

PROTECTING OUR INFRASTRUCTURE OF PIPELINES AND

ENHANCING SAFETY ACT OF 2016

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the

State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and

Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4937]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom

was referred the bill (H.R. 4937) to amend title 49, United States

Code, to reauthorize pipeline safety programs and enhance pipeline

safety, and for other purposes, having considered the same, report

favorably thereon with an amendment and recommend that the bill

as amended do pass.

CONTENTS

Purpose of Legislation .....	Page 12
Background and Need for Legislation .....	12
Hearings .....	14
Legislative History and Consideration .....	14
Committee Votes .....	14
Committee Oversight Findings .....	18
New Budget Authority and Tax Expenditures .....	18
Congressional Budget Office Cost Estimate .....	18
Performance Goals and Objectives .....	23
Advisory of Earmarks .....	23
Duplication of Federal Programs .....	23
Disclosure of Directed Rule Makings .....	24
Federal Mandate Statement .....	24
Preemption Clarification .....	24
Advisory Committee Statement .....	24
Applicability of Legislative Branch .....	24
Section-by-Section Analysis of Legislation .....	25
Changes in Existing Law Made by the Bill, as Reported .....	30
Committee Correspondence .....	55

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” or the “PIPES Act of 2016”.

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

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Authorization of appropriations.
- Sec. 3. Failure of PHMSA to implement statutory mandates.
- Sec. 4. Natural gas integrity management review.
- Sec. 5. Hazardous liquid integrity management review.
- Sec. 6. Technical safety standards committees.
- Sec. 7. Inspection report information.
- Sec. 8. Improving damage prevention technology.
- Sec. 9. Workforce management.
- Sec. 10. Information-sharing system.
- Sec. 11. Nationwide integrated pipeline safety regulatory database.
- Sec. 12. Underground natural gas storage facilities.
- Sec. 13. Joint inspection and oversight.
- Sec. 14. Safety data sheets.
- Sec. 15. Hazardous materials identification numbers.
- Sec. 16. Emergency order authority.
- Sec. 17. State grant funds.
- Sec. 18. Response plans.
- Sec. 19. High consequence areas.
- Sec. 20. Pipeline safety technical assistance grants.
- Sec. 21. Study of materials and corrosion prevention in pipeline transportation.
- Sec. 22. Research and development.
- Sec. 23. Active and abandoned pipelines.
- Sec. 24. State pipeline safety agreements.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

(a) **GAS AND HAZARDOUS LIQUID.**—Section 60125(a) of title 49, United States Code 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 is authorized to be appropriated to the Department of Transportation from fees collected under sections 60301 and 60302—

“(A) \$124,500,000 for fiscal year 2016, of which \$9,000,000 shall be expended for carrying out such section 12 and \$39,385,000 shall be expended for making grants;

“(B) \$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;

“(C) \$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; and

“(D) \$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.”; 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 is 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 2016, 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) \$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;

“(C) \$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; and

“(D) \$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.”.

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

- (1) \$21,000,000 for fiscal year 2016.
- (2) \$22,000,000 for fiscal year 2017.
- (3) \$22,000,000 for fiscal year 2018.
- (4) \$23,000,000 for fiscal year 2019.

(c) ONE-CALL NOTIFICATION PROGRAMS.—

(1) IN GENERAL.—Section 6107 of title 49, United States Code, is amended to read as follows:

**“§ 6107. Funding**

“Of the amounts provided under section 60125(a)(1), the Secretary shall withhold \$1,058,000 for each of fiscal years 2016 through 2019 to carry out section 6106.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 61 of title 49, United States Code, is amended by striking the item relating to section 6107 and inserting the following:

“6107. Funding.”.

(d) PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.—The first sentence of section 60130(c) of title 49, United States Code, is amended to read as follows: “Of the amounts made available under section 2(b) of the PIPES Act of 2016, the Secretary shall withhold \$1,500,000 for each of fiscal years 2016 through 2019 to carry out this section.”

(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 “2016 through 2019”.

**SEC. 3. FAILURE OF PHMSA TO IMPLEMENT STATUTORY MANDATES.**

(a) REPORT BY THE INSPECTOR GENERAL.—Not later than 45 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation, the Administrator of the Pipeline and Hazardous Materials Safety Administration, 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 containing the following:

(1) A list of each statutory mandate contained in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112–90) that has not been implemented.

(2) A list of each statutory mandate regarding pipeline safety from this Act and all other Acts enacted prior to the date of enactment of this Act, other than those contained in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112–90), that has not been implemented.

(b) REPORTS BY THE SECRETARY.—

(1) STATUTORY MANDATES.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the mandates listed pursuant to subsection (a) has been implemented, the Secretary 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 specific actions taken to implement such mandates.

(2) PUBLIC AVAILABILITY.—The Secretary shall make the report referred to in paragraph (1) publicly available on the Department of Transportation’s Internet Web site.

(3) CONTENTS OF REPORTS.—The reports shall provide, for each mandate listed pursuant to subsection (a)—

- (A) a description of the mandate;
- (B) the deadline imposed for the mandate;
- (C) the status of the implementation of the mandate;
- (D) a detailed explanation of the reasons the mandate has not been implemented, including a description of any actions taken by the Administrator of the Pipeline and Hazardous Materials Safety Administration, the Office of the Secretary, or the Office of Management and Budget that delayed implementation of the mandate;
- (E) an estimated completion date for the mandate;
- (F) the specific date on which any draft, interim, or final guidance, advisory, report, advance notice of proposed rulemaking, notice of proposed rulemaking, final rule, or other document required to implement the mandate was sent to the Secretary by the Administrator for review and subsequently

transmitted by the Secretary or the Administrator to the Office of Management and Budget;

(G) a description of each concern with a document described under subparagraph (F) raised by the Secretary or the Office of Management and Budget; and

(H) the date and reasons the Secretary or the Office of Management and Budget requested any extension on acting on the mandate, including an extension authorized by Executive Order 12866.

#### **SEC. 4. NATURAL GAS INTEGRITY MANAGEMENT REVIEW.**

(a) **REPORT.**—Not later than 18 months after the publication of a final rule regarding the safety of gas transmission pipelines related to the notice of proposed rulemaking issued on April 8, 2016, titled “Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines” (81 Fed. Reg. 20721), the Comptroller General of the United States 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 regarding the natural gas integrity management programs required under section 60109(c) of title 49, United States Code.

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

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

(2) an analysis and recommendations, taking into consideration technical, operational, and economic feasibility, regarding changes to the programs to improve safety, prevent inadvertent releases from pipelines, and mitigate any adverse consequences of an inadvertent release, including changes to the definition of high consequence area, or expanding integrity management beyond high consequence areas;

(3) a review of the benefits, including safety benefits, and cost effectiveness of the legacy class location regulations;

(4) an analysis of, and recommendations regarding, what impact pipeline features and conditions, including the age, condition, materials, and construction of a pipeline, have on safety and risk analysis of a particular pipeline;

(5) a description of any challenges affecting Federal or State regulators in the oversight of natural gas transmission pipeline facilities and how the challenges are being addressed; and

(6) a description of any challenges affecting the natural gas industry in complying with the programs, and how the challenges are being addressed, including any challenges faced by publicly owned natural gas distribution systems.

(c) **DEFINITION OF HIGH CONSEQUENCE AREA.**—In this section, the term “high consequence area” has the meaning given the term in section 192.903 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

#### **SEC. 5. HAZARDOUS LIQUID INTEGRITY MANAGEMENT REVIEW.**

(a) **SAFETY STUDY.**—Not later than 18 months after the publication of a final rule regarding the safety of hazardous liquid pipeline facilities related to the notice of proposed rulemaking issued on October 13, 2015, titled “Pipeline Safety: Safety of Hazardous Liquid Pipelines” (80 Fed. Reg. 61610), the Comptroller General of the United States 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 regarding the hazardous liquid integrity management programs, as regulated under sections 195.450 and 195.452 of title 49, Code of Federal Regulations.

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

(1) an analysis of the extent to which hazardous liquid pipeline facility integrity management in high consequence areas, as regulated under sections 195.450 and 195.452 of title 49, Code of Federal Regulations, has improved the safety of hazardous liquid pipeline facilities;

(2) an analysis and recommendations, taking into consideration technical, operational, and economic feasibility, regarding changes to the programs to improve safety, prevent inadvertent releases from pipelines, and mitigate any adverse consequences of an inadvertent release, including changes to the definition of high consequence area;

(3) an analysis of how surveying, assessment, mitigation, and monitoring activities, including real-time hazardous liquid pipeline monitoring during significant flood events and information sharing with Federal agencies, are being used to address risks associated with the dynamic and unique nature of rivers, flood plains, lakes, and coastal areas;

(4) an analysis of, and recommendations regarding, what impact pipeline features and conditions, including the age, condition, materials, and construction of a pipeline, have on safety and risk analysis of a particular pipeline and what changes to the definition of high consequence area could be made to improve pipeline safety; and

(5) a description of any challenges affecting Federal or State regulators in the oversight of hazardous liquid pipeline facilities and how those challenges are being addressed.

(c) **DEFINITION OF HIGH CONSEQUENCE AREA.**—In this section, the term “high consequence area” has the meaning given the term in section 195.450 of title 49, Code of Federal Regulations.

#### **SEC. 6. TECHNICAL SAFETY STANDARDS COMMITTEES.**

(a) **APPOINTMENT OF MEMBERS.**—Section 60115(b)(4)(A) of title 49, United States Code, 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 Governors before making a selection under this subparagraph.”.

(b) **VACANCIES.**—Section 60115(b) of title 49, United States Code, is amended by adding at the end the following:

“(5) Within 90 days of the date of enactment of the PIPES Act of 2016, the Secretary shall fill all vacancies on the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, and any other committee established pursuant to this section. After that period, the Secretary shall fill a vacancy on any such committee not later than 60 days after the vacancy occurs.”.

#### **SEC. 7. INSPECTION REPORT INFORMATION.**

(a) **IN GENERAL.**—Not later than 90 days after the completion of a Pipeline and Hazardous Materials Safety Administration pipeline safety inspection, the Administrator of such Administration, or the State authority certified under section 60105 of title 49, United States Code, to conduct such inspection, shall—

- (1) conduct a post-inspection briefing with the owner or operator of the gas or hazardous liquid pipeline facility inspected outlining any concerns; and
- (2) to the extent practicable, provide the owner or operator with written preliminary findings of the inspection.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter for 2 years, the Administrator 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 that includes—

- (1) a description of the actions that the Pipeline and Hazardous Materials Safety Administration has taken to ensure that inspections by State authorities provide effective and timely oversight; and
- (2) statistics relating to the timeliness of the actions described in paragraphs (1) and (2) of subsection (a).

#### **SEC. 8. IMPROVING DAMAGE PREVENTION TECHNOLOGY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on improving existing damage prevention programs through technological improvements in location, mapping, excavation, and communications practices to prevent excavation damage to a pipe or its coating.

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

- (1) an identification of any methods to improve existing damage prevention programs through location and mapping practices or technologies in an effort to reduce 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, the use of 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 identification of any methods to improve excavation practices or technologies in an effort to reduce pipeline damage;
- (4) an analysis of the feasibility of a national data repository for pipeline excavation accident data that creates standardized data models for storing and sharing pipeline accident information;
- (5) an identification of opportunities for stakeholder engagement in preventing excavation damage; and

(6) recommendations, taking into consideration technical, operational, and economic feasibility, on how to incorporate technological improvements and practices that help prevent excavation damage into existing damage prevention programs.

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

**SEC. 9. WORKFORCE MANAGEMENT.**

Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Transportation 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 review of Pipeline and Hazardous Materials Safety Administration staff resource management, including geographic allocation plans, hiring challenges, and expected retirement rates and strategies. The review shall include recommendations to address hiring challenges, training needs, and any other identified staff resource challenges.

**SEC. 10. 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 transmission and hazardous liquid pipeline facility integrity risk analysis.

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

- (1) the Pipeline and Hazardous Materials Safety Administration;
- (2) industry stakeholders, including operators of pipeline facilities, inspection technology 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 pursuant to subsection (a) shall consider and provide recommendations to the Secretary on—

- (1) the need for, and the identification of, a system to ensure that dig verification data are shared with in-line inspection operators to the extent consistent with the need to maintain proprietary and security sensitive data in a confidential manner to improve pipeline safety and inspection technology;
- (2) ways to encourage the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis;
- (3) opportunities to share data, including dig verification data between operators of pipeline facilities and in-line inspector vendors to expand knowledge of the advantages and disadvantages of the different types of in-line inspection technology and methodologies;
- (4) options to create a secure system that protects proprietary data while encouraging the exchange of pipeline inspection information and the development of advanced pipeline inspection technologies and enhanced risk analysis; and
- (5) regulatory, funding, and legal barriers to sharing the information described in paragraphs (1) through (4).

(d) **PUBLICATION.**—The Secretary shall publish the recommendations provided under subsection (c) on a publicly available Web site of the Department of Transportation.

**SEC. 11. NATIONWIDE INTEGRATED PIPELINE SAFETY REGULATORY DATABASE.**

(a) **ESTABLISHMENT.**—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall establish 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) **CONSIDERATIONS.**—In developing the database, the Secretary shall consider—

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

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

(3) any existing inadequacies or gaps in State and Federal inspection, enforcement, geospatial, or other pipeline safety regulatory inspection data;

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

(5) recommendations of stakeholders 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 implementing this section, the Secretary shall consult with stakeholders, including State authorities operating under a certification to regulate intrastate pipelines under section 60105 of title 49, United States Code.

#### SEC. 12. UNDERGROUND NATURAL GAS STORAGE FACILITIES.

(a) DEFINED TERM.—Section 60101(a) of title 49, United States Code, is amended—

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

(2) in paragraph (22)(B)(iii) 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 natural 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 NATURAL GAS STORAGE FACILITIES.—Chapter 601 of title 49, United States Code, is amended by adding at the end the following:

##### “§ 60141. Standards for underground natural gas storage facilities

“(a) MINIMUM SAFETY STANDARDS.—Not later than 2 years after the date of enactment of the PIPES Act of 2016, the Secretary, in consultation with the heads of other relevant Federal agencies, shall issue minimum safety standards for underground natural gas storage facilities.

“(b) CONSIDERATIONS.—In developing the safety standards required under subsection (a), the Secretary shall, to the extent practicable—

“(1) consider consensus standards for the operation, environmental protection, and integrity management of underground natural gas storage facilities;

“(2) consider the economic impacts of the regulations on individual gas customers; and

“(3) ensure that the regulations do not have a significant economic impact on end users.

“(c) 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 the PIPES Act of 2016.

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

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

“(B) to require the Secretary’s permission to construct a facility referred to in subparagraph (A).

“(d) PREEMPTION.—A State authority may adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities if such standards are compatible with the minimum standards prescribed under this section.”.

(c) USER FEES.—Chapter 603 of title 49, United States Code, is amended by inserting after section 60301 the following:

##### “§ 60302. User fees for underground natural gas storage facilities

“(a) IN GENERAL.—A fee shall be imposed on an entity operating an underground natural gas storage facility pursuant to section 60141. Any such fee imposed shall be collected before the end of the fiscal year to which it applies.

“(b) MEANS OF COLLECTION.—The Secretary of Transportation 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.

“(c) USE OF FEES.—

“(1) ACCOUNT.—There is established an Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund established in the Treasury of the United States under section 60301.

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

“(A) shall be deposited in the Underground Natural Gas Storage Facility Safety Account; and

“(B) if the fee is related to an underground natural gas storage facility pursuant to section 60141, the amount of the fee may be used only for an activity related to underground natural gas storage safety.

“(3) LIMITATION.—Amounts collected under this section shall be made available only to the extent provided in advance in an appropriations Act for an activity related to underground natural gas storage safety.”.

(d) CLERICAL AMENDMENTS.—

(1) CHAPTER 601.—The table of sections for chapter 601 of title 49, United States Code, is amended by adding at the end the following:

“60141. Standards for underground natural gas storage facilities.”.

(2) CHAPTER 603.—The table of sections for chapter 603 of title 49, United States Code, is amended by inserting after the item relating to section 60301 the following:

“60302. User fees for underground natural gas storage facilities.”.

**SEC. 13. JOINT INSPECTION AND OVERSIGHT.**

Section 60105 of title 49, United States Code, is amended by adding at the end the following:

“(g) JOINT INSPECTORS.—At the request of a State authority, the Secretary shall allow for a certified State authority under this section to participate in the inspection of an interstate pipeline facility.”.

**SEC. 14. SAFETY DATA SHEETS.**

(a) IN GENERAL.—Each owner or operator of a hazardous liquid pipeline facility, following an accident or incident involving such pipeline facility, shall provide safety data sheets on any spilled oil to the designated Federal On-Scene Coordinator and appropriate State officials within 6 hours of a telephonic or electronic notice of the accident or incident to the National Response Center.

(b) DEFINITIONS.—In this section:

(1) FEDERAL ON-SCENE COORDINATOR.—The term “Federal On-Scene Coordinator” has the meaning given such term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

(2) NATIONAL RESPONSE CENTER.—The term “National Response Center” means the center described under section 300.125(a) of title 40, Code of Federal Regulations.

(3) SAFETY DATA SHEET.—The term “safety data sheet” means a safety data sheet required under section 1910.1200 of title 29, Code of Federal Regulations.

**SEC. 15. HAZARDOUS MATERIALS IDENTIFICATION NUMBERS.**

Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue an advanced notice of proposed rulemaking to take public comment on the petition for rulemaking dated October 28, 2015, titled “Corrections to Title 49 C.F.R. §172.336 Identification numbers; special provisions” (P–1667).

**SEC. 16. 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 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 section 60112 and 60117(l) are insufficient to do so; and

“(F) how the considerations were taken into account pursuant to subsection (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 PIPES 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. 17. STATE GRANT FUNDS.

(a) PAYMENTS.—Section 60107(b) of title 49, United States Code, is amended to read as follows:

“(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program, unless the Secretary waives the requirement to provide such remaining costs.”.

(b) REPURPOSING OF FUNDS.—Section 60107 is amended by adding at the end the following:

“(e) REPURPOSING OF FUNDS.—If a State program’s certification is rejected under section 60105(f) or such program is otherwise suspended or interrupted, the Secretary may use any undistributed, deobligated, or recovered funds authorized under this section to carry out pipeline safety activities for that State within the period of availability for such funds.”.

#### SEC. 18. RESPONSE PLANS.

Each owner or operator of a hazardous liquid pipeline facility required to prepare a response plan pursuant to part 194 of title 49, Code of Federal Regulations, shall consider the impact of a discharge into or on navigable waters or adjoining shorelines, including those that may be covered in whole or in part by ice.

#### SEC. 19. HIGH CONSEQUENCE AREAS.

The Secretary of Transportation shall revise section 195.6(b) of title 49, Code of Federal Regulations, to explicitly state that the Great Lakes and any marine coastal waters (including coastal estuaries) are USA ecological resources for purposes of determining whether a pipeline is in a high consequence area (as defined in section 195.450 of such title).

#### SEC. 20. PIPELINE SAFETY TECHNICAL ASSISTANCE GRANTS.

(a) PUBLIC PARTICIPATION LIMITATION.—Section 60130(a)(4) of title 49, United States Code, is amended by inserting “on technical pipeline safety issues” after “public participation”.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and 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 evaluating the grant program under section 60130 of title 49, United States Code. The report shall include—

- (1) a list of the recipients of all grant funds during fiscal years 2010 through 2015;
- (2) a description of how each grant was used;
- (3) an analysis of the compliance with the terms of grant agreements, including subsections (a) and (b) of such section;
- (4) an evaluation of the competitive process used to award the grant funds; and
- (5) an evaluation of—
  - (A) the ability of the Pipeline and Hazardous Materials Safety Administration to oversee grant funds and usage; and
  - (B) the procedures used for such oversight.

#### SEC. 21. STUDY OF MATERIALS AND CORROSION PREVENTION IN PIPELINE TRANSPORTATION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of the PIPES Act of 2016, the Comptroller General of the United States 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 study on materials, training, and corrosion prevention technologies used in pipeline transportation.

(b) REQUIREMENTS.—The study required under subsection (a) shall include—

- (1) the range of piping materials, including plastic materials, used to transport hazardous liquids and natural gas in the United States and in other developed countries around the world;
- (2) the types of technologies used for corrosion prevention;
- (3) an evaluation of the adequacy of training provided to personnel responsible for identifying and preventing corrosion in pipelines, and for repairing such pipelines; and
- (4) an analysis of the costs and benefits, including safety benefits, associated with the use of such materials and technologies.

#### SEC. 22. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States 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 regarding the Pipeline and Hazardous Materials Safety Administration’s research and development program established under sec-

tion 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note). The report shall include an evaluation of—

- (1) compliance with the consultation requirement under subsection (d)(2) of such section;
- (2) the extent to which the Pipeline and Hazardous Materials Administration enters into joint research ventures with Federal and non-Federal entities, and benefits thereof;
- (3) the policies and procedures the Pipeline and Hazardous Materials Safety Administration has put in place to ensure there are no conflicts of interest with administering grants to grantees under the program, and whether those policies and procedures are being followed; and
- (4) an evaluation of the outcomes of research conducted with Federal and non-Federal entities and the degree to which such outcomes have been adopted or utilized.

(b) **COLLABORATIVE SAFETY RESEARCH REPORT.**—

(1) **BIENNIAL REPORTS.**—Section 60124(a)(6) of title 49, United States Code, is amended—

- (A) in subparagraph (A), by striking “and” at the end;
- (B) in subparagraph (B), by striking the period at the end and inserting “, and”; and
- (C) by adding at the end the following:  
“(C) a summary of each research project carried out with Federal and non-Federal entities pursuant to section 12 of the Pipeline Safety Improvement Act of 2002 and a review of how intended improvements impact safety.”.

(2) **PIPELINE SAFETY IMPROVEMENT ACT.**—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—

- (A) in subsection (d)(3)(C)—
  - (i) by striking “program-wide” and inserting “technology”;
  - (ii) by striking “are” and inserting “may be”;
  - (iii) by striking “The Secretary” and inserting “(i) The Secretary”; and
  - (iv) by adding at the end the following:  
“(ii) at least 20 percent of the costs of basic research and development with universities may be carried out using non-Federal sources; and  
“(iii) up to 100 percent of the costs of research and development for purely governmental purposes may be carried out using Federal funds.”; and
- (B) by adding at the end the following:

“(h) **INDEPENDENT EXPERTS.**—Not later than 180 days after the date of enactment of the PIPES Act of 2016, the Secretary shall—

- “(1) implement processes and procedures to ensure that projects listed under subsection (c), to the greatest extent practicable, produce results that are factual and peer-reviewed by independent experts and not with persons or entities that have a financial interest in the pipeline, petroleum, or natural gas industries, or that would be directly impacted by the results of the projects; and
- “(2) 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 implementation of the processes and procedures required under paragraph (1).

“(i) **CONFLICT OF INTEREST.**—The Secretary shall take all practical steps to ensure that each recipient of an agreement under this section discloses in writing to the Secretary any conflict of interest on a research and development project carried out under this section, and includes any such disclosure as part of the final deliverable pursuant to such agreement. The Secretary may not make an award under this section directly to a pipeline owner or operator that is regulated by the Pipeline and Hazardous Materials Safety Administration or a State-certified regulatory authority.”.

**SEC. 23. ACTIVE AND ABANDONED PIPELINES.**  
Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue formal guidance to owners and operators of gas or hazardous liquid pipeline facilities and applicable State regulatory authorities regarding the actions, including those required by Federal regulation, required to change the status of a pipeline facility from active to abandoned, including specific guidance on the definition of each pipeline status referred to in such formal guidance.

**SEC. 24. STATE PIPELINE SAFETY AGREEMENTS.**

(a) **STUDY.**—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall complete a study on State pipeline

safety agreements made pursuant to section 60106 of title 49, United States Code. Such study shall consider the following:

(1) The integration of Federal and State or local authorities in carrying out activities pursuant to an agreement under such section.

(2) The overall cost of Federal and State authorities carrying out inspection activities pursuant to agreements under such section.

(3) The overall cost of the Pipeline and Hazardous Materials Safety Administration carrying out interstate inspections without the existence of interstate agreements with the States pursuant to such section.

(b) NOTICE REQUIREMENT FOR DENIAL.—Section 60106(b) of title 49, United States Code, is amended by adding at the end the following:

“(4) NOTICE UPON DENIAL.—If a State authority requests an interstate agreement under this section and the Secretary denies such request, the Secretary shall provide written notification to the State authority of the denial that includes an explanation of the reasons for such denial.”.

#### PURPOSE OF LEGISLATION

H.R. 4937, the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016, is a four-year reauthorization of the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) pipeline safety programs. H.R. 4937 improves pipeline safety, enhances the quality and timeliness of agency rulemakings, promotes better usage of data and technology to improve pipeline safety, and provides regulatory certainty for citizens, the safety community, and the industry. The PIPES Act requires PHMSA to set Federal minimum safety standards for underground natural gas storage facilities, and allows states to go above those standards for intrastate facilities. It also improves the agency’s data collection through an information sharing system, establishing an integrated pipeline safety database, and improving damage prevention. H.R. 4937 improves safety by authorizing emergency order authority that is tailored to the pipeline sector, taking into account public health and safety, network, and customer impacts. Additionally, it ensures that pipeline operators receive timely post-inspection information from PHMSA to allow them to maintain and improve their safety efforts.

#### BACKGROUND AND NEED FOR LEGISLATION

PHMSA was created under the Norman Y. Mineta Research and Special Programs Improvement Act of 2004 (P.L. 108–426). Prior to enactment of the 2004 Act, the Department of Transportation’s (DOT) Research and Special Programs Administration handled pipeline and hazardous materials safety. Today, PHMSA’s pipeline safety program oversees the safety of the nation’s 2.6 million miles of gas and hazardous liquid pipelines, which account for the transportation of 64 percent of the energy commodities consumed in the United States.

The natural gas industry consists of more than 160 pipeline companies, 6,300 producers, and 1,200 natural gas distribution companies. Industry is responsible for maintaining the safety of hundreds of thousands of miles of pipelines. There are three primary types of pipelines: (1) gas transmission, which make up approximately 300,000 miles of pipelines and 180,000 miles of those are interstate and transport natural gas from places of production to places of consumption; (2) gas distribution pipelines, which total over 2.1 million miles and distribute gas to businesses and homes from transmission pipelines; and (3) liquid pipelines, which make up

199,000 miles and transport refined petroleum, crude oil, hydrous ammonia, biofuels, carbon dioxide, refined petroleum products, and other hazardous liquid materials.

PHMSA regulates the safety of pipeline facilities used in the transportation of gas and hazardous liquids. PHMSA's pipeline safety functions include developing, issuing, and enforcing regulations for the safe transportation of natural gas and hazardous liquids by pipelines. Regulatory programs are focused on ensuring safety in the design, construction, testing, operation, and maintenance of pipeline facilities. PHMSA requires that pipelines be periodically inspected in order to identify defects, such as cracks, dents, corrosion, and manufacturing defects.

The last reauthorization of PHMSA's pipeline safety programs was the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112-90), which was enacted on January 3, 2012 and expired on September 30, 2015. Although many specific directives included in the last reauthorization remain incomplete, progress is being made. The Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016, or PIPES Act, will ensure PHMSA completes the requirements from the 2011 Act, and help the agency perform as a dynamic, data-driven regulator. The bill aims to enhance the quality and timeliness of PHMSA rulemakings to ensure safety by: (1) requiring PHMSA to update Congress every 90 days on outstanding statutory directives, including the status of each requirement, reasons for its incompleteness, and estimated completion date and (2) mandating two Government Accountability Office (GAO) studies on the effectiveness of integrity management programs for both natural gas and hazardous liquids pipelines.

Additionally, the bill promotes better usage of data and technology to improve pipeline safety by: (1) tasking GAO with investigating how to use technology to improve third-party damage prevention (a leading cause of releases), and also requires GAO to study the latest innovations in pipeline materials technology; (2) creating a working group of representatives from PHMSA, states, industry stakeholders, and safety groups to develop recommendations on how to create an information sharing system to improve safety outcomes; and (3) authorizing PHMSA to create a national integrated pipeline safety database to have a clearer picture of federal and state safety oversight efforts.

The bill also provides PHMSA with authority, in certain limited circumstances, to impose emergency measures on owners and operators of pipeline facilities in response to an imminent hazard caused by unsafe conditions or practices. It (1) requires owners and operators of such facilities to provide Safety Data Sheets to federal and state responders within six hours of notification to the National Response Center of a spill; (2) mandates GAO safety evaluations of the natural gas and hazardous liquid integrity management programs; (3) requires owners and operators of hazardous liquid pipeline facilities to prepare oil spill response plans to consider the impact of a discharge into or on navigable waters and adjoining shorelines; and (4) designates the Great Lakes and marine coastal waters (including coastal estuaries) as unusually sensitive area ecological resources for purposes of determining whether a pipeline is in a high consequence area.

Every day, vital resources are moved through our pipeline network. With the importance to our nation's energy consumption and economic health, safety must remain the top priority. This bill not only reauthorizes the pipeline safety program, but it helps improve safety and the lives of millions of Americans.

#### HEARINGS

In the 114th Congress, the Subcommittee on Railroads, Pipelines, and Hazardous Materials held several hearings and one roundtable related to this legislation. On February 3, 2015, the Subcommittee held a hearing entitled "How the Changing Energy Markets Will Affect U.S. Transportation" which looked at the changes in domestic energy production's effects on the transportation system, including pipeline transportation. On April 14, 2015, the Subcommittee held a hearing to examine the oversight of ongoing rail, pipeline, and hazardous material rulemakings, which focused, in part, on the unfinished pipeline safety mandates from the 2011 Act. On July 28, 2015, the Subcommittee held a roundtable discussion on "Innovations in Pipeline Technology" that looked at emerging technologies to improve pipeline safety. Finally, on February 25, 2016, the Subcommittee held a hearing on the "Reauthorization of DOT's Pipeline Safety Program," to look at pipeline safety and PHMSA's remaining mandates from the 2011 Act. These Subcommittee actions built the foundation for the PIPES Act.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On April 14, 2016, House Subcommittee on Railroads, Pipelines, and Hazardous Materials Chairman Jeff Denham, Committee on Transportation and Infrastructure Chairman Bill Shuster, Committee Ranking Member Peter DeFazio and Subcommittee Ranking Member Michael Capuano introduced H.R. 4937, the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016. On April 20, 2016, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present. Eleven amendments were offered, two were accepted, six were rejected, and three were withdrawn.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were two recorded votes taken in connection with consideration of H.R. 4937 on two separate amendments offered by Congressman Rick Nolan (MN-8). On Mr. Nolan's amendment #60 the Committee disposed of this amendment by roll call vote as follows:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
 FULL COMMITTEE – ROLL CALL  
 U.S. HOUSE OF REPRESENTATIVE – 114<sup>TH</sup> CONGRESS

Number of Members: (34/25)      Quorum: 30      Working Quorum: 20  
 Date: April 20, 2016      Presiding: Shuster  
 Amendment or matter voted on: Nolan 60 to H.R. 4937  
 Vote: 16 Y – 32 N

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Shuster		X		Mr. DeFazio		X	
Mr. Young				Ms. Norton	X		
Mr. Duncan				Mr. Nadler			
Mr. Mica		X		Ms. Brown			
Mr. LoBiondo		X		Ms. Johnson			
Mr. Graves (MO)		X		Mr. Cummings	X		
Mrs. Miller		X		Mr. Larsen	X		
Mr. Hunter		X		Mr. Capuano		X	
Mr. Crawford		X		Mrs. Napolitano	X		
Mr. Barletta		X		Mr. Lipinski	X		
Mr. Farenthold				Mr. Cohen			
Mr. Gibbs	X			Mr. Sires	X		
Mr. Hanna		X		Ms. Edwards			
Mr. Webster		X		Mr. Garamendi	X		
Mr. Denham		X		Mr. Carson	X		
Mr. Ribble		X		Ms. Hahn		X	
Mr. Massie		X		Mr. Nolan	X		
Mr. Meadows				Mrs. Kirkpatrick	X		
Mr. Perry		X		Ms. Titus	X		
Mr. Davis		X		Mr. Maloney	X		
Mr. Sanford		X		Ms. Esty	X		
Mr. Woodall		X		Ms. Frankel			
Mr. Rokita		X		Mrs. Bustos	X		
Mr. Katko		X		Mr. Huffman	X		
Mr. Babin		X		Ms. Brownley			
Mr. Hardy		X					
Mr. Costello		X					
Mr. Graves (LA)		X					
Mrs. Walters		X					
Mrs. Comstock		X					
Mr. Curbelo		X					
Mr. Rouzer		X					
Mr. Zeldin		X					
Mr. Bost		X					

On Mr. Nolan's amendment #62 the Committee disposed of this amendment by roll call vote as follows:



COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
 FULL COMMITTEE – ROLL CALL  
 U.S. HOUSE OF REPRESENTATIVE – 114<sup>TH</sup> CONGRESS

Number of Members: (34/25)      Quorum: 30      Working Quorum: 20  
 Date: April 20, 2016      Presiding: Shuster  
 Amendment or matter voted on: Nolan 62 to H.R. 4937  
 Vote: 17 Y – 34 N

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Shuster		X		Mr. DeFazio		X	
Mr. Young				Ms. Norton	X		
Mr. Duncan		X		Mr. Nadler			
Mr. Mica		X		Ms. Brown	X		
Mr. LoBiondo		X		Ms. Johnson			
Mr. Graves (MO)		X		Mr. Cummings	X		
Mrs. Miller		X		Mr. Larsen	X		
Mr. Hunter		X		Mr. Capuano		X	
Mr. Crawford		X		Mrs. Napolitano	X		
Mr. Barletta		X		Mr. Lipinski	X		
Mr. Farenthold				Mr. Cohen			
Mr. Gibbs		X		Mr. Sires	X		
Mr. Hanna		X		Ms. Edwards			
Mr. Webster		X		Mr. Garamendi	X		
Mr. Denham		X		Mr. Carson	X		
Mr. Ribble		X		Ms. Hahn	X		
Mr. Massie		X		Mr. Nolan	X		
Mr. Meadows		X		Mrs. Kirkpatrick	X		
Mr. Perry		X		Ms. Titus	X		
Mr. Davis		X		Mr. Maloney	X		
Mr. Sanford		X		Ms. Esty	X		
Mr. Woodall		X		Ms. Frankel			
Mr. Rokita		X		Mrs. Bustos	X		
Mr. Katko		X		Mr. Huffman	X		
Mr. Babin		X		Ms. Brownley			
Mr. Hardy		X					
Mr. Costello		X					
Mr. Graves (LA)		X					
Mrs. Walters		X					
Mrs. Comstock		X					
Mr. Curbelo		X					
Mr. Rouzer		X					
Mr. Zeldin		X					
Mr. Bost		X					

## COMMITTEE OVERSIGHT FINDINGS

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

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974, included below.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 4937 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 27, 2016.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4937, the PIPES 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.

Enclosure.

*H.R. 4937—PIPES 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. 4937 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. 4937 would result in gross appropriations totaling \$529 million over the 2017–2021 period. CBO also estimates that those appropriations would be offset by \$410 million in fees paid by pipeline owners, which would be considered offsets to discretionary spending. Assuming appropria-

tion actions consistent with the specified and estimated amounts, CBO estimates that the resulting net outlays would total \$113 million over the 2017–2021 period.

In addition, CBO estimates that enacting H.R. 4937 would increase net revenues from assessments on entities that operate certain underground 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. 4937 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. 4937 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. 4937 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 .....	151	154	157	0	0	462
Estimated Outlays .....	74	131	149	80	22	456
Offsetting Collections from User Fees:						
Estimated Authorization Level .....	–134	–138	–138	0	0	–410
Estimated Outlays .....	–134	–138	–138	0	0	–410
PHMSA Operational Expenses						
Authorization Level .....	22	22	23	0	0	67
Estimated Outlays .....	15	20	23	7	2	67
Total Changes:						
Estimated Authorization Level .....	39	38	42	0	0	119
Estimated Outlays .....	–45	13	34	87	24	113
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. 4937 would increase net revenues by \$17 million over the 2019–2026 period.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 4937 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. 4937 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 totaling \$172 million in 2017 and \$528 million over the 2017–2021 period; additional amounts would be necessary for 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:

- \$461 million specifically authorized for PHMSA's pipeline safety programs;
- \$67 million specifically authorized for operating expenses of support organizations within PHMSA; and
- \$1 million 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 \$523 million over the 2017–2021 period and \$6 million in later years. CBO also estimates that those outlays would be offset by \$410 million in fees paid by entities that operate pipelines and related facilities regulated by PHMSA. Under current law, such annual fees are based on appropriations provided for pipeline safety and related activities and are recorded in the budget as discretionary offsetting collections.

*Revenues*

H.R. 4937 would authorize PHMSA to regulate the safety of certain underground storage facilities for natural gas. 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. 4937) 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 esti-

mates that enacting H.R. 4937 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. 4937, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 20, 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. 4937 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. 4937 would impose intergovernmental and private-sector mandates as defined in 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).

*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 natural gas storage facilities 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 them are operated by private entities. Organizations representing gas pipeline companies recently adopted voluntary standards for ensuring the safety and integrity of natural gas storage facilities. 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 natural gas storage facilities 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 the 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.

**Safety Data Sheets.** The bill would require each owner or operator of a pipeline facility for hazardous liquids, following an accident or incident, to provide safety data sheets on any spilled oil to the appropriate federal and state officials. CBO estimates that the cost of transmitting information to governmental officials 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. Operators of oil pipelines must prepare and periodically update response plans pursuant to current law. The cost of the mandate would depend on whether operators need to amend current plans to address discharges onto ice. CBO anticipates that pipeline operators could amend any plans at the next scheduled update. Consequently, CBO estimates that the cost of the mandate would not be significant.

*Mandate that applies to public entities*

The bill would preempt any existing state standards regulating underground storage facilities for natural gas that are less stringent than the new federal standards that PHMSA would be authorized to promulgate. Because preemptions limit the authority of state and local governments, they are considered intergovernmental mandates under UMRA. However, CBO estimates that the preemption would impose no duty that would result in additional spending or a loss of revenues by state, local, or tribal governments.

Previous CBO estimate: 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. S. 2276 also would reauthorize PHMSA's activities related to pipeline safety. Differences in our es-

timates of spending subject to appropriation under H.R. 4937 and S. 2276 reflect differences in the scope of activities and the amount of appropriations authorized under the two bills.

In addition, both H.R. 4937 and S. 2276 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 both bills.

H.R. 4937 contains the same mandates identified by CBO in S. 2276 plus two additional mandates: a requirement to comply with emergency orders and a requirement to provide safety data sheets. Because the additional requirement in H.R. 4937 to comply with emergency orders would depend on future actions by the Secretary of Transportation, CBO cannot determine whether the aggregate costs of the mandates would exceed the threshold for private sector entities in this bill. The threshold determination for intergovernmental mandates is the same for both bills.

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.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to ensure that PHMSA completes the remaining 2011 Act directives and requirements, while additionally ensuring the continued safe transportation of gas and hazardous liquids by pipeline. This bill enhances safety by requiring the Secretary to prescribe minimum safety standards for underground natural gas storage facilities, increasing the quality and form of data collection, providing the Secretary with the authority to impose emergency measures on pipeline operators for an imminent hazard caused by unsafe conditions or practices, requiring pipeline operators to provide to federal and state responders to spills Safety Data Sheets, and conducting safety reviews of integrity management programs for natural gas and hazardous liquid pipelines.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 4937 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

Pursuant to section 3(i) of H. Res. 5, 113th Cong. (2015), the Committee estimates that enacting H.R. 4937 specifically directs the completion of a specific rule making within the meaning of section 551 of title 5, United States Code. Section 12 of H.R. 4937 requires the Secretary of Transportation to establish minimum safety standards for underground natural gas storage facilities. Section 15 requires the Secretary of Transportation to issue an advanced notice of proposed rulemaking to take public comment on the petition for rulemaking dated October 28, 2015, “Corrections of Title 49 C.F.R. 172.336 Identification numbers; special provisions.” Further, Section 16 requires the Secretary to establish, through rulemaking, procedures for the administrative review of emergency orders.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 4937 does not preempt any state, local, or tribal law. H.R. 4937 preserves the rights and permitting authorities of states.

#### ADVISORY COMMITTEE STATEMENT

Section 10 of this legislation establishes an advisory committee, as defined by section 2 of the Federal Advisory Committee Act (5 U.S.C. app.), to develop a voluntary information-sharing system to improve pipeline inspection information. Pursuant to section 5 of the Federal Advisory Committee Act, the Committee determines that the functions of this advisory committee are not being carried out by existing agencies or advisory commissions. The Committee also determines that the advisory committee has a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).



## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1. Short title; table of contents; references*

This section designates the short title of this bill as the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” or the “PIPES Act of 2016.”

*Section 2. Authorizations of appropriations*

This section authorizes Pipeline and Hazardous Material Safety Administration (PHMSA) pipeline safety and operational expenses activities for fiscal years 2016 through 2019 at baseline levels.

The Committee is concerned that PHMSA has not updated emergency response programs with the goal of delivering effective emergency response training to the first responders who must respond to pipeline emergencies. Given the nation’s aging pipeline infrastructure and its exposure to future incidents, the Committee believes the Secretary of Transportation should consider upgrading the current pipeline emergencies curriculum in order to take a more active role in the upgrade and enhancement of emergency training.

*Section 3. Failure of PHMSA to implement statutory mandates*

This section requires the Inspector General of the Department of Transportation, within 45 days of the enactment of this Act, to submit a report to the Secretary of Transportation, the PHMSA Administrator, and Congress on each incomplete statutory directive contained in the PIPES Act, Public Law 112–90, and any other incomplete statutory directives from previously enacted laws.

Additionally, this section requires the Secretary to submit a report to Congress on the specific actions taken to implement such directives every 90 days until each incomplete directive is implemented. The Secretary would make the report publicly available on the Department of Transportation’s internet web site.

*Section 4. Natural gas integrity management review*

This section requires the Comptroller General to report to Congress on the natural gas integrity management program (IM) within 18 months of the date of publication of the final rule on natural gas transmission pipeline safety. The report shall analyze aspects of the natural gas IM program including how the IM program has improved safety, what changes should be made to improve the program and mitigate adverse consequences of a release, the costs and benefits of legacy class location regulations, pipeline features and conditions’ effects on safety and risk analysis, and a description of challenges facing federal and state regulators, and industry, including publicly owned natural gas distribution systems. The Comptroller General shall make recommendations based upon their analysis of these issues.

*Section 5. Hazardous liquid integrity management review*

This section requires the Comptroller General to report to Congress on the hazardous liquid integrity management (IM) program within 18 months of the date of publication of the final rule on hazardous liquid pipelines. The report shall analyze aspects of the hazardous liquid IM program, including how the IM program has im-

proved safety, what changes should be made to improve the program and mitigate adverse consequences of a release, pipeline features and conditions' effects on safety and risk analysis, and a description of challenges facing federal and state regulators. The Comptroller General shall make recommendations based upon their analysis of these issues.

*Section 6. Technical safety standards committees*

This section provides greater flexibility for the Secretary of Transportation to appoint state pipeline safety officials to advisory committees. Additionally, the Secretary, within 90 days of enactment, is required to fill all vacancies on the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee. Furthermore, going forward any vacancy on such committees would be filled within 60 days of occurrence.

*Section 7. Inspection report information*

This section requires PHMSA, or a certified state authority, to conduct a post-inspection briefing with the owner or operator of a pipeline facility and, to the extent practicable, provide written preliminary findings within 90 days of a pipeline safety inspection.

This section also requires PHMSA to provide three annual reports to Congress on the implementation of this section, including statistics relating to the timeliness of actions, and a description of actions that PHMSA has taken to ensure that inspections by state authorities provide effective and timely oversight and statistics on timeliness of the actions.

*Section 8. Improving damage prevention technology*

This section requires the Comptroller General to conduct a study on technological improvements in mapping, location, and communication practices to prevent excavation damage to a pipeline, which is a leading cause of pipeline incidents.

*Section 9. Workforce management*

This section requires the Inspector General of the Department of Transportation to submit to Congress a review of PHMSA staff resource management including, geographical allocation plans, hiring challenges, expected retirement rates, and future strategies.

*Section 10. Information-sharing system*

This section 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 to improve pipeline facility integrity risk analysis.

The working group is required to consider and provide recommendations to the Secretary on: (1) the need for a shared data system; (2) ways to encourage the exchange of pipeline inspection data and the development of advanced pipeline inspection technologies and enhanced risk analysis; (3) opportunities to share dig verification data; (4) options to create a secure data system; (5) regulatory, funding, and legal barriers to sharing information.

In carrying out this section, the Committee expects PHMSA to consult with entities that develop and advance pipeline data management and modeling standards.

*Section 11. Nationwide integrated pipeline safety regulatory database*

This section requires the Secretary of Transportation to establish a national integrated pipeline safety regulatory inspection database. The purpose of this database is to improve communication and collaboration between PHMSA and state pipeline regulators.

*Section 12. Underground natural gas storage facilities*

This section requires the Secretary of Transportation to develop minimum safety standards for underground natural gas storage facilities, including a depleted hydrocarbon reservoir, an aquifer reservoir, and a solution-mined salt cavern reservoir.

This section also allows for a state authority to adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities, so long as such standards are compatible with the minimum safety standards prescribed in this section.

Additionally, this section establishes a user fee to fund the oversight of underground natural gas storage facilities that shall be imposed on an entity operating such facility. Any fee shall be collected before the end of the fiscal year to which it applies, and made available only to the extent provided in advance in appropriations acts.

*Section 13. Joint inspection and oversight*

This section allows state authorities certified under section 60105 of Title 49 United States Code to request the opportunity to participate with Federal inspection teams on inspections of interstate pipeline facilities.

*Section 14. Safety data sheets*

This section requires the owner or operator of a hazardous liquid pipeline facility, following an incident, to provide safety data sheets on any spilled oil to the designated Federal On-Scene Coordinator and appropriate state officials within six hours of the spill. The Committee expects hazardous liquid pipeline owners and operators to provide the federal On-Scene Coordinator and state officials with safety data sheets that are specific to the oil that was spilled, not generic safety data sheets.

*Section 15. Hazardous materials identification numbers*

This section directs the Secretary of Transportation to issue an advanced notice of proposed rulemaking to take public comment on a petition for rulemaking regarding placarding requirements for certain flammable hazardous materials carriers.

*Section 16. Emergency order authority*

This section allows the Secretary of Transportation to impose, on an owner or operator of gas or hazardous liquid pipeline facility, an emergency order to abate an imminent hazard caused by an unsafe condition or practice, or combination of unsafe conditions or practices. Prior to issuing such an emergency order, the Secretary is re-

quired to consult with, as appropriate, Federal agencies, state agencies, or other entities. The Committee notes that ‘other entities’ may include hazardous liquid and gas pipeline owners, operators, trade associations, and pipeline safety advocacy and other groups. The Secretary shall consider the impact of the order on public health and safety, the economy, national security, owners and operators of pipelines, and consumers.

The emergency order shall contain a detailed written description of the condition or conditions, entities subject to the order, the restrictions imposed, the standards and procedures for obtaining relief from the order, how the order is tailored to abate the imminent hazard, why other authorities, such as corrective actions orders, are insufficient to abate the hazard, and how the pre-issuance considerations were taken into account.

This section provides an entity subject to an order the opportunity for petition and review, and if the Secretary fails to make a decision within 30 days of receiving a petition for review, the emergency order would cease to be effective unless the Secretary determines that the imminent hazard still exists. The Committee notes that this section neither limits, nor enhances the potential standing of entities, including associations, seeking judicial review of an emergency order issued pursuant to this section. This language is also not intended to alter judicial precedent regarding the availability of injunctive relief. This section provides for judicial review in a United States District Court on an expedited basis after completion of the administrative review process.

This section provides that no later than 60 days after the date of enactment, the Secretary shall issue temporary regulations to carry out this section, and no later than 270 days after such an enactment the Secretary must issue final regulations. The Committee expects the Secretary to meet these deadlines. The regulations must include administrative review procedures similar to those for the hazardous materials emergency order authority, including the requirement that they contain an option for a decision on the record after opportunity for a hearing by an administrative law judge, consistent with the Administrative Procedures Act.

This section defines the meaning of imminent hazard as “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.” Lastly, it contains a savings clause to prohibit an emergency order from being used to amend the Code of Federal Regulations or circumvent the rulemaking process.

#### *Section 17. State grant funds*

This section provides more flexibility for states by eliminating the requirement that states spend an average of their three prior years’ funding for their pipeline safety program costs. Under current law, the Secretary may waive this requirement; according to PHMSA, almost all states have sought and received such waivers since the provision became effective in 2012.

The section also allows the Secretary to recover or retain any unused, de-obligated, or recovered grant funds from a state that is decertified by PHMSA under section 60105 of Title 49 United States Code. Such funds may only be used by PHMSA to rehabilitate that state's program.

*Section 18. Response plans*

This section requires an owner or operator of a hazardous liquid pipeline facility to consider the impact of a discharge into or on navigable waters or adjoining shorelines, including those that may be covered by ice, when preparing a response plan. This section codifies current practice to ensure owners or operators continue such considerations when developing response plans.

*Section 19. High consequence areas*

This section states that the Great Lakes and any marine coastal waters (including coastal estuaries) be considered unusually sensitive area ecological resources for the purpose of determining whether a pipeline is in a high consequence area.

*Section 20. Pipeline safety technical assistance grants*

This section requires the Inspector General of the Department of Transportation to submit a report to Congress evaluating the Pipeline Safety Technical Assistance Grant Program. The report would include: (1) a list of the grant recipients from FY10 to FY15; (2) a description of how each grant was used; (3) an analysis of compliance with terms of grant agreements; (4) an evaluation of the competitive process; and (5) an evaluation of PHMSA's ability to oversee grant funds and usage, and the procedures used for oversight. Additionally, this section ensures the grant funds are used for technical assistance to local communities and groups of individuals relating to the safety of pipeline facilities in local communities. 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 chapter 601 of title 49, U.S. Code.

*Section 21. Study of materials and corrosion prevention in pipeline transportation*

This section requires the Comptroller General, within 2 years of the enactment, to submit a study to Congress on materials, corrosion prevention technologies, and training used in pipeline transportation. The study would include: (1) the range of piping materials, including plastic materials, used to transport hazardous liquids and natural gas; (2) the type of technologies used for corrosion prevention; (3) an evaluation of the adequacy of training provided to personnel responsible for identifying and preventing corrosion in pipelines, and for repairing such pipelines; and (4) an analysis for the cost and benefits, including safety benefits, associated with the use of such materials and technology.

*Section 22. Research and development*

This section requires the Comptroller General to submit a report to Congress, within 2 years of enactment, regarding PHMSA's research and development program. The report is to include an eval-

uation of: (1) PHMSA's consultation requirements; (2) the extent to which PHMSA enters into joint research ventures with Federal and non-Federal entities, and benefits thereof; (3) the policies and procedures PHMSA has put in place to ensure there are no conflicts of interests with administering grants to grantees, and whether they are being followed; and (4) an evaluation of the outcomes of research conducted with Federal and non-Federal entities, and the degree to which the outcomes have been adopted or utilized.

This section also updates a DOT biennial report to Congress to add a summary of each research project carried out with Federal and non-Federal entities and a review of how intended improvements impact safety. This section also adjusts the level of non-Federal matching requirements for certain types of co-funded research.

Additionally, the Secretary is required to implement policies and procedures to ensure that research projects produce results that are factual and peer reviewed by independent experts, and not persons or entities that have a financial interest in the pipeline industry, or that would be directly impacted by the results of the research project. Also, the Secretary is to submit a report on the implementation process and procedures under this section.

This section also requires the Secretary to take all practical steps to ensure that each recipient of an agreement for this program discloses in writing to the Secretary any conflict of interest on the projects carried out in this section, and also include any such disclosure as part of the final deliverable. The Secretary is also prohibited from making an award for a research and development project directly to a pipeline owner or operator that is regulated by PHMSA or a state-certified regulatory authority.

#### *Section 23. Active and abandoned pipelines*

This section requires PHMSA to issue formal guidance to owners and operators of gas or hazardous liquid pipeline facilities, and applicable state regulatory authorities, regarding the operational definitions of pipelines and the process and requirements on changing status of a pipeline facility from active to abandoned.

#### *Section 24. State pipeline safety agreements*

This section requires the Comptroller General to complete a study on state pipeline safety agreements made pursuant to section 60106 of title 49, United States Code, within 2 years of enactment. The GAO study would consider the integration and the overall cost of federal and state authorities' inspection activities, and the overall cost PHMSA would incur by carrying out interstate inspections without the existence of interstate agreements with States. Additionally, this section would require the Secretary of Transportation to provide written notification explaining the reasons for a denial of an interstate agreement to a state.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

## TITLE 49, UNITED STATES CODE

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### SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

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#### 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), the Secretary shall withhold \$1,058,000 for each of fiscal years 2016 through 2019 to carry out section 6106.*

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## SUBTITLE VIII—PIPELINES

\* \* \* \* \*

### CHAPTER 601—SAFETY

Sec.

60101. Definitions.

\* \* \* \* \*

*60141. Standards for underground natural 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 Commis-

- sion 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 natural 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.

\* \* \* \* \*

#### **§ 60105. State pipeline safety program certifications**

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under

this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)-(f) of this title.

(c) REPORTS.—(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) APPLICATION.—A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) **MONITORING.**—The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) **REJECTIONS OF CERTIFICATION.**—If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

(g) **JOINT INSPECTORS.**—*At the request of a State authority, the Secretary shall allow for a certified State authority under this section to participate in the inspection of an interstate pipeline facility.*

#### **§ 60106. State pipeline safety agreements**

(a) **AGREEMENTS WITHOUT CERTIFICATION.**—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) **AGREEMENTS WITH CERTIFICATION.**—

(1) **IN GENERAL.**—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

(2) **DETERMINATIONS REQUIRED.**—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

(A) the State authority fails to comply with the terms of the agreement;

(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

(4) NOTICE UPON DENIAL.—*If a State authority requests an interstate agreement under this section and the Secretary denies such request, the Secretary shall provide written notification to the State authority of the denial that includes an explanation of the reasons for such denial.*

(c) NOTIFICATION.—

(1) IN GENERAL.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.

(d) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies

with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(e) ENDING AGREEMENTS.—

(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.

**§ 60107. State pipeline safety grants**

(a) GENERAL AUTHORITY.—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 80 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

[(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. For each of fiscal years 2012 and 2013, the Secretary shall grant such a waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that

State. For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.】

(b) *PAYMENTS.*—*After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program, unless the Secretary waives the requirement to provide such remaining costs.*

(c) *APPORTIONMENT AND METHOD OF PAYMENT.*—The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) *ADDITIONAL AUTHORITY AND CONSIDERATIONS.*—(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

(e) *REPURPOSING OF FUNDS.*—*If a State program's certification is rejected under section 60105(f) or such program is otherwise suspended or interrupted, the Secretary may use any undistributed, deobligated, or recovered funds authorized under this section to carry out pipeline safety activities for that State within the period of availability for such funds.*

\* \* \* \* \*

#### **§ 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 trans-

porting 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 Governors before 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.

(5) *Within 90 days of the date of enactment of the PIPES Act of 2016, the Secretary shall fill all vacancies on the Technical Pipeline*



*Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, and any other committee established pursuant to this section. After that period, the Secretary shall fill a vacancy on any such committee not later than 60 days after the vacancy occurs.*

(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, dem-

onstration, 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 authorization 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 com-

mencement 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 section 60112 and 60117(l) are insufficient to do so; and*

(F) *how the considerations were taken into account pursuant to subsection (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 PIPES 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.

\* \* \* \* \*

### § 60124. Biennial reports

(a) SUBMISSION AND CONTENTS.—Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; [and]

(B) technological progress in safety achieved[.]; and

(C) *a summary of each research project carried out with Federal and non-Federal entities pursuant to section 12 of the Pipeline Safety Improvement Act of 2002 and a review of how intended improvements impact safety.*

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 60105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 60106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

- (i) gas pipeline safety; or
- (ii) hazardous liquid pipeline safety programs; and
- (B) to strengthen the national gas pipeline safety program.

(b) SUBMISSION OF ONE REPORT.—The Secretary may submit one report to carry out subsection (a) of this section.

#### **§ 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 is authorized to be appropriated to the Department of Transportation from fees collected under sections 60301 and 60302—*

(A) \$124,500,000 for fiscal year 2016, of which \$9,000,000 shall be expended for carrying out such section 12 and \$39,385,000 shall be expended for making grants;

(B) \$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;

(C) \$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; and

(D) \$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.

(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 is 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 2016, 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) \$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;

(C) \$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; and



*(D) \$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.*

(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.

\* \* \* \* \*

**§ 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.** *Of the amounts made available under section 2(b) of the PIPES Act of 2016, the Secretary shall withhold \$1,500,000 for each of fiscal years 2016 through 2019 to carry out this section.* Such amounts shall not be derived from user fees collected under section 60301.

\* \* \* \* \*

**§ 60141. Standards for underground natural gas storage facilities**

(a) **MINIMUM SAFETY STANDARDS.**—*Not later than 2 years after the date of enactment of the PIPES Act of 2016, the Secretary, in consultation with the heads of other relevant Federal agencies, shall issue minimum safety standards for underground natural gas storage facilities.*

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

(1) *consider consensus standards for the operation, environmental protection, and integrity management of underground natural gas storage facilities;*

(2) *consider the economic impacts of the regulations on individual gas customers; and*

(3) *ensure that the regulations do not have a significant economic impact on end users.*

(c) **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 the PIPES Act of 2016.*

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

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

(B) *to require the Secretary's permission to construct a facility referred to in subparagraph (A).*

(d) **PREEMPTION.**—*A State authority may adopt additional or more stringent safety standards for intrastate underground natural gas storage facilities if such standards are compatible with the minimum standards prescribed under this section.*

\* \* \* \* \*

**CHAPTER 603—USER FEES**

Sec.

60301. User fees.

60302. *User fees for underground natural gas storage facilities.*

\* \* \* \* \*

**§ 60302. User fees for underground natural gas storage facilities**

(a) *IN GENERAL.*—A fee shall be imposed on an entity operating an underground natural gas storage facility pursuant to section 60141. Any such fee imposed shall be collected before the end of the fiscal year to which it applies.

(b) *MEANS OF COLLECTION.*—The Secretary of Transportation 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.

(c) *USE OF FEES.*—

(1) *ACCOUNT.*—There is established an Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund established in the Treasury of the United States under section 60301.

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

(A) shall be deposited in the Underground Natural Gas Storage Facility Safety Account; and

(B) if the fee is related to an underground natural gas storage facility pursuant to section 60141, the amount of the fee may be used only for an activity related to underground natural gas storage safety.

(3) *LIMITATION.*—Amounts collected under this section shall be made available only to the extent provided in advance in an appropriations Act for an activity related to underground natural gas storage safety.

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**PIPELINE SAFETY IMPROVEMENT ACT OF 2002**

\* \* \* \* \*

**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 de-

tection, 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 re-

search 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] (i) *The Secretary* shall ensure at least 30 percent of the costs of [program-wide] *technology* research and development activities [are] *may be* carried out using non-Federal sources.

(ii) *at least 20 percent of the costs of basic research and development with universities may be carried out using non-Federal sources; and*

(iii) *up to 100 percent of the costs of research and development for purely governmental purposes may be carried out using Federal funds.*

(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] *2016 through 2019*.

(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.

(h) INDEPENDENT EXPERTS.—*Not later than 180 days after the date of enactment of the PIPES Act of 2016, the Secretary shall—*

(1) *implement processes and procedures to ensure that projects listed under subsection (c), to the greatest extent practicable, produce results that are factual and peer-reviewed by independent experts and not with persons or entities that have a financial interest in the pipeline, petroleum, or natural gas*

*industries, or that would be directly impacted by the results of the projects; and*

*(2) 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 implementation of the processes and procedures required under paragraph (1).*

*(i) CONFLICT OF INTEREST.—The Secretary shall take all practical steps to ensure that each recipient of an agreement under this section discloses in writing to the Secretary any conflict of interest on a research and development project carried out under this section, and includes any such disclosure as part of the final deliverable pursuant to such agreement. The Secretary may not make an award under this section directly to a pipeline owner or operator that is regulated by the Pipeline and Hazardous Materials Safety Administration or a State-certified regulatory authority.*

\* \* \* \* \*

FRED UPTON, MICHIGAN  
CHAIRMAN

COMMITTEE CORRESPONDENCE

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (201) 225-2827  
Minority (202) 225-3641  
November 10, 2016

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Shuster:

I write in regard to H.R. 4937, PIPES Act of 2016, which was referred in addition to the Committee on Energy and Commerce. I wanted to notify you that the Committee will forgo action on the bill so that it may proceed expeditiously to the House floor for consideration.

The Committee on Energy and Commerce takes this action with our mutual understanding the Committee does not waive any jurisdiction over the subject matter contained in this or similar legislation and that the Committee will be appropriately consulted and involved as this bill or similar legislation moves forward to address any remaining issues within the Committee's jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation and asks that you support any such request.

I would appreciate your response confirming this understanding with respect to H.R. 4937 and ask that a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of the bill on the House floor.

Sincerely,



Fred Upton  
Chairman



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

**Bill Shuster**  
Chairman

Washington, DC 20515

**Peter A. DeFazio**  
Ranking Member

November 14, 2016

Christopher P. Bertram, Staff Director

Katherine W. Dedrick, Democratic Staff Director

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

Dear Chairman Upton,

Thank you for your letter regarding H.R. 4937, a bill to amend title 49, United States Code, to reauthorize pipeline safety programs and enhance pipeline safety, and for other purposes, which was ordered to be reported out of the Committee on Transportation and Infrastructure on April 20, 2016.

I acknowledge that by agreeing to be discharged on H.R. 4937, the Committee on Energy and Commerce is not waiving any of its jurisdiction and will not in any way be prejudiced with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I appreciate your cooperation regarding this legislation and I will include our letters in the report of H.R. 4937.

Sincerely,

Bill Shuster  
Chairman

