

Karsting, Chad Metzler, Michael Lavender, Aliza Fishbein, Brian Diffell, Zach Kinne, Kristina Weger; as well as Bob Ross and Mary Koskinen, detailees from the Department of Agriculture to the Committee on Appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, on behalf of Senator MURRAY and myself, I ask unanimous consent that the following staff have unlimited floor privileges during the consideration of H.R. 2112: Heideh Shahmoradi, Brooke Stringer, Carl Barrick, Alex Keenan, Meaghan McCarthy, Dabney Hegg, Molly O'Rourke, Terri Curtain, Elizabeth McDonnell, Kenneth Altman, Jessica James Morgan Cashwell, Lorinda Harris, Cyrus Cheslak, and Mark LeDuc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I also ask unanimous consent that Michael Clarke, a detailee from the Department of Transportation to the Committee on Appropriations, be granted unlimited floor privileges during the consideration of H.R. 2112.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PIPELINE TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2011

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 96.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 275) to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

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

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Transportation Safety Improvement Act of 2011".

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

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

- Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Offshore gathering pipelines.
- Sec. 5. Automatic and remote-controlled shut-off valves.

Sec. 6. Excess flow valves.

Sec. 7. Integrity management.

Sec. 8. Public education and awareness.

Sec. 9. Cast iron gas pipelines.

Sec. 10. Leak detection.

Sec. 11. Incident notification.

Sec. 12. Transportation-related onshore facility response plan compliance.

Sec. 13. Pipeline infrastructure data collection.

Sec. 14. International cooperation and consultation.

Sec. 15. Gas and hazardous liquid gathering lines.

Sec. 16. Transportation-related oil flow lines.

Sec. 17. Alaska project coordination.

Sec. 18. Cost recovery for design reviews.

Sec. 19. Special permits.

Sec. 20. Biofuel pipelines.

Sec. 21. Carbon dioxide pipelines.

Sec. 22. Study of the transportation of tar sands crude oil.

Sec. 23. Study of non-petroleum hazardous liquids transported by pipeline.

Sec. 24. Clarifications.

Sec. 25. Additional resources.

Sec. 26. Maintenance of effort.

Sec. 27. Maximum allowable operating pressure.

Sec. 28. Administrative enforcement process.

Sec. 29. Authorization of appropriations.

#### SEC. 2. CIVIL PENALTIES.

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

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

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

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

"(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.—

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

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

"(3) MAJOR CONSEQUENCE VIOLATION DEFINED.—In this subsection, the term 'major consequence violation' means a violation that contributed to an incident resulting in—

"(A) 1 or more deaths;

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

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

(b) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—Section 60118(e) is amended by adding at the end the following: "The Secretary may impose a civil penalty under section 60122 of this title on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter."

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

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

(1) by striking the subsection caption and inserting "(a) REVIEW OF REGULATIONS, ORDERS, AND OTHER FINAL AGENCY ACTIONS.—"; and

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

#### SEC. 3. PIPELINE DAMAGE PREVENTION.

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

"(a) MINIMUM STANDARDS.—

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

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

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

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

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

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

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

(2) by striking "(b)." in paragraph (2) and inserting "(b); and"; and

(3) by adding at the end the following:

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

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

#### SEC. 4. OFFSHORE GATHERING PIPELINES.

Section 60102(k)(1) is amended by striking the last sentence and inserting "Not later than 1 year after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering pipelines and hazardous liquid gathering pipelines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering pipelines. The regulations issued under this paragraph shall not apply to low-stress distribution pipelines."

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

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

"(m) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.—Not later than 2 years after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipelines constructed or entirely replaced after the date on which the Secretary issues a final rule."

#### SEC. 6. EXCESS FLOW VALVES.

Section 60109(e)(3) is amended—

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

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

"(B) DISTRIBUTION BRANCH SERVICES, MULTI-FAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.—Not later than 2 years after the date of enactment of the Pipeline Transportation

Safety Improvement Act of 2011, the Secretary shall prescribe regulations, after notice and an opportunity for hearing, to require the use of excess flow valves, where economically and technically feasible, on new or entirely replaced distribution branch services, multi-family facilities, and small commercial facilities.”.

#### SEC. 7. INTEGRITY MANAGEMENT.

(a) EVALUATION.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall evaluate—

(1) whether integrity management system requirements, or elements thereof, should be expanded beyond high consequence areas (as defined under section 60109(a) of title 49, United States Code);

(2) with respect to gas pipeline facilities, whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements, with an emphasis on class 3 and 4 facilities; and

(3) whether data collected outside high consequence areas as part of gas transmission pipeline integrity management programs should be included as part of the records required to be maintained by operators.

(b) STANDARDS.—Not later than 1 year after completion of the evaluation, the Secretary shall prescribe such regulations, as appropriate, after notice and an opportunity for a hearing.

(c) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a) and may collect such additional data pursuant to regulations promulgated under subsection (b) as may be necessary.

(d) SEISMICITY.—In identifying high consequence areas under section 60109, the Secretary shall consider the seismicity of the area.

#### SEC. 8. PUBLIC EDUCATION AND AWARENESS.

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

##### “§60138. Public education and awareness

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall—

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

“(A) identification of the operator inspected;

“(B) the type of inspection;

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

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

“(2) maintain—

“(A) a status indication of the review and approval of each gas emergency response plan pursuant to section 60102(d)(5) of this title and of each hazardous liquid pipeline operator’s response plan pursuant to part 194 of title 49, Code of Federal Regulations;

“(B) a comprehensive description of the requirements for such plans; and

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

“(i) proprietary information;

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

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

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

“(3) excluding any proprietary or security-sensitive information, as part of the National Pipeline Mapping System maintain a map of all currently designated high consequence areas in

which pipelines are required to meet integrity management safety regulations and update the map annually; and

“(4) maintain a copy or, at a minimum, a detailed summary of any industry-developed or professional organization pipeline safety standards that have been incorporated by reference into regulations, to the extent consistent with fair use.

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

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

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

“60138. Public education and awareness”.

#### SEC. 9. CAST IRON GAS PIPELINES.

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

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

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

(3) the progress that has been made.

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

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

#### SEC. 10. LEAK DETECTION.

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

(b) LEAK DETECTION STANDARDS.—Not later than 1 year after completion of the report, the Secretary shall, as appropriate, based on the study in subsection (a), prescribe regulations, after notice and an opportunity for a hearing, requiring an operator of a hazardous liquid pipeline to use leak detection technologies, particularly in high consequence areas.

#### SEC. 11. INCIDENT NOTIFICATION.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall—

(1) prescribe regulations, after notice and an opportunity for a hearing, that establish time limits for accident and incident telephonic or electronic notification by pipeline operators to State and local government officials and emergency responders when a spill or rupture occurs; and

(2) review procedures for pipeline operators and the National Response Center to provide thorough and coordinated notification to all relevant emergency response officials and revise such procedures as appropriate.

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

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 311(m)(2) of the Federal Water Pollu-

tion Control Act (33 U.S.C. 1321(m)(2)) are each amended by striking “Administrator or” and inserting “Administrator, the Secretary of Transportation, or”.

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

#### SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.

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

(1) by striking “and gathering lines”; and

(2) by adding at the end the following:

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

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

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

#### SEC. 14. INTERNATIONAL COOPERATION AND CONSULTATION.

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

“(o) INTERNATIONAL COOPERATION AND CONSULTATION.—

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

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

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

#### SEC. 15. GAS AND HAZARDOUS LIQUID GATHERING LINES.

Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall complete a review of all exemptions for gas and hazardous liquid gathering lines. Based on this review the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and on Energy and Commerce of the House of Representatives containing the Secretary’s recommendations with respect to the modification or revocation of existing exemptions.

#### SEC. 16. TRANSPORTATION-RELATED OIL FLOW LINES.

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

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

“(1) DATA COLLECTION.—The Secretary may collect geospatial, technical, or other pipeline

data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

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

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

#### SEC. 17. ALASKA PROJECT COORDINATION.

(a) **IN GENERAL.**—Chapter 601, as amended by section 8 of this Act, is further amended by adding at the end the following:

##### “§ 60139. Alaska project coordination

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

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

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

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

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

(b) **CLERICAL AMENDMENT.**—The table of contents for chapter 601, as amended by section 8 of this Act, is further amended by inserting after the item relating to section 60138 the following new item:

“60139. Alaska project coordination”.

#### SEC. 18. COST RECOVERY FOR DESIGN REVIEWS.

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

“(n) **COST RECOVERY FOR DESIGN REVIEWS.**—

“(1) **IN GENERAL.**—

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

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

“(i) has design and construction costs totaling at least \$3,400,000,000; or

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

“(2) **NOTIFICATION.**—For any new pipeline construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials

at least 120 days prior to the commencement of construction.

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

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

#### SEC. 19. SPECIAL PERMITS.

Section 60118(c)(1) is amended to read as follows:

“(1) **ISSUANCE OF WAIVERS.**—

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

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

“(i) the fitness of the applicant to conduct the activity authorized by the waiver in a manner that is consistent with pipeline safety;

“(ii) the applicant’s compliance history;

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

“(iv) any other information or data the Secretary considers relevant to making the determination.

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

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

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

#### SEC. 20. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended—

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

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

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

“(B) non-petroleum fuels, including biofuels that are flammable, toxic, or corrosive or would

be harmful to the environment if released in significant quantities; and”.

#### SEC. 21. CARBON DIOXIDE PIPELINES.

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

“(i) **PIPELINES TRANSPORTING CARBON DIOXIDE.**—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in either a liquid or gaseous state.”

#### SEC. 22. STUDY OF THE TRANSPORTATION OF TAR SANDS CRUDE OIL.

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

#### SEC. 23. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

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

#### SEC. 24. CLARIFICATIONS.

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

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

(c) **ONE-CALL ENFORCEMENT CLARIFICATION.**—Section 60114(f) is amended by adding at the end the following: “This subsection does not apply to proceedings against persons who are pipeline operators.”

#### SEC. 25. ADDITIONAL RESOURCES.

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

(1) 9 employees shall be added in fiscal year 2011;

(2) 10 employees shall be added in fiscal year 2012;

(3) 10 employees shall be added in fiscal year 2013; and

(4) 10 employees shall be added in fiscal year 2014.

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

(1) to conduct data collection, analysis, and reporting;

(2) to develop, implement, and update information technology;

(3) to conduct inspections of pipeline facilities to determine compliance with applicable regulations and standards;

(4) to provide administrative, legal, and other support for pipeline enforcement activities; and

(5) to support the overall pipeline safety mission of the Pipeline and Hazardous Materials Safety Administration, including training of pipeline enforcement personnel.

#### SEC. 26. MAINTENANCE OF EFFORT.

Section 60107(b) is amended to read as follows:

“(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for fiscal years 2004 through 2006, except when the Secretary waives the requirements of this subsection. The Secretary shall grant such a waiver if a State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this subsection due to economic hardship in that State.”

#### SEC. 27. MAXIMUM ALLOWABLE OPERATING PRESSURE.

(a) ESTABLISHMENT OF RECORDS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall require pipeline operators to conduct a verification of records for all interstate and intrastate gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that accurately reflect the pipeline’s physical and operational characteristics and confirm the established maximum allowable operating pressure of those pipelines.

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

(b) REPORTING.—

(1) DOCUMENTATION OF CERTAIN PIPELINES.—Not later than 18 months after the date of enactment of this Act, pipeline operators shall submit to the Secretary documentation of all interstate and intrastate gas transmission pipelines in class 3 and class 4 locations and class 1 and class 2 high consequence areas where the records required under subsection (a) are not sufficient to confirm the established maximum allowable operating pressure of those pipeline segments.

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

(c) DETERMINATION OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—

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

(2) INTERIM ACTIONS.—For cases described in paragraph (1), the Secretary will determine what actions are appropriate for a pipeline operator to take to maintain safety until a maximum allowable operating pressure is confirmed. In determining what actions an operator should take, the Secretary shall take into account con-

sequences to public safety and the environment, impacts on pipeline system reliability and deliverability, and other factors, as appropriate.

#### SEC. 28. ADMINISTRATIVE ENFORCEMENT PROCEEDINGS.

(a) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall prescribe regulations—

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

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

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

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

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

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

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

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

#### SEC. 29. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—

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

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

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

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

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

(2) Section 60125(a)(2) is amended by striking subparagraphs (A) through (D) and inserting the following:

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

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

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

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

(b) EMERGENCY RESPONSE GRANTS.—Section 60125(b)(2) is amended by striking “2007 through 2010” and inserting “2011 through 2014”.

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

(1) by striking “2007 through 2010.” in subsection (a) and inserting “2011 through 2014.”;

(2) by striking “2007 through 2010.” in subsection (b) and inserting “2011 through 2014.”; and

(3) by striking subsection (c).

(d) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134 is amended by adding at the end the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the

Secretary to provide grants under this section \$2,000,000 for each of fiscal years 2011 through 2014. The funds shall remain available until expended.”

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

(1) by striking “\$50,000” in subsection (a)(1) and inserting “\$100,000”; and

(2) by striking “2003 through 2010.” in subsection (d) and inserting “2011 through 2014.”

(f) PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—

(1) by adding at the end of subsection (d) the following:

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

(2) by striking “2003 through 2006.” in subsection (f) and inserting “2011 through 2014.”

Mr. REID. Mr. President, I ask unanimous consent the committee-reported substitute be considered, the Rockefeller and Paul amendments at the desk be agreed to, the substitute amendment be agreed to, and the bill as amended be read a third time and passed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 783) was agreed to, as follows:

(Purpose: To include the statutorily required PAYGO language)

On page 64, after line 18, add the following:

#### SEC. 30. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The amendment (No. 784) was agreed to.

(The text of the amendment is printed in today’s RECORD under “Text of Amendments.”)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 275), as amended, was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) SHORT TITLE.—This Act may be cited as the “Pipeline Transportation Safety Improvement Act of 2011”.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment

or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

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

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

## SEC. 2. CIVIL PENALTIES.

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

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

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

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

“(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.—

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

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

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

“(A) 1 or more deaths;

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

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

(b) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—Section 60118(e) is amended by adding at the end the following: “The Secretary may impose a civil penalty under section 60122 of this title on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.”.

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

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

(1) by striking the subsection caption and inserting “(a) REVIEW OF REGULATIONS, ORDERS, AND OTHER FINAL AGENCY ACTIONS.—”; and

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

## SEC. 3. PIPELINE DAMAGE PREVENTION.

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

“(a) MINIMUM STANDARDS.—

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

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

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

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

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

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

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

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

(3) by adding at the end the following:

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

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

## SEC. 4. OFFSHORE GATHERING PIPELINES.

Section 60102(k)(1) is amended by striking the last sentence and inserting “Not later than 1 year after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering pipelines and hazardous liquid gathering pipelines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering pipelines. The regulations issued under this paragraph shall not apply to low-stress distribution pipelines.”.

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

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

“(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.—Not later than 2 years after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipelines constructed or entirely replaced after the date on which the Secretary issues a final rule.”.

## SEC. 6. EXCESS FLOW VALVES.

Section 60109(e)(3) is amended—

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

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

“(B) DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.—Not later than 2 years after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall prescribe regulations, after notice and an opportunity for hearing, to require the use of excess flow valves, where economically and technically feasible, on new or entirely replaced distribution branch services, multi-family facilities, and small commercial facilities.”.

## SEC. 7. INTEGRITY MANAGEMENT.

(a) EVALUATION.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall evaluate—

(1) whether integrity management system requirements, or elements thereof, should be expanded beyond high consequence areas (as defined under section 60109(a) of title 49, United States Code);

(2) with respect to gas pipeline facilities, whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements, with an emphasis on class 3 and 4 facilities; and

(3) whether data collected outside high consequence areas as part of gas transmission pipeline integrity management programs should be included as part of the records required to be maintained by operators.

(b) STANDARDS.—Not later than 1 year after completion of the evaluation, the Secretary shall prescribe such regulations, as appropriate, after notice and an opportunity for a hearing.

(c) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a) and may collect such additional data pursuant to regulations promulgated under subsection (b) as may be necessary.

(d) SEISMICITY.—In identifying high consequence areas under section 60109, the Secretary shall consider the seismicity of the area.

## SEC. 8. PUBLIC EDUCATION AND AWARENESS.

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

### “§ 60138. Public education and awareness

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Pipeline Transportation Safety Improvement Act of 2011, the Secretary shall—

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

“(A) identification of the operator inspected;

“(B) the type of inspection;

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

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

“(2) maintain—

“(A) a status indication of the review and approval of each gas emergency response plan pursuant to section 60102(d)(5) of this title and of each hazardous liquid pipeline operator’s response plan pursuant to part 194 of title 49, Code of Federal Regulations;

“(B) a comprehensive description of the requirements for such plans; and

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

“(i) proprietary information;

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

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

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

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

“(4) maintain a copy or, at a minimum, a detailed summary of any industry-developed or professional organization pipeline safety standards that have been incorporated by reference into regulations, to the extent consistent with fair use.

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

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

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

“60138. Public education and awareness”.

#### SEC. 9. CAST IRON GAS PIPELINES.

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

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

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

(3) the progress that has been made.

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

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

#### SEC. 10. LEAK DETECTION.

(a) LEAK DETECTION STUDY UPDATE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and on Energy and Commerce of the House of Representatives an updated report on leak detection systems utilized by operators of hazardous liquid pipelines and transportation-related flow lines. The report shall include an analysis of

the technical limitations of current leak detection systems, including the systems’ ability to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies.

(b) LEAK DETECTION STANDARDS.—Not later than 1 year after completion of the report, the Secretary shall, as appropriate, based on the study in subsection (a), prescribe regulations, after notice and an opportunity for a hearing, requiring an operator of a hazardous liquid pipeline to use leak detection technologies, particularly in high consequence areas.

#### SEC. 11. INCIDENT NOTIFICATION.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall—

(1) prescribe regulations, after notice and an opportunity for a hearing, that establish time limits for accident and incident telephonic or electronic notification by pipeline operators to State and local government officials and emergency responders when a spill or rupture occurs; and

(2) review procedures for pipeline operators and the National Response Center to provide thorough and coordinated notification to all relevant emergency response officials and revise such procedures as appropriate.

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

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 311(m)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)(2)) are each amended by striking “Administrator or” and inserting “Administrator, or”.

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

#### SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.

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

(1) by striking “and gathering lines”; and

(2) by adding at the end the following:

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

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

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

#### SEC. 14. INTERNATIONAL COOPERATION AND CONSULTATION.

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

“(o) INTERNATIONAL COOPERATION AND CONSULTATION.—

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

transportation in or affecting interstate or foreign commerce.

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

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

#### SEC. 15. GAS AND HAZARDOUS LIQUID GATHERING LINES.

Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall complete a review of all exemptions for gas and hazardous liquid gathering lines. Based on this review the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and on Energy and Commerce of the House of Representatives containing the Secretary’s recommendations with respect to the modification or revocation of existing flow lines.

#### SEC. 16. TRANSPORTATION-RELATED OIL FLOW LINES.

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

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

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

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

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

#### SEC. 17. ALASKA PROJECT COORDINATION.

(a) IN GENERAL.—Chapter 601, as amended by section 8 of this Act, is further amended by adding at the end the following:

##### “§ 60139. Alaska project coordination

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

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

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

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

“(4) entering into cooperative agreements, grants, or other transactions with the State

of Alaska, the Joint Pipeline Office, other Federal agencies, and other public and private agencies to carry out the objectives of this section.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 601, as amended by section 8 of this Act, is further amended by inserting after the item relating to section 60138 the following new item:

“60139. Alaska project coordination”.

**SEC. 18. COST RECOVERY FOR DESIGN REVIEWS.**

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

“(n) COST RECOVERY FOR DESIGN REVIEWS.—

“(1) IN GENERAL.—

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

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

“(i) has design and construction costs totaling at least \$3,400,000,000; or

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

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

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

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

**SEC. 19. SPECIAL PERMITS.**

Section 60118(c)(1) is amended to read as follows:

“(1) ISSUANCE OF WAIVERS.—

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

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

“(i) the fitness of the applicant to conduct the activity authorized by the waiver in a

manner that is consistent with pipeline safety;

“(ii) the applicant’s compliance history;

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

“(iv) any other information or data the Secretary considers relevant to making the determination.

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

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

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

**SEC. 20. BIOFUEL PIPELINES.**

Section 60101(a)(4) is amended—

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

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

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

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

**SEC. 21. CARBON DIOXIDE PIPELINES.**

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

“(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in either a liquid or gaseous state.”

**SEC. 22. STUDY OF THE TRANSPORTATION OF TAR SANDS CRUDE OIL.**

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

**SEC. 23. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.**

The Secretary of Transportation may conduct an analysis of the transportation of

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

**SEC. 24. CLARIFICATIONS.**

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

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

(c) ONE-CALL ENFORCEMENT CLARIFICATION.—Section 60114(f) is amended by adding at the end the following: “This subsection does not apply to proceedings against persons who are pipeline operators.”

**SEC. 25. ADDITIONAL RESOURCES.**

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

(1) 9 employees shall be added in fiscal year 2012;

(2) 10 employees shall be added in fiscal year 2013;

(3) 10 employees shall be added in fiscal year 2014; and

(4) 10 employees shall be added in fiscal year 2015.

(b) FUNCTIONS.—In increasing the number of employees under subsection (a), the Secretary shall focus on hiring employees—

(1) to conduct data collection, analysis, and reporting;

(2) to develop, implement, and update information technology;

(3) to conduct inspections of pipeline facilities to determine compliance with applicable regulations and standards;

(4) to provide administrative, legal, and other support for pipeline enforcement activities; and

(5) to support the overall pipeline safety mission of the Pipeline and Hazardous Materials Safety Administration, including training of pipeline enforcement personnel.

**SEC. 26. MAINTENANCE OF EFFORT.**

Section 60107(b) is amended to read as follows:

“(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for fiscal years 2004 through 2006, except when the Secretary waives the requirements of this subsection.

The Secretary shall grant such a waiver if a State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this subsection due to economic hardship in that State.”

**SEC. 27. MAXIMUM ALLOWABLE OPERATING PRESSURE.**

(a) ESTABLISHMENT OF RECORDS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall require pipeline operators to conduct a verification of records for all interstate and intrastate gas transmission lines in class 3 and class 4 locations and class 1 and class 2 high consequence areas that accurately reflect the pipeline’s physical and operational characteristics and confirm the established maximum allowable operating pressure of those pipelines.

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

(b) REPORTING.—

(1) DOCUMENTATION OF CERTAIN PIPELINES.—Not later than 18 months after the date of enactment of this Act, pipeline operators shall submit to the Secretary documentation of all interstate and intrastate gas transmission pipelines in class 3 and class 4 locations and class 1 and class 2 high consequence areas where the records required under subsection (a) are not sufficient to confirm the established maximum allowable operating pressure of those pipeline segments.

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

(c) DETERMINATION OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—

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

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

(d) TESTING REGULATIONS.—The Secretary shall, not later than 18 months after the date of the enactment of this Act, prescribe regulations for conducting tests to confirm the material strength of previously untested natural gas transmission pipelines located in areas identified pursuant to section 60109(a) of title 49, United States Code, and operating at a pressure greater than 30 percent of specified minimum yield strength. The Secretary shall consider safety testing methodologies including, at a minimum, pressure testing or other alternative methods, including in-line inspections, determined by the Secretary to be of equal or greater effectiveness. The Secretary, in consultation with the Chairman of the Federal Energy Regulatory Commission and State regulators, as appropriate, shall establish timeframes for the completion of such testing that take into account con-

sequences to public safety and the environment and that minimize costs and service disruptions.

**SEC. 28. ADMINISTRATIVE ENFORCEMENT PROCEEDINGS.**

(a) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall prescribe regulations—

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

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

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

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

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

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

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

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

**SEC. 29. AUTHORIZATION OF APPROPRIATIONS.**

(a) GAS AND HAZARDOUS LIQUID.—

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

“(A) for fiscal year 2012, \$92,206,000, of which \$9,200,000 is for carrying out such section 12 and \$36,958,000 is for making grants;

“(B) for fiscal year 2013, \$96,144,000, of which \$9,600,000 is for carrying out such section 12 and \$39,611,000 is for making grants;

“(C) for fiscal year 2014, \$99,876,000, of which \$9,900,000 is for carrying out such section 12 and \$41,148,000 is for making grants; and

“(D) for fiscal year 2015, \$102,807,000, of which \$10,200,000 is for carrying out such section 12 and \$42,356,000 is for making grants.”

(2) Section 60125(a)(2) is amended by striking subparagraphs (A) through (D) and inserting the following:

“(A) for fiscal year 2012, \$18,905,000, of which \$7,562,000 is for carrying out such section 12 and \$7,864,000 is for making grants;

“(B) for fiscal year 2013, \$19,661,000, of which \$7,864,000 is for carrying out such section 12 and \$7,864,000 is for making grants;

“(C) for fiscal year 2014, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants; and

“(D) for fiscal year 2015, \$20,000,000, of which \$8,000,000 is for carrying out such section 12 and \$8,000,000 is for making grants.”

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

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

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

(2) by striking “2007 through 2010.” in subsection (b) and inserting “2012 through 2015.”; and

(3) by striking subsection (c).

(d) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134 is amended by adding at the end the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this section \$2,000,000 for each of fiscal years 2012 through 2015. The funds shall remain available until expended.”

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

(1) by striking “\$50,000” in subsection (a)(1) and inserting “\$100,000”; and

(2) by striking “2003 through 2010.” in subsection (d) and inserting “2012 through 2015.”.

(f) PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—

(1) by adding at the end of subsection (d) the following:

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

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

**SEC. 30. PAYGO COMPLIANCE.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**COMMEMORATING THE OPENING OF THE CHESAPEAKE AND DELAWARE CANAL**

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 294, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 294) commemorating the 182nd anniversary of the opening of the Chesapeake and Delaware Canal.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 294) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 294

Whereas on October 17, 1829, the Chesapeake and Delaware Canal became operational with the joint support of the Federal