

Calendar No. 427

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-217 }

PIPES ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2299



FEBRUARY 13, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2299]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2299) to amend title 49, United States Code, to enhance the safety and reliability of pipeline transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2019 would reauthorize the pipeline safety program under the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT).

BACKGROUND AND NEEDS

Pipeline safety reauthorizations authorize appropriations for the Office of Pipeline Safety (OPS), one of the two operating elements of PHMSA.¹ The previous pipeline safety authorization, the Protecting Our Infrastructure of Pipelines Enhancing Safety (PIPES) Act of 2016, expires on September 30, 2019.² PHMSA is the primary regulatory agency for pipeline safety. OPS is an office within PHMSA that has exclusive jurisdiction to regulate key aspects of

¹ The Division of Hazardous Materials Safety of PHMSA was reauthorized in the Fixing America's Surface Transportation Act (Pub. L. 114-94).

² Pub. L. 114-183.

interstate pipeline safety, including pipeline design, construction, operations and maintenance, and emergency response planning.³ With the exception of Alaska and Hawaii, all States have assumed regulatory, inspection, and enforcement responsibilities with respect to intrastate pipelines.⁴ Those States have certified to OPS that they have adopted minimum Federal regulations and that they enforce injunctive and monetary sanctions that are substantially the same as those authorized by Federal law.

Pipeline safety at PHMSA, which includes OPS, is funded primarily through user fees assessed on regulated pipeline operators on a per-mile basis.⁵ PHMSA collects additional fees from underground natural gas storage facility operators as part of its pipeline safety program. The agency's total annual budget authority has grown steadily since 2001.⁶ For fiscal year (FY) 2019, PHMSA's enacted budget authority for pipeline safety is about \$165 million.⁷ The President's FY 2020 budget request for PHMSA's pipeline safety program is \$149 million.⁸ The PIPES Act of 2016 authorized appropriations of about \$149 million per year for pipeline safety activities, primarily from the user fees.⁹

The U.S. energy pipeline system consists of about 3 million miles of four primary types of pipelines transporting natural gas, oil, and hazardous liquids. Pipeline types are generally divided by purpose and commodity, including approximately the following: (1) 18,000 miles of gas gathering lines, which transport natural gas from individual wells (onshore and offshore) to larger transmission pipelines; (2) 301,000 miles of gas transmission pipelines, which deliver natural gas from producing regions to major markets; (3) 216,000 miles of liquid pipelines, which transport crude oil and refined products from producing regions and refineries to consumers; and (4) 2.2 million miles of distribution pipelines, which deliver natural gas from transmission lines to homes and businesses.¹⁰ PHMSA also oversees approximately 152 liquefied natural gas (LNG) plants that have storage capacity for more than 54 million barrels.¹¹

SUMMARY OF PROVISIONS

S. 2299, the PIPES Act of 2019, would do the following:

- Reauthorize DOT gas and hazardous liquid pipeline safety programs from FY 2020 to FY 2023.

³ Paul Parfomak, DOT's Federal Pipeline Safety Program: Background and Key Issues for Congress, CRS, July 7, 2016 (https://www.crs.gov/Reports/R44201?source=search&guid=f5edc625dac948caac5f3a68b8c4b2b5&index=0#_Toc530387012).

⁴ PHMSA, State Programs Overview (<https://www.phmsa.dot.gov/working-phmsa/state-programs/state-programs-overview>).

⁵ Paul Parfomak, DOT's Federal Pipeline Safety Program: Background and Key Issues for Congress, CRS, July 7, 2016 (https://www.crs.gov/Reports/R44201?source=search&guid=f5edc625dac948caac5f3a68b8c4b2b5&index=0#_Toc530387012).

⁶ See Congressional Research Service, PHMSA's Pipeline Safety Reauthorization: Funding Issues, October 24, 2019, Figure 1 (<https://www.everycrsreport.com/reports/IN11162.html>).

⁷ See Department of Transportation, Budget Estimates Fiscal Year 2020: Pipeline and Hazardous Materials Safety Administration, Exhibit II-1 (<https://www.transportation.gov/sites/dot.gov/files/docs/mission/budget/334301/fy-2020-phmsa-budget-508-compliant.pdf>).

⁸ See id.

⁹ Pub. L. 114-183.

¹⁰ PHMSA, Pipeline Mileage and Facilities (<https://www.phmsa.dot.gov/data-and-statistics/pipeline/pipeline-mileage-and-facilities>).

¹¹ PHMSA, Budget Estimates FY 2020 (<https://www.transportation.gov/sites/dot.gov/files/docs/mission/budget/334301/fy-2020-phmsa-budget-508-compliant.pdf>).

- Provide PHMSA authority to conduct pilot programs to evaluate and implement innovative pipeline safety programs and technologies.
- Require PHMSA to establish safety requirements governing natural or other gas transmission and hazardous liquid pipelines that are not in service.
- Direct PHMSA to update the safety standards for large-scale LNG facilities to reflect changes in the LNG industry and establish a National Center of Excellence for LNG Safety and Training to improve and promote education, training, and technological advancements.
- Direct PHMSA, under the Leonel Rondon Pipeline Safety Act, to improve safety in the wake of the explosions caused by excessive pressure in gas lines in Merrimack Valley, Massachusetts (Merrimack Valley accident), by requiring changes to operator's distribution integrity management plans, a study of adoption of safety management system, and other requirements intended to improve safety for distribution pipelines.

LEGISLATIVE HISTORY

S. 2299 was introduced on July 25, 2019, by Senator Fischer (for herself and Senator Duckworth) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On July 31, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 2299 reported favorably with an amendment (in the nature of a substitute).

The last two PHMSA pipeline safety program reauthorizations were the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (the Pipeline Safety Act)¹² and the PIPES Act of 2016.¹³ The Pipeline Safety Act reauthorized pipeline safety programs from FY 2012 through FY 2015, and it included 42 mandates for PHMSA. Other notable provisions from the bill include requiring automatic shutoff valves for transmission pipelines, verification of maximum allowable operating pressure, and increased civil penalties for operator violations.

The PIPES Act of 2016 was enacted on June 22, 2016. Senator Fischer sponsored the bill, which reauthorized PHMSA pipeline safety programs from FY 2016 to FY 2019 at an average funding level of \$150 million each year. The PIPES Act of 2016 also included 19 mandates for PHMSA, which were in addition to the rulemakings required by the Pipeline Safety Act. Other notable provisions of the PIPES Act of 2016 include establishing Federal safety standards for underground natural gas storage facilities, granting PHMSA emergency authority to address urgent safety conditions, and requiring PHMSA to report on the progress of completing outstanding rulemakings.

Senator Edward Markey introduced S. 1097, entitled "The Leonel Rondon Pipeline Safety Act" on April 9, 2019, in response to the Merrimack Valley gas pipeline incident that occurred in Massachusetts in September 2018. S. 1097 largely focuses on distribution gas operators given the nature of the Merrimack Valley accident and, among other provisions, would direct DOT to strengthen require-

¹²Pub. L. 112–90.

¹³Pub. L. 114–183.

ments for distribution integrity management plans, require DOT to revise its regulations governing Emergency Response Plans, and direct DOT to issue regulations on gas distribution operators' procedural manuals.

On August 20, 2018, the Committee on Commerce, Science, and Transportation of the Senate held a hearing entitled, "Pipeline Safety in the Great Lakes: Incident Prevention and Response Efforts at the Straits of Mackinac" in Traverse City, Michigan. The hearing focused on incident prevention and accident response following the Mackinac incidents.

On November 26, 2018, the Committee on Commerce, Science, and Transportation of the Senate held a hearing entitled, "Pipeline Safety in the Merrimack Valley: Incident Prevention and Response" in Lawrence, Massachusetts. The hearing focused on the natural gas explosions and fires in Lawrence and Andover, Massachusetts resulting from the Merrimack Valley accident, as well as response efforts by Federal, State, and local authorities. The hearing also considered other issues that occurred during the Merrimack Valley accident and actions that could be taken to prevent similar occurrences in the future.

On April 10, 2019, the Subcommittee on Transportation and Safety of the Committee on Commerce, Science, and Transportation of the Senate held a hearing entitled, "Pipeline Safety: Federal Oversight and Stakeholder Perspectives." The hearing examined Federal pipeline safety and the member and stakeholder priorities for pipeline safety reauthorization.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

At a Glance			
S. 2299, PIPES Act of 2019			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 31, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	-4	131	167
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and zero.			
The bill would			
<ul style="list-style-type: none"> • Reauthorize programs managed by the Pipeline and Hazardous Materials Safety Administration (PHMSA) through fiscal year 2023 • Require PHMSA to pursue a variety of regulatory, administrative, and inspection activities • Authorize PHMSA to collect higher fees from operators of certain natural gas underground storage facilities • Impose intergovernmental and private-sector mandates by imposing a new user fee on liquid natural gas facility applications and new safety standards on gas pipeline and facility operators 			
Estimated budgetary effects would primarily stem from			
<ul style="list-style-type: none"> • Authorizing appropriations for PHMSA programs through fiscal year 2023 • Authorizing PHMSA to collect pipeline safety and natural gas storage facility fees 			
Detailed estimate begins on the next page.			

Bill summary: S. 2299 would require the Pipeline and Hazardous Materials Safety Administration (PHMSA) to pursue a variety of regulatory, administrative, and inspection activities and would authorize appropriations for those purposes through fiscal year 2023. PHMSA oversees the safety of pipelines that transport natural gas or hazardous liquids and provides grants to states for programs to ensure pipeline safety. The bill also would authorize PHMSA to collect higher fees from operators of certain natural gas underground storage facilities, require the Department of Transportation (DOT) to establish a National Center of Excellence for Liquefied Natural Gas (LNG) Safety and Training, and require DOT and the Government Accountability Office to evaluate various pipeline safety programs.

Estimated Federal cost: The estimated budgetary effect of S. 2299 is shown in Table 1. The costs of the legislation fall within budget function 400 (transportation).

Basis of estimate: For this estimate, CBO assumes that S. 2299 will be enacted near the end of 2019. Assuming appropriation of the specified and estimated amounts CBO estimates that implementing the bill would cost \$131 million over the 2020–2024 period and \$40 million after 2024. Estimated outlays are based on historical spending patterns.

S. 2299 would authorize the gross appropriation of \$204 million and the collection of fees, which are treated as offsets to discretionary appropriations, for 2020. In 2019, CBO estimates that those programs received appropriations totaling \$189 million and that PHMSA collected fees for those activities totaling \$142 million. Because CBO scores continuing resolutions on an annualized basis, CBO estimates that under the current continuing resolution (Public Law 116–59), which provides funds and the authority to collect fees through November 21, 2019, those same amounts are available in 2020. Thus, the estimated gross authorization from this bill for 2020 is equal to the specified amounts minus the annualized amount from the continuing resolution (\$13 million).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 2299 ^a

	By fiscal year, millions of dollars—					
	2020	2021	2022	2023	2024	2000–2024
Fee-Financed Safety Programs ^b						
Authorization	13	159	163	167	0	502
Estimated Outlays	6	83	140	159	84	472
Offsetting Collections from User Fees ^b						
Estimated Authorization	–13	–159	–163	–167	0	–502
Estimated Outlays	–13	–159	–163	–167	0	–502
Trust Fund-Financed Safety Programs ^{b c}						
Authorization	2	26	27	28	0	83
Estimated Outlays	1	14	23	26	14	78
PHMSA Operational Expenses ^b						
Authorization	–	25	26	27	0	78
Estimated Outlays	–	18	23	25	7	73
Other						
Estimated Authorization	5	2	2	2	0	10
Estimated Outlays	2	3	2	2	1	10
Total Changes						
Estimated Authorization	7	53	55	57	0	171
Estimated Outlays	–4	–41	25	45	106	131

Components may not sum to totals because of rounding; PHMSA = Pipeline and Hazardous Materials Safety Administration; * = between –\$500,000 and zero.

^a In addition, CBO estimates that enacting S. 2299 would have an insignificant effect on direct spending.

^b CBO estimates that S. 2299 would authorize gross appropriations of \$204 million in 2020 for PHMSA activities that also received an appropriation in 2019, as well as the authority collect fees, which are treated as offsets to discretionary appropriations. However, CBO estimates that \$189 million in spending and \$142 million in collections has been allocated for those activities on an annualized basis from funds and authority made available under the continuing resolution (Public Law 116–59), which provided appropriations through November 21, 2019. Thus, the estimated gross authorization for 2020 is equal to the specified and estimated amounts minus the annualized amount from the continuing resolution.

^c These amounts would be from the Oil Spill Liability Trust Fund.

Fee-financed safety programs

S. 2299 would authorize gross appropriations totaling \$644 million over the 2020–2024 period for safety programs operated by PHMSA for pipelines and natural gas storage facilities. Because \$142 million of that amount has been provided by the continuing resolution in 2020 the estimated gross appropriation from S. 2299 totals \$502 million. The bill also would authorize PHMSA to collect up to 105 percent of that amount from fees paid by pipeline operators and owners of underground natural gas storage facilities. For this estimate, CBO assumes that PHMSA would collect fees, which are treated as offsets to discretionary spending, equal to 100 percent of the authorized amount totaling \$644 million in collections over the 2020–2024 period, of which \$142 million has been authorized by the continuing resolution. Thus, the estimated collections

credited total \$502 million and outlays sum to \$472 million over the 2020–2024 period.

Trust fund-financed safety programs

The bill also would authorize appropriations totaling \$106 million over the 2024–2024 period from the Oil Spill Liability Trust Fund. \$23 million of that amount has been provided by the continuing resolution in 2020, so this bill’s effective authorization over the five year period is \$83 million and CBO estimates outlays would total \$78 million.

PHMSA operational expenses

The bill would authorize appropriations totaling \$102 million for PHMSA’s operating expenses over the 2020–2024 period—\$24 million of that amount has been provided by the continuing resolution for 2020; so the bill’s effective authorization over the five year period is \$78 million and CBO estimates outlays would total \$73 million.

Other

S. 2299 would authorize the appropriation of \$6 million over the 2020–2024 period for damage prevention programs, and CBO estimates that \$4 million would be needed to conduct studies, to issue regulations, and to establish a National Center of Excellence for LNG Safety and Training as required under the bill. CBO estimates those provisions would cost \$10 million over the 2020–2024 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. S. 2299 would impose a new fee on owners of certain LNG facilities and authorize spending of those receipts without future appropriation, CBO estimates that the net effect on direct spending, would not be significant in any year and over the 2020–2029 period.

Increase in long-term benefits: None.

Mandates: S. 2299 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by establishing new user fees and new safety standards for gas pipelines and facilities and liquefied natural gas facilities. Using information from PHMSA, CBO estimates the aggregate cost of the mandates on private entities would fall below the annual threshold established in UMRA for private-sector mandates (\$164 million in 2019, adjusted annually for inflation).

The bill also would preempt state regulations that are inconsistent with a new program to test pipeline safety. CBO estimates that the aggregate cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$82 million in 2019, adjusted annually for inflation).

Mandates on private entities

The bill would impose mandates on private pipeline operators by imposing new liquid natural gas (LNG) facility fees. S. 2299 would impose a new LNG facility fee on applications for liquid natural gas facilities whose design and construction costs exceed \$2.5 bil-

lion. The fee would cover the Department's cost to review applications, and once fully implemented, the fee would impose a cost of about \$1 million each year on new LNG facilities.

The bill would impose new safety standards on distribution systems and facilities. These standards would require operators to:

- Assess the factors that would make operating a low-pressure system connected to low-pressure burning equipment unsafe,
- Develop written emergency response plans to communicate rapidly with customers during emergencies, and
- Have a qualified individual monitor gas pressure during construction projects and shutoff the flow of gas if necessary.

Because those new safety standards extend standards already in place under current law, CBO estimates that the aggregate cost of complying with the new requirements would be small.

The bill also would require operators of large-scale LNG facilities to meet new minimum operating and maintenance standards as directed under the bill. Because the standards have not yet been established by PHMSA, CBO cannot estimate the cost of the mandate.

Finally, the bill would require the proposed rules published in the Federal Register on April 8, 2016, entitled "Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines," to be completed and published. Using information from PHMSA, CBO estimates the cost for operators to comply with these rules would be roughly \$45 million each year.

Mandate on public entities

The bill would preempt state regulations that are inconsistent with a program that would permit the Secretary of Transportation to carry out a limited number of testing programs to improve the safety of natural gas and hazardous liquid gas pipeline facilities. Before the department establishes a testing program, a state could request an exemption from the Secretary, which must be granted under the bill. Under UMRA, preempting state laws or requiring an entity to take affirmative action to avoid a new duty imposes a mandate on the entity. CBO estimates the cost to comply with the mandate would be very small because of the limited scope of the program.

Other effects

The federal pipeline safety program is administered by PHMSA unless a state has requested and been granted the authority to administer the program within its boundaries. Only Alaska and Hawaii rely on PHMSA to regulate pipeline safety.

State regulatory agencies in the remaining 48 states conduct pipeline inspections and enforce federal safety rules; provisions in the bill would increase the regulatory burden on those states by adding to their oversight and review activities. Under current law, PHMSA provides grants to states to reimburse up to 80 percent of the total cost of conducting their regulatory activities during a calendar year. Increasing the regulatory burden would increase the financial burden on states, however, states incur those costs as a condition of voluntarily overseeing the pipeline safety and underground storage program.

Estimate prepared by: Federal costs: Aaron Krupkin; Mandates: Brandon Lever.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; Susan Willie, Chief, Mandates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2299, as reported, would impose new guidelines and requirements for PHMSA, including on specified occasions the Secretary. The bill also would require pipeline operators to conduct studies, prepare reviews, pay increased fees, and improve certain facilities in accordance with PHMSA regulations. It is expected that any new requirements imposed on pipeline facilities as a result of S. 2299 would be carried out, in most cases, by parties currently subject to PHMSA regulation.

ECONOMIC IMPACT

Enactment of S. 2299, as reported, is not expected to have any inflationary or adverse impact on the Nation's economy.

PRIVACY

The reported bill is not expected to have an adverse impact on the personal privacy of individuals.

PAPERWORK

As reported, S. 2299 would require reports from the Federal Government. The bill would require PHMSA to conduct and report to Congress on a comprehensive workforce plan to meet the future needs of the agency. The bill also would require PHMSA to conduct a pipeline safety testing enhancement study and report to Congress on its research findings. Finally, the bill would require PHMSA to report to Congress on a regular basis regarding outstanding mandates.

Title II of S. 2299, as reported, would require PHMSA to update and review certain regulations pertaining to operators of distribution pipeline facilities. Additionally, the bill would require PHMSA to conduct a study on the distribution industry's adoption of pipeline safety management systems and report to Congress with guidance and recommendations that would further the adoption of safety management systems.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents.

This section would provide that the bill may be cited as the “PIPES Act of 2019”.

Section 2. Definitions.

This section would define the terms “Administration,” “Administrator,” and “Secretary”.

TITLE I—IMPROVING PIPELINE SAFETY AND
INFRASTRUCTURE*Section 101. Authorization of appropriations.*

This section would authorize appropriations for FY 2020 through 2023 for the Pipeline Safety Program under PHMSA. This section would provide budget authority of \$180 million in FY 2020 rising to \$195 million in FY 2023. This includes a nearly 50 percent increase in funds for grants to State inspection agencies as compared to the previous 4 years. This section also would authorize operational expenses for FY 2020, as well as funds for one-call notification programs, pipeline safety information grants, and other programs.

Section 102. Pipeline workforce development.

This section would direct PHMSA to conduct a workforce development study to review how the agency recruits and trains inspectors. This section also would require the agency to identify its 10-year workforce needs.

Section 103. Underground natural gas storage user fees.

Section 12(c) of the PIPES Act of 2016 (49 U.S.C. 60302) authorized the collection and use of user fees from operators of underground natural gas storage facility operators. This section would increase the amount of fees that PHMSA is allowed to collect for conducting natural gas storage facility inspections by 5 percent.

Section 104. Cost recovery and fees for facility reviews.

Currently, there is a memorandum of understanding which allows the Federal Energy Regulatory Commission to reimburse PHMSA for the safety inspection and reviews that PHMSA conducts on LNG facility projects costing \$2.5 billion or more. This section would allow PHMSA to collect fees directly from those facilities for the necessary expenses it incurs to perform such inspections and reviews.

Section 105. Advancement of new pipeline safety technologies and approaches.

This section would provide PHMSA with the authority to establish pilot programs to evaluate innovative technologies and operational practices in order to enhance pipeline safety. This section would allow PHMSA to use existing authority to exempt pipeline operators participating in the pilot from regulations that would otherwise prevent the use of a new safety technology. Such pilot programs would be limited to a duration of 4 years and a total

pipeline mileage of 5 percent and would be prohibited from being conducted in high population areas. This section also would allow States to opt-out of the pilot program. The program would exist from FY 2020 to FY 2026.

Section 106. Pipeline safety testing enhancement study.

This section would direct PHMSA to conduct a study and report to Congress, no later than 2 years after enactment, on its research and development capabilities and whether an independent pipeline safety testing facility could improve DOT's research and development capabilities. The study would require PHMSA to consider its ability to use existing test facilities established by other modal administrations and federally funded research and development centers, as well as the costs and benefits of developing such a facility.

Section 107. Regulatory updates.

This section would direct PHMSA to inform Congress of progress on outstanding Congressional mandates every 30 days. Under this section, updates to Congress would include a description of the work plan for outstanding mandates, rulemaking timeline, any resource constraints affecting the rulemaking, and other information related to the status and timing of a rulemaking.

Section 108. Self-disclosure of violations.

Under current law,¹⁴ in determining the amount of a civil penalty, PHMSA must consider the following: nature, circumstances, and gravity of a violation; the violator's degree of culpability, history of prior violations, and any effect on the violator's ability to continue doing business, and good faith in attempting to comply. This section would require PHMSA to also consider in determining such civil penalties whether the violator self-disclosed and corrected the violation, or took actions to correct a violation, prior to discovery by PHMSA.

Section 109. Due process protections in enforcement proceedings.

This section would improve the due process protections in PHMSA enforcement proceedings by requiring aspects of enforcement proceedings to be public, allowing administrative law judges to review enforcement decisions, providing greater access to administrative records, and resolving issues of controversy and uncertainty through declaratory relief.

Section 110. Pipeline operating status.

This section would direct PHMSA to perform a rulemaking to establish an idled pipeline operating status and applicable safety requirements. Under this section, idled pipelines would have to be cleared of combustibles and hazardous materials. The section also would require the Secretary or an appropriate State agency to inspect idled pipelines to verify that the pipeline has been cleared of relevant materials.

¹⁴ 49 U.S.C. 60122(b).

Section 111. Liquefied natural gas facility project reviews.

This section would clarify PHMSA’s role in the review of LNG export facilities. States are permitted to request PHMSA to conduct a review of an LNG export facility related to facility safety. This section also would clarify that PHMSA’s letter of determination regarding the safety of a facility is not a final determination of whether the project will be granted a permit, which will remain under the Federal Energy Regulatory Commission’s jurisdiction.

Section 112. Updates to standards for liquefied natural gas facilities.

This section would direct PHMSA to review its current LNG facility standards—found in 49 CFR part 193 and originally written for smaller facilities such as peak-shaving facilities—to update its regulations and adopt a risk-based regulatory approach for large-scale LNG facilities. This section would not make changes to the regulations for peak shaving facilities.

Section 113. National Center of Excellence for Liquefied Natural Gas Safety and Training.

This section would direct the Secretary to establish a National Center of Excellence for LNG Safety and Training to promote and facilitate education and other training activities related to LNG. Among other roles, the National Center of Excellence for LNG Safety and Training would be a repository of information on best practices relating to LNG operations and a center for fostering collaboration among relevant stakeholders. This section would require the Secretary to consult a variety of agencies and LNG-related stakeholders in developing the National Center of Excellence, including the Department of Energy, the Federal Energy Regulatory Commission, the Coast Guard, LNG facilities, safety organizations, and others.

Section 114. Prioritization of rulemaking.

This section would require, within 90 days of enactment, the Secretary to complete and publish the outstanding rulemaking titled “Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines”.

This section would require the Comptroller General to complete, within 1 year of enactment, a study to review the extent to which geospatial and technical data is collected by operators of gathering lines, and assess the plans and timelines for operators to develop mapping information, and to submit a copy of the study to the appropriate committees of Congress upon completion.

TITLE II—LEONEL RONDON PIPELINE SAFETY ACT

Section 201. Short title.

This section would direct the short title of this section to be “Leonel Rondon Pipeline Safety Act”.

Section 202. Distribution integrity management plans.

This section would direct PHMSA to expand its regulations to ensure that distribution integrity management plans for distribution operators evaluate certain risks, such as those posed by cast iron

pipes and mains, and low-pressure systems, as well as the possibility of future accidents to better account for high-consequence but low probability events. This section also would require distribution operators to make their updated distribution integrity management plans available to PHMSA or the relevant State regulatory agency no later than 2 years after enactment and would require inspectors to review such plans if significant changes are made to the plans or system or at least every 5 years. Finally, this section would direct DOT to revise the State audit protocols and procedures and update the State Inspection Calculation Tool.

Section 203. Emergency response plans.

This section would direct PHMSA to update its emergency response plan regulations to ensure that each emergency response plan developed by a distribution system operator includes written procedures for how to handle communications with first responders and the general public after certain significant pipeline emergencies, in order to ensure that pipeline operators contact first responders as soon as practicable after they know an incident has occurred.

Section 204. Operations and maintenance manuals.

This section would direct the Secretary to update the regulations for operations and maintenance manuals in order to require distribution system operators to have a specific action plan to respond to overpressurization events. Additionally, this section would require operators to develop written procedures for management of change processes for significant technology, equipment, procedural, and organizational changes to the distribution system and ensure that relevant qualified personnel, such as a professional engineer with a license, reviews and certifies such changes.

Section 205. Pipeline safety management systems.

This section would direct PHMSA to conduct a study on the distribution industry's adoption of pipeline safety management systems and provide guidance on how to further the adoption of these systems and to provide a copy of the report to relevant Committees no later than 3 years after enactment. This section also would require PHMSA and relevant State authorities to promote and assess gas distribution operators' pipeline safety management systems, including by using independent third-party evaluators as necessary.

Section 206. Pipeline safety practices.

This section would direct PHMSA to issue regulations that require distribution pipeline operators to identify and manage traceable, reliable, and complete maps and records of critical pressure-control infrastructure, and update these records as appropriate. These records would have to be submitted or made available to the relevant regulatory agency. These regulations shall require non-critical records to be gathered on an opportunistic basis.

This section also would direct PHMSA to issue regulations requiring an agent of a distribution system operator to monitor gas pressure at certain sites and have the ability to cut off or limit gas pressure during construction projects that have the potential to cause a hazardous overpressurization.

Finally, this section would direct PHMSA to issue regulations on district regulator stations to ensure that distribution system operators minimize the risk of a common mode of failure at low-pressure district regulator stations, monitor the gas pressure of a low-pressure system, and install overpressure protection safety technology at low-pressure district regulator stations. If it is not operationally possible to install such technology, this section would require the relevant operator to identify plans that would minimize the risk of an overpressurization event.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49—TRANSPORTATION

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

§ 6107. Funding

Of the amounts made available under section 60125(a)(1), the Secretary shall expend **[\$1,058,000 for each of fiscal years 2016 through 2019]** *\$1,058,000 for each of fiscal years 2020 through 2023* to carry out section 6106.

* * * * *

TITLE 49—TRANSPORTATION

SUBTITLE VIII—PIPELINES

CHAPTER 601—SAFETY

Sec.

- 60101. Definitions.
- 60102. Purpose and general authority.
- 60103. Standards for liquefied natural gas pipeline facilities.
- 60104. Requirements and limitations.
- 60105. State pipeline safety program certifications.
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- 60108. Inspection and maintenance.
- 60109. High-density population areas and environmentally sensitive areas.
- 60110. Excess flow valves.
- 60111. Financial responsibility for liquefied natural gas facilities.
- 60112. Pipeline facilities hazardous to life and property.
- 60113. Customer-owned natural gas service lines.
- 60114. One-call notification systems.
- 60115. Technical safety standards committees.
- 60116. Public education programs.
- 60117. Administrative.
- 60118. Compliance and waivers.
- 60119. Judicial review.
- 60120. Enforcement.
- 60121. Actions by private persons.
- 60122. Civil penalties.
- 60123. Criminal penalties.
- 60124. Biennial reports.

- 60125. Authorization of appropriations.
- 60126. Risk management.
- 60127. Population encroachment and rights-of-way.
- 60128. Dumping within pipeline rights-of-way.
- 60129. Protection of employees providing pipeline safety information.
- 60130. Pipeline safety information grants to communities.
- 60131. Verification of pipeline qualification programs.
- 60132. National pipeline mapping system.
- 60133. Coordination of environmental reviews.
- 60134. State damage prevention programs.
- 60135. Enforcement transparency.
- 60136. Petroleum product transportation capacity study.
- 60137. Pipeline control room management.
- 60138. Response plans.
- 60139. Maximum allowable operating pressure.
- 60140. Cover over buried pipelines.
- 60141. Standards for underground natural gas storage facilities.
- 60142. *Pipeline safety enhancement programs.*
- 60143. *Idled pipelines.*

§ 60101. Definitions

(a) * * *

§ 60102. Purpose and general authority

(a) * * *

(q) *EMERGENCY RESPONSE PLANS.*—*Not later than 2 years after the date of enactment of this subsection, the Secretary shall update regulations to ensure that each emergency response plan developed by an operator of a distribution system under section 192.615 of title 49, Code of Federal Regulations (or a successor regulation), includes written procedures for—*

(1) *establishing communication with first responders and other relevant public officials, as soon as practicable, beginning from the time of confirmed discovery, as determined by the Secretary, by the operator of a gas pipeline emergency involving a release of gas from a distribution system of that operator that results in—*

(A) *a fire related to an unintended release of gas;*

(B) *an explosion;*

(C) *1 or more fatalities; or*

(D) *the unscheduled release of gas and shutdown of gas service to a significant number of customers, as determined by the Secretary;*

(2) *establishing general public communication through an appropriate channel—*

(A) *as soon as practicable, as determined by the Secretary, after a gas pipeline emergency involving a release of gas that results in—*

(i) *a fire related to an unintended release of gas;*

(ii) *an explosion;*

(iii) *1 or more fatalities; or*

(iv) *the unscheduled shutdown of gas service to a significant number of customers, as determined by the Secretary; and*

(B) *that provides information regarding—*

(i) *the emergency described in subparagraph (A); and*

(ii) *the status of public safety; and*

(3) *the development and implementation of a voluntary, opt-in system that would allow operators of distribution systems to*

rapidly communicate with customers in the event of an emergency.

(r) **OPERATIONS AND MAINTENANCE MANUALS.**—*Not later than 2 years after the date of enactment of this subsection, the Secretary shall update regulations to ensure that each procedural manual for operations, maintenance, and emergencies developed by an operator of a distribution pipeline under section 192.605 of title 49, Code of Federal Regulations (or a successor regulation), includes written procedures for—*

(1) *responding to overpressurization indications, including specific actions and an order of operations for immediately reducing pressure in or shutting down portions of the gas distribution system, if necessary; and*

(2) *a detailed procedure for the management of the change process, which shall—*

(A) *be applied to significant technology, equipment, procedural, and organizational changes to the distribution system; and*

(B) *ensure that relevant qualified personnel, such as an engineer with a professional engineer licensure, subject matter expert, or other employee who possesses the necessary knowledge, experience, and skills regarding natural gas distribution systems, review and certify construction plans for accuracy, completeness, and correctness.*

(s) **OTHER PIPELINE SAFETY PRACTICES.**—

(1) **RECORDS.**—*Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to require an operator of a distribution system—*

(A) *to identify and manage traceable, reliable, and complete records, including maps and other drawings, critical to ensuring proper pressure controls for a gas distribution system, and updating these records as needed, while collecting and identifying other records necessary for risk analysis on an opportunistic basis; and*

(B) *to ensure that the records required under subparagraph (A) are—*

(i) *accessible to all personnel responsible for performing or overseeing relevant construction or engineering work; and*

(ii) *submitted to, or made available for inspection by, the Secretary or the relevant State authority with a certification in effect under section 60105.*

(2) **PRESENCE OF QUALIFIED EMPLOYEES.**—

(A) **IN GENERAL.**—*Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to require that not less than 1 agent of an operator of a distribution system who is qualified to perform relevant covered tasks (as defined in section 192.801(b) of title 49, Code of Federal Regulations (or a successor regulation)) shall monitor gas pressure at the district regulator station or at an alternative site with equipment capable of ensuring proper pressure controls and have the capability to promptly shut down the flow of gas or control over pressurization at a district regulator station during any construction project that has the potential to cause*

a hazardous overpressurization at that station, including tie-ins and abandonment of distribution lines and mains, based on an evaluation, conducted by the operator, of threats that could result in unsafe operation.

(B) *EXCLUSION.*—In promulgating regulations under subparagraph (A), the Secretary shall ensure that those regulations do not apply to a district regulating station that has a monitoring system and the capability for remote or automatic shutoff.

(3) *DISTRICT REGULATOR STATIONS.*—

(A) *IN GENERAL.*—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations to require that each operator of a distribution system assesses and upgrades, as appropriate, each district regulator station of the operator to ensure that—

(i) the risk of the gas pressure in the distribution system exceeding, by a common mode of failure, the maximum allowable operating pressure (as described in section 192.623 of title 49, Code of Federal Regulations (or a successor regulation)) allowed under Federal law (including regulations) is minimized;

(ii) the gas pressure of a low-pressure distribution system is monitored, particularly at or near the location of critical pressure-control equipment;

(iii) the regulator station has secondary or backup pressure-relieving or overpressure-protection safety technology, such as a relief valve or automatic shutoff valve, or other pressure-limiting devices appropriate for the configuration and siting of the station and, in the case of a regulator station that employs the primary and monitor regulator design, the operator shall eliminate the common mode of failure or provide backup protection capable of either shutting the flow of gas, relieving gas to the atmosphere to fully protect the distribution system from overpressurization events, or there must be technology in place to eliminate a common mode of failure; and

(iv) if the Secretary determines that it is not operationally possible for an operator to implement the requirements under clause (iii), the Secretary shall require such operator to identify actions in their plan that minimize the risk of an overpressurization event.

§ 60103. Standards for liquefied natural gas pipeline facilities

(a) **LOCATION STANDARDS.**—**【The Secretary of Transportation】**

(1) *IN GENERAL.*—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. **【In prescribing a standard】**

(2) *CONSIDERATIONS.*—In prescribing a standard under paragraph (1), the Secretary shall consider the—

【(1)】(A) kind and use of the facility;

【(2)】(B) existing and projected population and demographic characteristics of the location;

[(3)](C) existing and proposed land use near the location;

[(4)](D) natural physical aspects of the location;

[(5)](E) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility;

[(6)](F) need to encourage remote siting; and

[(7)](G) national security.

(3) *USE OF LOCATION STANDARDS.*—*If a Federal or State authority with jurisdiction over liquefied natural gas pipeline facility permits or approvals is using the location standards prescribed under paragraph (1) for purposes of making a decision with respect to the location of a new liquefied natural gas pipeline facility and submits to the Secretary of Transportation a request to provide a determination of whether the new liquefied natural gas pipeline facility would meet the location standards, the Secretary may provide such a determination to the requesting Federal or State authority.*

(4) *EFFECT.*—*Nothing in this subsection or subsection (b)—*

(A) *affects—*

(i) *section 3 of the Natural Gas Act (15 U.S.C. 717b);*

(ii) *the authority of the Federal Energy Regulatory Commission to carry out that section; or*

(iii) *any other similar authority of any other Federal or State agency; or*

(B) *requires the Secretary of Transportation to formally approve any project proposal or otherwise perform any siting functions.*

(b) * * *

§ 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)] subsections (a) and (c) of section 60108** 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) * * *

(e) **MONITORING.—[The Secretary]**

(1) *IN GENERAL.—The Secretary* may monitor a safety program established under this section to ensure that the program complies with the certification. **[A State authority]**

(2) *COOPERATION.—A State authority with a certification in effect under this section* shall cooperate with the Secretary under this subsection.

(3) *AUDIT PROGRAM.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall—*

(A) *revise the State audit protocols and procedures to update the annual State Program Evaluations carried out under this subsection and section 60106(d) to ensure that a State authority with a certification in effect under this section has the capability to sufficiently review and evaluate the adequacy of the plans and manuals described in section 60109(e)(7)(C)(i);*

(B) *update the State Inspection Calculation Tool to take into account factors including—*

(i) *the number of miles of natural gas and hazardous liquid pipelines in the State, including the number of miles of cast iron and bare steel pipelines;*

(ii) *the number of services in the State;*

(iii) *the age of the gas distribution system in the State; and*

(iv) *environmental factors that could impact the integrity of the pipeline, including relevant geological issues; and*

(C) *promulgate regulations to require that a State authority with a certification in effect under this section has a sufficient number of qualified inspectors to ensure safe operations, as determined by the State Inspection Calculation Tool and other factors determined to be appropriate by the Secretary.*

(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.

§ 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)] *subsections (a) and (c) of section 60108* of this title.

(b) * * *

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

(a) * * *

(e) DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.—

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

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

(3) EXCESS FLOW VALVES.—

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

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

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

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

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

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

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

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

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

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

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

(7) DISTRIBUTION INTEGRITY MANAGEMENT PLANS.—

(A) EVALUATION OF RISK.—*Not later than 2 years after the date of enactment of this paragraph, the Secretary shall promulgate regulations to ensure that each distribution integrity management plan developed by an operator of a distribution system includes an evaluation of—*

(i) the risks resulting from the presence of cast iron pipes and mains in the distribution system; and

(ii) the risks that could lead to or result from the operation of a low-pressure distribution system at a pressure that makes the operation of any connected and properly adjusted low-pressure gas burning equipment unsafe (as described in section 192.623 of title 49, Code of Federal Regulations (or a successor regulation)).

(B) CONSIDERATION.—*In the evaluations required in a plan under subparagraph (A), the regulations promulgated by the Secretary shall ensure that the distribution integrity management plan evaluates for future potential threats in a manner that considers factors other than past observed abnormal operations (within the meaning of section 192.605 of title 49, Code of Federal Regulations (or a suc-*

cessor regulation)), in ranking risks and identifying measures to mitigate those risks under that subparagraph, so that operators avoid using a risk rating of zero for low probability events unless otherwise supported by engineering analysis or operational knowledge.

(C) DEADLINES.—

(i) *IN GENERAL.*—Not later than 2 years after the date of enactment of this paragraph, each operator of a distribution system shall make available to the Secretary or the relevant State authority with a certification in effect under section 60105, as applicable, a copy of—

(I) the distribution integrity management plan of the operator;

(II) the emergency response plan under section 192.615 of title 49, Code of Federal Regulations (or a successor regulation); and

(III) the procedural manual for operations, maintenance, and emergencies under section 192.605 of title 49, Code of Federal Regulations (or a successor regulation).

(ii) *UPDATES.*—Each operator of a distribution system shall make available to the Secretary or make available for inspection to the relevant State authority with a certification in effect under section 60105, if applicable, an updated plan or manual described in clause (i) by not later than 60 days after the date of a significant update, as determined by the Secretary.

(iii) *APPLICABILITY OF FOIA.*—Nothing in this subsection shall be construed to authorize the disclosure of any information that is exempt from disclosure under section 552(b) of title 5, United States Code.

(D) REVIEW OF PLANS AND DOCUMENTS.—

(i) *TIMING.*—

(I) *IN GENERAL.*—Not later than 2 years after the date of promulgation of the regulations under subparagraph (A), and not less frequently than once every 5 years thereafter, the Secretary or relevant State authority with a certification in effect under section 60105 shall review the distribution integrity management plan, the emergency response plan, and the procedural manual for operations, maintenance, and emergencies of each operator of a distribution system and record the results of that review for use in the next review of the program of that operator.

(II) *GRACE PERIOD.*—For the third, fourth, and fifth years after the date of promulgation of the regulations under subparagraph (A), the Secretary—

(aa) shall not use subclause (I) as justification to reduce funding, decertify, or penalize in any way under section 60105, 60106, or 60107 a State authority that has in effect a certifi-

cation under section 60105 or an agreement under section 60106; and

(bb) shall—

(AA) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a list of States found to be noncompliant with subclause (I) during the annual program evaluation; and

(BB) provide a written notice to each State authority described in item (aa) that is not in compliance with the requirements of subclause (I).

(ii) REVIEW.—Each plan or procedural manual made available under subparagraph (C)(i) shall be reexamined—

(I) on significant change to the plans or procedural manual, as applicable;

(II) on significant change to the gas distribution system of the operator, as applicable; and

(III) not less frequently than once every 5 years.

(iii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) or (ii) as an element of the inspection of the operator carried out by the Secretary.

(iv) INADEQUATE PROGRAMS.—If the Secretary determines that the documents reviewed under clause (i) or (ii) do not comply with the requirements of this chapter (including regulations to implement this chapter), have not been adequately implemented, or are inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under this chapter.

(f) * * *

§ 60117. Administrative

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

(b) ENFORCEMENT AND REGULATORY PROCEDURES.—

(1) REQUEST FOR FORMAL HEARING.—On request of a respondent in an enforcement or regulatory proceeding under this chapter, a hearing shall be held in accordance with section 554 of title 5.

(2) ADMINISTRATIVE LAW JUDGE.—A hearing under paragraph (1) shall be conducted by an administrative law judge appointed under section 3105 of title 5.

(3) OPEN TO THE PUBLIC.—

(A) *HEARINGS.*—A hearing under paragraph (1) shall be—

(i) *noticed to the public—*

(I) *on the website of the Pipeline and Hazardous Materials Safety Administration; and*

(II) *in the Federal Register; and*

(ii) *open to the public.*

(B) *AGREEMENTS, ORDERS, AND JUDGMENTS.*—A consent agreement, consent order, order, or judgment resulting from a hearing under paragraph (1) shall be made available to the public on the website of the Pipeline and Hazardous Materials Safety Administration.

(4) *PROCEDURES.*—In implementing enforcement and regulatory procedures under this chapter, the Secretary shall—

(A) *allow the use of a consent agreement and consent order to resolve any matter of fact or law asserted;*

(B) *allow the respondent and the agency to convene 1 or more meetings—*

(i) *for settlement or simplification of the issues; or*

(ii) *to aid in the disposition of issues;*

(C) *require that the case file in an enforcement proceeding include all agency records pertinent to the matters of fact and law asserted;*

(D) *require that a recommended decision be made available to the respondent when issued;*

(E) *allow a respondent to reply to any post-hearing submission;*

(F) *allow a respondent to request—*

(i) *that a hearing be held, and a recommended decision and order issued, on an expedited basis; or*

(ii) *that a hearing not commence for a period of not less than 90 days;*

(G) *require that the agency have the burden of proof, presentation, and persuasion in any enforcement matter;*

(H) *require that any recommended decision and order contain findings of fact and conclusions of law;*

(I) *require the Associate Administrator of the Office of Pipeline Safety to file a post-hearing recommendation not later than 30 days after the deadline for any post-hearing submission of a respondent;*

(J) *require an order on a petition for reconsideration to be issued not later than 120 days after the date on which the petition is filed; and*

(K) *allow an operator to request that an issue of controversy or uncertainty be addressed through a declaratory order in accordance with section 554(e) of title 5, which order shall be issued not later than 120 days after the date on which a request is made.*

(5) *SAVINGS CLAUSE.*—Nothing in this subsection alters the procedures applicable to an emergency order under subsection (p).

[(b)](c) 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)](d) 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)](e) 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)](f) 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)](g) 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)](h) 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)](i) 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)](j) 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)](k) Withholding Information From Congress.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

[(k)](l) 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)](m) 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)](n) 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)](o) 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 commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

(3) PIPELINE SAFETY DESIGN REVIEW FUND.—

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

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

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

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

~~[(o)]~~(p) 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.—

(A) IN GENERAL.—Before issuing an emergency order under paragraph (1), the Secretary shall consider, as appropriate, the following factors:

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

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

(iii) The impact of the emergency order on the ability of owners and operators of pipeline facilities to maintain reliability and continuity of service to customers.

(B) CONSULTATION.—In considering the factors under subparagraph (A), the Secretary shall consult, as the Secretary determines appropriate, with appropriate Federal agencies, State agencies, and other entities knowledgeable in pipeline safety or operations.

(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 paragraph (2).

(4) OPPORTUNITY FOR REVIEW.—Upon receipt of a petition for review from an entity subject to, and aggrieved by, an emer-

gency 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.—

(A) IN GENERAL.—After completion of 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 aggrieved 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.

(B) LIMITATION.—The filing of a petition for review under subparagraph (A) shall not stay or modify the force and effect of the agency’s final decision under paragraph (4), or the written determination under paragraph (5), unless stayed or modified by the Secretary.

(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.

§ 60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;

(2) prepare and carry out a plan for inspection and maintenance required under [section 60108(a) and (b)] *subsections (a) and (c) of section 60108* of this title;

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title; and

(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).

(b) * * *

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$200,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$2,000,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than \$1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

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

(1) the Secretary shall consider—

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

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

(C) good faith in attempting to comply; and

(D) *self-disclosure and correction of violations, or actions to correct a violation, prior to discovery by the Pipeline and Hazardous Materials Safety Administration; and*

(2) the Secretary may consider—

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.
 (c) * * *

§ 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 from fees collected under section 60301—

[(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 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.

[(3) UNDERGROUND NATURAL GAS STORAGE FACILITY SAFETY ACCOUNT.—To carry out section 60141, there is authorized to be appropriated to the Department of Transportation from fees collected under section 60302 \$8,000,000 for each of fiscal years 2017 through 2019.]

(a) GAS AND HAZARDOUS LIQUID.—

(1) IN GENERAL.—*From fees collected under section 60301, there are authorized to be appropriated to the Secretary to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355) and the provisions of this chapter relating to gas and hazardous liquid—*

(A) \$147,000,000 for fiscal year 2020, of which—

- (i) \$9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$60,000,000 shall be used for making grants;
 - (B) \$151,000,000 for fiscal year 2021, of which—
 - (i) \$9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$63,000,000 shall be used for making grants;
 - (C) \$155,000,000 for fiscal year 2022, of which—
 - (i) \$9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$66,000,000 shall be used for making grants; and
 - (D) \$159,000,000 for fiscal year 2023, of which—
 - (i) \$9,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$69,000,000 shall be used for making grants.
- (2) **TRUST FUND AMOUNTS.**—In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated from the Oil Spill Liability Trust Fund established by section 9509(a) of the Internal Revenue Code of 1986 to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355) and the provisions of this chapter relating to hazardous liquid—
- (A) \$25,000,000 for fiscal year 2020, of which—
 - (i) \$3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$10,000,000 shall be used for making grants;
 - (B) \$26,000,000 for fiscal year 2021, of which—
 - (i) \$3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$11,000,000 shall be used for making grants;
 - (C) \$27,000,000 for fiscal year 2022, of which—
 - (i) \$3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$12,000,000 shall be used for making grants; and
 - (D) \$28,000,000 for fiscal year 2023, of which—
 - (i) \$3,000,000 shall be used to carry out section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355); and
 - (ii) \$13,000,000 shall be used for making grants.
- (3) **UNDERGROUND NATURAL GAS STORAGE FACILITY SAFETY ACCOUNT.**—From fees collected under section 60302, there is authorized to be appropriated to the Secretary to carry out section 60141 \$8,000,000 for each of fiscal years 2020 through 2023.

(b) * * *

§ 60130. Pipeline safety information grants to communities

(a) * * *

[(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available under section 2(b) of the PIPES Act of 2016, the Secretary shall expend \$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.]

(c) FUNDING.—

(1) IN GENERAL.—*Out of amounts made available under section 2(b) of the PIPES Act of 2016, the Secretary shall use \$1,500,000 for each of fiscal years 2020 through 2023 to carry out this section.*

(2) LIMITATION.—*Any amounts used to carry out this section shall not be derived from user fees collected under section 60301.*

§ 60131. Verification of pipeline qualification programs

(a) * * *

§ 60134. State damage prevention programs

(a) * * *

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section \$1,500,000 for each of [fiscal years 2012 through 2015] *fiscal years 2020 through 2023*. Such funds shall remain available until expended.

§ 60135. Enforcement transparency

(a) * * *

§ 60142. Pipeline safety enhancement programs

(a) IN GENERAL.—*The Secretary may establish and carry out limited safety-enhancing testing programs during the period of fiscal years 2020 through 2026 to evaluate innovative technologies and operational practices testing the safe operation of—*

- (1) *a natural gas pipeline facility; or*
- (2) *a hazardous liquid pipeline facility.*

(b) LIMITATIONS.—

(1) IN GENERAL.—*Such testing programs may not exceed—*

- (A) *5 percent of the total miles of hazardous liquid pipelines in the United States; and*
- (B) *5 percent of the total miles of natural gas pipelines in the United States.*

(2) HIGH POPULATION AREAS.—*Any program established under subsection (a) shall not be located in a high population area (as defined in section 195.450 of title 49, Code of Federal Regulations).*

(c) DURATION.—*The term of a testing program established under subsection (a) shall be not more than a period of 4 years beginning on the date of approval of the program.*

(d) SAFETY STANDARDS.—

(1) IN GENERAL.—*The Secretary shall require, as a condition of approval of a testing program under subsection (a), that the safety measures in the testing program are designed to achieve a level of safety that is greater than, or equivalent to, the level of safety required by this chapter.*

(2) DETERMINATION.—

(A) *IN GENERAL.*—The Secretary may issue an order under subparagraph (A) of section 60118(c)(1) to accomplish the purpose of a testing program for a term not to exceed the time period described in subsection (c) if the condition described in paragraph (1) is met, as determined by the Secretary.

(B) *LIMITATION.*—An order under subparagraph (A) shall pertain only to those regulations that would otherwise prevent the use of the safety technology to be tested under the testing program.

(e) *CONSIDERATIONS.*—In establishing a testing program under subsection (a), the Secretary shall consider—

(1) whether the owners or operators participating in the program have a safety management system in place; and

(2) whether the proposed safety technology has been tested through a research and development program carried out by—

(A) the Secretary;

(B) collaborative research development organizations; or

(C) other institutions.

(f) *DATA AND FINDINGS.*—As a participant in a testing program established under subsection (a), an operator shall submit to the Secretary detailed findings and a summary of data collected as a result of participation in the testing program.

(g) *AUTHORITY TO REVOKE PARTICIPATION.*—The Secretary shall immediately revoke participation in a testing program under subsection (a) if—

(1) the participant fails to comply with the terms and conditions of the testing program; or

(2) in the determination of the Secretary, continued participation in the testing program by the participant would be unsafe or would not be consistent with the goals and objectives of this chapter.

(h) *AUTHORITY TO TERMINATE PROGRAM.*—The Secretary shall immediately terminate a testing program under subsection (a) if continuation of the testing program would not be consistent with the goals and objectives of this chapter.

(i) *STATE RIGHTS.*—

(1) *EXEMPTION.*—Except as provided in paragraph (2), if a State submits to the Secretary notice that the State requests an exemption from any testing program considered for establishment under this section, the State shall be exempt.

(2) *LIMITATIONS.*—

(A) *IN GENERAL.*—The Secretary shall not grant a requested exemption under paragraph (1) after a testing program is established.

(B) *LATE NOTICE.*—The Secretary shall not grant a requested exemption under paragraph (1) if the notice submitted under that paragraph is submitted to the Secretary more than 10 days after the date on which the Secretary issues an order providing an effective date for the testing program.

(3) *EFFECT.*—If a State has not submitted a notice requesting an exemption under paragraph (1), the State shall not enforce any law (including regulations) that is inconsistent with a testing program in effect in the State under this section.

(j) *PROGRAM REVIEW PROCESS AND PUBLIC NOTICE.*—

(1) *IN GENERAL.*—The Secretary shall publish in the Federal Register and send directly to each relevant State authority with a certification in effect under section 60105 a notice of each testing program under subsection (a), including the order to be considered, and provide an opportunity for public comment for not less than 90 days.

(2) *RESPONSE FROM SECRETARY.*—Not later than the date on which the Secretary issues an order providing an effective date of a testing program noticed under paragraph (1), the Secretary shall respond to each comment submitted under that paragraph.

(k) *REPORT TO CONGRESS.*—At the conclusion of each testing program, the Secretary shall make publicly available on the website of the Department of Transportation a report containing—

(1) the findings and conclusions of the Secretary with respect to the testing program; and

(2) any recommendations of the Secretary with respect to the testing program, including any recommendations for amendments to laws (including regulations) and the establishment of standards, that—

(A) would enhance the safe operation of interstate gas or hazardous liquid pipeline facilities; and

(B) are technically, operationally, and economically feasible.

(l) *STANDARDS.*—If a report under subsection (k) indicates that it is practicable to establish technically, operationally, and economically feasible standards for the use of a safety-enhancing technology and any corresponding operational practices tested by the testing program described in the report, the Secretary, as soon as practicable after submission of the report, may promulgate regulations consistent with chapter 5 of title 5 (commonly known as the “Administrative Procedures Act”) that—

(1) allow operators of interstate gas or hazardous liquid pipeline facilities to use the relevant technology or practice to the extent practicable; and

(2) establish technically, operationally, and economically feasible standards for the capability and deployment of the technology or practice.

§ 60143. Idled pipelines

(a) *DEFINITION OF IDLED.*—In this section, the term “idled”, with respect to a pipeline, means that the pipeline—

(1)(A) has ceased normal operations; and

(B) will not resume service for a period of not less than 180 days;

(2) has been isolated from all sources of hazardous liquid, natural gas, or other gas; and

(3)(A) has been purged of combustibles and hazardous materials and maintains a blanket of inert, nonflammable gas at low pressure; or

(B) has not been purged as described in subparagraph (A), but the volume of gas is so small that there is no potential hazard.

(b) *RULEMAKING.*—

(1) *IN GENERAL.*—Not later than 2 years after the date of enactment of the PIPES Act of 2019, the Secretary shall promulgate regulations prescribing the applicability of the pipeline safety requirements to idled natural or other gas transmission and hazardous liquid pipelines.

(2) *REQUIREMENTS.*—

(A) *IN GENERAL.*—The applicability of the regulations under paragraph (1) shall be based on the risk that idled natural or other gas transmission and hazardous liquid pipelines pose to the public, property, and the environment, and shall include requirements to resume operation.

(B) *INSPECTION.*—The Secretary or an appropriate State agency shall inspect each idled pipeline and verify that the pipeline has been purged of combustibles and hazardous materials, if required under subsection (a).

(C) *REQUIREMENTS FOR REINSPECTION.*—The Secretary shall determine the requirements for periodic reinspection of idled natural or other gas transmission and hazardous liquid pipelines.

* * * * *

TITLE 49—TRANSPORTATION

SUBTITLE VIII—PIPELINES

CHAPTER 603—USER FEES

Sec.

60301. User fees.

60302. User fees for underground natural gas storage facilities.

60303. Fees for compliance reviews of liquefied natural gas facilities.

§ 60301. User fees

(a) * * *

§ 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 subject 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 subject to section 60141, [the amount of the fee] may be used only for an activity related to underground natural gas storage facility safety[.]; and

(C) may only be used to the extent provided in advance in an appropriations Act.

[(3) LIMITATION.—No fee may be collected under this section, except to the extent that the expenditure of such fee to pay the costs of an activity related to underground natural gas storage facility safety for which such fee is imposed is provided in advance in an appropriations Act.]

(d) LIMITATION.—The amount of a fee imposed under subsection (a) shall be sufficient to pay the costs of activities referred to in subsection (c), subject to the limitation that the total amount of fees collected for a fiscal year under subsection (b) may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

§ 60303. Fees for compliance reviews of liquefied natural gas facilities

(a) IMPOSITION OF FEE.—

(1) IN GENERAL.—The Secretary of Transportation (referred to in this section as the “Secretary”) shall impose on a person who files with the Federal Energy Regulatory Commission an application for a liquefied natural gas facility that has design and construction costs totaling not less than \$2,500,000,000 a fee for the necessary expenses of a review, if any, that the Secretary conducts, in connection with that application, to determine compliance with subpart B of part 193 of title 49, Code of Federal Regulations (or successor regulations).

(2) RELATION TO OTHER REVIEW.—The Secretary may not impose fees under paragraph (1) and section 60117(o) or 60301(b) for the same compliance review described in paragraph (1).

(b) MEANS OF COLLECTION.—

(1) IN GENERAL.—The Secretary shall prescribe procedures to collect fees under this section.

(2) USE OF GOVERNMENT ENTITIES.—The Secretary may—

(A) use a department, agency, or instrumentality of the Federal Government or of a State or local government to collect fees under this section; and

(B) reimburse that department, agency, or instrumentality a reasonable amount for the services provided.

(c) ACCOUNT.—There is established an account, to be known as the “Liquefied Natural Gas Siting Account”, in the Pipeline Safety Fund established in the Treasury of the United States under section 60301.

* * * * *

PIPELINE SAFETY IMPROVEMENT ACT OF 2002

[49 U.S.C. 60101 note; Public Law 107–355]

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

(a) * * *

(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 **【2016 through 2019】** *2020 through 2023*.

* * * * *

PIPES ACT OF 2016

[Public Law 114–183; 130 Stat. 515]

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) * * *

(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.】**
- (1) \$24,000,000 for fiscal year 2020.*
- (2) \$25,000,000 for fiscal year 2021.*
- (3) \$26,000,000 for fiscal year 2022.*
- (4) \$27,000,000 for fiscal year 2023.*

* * * * *

