulatory fees should be recorded as revenues because of their compulsory nature. Under the bill, PHMSA’s authority to spend those fees would be subject to appropriation.

Based on information from PHMSA and the natural gas industry about the anticipated costs to establish and implement the proposed safety standards, CBO estimates gross revenues from such fees would total about \$3 million annually starting in 2019 (the year when CBO expects PHMSA would issue regulations as required by the bill) and \$24 million through 2026. Because excise taxes and other indirect business taxes (such as the proposed assessment under H.R. 5050) reduce the base used for calculating income and payroll taxes, higher amounts of those indirect business taxes would lead to reductions in revenues from income and payroll taxes. As a result, gross assessments would be partially offset by a loss of receipts of about 25 percent each year. Thus, CBO estimates that enacting H.R. 5050 would increase net revenues by \$17 million over the 2019–2026 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. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5050, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE ON APRIL 27, 2016

|                                      | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |      |           |           |  |
|--------------------------------------|---|------|------|------|------|------|------|------|------|------|------|-----------|-----------|--|
|                                      | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2016–2021 | 2016–2026 |  |
| NET DECREASE IN THE DEFICIT          |   |      |      |      |      |      |      |      |      |      |      |           |           |  |
| Statutory Pay-As-You-Go Impact ..... | 0                                       | 0    | 0    | -2   | -2   | -2   | -2   | -2   | -2   | -2   | -2   | -7        | -17       |  |

Note: Components may not sum to totals because of rounding.

Increase in long term direct spending and deficits: CBO estimates that enacting H.R. 5050 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 5050 would impose intergovernmental and private-sector mandates as defined in UMRA by establishing new safety standards for storage facilities for natural gas and pipelines and by imposing new fees. Based on information from PHMSA and industry sources, CBO estimates that the cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 million, adjusted annually for inflation). Primarily because one of the mandates on private entities would depend on

future actions by the Secretary of Transportation, CBO cannot determine whether the aggregate cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

*Mandates that apply to both public and private entities*

Standards and Fees for Underground Natural Gas Storage Facilities. The bill would impose a mandate on operators of underground storage facilities for natural gas by establishing new safety standards for those facilities. According to the Department of Energy, there are about 400 such facilities in the United States, and the majority of the facilities are operated by private entities. Organizations representing gas pipeline companies recently adopted voluntary standards for ensuring the safety and integrity of storage facilities for natural gas. CBO estimates that the incremental cost of the mandate would be minimal for facilities that are currently working to comply with those industry standards. However, based on information from industry sources, CBO estimates that the aggregate cost of the mandate on all facilities could total tens of millions of dollars annually.

The bill also would impose a mandate on operators of underground storage facilities for natural gas by requiring those operators to pay fees to the Secretary of Transportation. The fees would be used to offset the cost of establishing and implementing the safety standards for those facilities. CBO estimates that those fees would total \$3 million annually beginning in 2019.

Emergency Orders. The bill would authorize the Secretary of Transportation to issue emergency orders to address imminent hazards at gas and hazardous liquid pipeline facilities. Those orders would require owners and operators of those facilities to comply with emergency restrictions, prohibitions, and safety measures. The cost of the mandate would depend on the nature and scope of emergency orders issued by the Secretary of Transportation. While there is uncertainty surrounding the potential scope and frequency of such orders, the Secretary of Transportation has issued few emergency orders in recent years tied to the transport of hazardous materials. We expect emergency orders resulting from the bill's provisions to be similarly restrained, but they could result in significant costs to private entities, depending on the nature of the event and the resulting order. Because few pipelines are owned by public entities, CBO expects that the potential costs on state, local, or tribal entities of complying with future emergency orders would be small.

Oil Spill Response Plans. The bill would require operators of pipelines that contain hazardous liquids to consider the effects of oil discharges into navigable waters that contain ice and areas adjoining those waters when they prepare response plans for oil spills. The bill would impose a mandate if operators need to amend current plans to address discharges onto ice. The bill also would impose a mandate by requiring pipeline operators that contract for oil spill response resources to provide a list of those resources in their response plans. Operators of oil pipelines must prepare and periodically update response plans pursuant to current law, and CBO anticipates that pipeline operators could amend plans at the



next scheduled update. Consequently, CBO estimates that the incremental cost of the mandates would not be significant.

*Mandate that applies to private entities only*

The bill would require certain onshore pipelines that cross water to increase the frequency of pipeline integrity assessments. Based on information from industry sources, CBO expects that the mandate would apply to one pipeline and estimates that the cost of conducting additional inspections would not exceed \$1 million over the first five years that the mandate is in effect.

Previous CBO estimate: CBO has issued two other cost estimates for legislation that would reauthorize PHMSA's activities related to pipeline safety:

- On February 23, 2016, CBO transmitted a cost estimate for S. 2276, the SAFE PIPES Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 9, 2015; and
- On May 27, 2016, CBO transmitted a cost estimate for H.R. 4937, the PIPES Act of 2016, as ordered reported by the House Committee on Transportation and Infrastructure on April 20, 2016.

Our estimate of spending subject to appropriation under H.R. 5050 is larger than our estimates of such spending under S. 2276 and H.R. 4937 primarily because H.R. 5050 would authorize funding through 2021 while the other bills would authorize appropriations only through 2019.

In addition, all three bills would authorize PHMSA to regulate certain underground natural gas storage facilities and assess fees for that purpose. Our estimate of increased net revenues from such fees is the same under each bill.

H.R. 5050 contains most of the mandates identified by CBO in H.R. 4937, including a requirement to comply with emergency orders, and all of the mandates identified by CBO in S. 2276. The threshold determinations for H.R. 5050 and H.R. 4937 are the same. The threshold determination for private-sector mandates is different for S. 2276 because S. 2276 does not contain the mandate that would require private entities to comply with emergency orders issued by the Secretary of Transportation.

Estimate prepared by: Federal Costs and Revenues: Megan Carroll; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

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

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 5050 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section

21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 5050 specifically directs to be completed no rule makings within the meaning of 5 U.S.C. 551.

#### ADVISORY COMMITTEE STATEMENT

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

#### APPLICABILITY TO LEGISLATIVE BRANCH

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

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title; References; Table of contents*

Section 1 provides the short title of “Pipeline Safety Act of 2016.”

##### *Section 2. Regulatory updates*

Section 2 requires the Secretary of Transportation to report to Congress on outstanding regulations for which no interim or final rule has been issued. The contents of the report shall include, for each outstanding regulation, a description of the work plan, timeline, current staff allocations, resource constraints, and any other details that affect the progress of the rulemaking process.

##### *Section 3. Statutory preference*

Section 3 requires the Administrator of PHMSA to complete the rulemaking process for regulations required by the Pipeline Safety Act of 2011 or any other law for which more than two years have passed since the statutory deadline before beginning any new rulemaking process. The Committee intends for the limitation on new rulemakings to apply only to pipeline safety-related rulemakings. This section provides an exception to allow the Administrator to begin a new rulemaking if the Secretary of Transportation determines that there is a significant need and notifies Congress.

##### *Section 4. Integrity management review*

Section 4 requires the Comptroller General to report to Congress on integrity management programs for natural gas and liquid pipeline facilities. The contents of the report shall include an analysis of the extent to which integrity management programs have improved safety; an analysis and recommendations on ways to enhance pipeline safety; and a description of any challenges affecting regulators in their oversight of and operators in complying with the requirements of the integrity management programs.

*Section 5. Technical safety standards committees*

Section 5 requires the Secretary to consult with “utility regulators,” in addition to a national organization representing State commissioners, when choosing participants for technical safety standards committees.

*Section 6. Inspection report information*

Section 6 requires the Secretary of Transportation, no later than thirty days after the completion of a pipeline inspection, to conduct a post-inspection briefing with the operator outlining any concerns and, to the extent practicable, provide written findings of the inspection. The written findings may include a final report, notice of amendment of plans or procedures, safety order, corrective action order, or any other applicable report, notice, or order.

*Section 7. Improving damage prevention technology*

Section 7 requires the Secretary of Transportation to conduct a study and report to Congress on methods to improve damage prevention programs for pipeline facilities.

*Section 8. Direct hire authority for pipeline and hazardous materials safety administration*

Section 8 authorizes the Administrator of PHMSA to appoint qualified candidates to pipeline safety-related positions without regard to sections 3309 through 3318 of title 5, United States Code in order to fill vacancies to meet a critical hiring need. This section also requires a report to Congress on the use of the authority and PHMSA’s efforts to hire women, minorities, and veterans as inspectors.

*Section 9. Information-sharing system*

Section 9 requires the Secretary of Transportation to convene a working group to consider the development of a voluntary information-sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing. The working group shall include representatives from PHMSA, industry stakeholders, safety advocates, research institutions, State pipeline safety inspectors, and labor representatives.

*Section 10. Nationwide integrated pipeline safety regulatory database*

Section 10 requires the Secretary of Transportation to report to Congress on the feasibility of establishing a nationwide integrated pipeline safety regulatory inspection database to improve communication and collaboration between PHMSA and State pipeline regulators.

*Section 11. Underground gas storage facilities*

Section 11 requires the Secretary of Transportation to issue minimum safety standards for the operation and integrity management of underground gas storage facilities no later than two years after the date of enactment. This section authorizes the Secretary to collect a fee from underground gas storage facility operators to cover the cost of establishing and implementing safety standards for underground gas storage facilities. The fees are to be deposited into

the underground gas storage facility safety account established in the Treasury pursuant to this section.

*Section 12. Requirements for certain hazardous liquid pipeline facilities*

Section 12 requires operators of onshore, underwater pipeline facilities located at depths greater than 150 feet below the surface to conduct internal inspections annually, and other types of integrity assessments on a risk-based schedule.

*Section 13. Response plans*

Section 13 requires PHMSA and the pipeline operator to ensure that emergency response plans include procedures and a list of resources for responding to a worst case discharge of oil, including when it may impact navigable waters or adjoining shorelines that may be covered in whole or in part by ice.

*Section 14. Unusually sensitive areas*

Section 14 adds the Great Lakes and coastal beaches to the list of areas that the Secretary is required to consider when describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident.

*Section 15. Emergency operation controls*

Section 15 provides PHMSA with emergency authority to order emergency restrictions, prohibitions, and safety measures to abate an imminent hazard that presents a substantial likelihood of death, serious illness, severe personal injury or a substantial danger to health, property, or the environment. Before issuing an order, PHMSA is required to consider its impact on public health and safety, the economy, and pipeline owners and operators. In issuing the written order, PHMSA is required to define the emergency necessitating the action and the entities subject to it, and demonstrate how it is tailored to abate the imminent hazard. Under this section, PHMSA must also describe how its authorities under sections 60112 and 60117(1) are insufficient to abate the imminent hazard.

While an emergency order can be issued without prior notice or opportunity for a hearing, the Committee intends for PHMSA to provide adequate and timely opportunity for review to determine whether the order should remain in effect, be modified, or be terminated. Under this section, if the review is not completed by the end of a 30-day period, the order will cease to be effective. Additionally, this section allows for expedited judicial review in a U.S. District Court.

Section 15 requires the Secretary to issue temporary regulations to carry out the authorities provided not later than 60 days, and final regulations not later than 270 days, after such date of enactment. The Committee intends for PHMSA to issue the final regulations expeditiously. The Committee does not intend for emergency authority to be used in place of a formal rulemaking proceeding, and this section contains a savings clause to clarify that an emergency order issued under this section may not be used to amend the Code of Federal Regulations.

*Section 16. Pipeline safety information grants to communities*

Section 16 requires the Inspector General of the Department of Transportation to conduct an audit of the Technical Assistance Grant program to review compliance by PHMSA and grant recipients. This section also amends the statute to clarify the definition of technical assistance.

*Section 17. Transparency in interagency review*

Section 17 requires PHMSA to make the cost-benefit analyses of its rulemakings public and identify the substantive changes between a draft rulemaking submitted to the Office of Management and Budget (OMB) for review and the final version posted in the Federal Register. This section also requires PHMSA to identify those changes made at the suggestion or recommendation of OMB. This section responds to the Committee's concerns that PHMSA has been unable to complete a number of legislative mandates by the statutorily imposed deadlines and that PHMSA's disagreements with OMB during interagency review may have contributed to these delays.

*Section 18. Study on corrosion control and prevention for gas and hazardous liquid pipelines*

Section 18 requires the Comptroller General to conduct a study on construction materials and technologies for corrosion control and prevention for gas and hazardous liquid pipelines. The report is required to be submitted to Congress no more than 18 months after the date of the enactment of this act.

*Section 19. Study on propane gas pipeline facilities*

Section 19 requires the Secretary of Transportation to enter into an agreement with the Transportation Research Board (TRB) of the National Academy of Sciences to conduct a study on propane gas facilities that serve 100 or fewer customers. The purpose of the study is to provide Congress with recommendations on ways to enhance safety and streamline Federal regulation of such facilities.

*Section 20. Standards for liquefied natural gas pipeline facilities*

Section 20 requires PHMSA to consider national security when prescribing minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. This section also requires PHMSA to consider cybersecurity measures when prescribing minimum operating and maintenance standards for such facilities.

*Section 21. Authorization of appropriations*

Section 19 reauthorizes PHMSA's gas and hazardous liquid programs, operational expenses, One-Call notification program, pipeline safety information grants to communities, and pipeline integrity program from fiscal years 2017 through 2021.

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 omit-

ted is enclosed in black brackets, new matter is printed in italics, and 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

Sec.

6101. Purposes.

\* \* \* \* \*

**[6107. Authorization of appropriations.]**

*6107. Funding.*

\* \* \* \* \*

#### **§ 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 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 2012 through 2015.]

#### **§ 6107. Funding**

*Of the amounts provided under section 60125(a)(1), \$1,058,000 shall be expended in each of fiscal years 2017 through 2021 to provide grants to States under section 6106.*

\* \* \* \* \*

## SUBTITLE VIII—PIPELINES

\* \* \* \* \*

### CHAPTER 601—SAFETY

Sec.

60101. Definitions.

\* \* \* \* \*

*60103a. Standards for underground gas storage facilities.*

\* \* \* \* \*

#### **§ 60101. Definitions**

(a) GENERAL.—In this chapter—

(1) “existing liquefied natural gas facility”—

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—

- (i) the Federal Energy Regulatory Commission (or any predecessor); or
  - (ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but
- (B) does not include a facility on which construction is begun after November 29, 1979, without the approval;
- (2) “gas” means natural gas, flammable gas, or toxic or corrosive gas;
- (3) “gas pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation;
- (4) “hazardous liquid” means—
- (A) petroleum or a petroleum product;
  - (B) nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities; and
  - (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);
- (5) “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid;
- (6) “interstate gas pipeline facility” means a gas pipeline facility—
- (A) used to transport gas; and
  - (B) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);
- (7) “interstate hazardous liquid pipeline facility” means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce;
- (8) “interstate or foreign commerce”—
- (A) related to gas, means commerce—
    - (i) between a place in a State and a place outside that State; or
    - (ii) that affects any commerce described in subclause (A)(i) of this clause; and
  - (B) related to hazardous liquid, means commerce between—
    - (i) a place in a State and a place outside that State; or
    - (ii) places in the same State through a place outside the State;
- (9) “intrastate gas pipeline facility” means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);
- (10) “intrastate hazardous liquid pipeline facility” means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility;
- (11) “liquefied natural gas” means natural gas in a liquid or semisolid state;

(12) “liquefied natural gas accident” means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment;

(13) “liquefied natural gas conversion” means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural gas;

(14) “liquefied natural gas pipeline facility”—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796));

(15) “municipality” means a political subdivision of a State;

(16) “new liquefied natural gas pipeline facility” means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility;

(17) “person”, in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person;

(18) “pipeline facility” means a gas pipeline facility and a hazardous liquid pipeline facility;

(19) “pipeline transportation” means transporting gas and transporting hazardous liquid;

(20) “State” means a State of the United States, the District of Columbia, and Puerto Rico;

(21) “transporting gas”—

(A) means—

(i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and

(ii) the movement of gas through regulated gathering lines; but (B) does not include gathering gas (except through regulated gathering lines) in a rural area outside a populated area designated by the Secretary as a nonrural area[.];

(22) “transporting hazardous liquid”—

(A) means—

(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and

(ii) the movement of hazardous liquid through regulated gathering lines; but

(B) does not include moving hazardous liquid through—

(i) gathering lines (except regulated gathering lines) in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities[.];



(23) “risk management” means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

(24) “risk management plan” means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; [and]

(25) “Secretary” means the Secretary of Transportation[.]; and

(26) “*underground gas storage facility*” means a gas pipeline facility that stores gas in an underground facility, including—

(A) a depleted hydrocarbon reservoir;

(B) an aquifer reservoir; or

(C) a solution-mined salt cavern reservoir.

(b) GATHERING LINES.—(1)(A) Not later than October 24, 1994, the Secretary shall prescribe standards defining the term “gathering line”.

(B) In defining “gathering line” for gas, the Secretary—

(i) shall consider functional and operational characteristics of the lines to be included in the definition; and

(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2)(A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term “regulated gathering line”. In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.

(B)(i) The Secretary also shall consider diameter when defining “regulated gathering line” for hazardous liquid.

(ii) The definition of “regulated gathering line” for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

### § 60102. Purpose and general authority

(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

(1) PURPOSE.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

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

(A) apply to any or all of the owners or operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, ex-

tension, operation, replacement, and maintenance of pipeline facilities; and

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

(3) QUALIFICATIONS OF PIPELINE OPERATORS.—The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

(A) practicable; and

(B) designed to meet the need for—

(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

(A) relevant available—

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; and

(iii) environmental information;

(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(C) the reasonableness of the standard;

(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

(F) comments and information received from the public; and

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

(B) identify the costs and benefits associated with the proposed standard;

(C) include—

(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

(4) REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

(ii) make that risk assessment information available to the general public.

(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

(i) an evaluation of the merit of the data and methods used; and

(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

(i) shall review the report;

(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs.

(6) EXCEPTIONS FROM APPLICATION.—The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when—

(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

(7) *TRANSPARENCY IN INTERAGENCY REVIEW.*—*For any standard that is proposed or issued by rule under this chapter, and which is reviewed by the Office of Management and Budget and subsequently noticed in the Federal Register, the Secretary shall—*

(A) *make available to the public the factors considered under paragraph (2) and the results of the risk assessment conducted in accordance with paragraph (3), as applicable;*

(B) *identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Office of Management and Budget for review and the proposed or final rule subsequently noticed; and*

(C) *identify for the public the changes described in subparagraph (B) that were made at the suggestion or the recommendation of the Office of Management and Budget.*

[(7)] (8) *REPORT.*—*Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—*

(A) *describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decision-making and pipeline safety; and*

(B) *includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.*

(c) *PUBLIC SAFETY PROGRAM REQUIREMENTS.*—(1) *The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—*

(A) *notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;*

(B) *requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and*

(C) *the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.*

(2) *To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.*

(3) *The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.*

## (4) PROMOTING PUBLIC AWARENESS.—

(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.

(d) FACILITY OPERATION INFORMATION STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain, to the extent practicable, information related to operating the facility as required by the standards prescribed under this chapter and, when requested, to make the information available to the Secretary and an appropriate State official as determined by the Secretary. The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

- (A) identifying specific action the operator will take on discovering a release;
  - (B) liaison procedures with State and local authorities for emergency response; and
  - (C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and
- (6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.
- (e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transportation of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—
- (1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and
  - (2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, but shall exclude equipment associated only with the pipeline pumps or storage facilities.
- (f) STANDARDS AS ACCOMMODATING “SMART PIGS”.—
- (1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—
    - (A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and
    - (B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as “smart pigs”). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.
  - (2) PERIODIC INSPECTIONS.—Not later than October 24, 1995, the Secretary shall prescribe, if necessary, additional standards requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The standards shall include any circumstances under which an inspection shall be conducted with an instrumented internal

inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

(g) EFFECTIVE DATES.—A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h) SAFETY CONDITION REPORTS.—(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) CARBON DIOXIDE REGULATION.—

(1) TRANSPORTATION IN LIQUID STATE.—The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe standards related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(2) TRANSPORTATION IN GASEOUS STATE.—

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

(B) CONSIDERATIONS.—In establishing the standards, the Secretary shall consider whether applying the minimum safety standards in part 195 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this paragraph, for the transportation of carbon dioxide in a liquid state to the transportation of carbon dioxide in a gaseous state would ensure safety.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treatment of carbon dioxide or the preparation of carbon dioxide for transportation by pipeline at production, refining, or manufacturing facilities.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—(1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe standards on the cir-

cumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility.

(k) **LOW-STRESS HAZARDOUS LIQUID PIPELINES.—**

(1) **MINIMUM STANDARDS.—**Not later than December 31, 2007, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. The regulations issued under this paragraph shall not apply to gathering lines.

(2) **GENERAL PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—**Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

(3) **LIMITED EXCEPTIONS.—**The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

(A) are subject to safety regulations of the United States Coast Guard; or

(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation,

until regulations issued under paragraph (1) become effective. After such regulations become effective, the Secretary may retain or remove those exceptions as appropriate.

(4) **RELATIONSHIP TO OTHER LAWS.—**Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

(5) **DEFINITION.—**For purposes of this subsection, the term “low-stress hazardous liquid pipeline” means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

(6) **EFFECTIVE DATE.—**The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.

(1) **UPDATING STANDARDS.—**The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.

(m) **INSPECTIONS BY DIRECT ASSESSMENT.—**Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.

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



(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, and after considering the factors specified in subsection (b)(2), the Secretary, if appropriate, shall require by regulation 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) HIGH-CONSEQUENCE AREA STUDY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the ability of transmission pipeline facility operators to respond to a hazardous liquid or gas release from a pipeline segment located in a high-consequence area.

(B) CONSIDERATIONS.—In conducting the study, the Comptroller General shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of the nearest response personnel, and the costs, risks, and benefits of installing automatic and remote-controlled shut-off valves.

(C) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(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 and 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.

(p) LIMITATION ON INCORPORATION OF DOCUMENTS BY REFERENCE.—Beginning 3 years after the date of enactment of this subsection, the Secretary may not issue a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge.

### **§ 60103. Standards for liquefied natural gas pipeline facilities**

(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of

a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

- (1) kind and use of the facility;
- (2) existing and projected population and demographic characteristics of the location;
- (3) existing and proposed land use near the location;
- (4) natural physical aspects of the location;
- (5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility[; and];
- (6) need to encourage remote siting[.]; and
- (7) *national security*.

(b) DESIGN, INSTALLATION, CONSTRUCTION, INSPECTION, AND TESTING STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

- (1) the characteristics of material to be used in constructing the facility and of alternative material;
- (2) design factors;
- (3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and
- (4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) NONAPPLICATION.—(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

- (A) under this chapter; or
- (B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

- (i) does not make the component or part incompatible with other components or parts; or
- (ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) OPERATION AND MAINTENANCE STANDARDS.—The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

(4) maintenance procedures and equipment;

(5) the training of personnel in matters specified by this subsection【; and】;

(6) other factors and conditions related to the safe handling of liquefied natural gas【.】; and

(7) cybersecurity measures.

(e) **EFFECTIVE DATES.**—A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) **CONTINGENCY PLANS.**—A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) **EFFECT ON OTHER STANDARDS.**—This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

### **§ 60103a. Standards for underground gas storage facilities**

(a) **MINIMUM SAFETY STANDARDS.**—*Not later than 2 years after the date of the enactment of this section, the Secretary of Transportation, in consultation with the heads of other relevant Federal agencies, shall issue minimum safety standards, incorporating, to the extent practicable, consensus standards for the operation and integrity management of, and environmental protection with respect to, underground gas storage facilities.*

(b) **CONSIDERATIONS.**—*In developing safety standards under subsection (a), the Secretary shall—*

(1) *consider the economic impacts of the standards on consumers, including individual gas customers, and minimize such impacts to the extent practicable; and*

(2) *consider existing consensus standards.*

(c) **FEDERAL-STATE COOPERATION.**—*The Secretary may authorize a State authority (including a municipality) to participate in the oversight of underground gas storage facilities in the same manner as provided in sections 60105 and 60106.*

(d) **RULES OF CONSTRUCTION.**—

(1) **IN GENERAL.**—*Nothing in this section may be construed to affect any Federal regulation relating to gas pipeline facilities that is in effect on the day before the date of enactment of this section.*

(2) **LIMITATIONS.**—*Nothing in this section may be construed to authorize the Secretary—*

- (A) to prescribe the location of an underground gas storage facility; or  
 (B) to require the Secretary's permission to construct an underground gas storage facility.

\* \* \* \* \*

### § 60108. Inspection and maintenance

(a) PLANS.—(1) Each person owning or operating 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.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

- (A) relevant available pipeline safety information;
- (B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;
- (C) the reasonableness of the plan; and
- (D) the extent to which the plan will contribute to public safety and the protection of the environment.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title.

(b) INSPECTION AND TESTING.—(1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

- (A) the location of the pipeline facility.
- (B) the type, size, age, manufacturer, method of construction, and condition of the pipeline facility.
- (C) the nature and volume of material transported through the pipeline facility.
- (D) the pressure at which that material is transported.
- (E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.
- (F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.

(G) for a hazardous liquid pipeline facility, the proximity of the area in which the facility is located to an area that is unusually sensitive to environmental damage.

(H) the frequency of leaks.

(I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) PIPELINE FACILITIES OFFSHORE AND IN OTHER WATERS.—(1) In this subsection—

(A) “abandoned” means permanently removed from service.

(B) “pipeline facility” includes an underwater abandoned pipeline facility.

(C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of—

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.

(B) In prescribing standards to carry out subparagraph (A) of this paragraph—

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy

or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

(4)(A) The Secretary shall establish a standard that each pipeline facility described in paragraph (2) of this subsection that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing standards for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(5)(A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6)(A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and se-

verity of the collision. Chapter 35 of title 44 does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter an offshore hazardous liquid pipeline facility only because the pipeline facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(8) If, after reviewing existing Federal and State regulations for hazardous liquid gathering lines located offshore in the United States, including within the inlets of the Gulf of Mexico, the Secretary determines it is appropriate, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.

(d) REPLACING CAST IRON GAS PIPELINES.—(1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish—

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

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

(C) the progress that has been made.

(2) Chapter 35 of title 44 does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or standards for cast iron gas pipelines as the Secretary considers appropriate.

(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 adopting and implementing their plans for the safe management and replacement of cast iron gas pipelines.

(e) *IN GENERAL.*—*Not later than 30 days after the completion of a pipeline safety inspection, the Secretary or the State authority for which a certification is in effect under section 60105, as applicable, shall—*

*(1) conduct a post-inspection briefing with the operator of the pipeline facility, outlining any concerns; and*

*(2) to the extent practicable, provide written findings of the inspection, which may include a final report, notice of amendment of plans or procedures, safety order, or corrective action order, or any other applicable report, notice, or order.*

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

(a) IDENTIFICATION REQUIREMENTS.—Not later than October 24, 1994, the Secretary of Transportation shall prescribe standards that—

(1) establish criteria for identifying—

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines—

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

(2) locations near pipeline rights-of-way that **have been identified as** *are part of the Great Lakes or have been identified as coastal beaches*, critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.

(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).



(B) **AUTHORITY TO ISSUE REGULATIONS.**—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

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

(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(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). The Secretary may extend such deadline for an additional 6 months if the operator submits written notice to the Secretary with sufficient justification of the need for the extension.

(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

(A) The minimum requirements described in paragraph (3).

(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

(C) The manner in which the inspections or testing are conducted.

(D) The criteria used in analyzing results of the inspections or testing.

(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

(B) the use of emergency flow restricting devices.

(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this sub-

section and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

(A) REVIEW OF PROGRAMS.—

(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), has not been adequately implemented, or is inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under this chapter.

(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—

The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.

(d) **EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.**—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).

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

(1) **MINIMUM STANDARDS.**—Not later than December 31, 2007, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.

(2) **ADDITIONAL AUTHORITY OF SECRETARY.**—In carrying out this subsection, the Secretary may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity, and to monitor program effectiveness.

(3) **EXCESS FLOW VALVES.**—

(A) **IN GENERAL.**—The minimum standards shall include a requirement for an operator of a natural gas distribution system to install an excess flow valve on each single family residence service line connected to such system if—

(i) the service line is installed or entirely replaced after June 1, 2008;

(ii) the service line operates continuously throughout the year at a pressure not less than 10 pounds per square inch gauge;

(iii) the service line is not connected to a gas stream with respect to which the operator has had prior experience with contaminants the presence of which could interfere with the operation of an excess flow valve;

(iv) the installation of an excess flow valve on the service line is not likely to cause loss of service to the residence or interfere with necessary operation or maintenance activities, such as purging liquids from the service line; and

(v) an excess flow valve meeting performance standards developed under section 60110(e) of title 49, United States Code, is commercially available to the operator, as determined by the Secretary.

(B) **DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.**—Not later than 2 years after the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and after issuing a final report on the evaluation of the National Transportation Safety Board's recommendation on excess flow valves in applications other than service lines serving one single family residence, the Secretary, if appropriate, shall by regulation require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.

(C) **REPORTS.**—Operators of natural gas distribution systems shall report annually to the Secretary on the number

of excess flow valves installed on their systems under subparagraph (A).

(4) **APPLICABILITY.**—The Secretary shall determine which distribution pipelines will be subject to the minimum standards.

(5) **DEVELOPMENT AND IMPLEMENTATION.**—Each operator of a distribution pipeline that the Secretary determines is subject to the minimum standards prescribed by the Secretary under this subsection shall develop and implement an integrity management program in accordance with those standards.

(6) **SAVINGS CLAUSE.**—Subject to section 60104(c), a State authority having a current certification under section 60105 may adopt or continue in force additional integrity management requirements, including additional requirements for installation of excess flow valves, for gas distribution pipelines within the boundaries of that State.

(f) **CERTIFICATION OF PIPELINE INTEGRITY MANAGEMENT PROGRAM PERFORMANCE.**—The Secretary shall establish procedures requiring certification of annual and semiannual pipeline integrity management program performance reports by a senior executive officer of the company operating a pipeline subject to this chapter. The procedures shall require a signed statement, which may be effected electronically in accordance with the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.), certifying that—

(1) the signing officer has reviewed the report; and

(2) to the best of such officer's knowledge and belief, the report is true and complete.

(g) **HAZARDOUS LIQUID PIPELINE FACILITIES.**—

(1) **INTEGRITY ASSESSMENTS.**—*Notwithstanding any pipeline integrity management program or integrity assessment schedule otherwise required by the Secretary, each operator of a pipeline facility to which this subsection applies shall ensure that pipeline integrity assessments—*

(A) *using internal inspection technology are completed not less often than once every 12 months; and*

(B) *using pipeline route surveys, depth of cover surveys, pressure tests, external corrosion direct assessment, or other technology that the operator demonstrates can further the understanding of the condition of the pipeline facility are completed on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located.*

(2) **APPLICATION.**—*This subsection shall apply to any underwater hazardous liquid pipeline facility located in a high consequence area—*

(A) *that is not an offshore pipeline facility; and*

(B) *any portion of which is located at depths greater than 150 feet under the surface of the water.*

(3) **HIGH CONSEQUENCE AREA DEFINED.**—*For purposes of this subsection, the term “high consequence area” has the meaning given that term in section 195.450 of title 49, Code of Federal Regulations.*

(4) **INSPECTION AND ENFORCEMENT.**—*The Secretary shall conduct inspections under section 60117(c) to determine whether*

*each operator of a pipeline facility to which this subsection applies is complying with this section.*

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### **§ 60115. Technical safety standards committees**

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.

(b) COMPOSITION AND APPOINTMENT.—(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards or risk management principles.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 5 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be **[State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals.]** *State officials. The Secretary shall consult with national organizations representing State commissioners or utility regulators when making a selection under this subparagraph.*

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate. At least 1 of the individuals selected

for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis. At least one individual selected for each committee under paragraph (3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.

(c) COMMITTEE REPORTS ON PROPOSED STANDARDS.—(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities including the risk assessment information and other analyses supporting each proposed standard; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities including the risk assessment information and other analyses supporting each proposed standard.

(2) Not later than 90 days after receiving the proposed standard and supporting analyses, the appropriate committee shall prepare and submit to the Secretary a report on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard and include in the report recommended actions. The Secretary shall publish each report, including any recommended actions and minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) PROPOSED COMMITTEE STANDARDS AND POLICY DEVELOPMENT RECOMMENDATIONS.—(1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) MEETINGS.—Each committee shall meet with the Secretary at least up to 4 times annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) EXPENSES.—A member of a committee under this section is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

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#### § 60117. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities and promotional activities relating to prevention of damage to pipeline facilities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—To enable the Secretary to decide whether a person owning or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.

(c) ENTRY AND INSPECTION.—An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) CONFIDENTIALITY OF INFORMATION.—Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e) USE OF ACCIDENT REPORTS.—(1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) TESTING FACILITIES INVOLVED IN ACCIDENTS.—The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after—



(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) PROVIDING SAFETY INFORMATION.—On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) COOPERATION.—The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) PROMOTING COORDINATION.—(1) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.

(j) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

(l) SAFETY ORDERS.—

(1) IN GENERAL.—Not later than December 31, 2007, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity

risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy that condition.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Secretary, if relevant and pursuant to the regulations issued under paragraph (1), shall consider—

(A) the considerations specified in paragraphs (1) through (6) of section 60112(b);

(B) the likelihood that the condition will impair the serviceability of a pipeline;

(C) the likelihood that the condition will worsen over time; and

(D) the likelihood that the condition is present or could develop on other areas of the pipeline.

(m) RESTORATION OF OPERATIONS.—

(1) IN GENERAL.—The Secretary may advise, assist, and cooperate with the heads of other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons to facilitate the restoration of pipeline operations that have been or are anticipated to become disrupted by manmade or natural disasters.

(2) SAVINGS CLAUSE.—Nothing in this section alters or amends the authorities and responsibilities of any department, agency, or instrumentality of the United States Government, other than the Department of Transportation.

(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 gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, 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 paragraph, 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 paragraph. The Secretary may not collect design safety review fees under this paragraph 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 \$2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all-urban consumers published by the Department of Labor, based on—

(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for au-

thorization for a liquefied natural gas pipeline facility; or

(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

(ii) uses new or novel technologies or design, as determined by the Secretary.

(2) NOTIFICATION.—For any new pipeline facility construction project in 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. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on 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 may 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).

(o) EMERGENCY ORDER AUTHORITY.—

(1) *IN GENERAL.*—*If the Secretary determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order described in paragraph (3) imposing emergency restrictions, prohibitions, and safety measures on owners and operators of gas or hazardous liquid pipeline facilities without prior notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.*

(2) *CONSIDERATIONS.*—*Before issuing an emergency order under paragraph (1), the Secretary shall consider, after consultation with appropriate Federal agencies, State agencies, or other entities, the following, as appropriate:*

(A) *The impact of the emergency order on public health and safety.*

(B) *The impact, if any, of the emergency order on the national or regional economy or national security.*

(C) *The impact of the emergency order on owners and operators of pipeline facilities.*

(3) *WRITTEN ORDER.*—*An emergency order issued by the Secretary pursuant to paragraph (1) with respect to an imminent hazard shall contain a written description of—*

(A) the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) the entities subject to the order;

(C) the restrictions, prohibitions, or safety measures imposed;

(D) the standards and procedures for obtaining relief from the order;

(E) how the order is tailored to abate the imminent hazard and the reasons the authorities under sections 60112 and 60117(l) are insufficient to do so; and

(F) how the considerations were taken into account pursuant to paragraph (2).

(4) *OPPORTUNITY FOR REVIEW.*—Upon receipt of a petition for review from an entity subject to, and adversely affected by, an emergency order issued under this subsection, the Secretary shall provide an opportunity for a review of the order under section 554 of title 5 to determine whether the order should remain in effect, be modified, or be terminated.

(5) *EXPIRATION OF EFFECTIVENESS ORDER.*—If a petition for review of an emergency order is filed under paragraph (4) and an agency decision with respect to the petition is not issued on or before the last day of the 30-day period beginning on the date on which the petition is filed, the order shall cease to be effective on such day, unless the Secretary determines in writing on or before the last day of such period that the imminent hazard still exists.

(6) *JUDICIAL REVIEW OF ORDERS.*—After a final agency action under the review process described in paragraph (4), or the issuance of a written determination by the Secretary pursuant to paragraph (5), an entity subject to, and adversely affected by, an emergency order issued under this subsection may seek judicial review of the order in a district court of the United States and shall be given expedited consideration.

(7) *REGULATIONS.*—

(A) *TEMPORARY REGULATIONS.*—Not later than 60 days after the date of enactment of the Pipeline Safety Act of 2016, the Secretary shall issue such temporary regulations as are necessary to carry out this subsection. The temporary regulations shall expire on the date of issuance of the final regulations required under subparagraph (B).

(B) *FINAL REGULATIONS.*—Not later than 270 days after such date of enactment, the Secretary shall issue such regulations as are necessary to carry out this subsection. Such regulations shall ensure that the review process described in paragraph (4) contains the same procedures as subsections (d) and (g) of section 109.19 of title 49, Code of Federal Regulations, and is otherwise consistent with the review process developed under such section to the greatest extent practicable and not inconsistent with this section.

(8) *IMMINENT HAZARD DEFINED.*—In this subsection, the term “imminent hazard” means the existence of a condition relating to a gas or hazardous liquid pipeline facility that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable

completion date of a formal proceeding begun to lessen the risk of such death, illness, injury, or endangerment.

(9) *LIMITATION AND SAVINGS CLAUSE.*—An emergency order issued under this subsection may not be construed to—

(A) alter, amend, or limit the Secretary's obligations under, or the applicability of, section 553 of title 5; or

(B) provide the authority to amend the Code of Federal Regulations.

\* \* \* \* \*

### § 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), [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, \$90,679,000, of which \$4,746,000 is for carrying out such section 12 and \$36,194,000 is for making grants.] *there are authorized to be appropriated to the Department of Transportation from fees collected under section 60301—*

(A) \$128,000,000 for fiscal year 2017, of which \$9,000,000 shall be expended for carrying out such section 12 and \$41,885,000 shall be expended for making grants;

(B) \$131,000,000 for fiscal year 2018, of which \$9,000,000 shall be expended for carrying out such section 12 and \$44,885,000 shall be expended for making grants;

(C) \$134,000,000 for fiscal year 2019, of which \$9,000,000 shall be expended for carrying out such section 12 and \$47,885,000 shall be expended for making grants;

(D) \$137,325,000 for fiscal year 2020, of which \$9,000,000 shall be expended for carrying out such section 12 and \$51,100,000 shall be expended for making grants; and

(E) \$140,733,000 for fiscal year 2021, of which \$9,000,000 shall be expended for carrying out such section 12 and \$54,550,000 shall be expended 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), \$18,573,000, of which \$2,174,000 is for carrying out such section 12 and \$4,558,000 is for making grants.] *there are authorized to be appropriated 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) \$22,123,000 for fiscal year 2017, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;

*(B) \$23,000,000 for fiscal year 2018, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;*

*(C) \$23,000,000 for fiscal year 2019, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants;*

*(D) \$23,300,000 for fiscal year 2020, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants; and*

*(E) \$23,600,000 for fiscal year 2021, of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants.*

(b) EMERGENCY RESPONSE GRANTS.—

(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance. To the extent that such grants are used to train emergency responders, such training shall ensure that emergency responders have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving gas or hazardous liquid pipelines, in accordance with existing regulations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2012 through 2015 to carry out this subsection.

(c) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

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**§ 60130. Pipeline safety information grants to communities**

(a) GRANT AUTHORITY.—

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

(2) DEMONSTRATION GRANTS.—At least the first 3 grants awarded under this section shall be demonstration grants for the purpose of demonstrating and evaluating the utility of grants under this section. Each such demonstration grant shall not exceed \$25,000.

(3) DISSEMINATION OF TECHNICAL FINDINGS.—Each recipient of a grant under this section shall ensure that—

(A) the technical findings made possible by the grants are made available to the relevant operators; and

(B) open communication between the grant recipients, local operators, local communities, and other interested parties is encouraged.

(4) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term “technical assistance” means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation *on technical pipeline safety issues* in official proceedings conducted under this chapter.

(b) PROHIBITED USES.—Funds provided under this section to grant recipients and their contractors may not be used for lobbying, for direct advocacy for or against a pipeline construction or expansion project, or in direct support of litigation.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,500,000 for each of fiscal years 2012 through 2015. Such amounts shall not be derived from user fees collected under section 60301.]

(c) FUNDING.—*Of the amounts made available under section 21(b) of the Pipeline Safety Act of 2016, \$1,500,000 shall be expended in each of fiscal years 2017 through 2021 to carry out this section. Such amounts shall not be derived from user fees collected under section 60301.*

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## CHAPTER 603—USER FEES

### § 60301. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 601 of this title. The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) IMPOSITION AND TIME OF COLLECTION.—A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, *an underground gas storage facility*, or a hazardous liquid pipeline facility to which chapter 601 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) USE OF FEES.—A fee collected under this section—

(1)(A) related to a gas pipeline facility may be used only for an activity related to gas under chapter 601 of this title[; and];

(B) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 601 of this title; and

(C) related to an underground gas storage facility may be used only for an activity related to underground gas storage safety under section 60103a; and

(2) may be used only to the extent provided in advance in an appropriation law.

(e) LIMITATIONS.—Fees prescribed under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

(f) UNDERGROUND GAS STORAGE FACILITY ACCOUNT.—

(1) ACCOUNT.—There is established, in the fund established in the Treasury of the United States pursuant to this section, an underground gas storage facility safety account.

(2) DEPOSIT OF FEES.—A fee collected under subsection (a) from a person operating an underground gas storage facility shall be deposited in the account established under paragraph (1).

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**PIPELINE SAFETY IMPROVEMENT ACT OF 2002**

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

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation’s responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy’s responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology’s responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104–13 (15 U.S.C. 272 note).



(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

- (1) materials inspection;
- (2) stress and fracture analysis, detection of cracks, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;
- (3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;
- (4) methods of analyzing content of pipeline throughput;
- (5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;
- (6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;
- (7) communication, control, and information systems surety;
- (8) fire safety of pipelines;
- (9) improved excavation, construction, and repair technologies;
- (10) corrosion detection and improving methods, best practices, and technologies for identifying, detecting, preventing, and managing internal and external corrosion and other safety risks; and
- (11) other appropriate elements.

The results of activities carried out under paragraph (10) shall be used by the participating agencies to support development and improvement of national consensus standards.

(d) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

(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, in coordination with the Director of the National Institute of Standards and Technology, as appropriate, 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. The biennial report shall include a summary of updated research needs and priorities identified through the consultation requirements of paragraph (2).

(B) CONSULTATION.—The Secretary shall comply with the consultation requirements of paragraph (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 costs of program-wide research and development activities are carried out using non-Federal sources.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(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 [2012 through 2015] 2017 through 2021.

(g) PARTICIPATING AGENCIES DEFINED.—In this section, the term “participating agencies” means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

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