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PIPELINE SAFETY ACT OF 1995

MAY 1, 1995.—Ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1323]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1323) to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pipeline Safety Act of 1995".

SEC. 2. REFERENCES.

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

(b) REFERENCES TO THE SECRETARY OF TRANSPORTATION.—Except as otherwise expressly provided, any reference in this Act to the "Secretary" is a reference to the Secretary of Transportation.

SEC. 3. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

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

"§ 60126. Analysis of risk reduction benefits and costs

"(a) REQUIREMENT.—No final significant standard or regulatory requirement issued under section 60101(b), 60102, 60103, 60108, 60109, 60110, or 60113 shall be promulgated unless the Secretary of Transportation—

"(1) certifies that the Secretary has conducted an analysis of risk reduction benefits and costs that is based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the Department of Transportation by interested parties or generated by the Department itself relating to the costs, risks, and risk reduction and other benefits addressed by the standard or requirement;

"(2) certifies that the incremental risk reduction or other benefits of any option chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments and the Federal Government and other public and private citizens; and

"(3) explains why any other options identified or considered by the Secretary were found either—

"(A) to be less cost-effective at achieving a substantially equivalent reduction in risk; or

"(B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the standard or requirement, along with a brief explanation of why other options that were identified or considered by the Secretary were found to be less cost-effective or less flexible.

"(b) ELEMENTS OF ANALYSIS.—An analysis of risk reduction benefits or costs prepared by the Secretary for a significant standard or regulatory requirement, at a minimum, shall—

"(1) identify the various regulatory and nonregulatory options that were considered;

"(2) analyze the incremental costs and incremental risk reduction or other benefits associated with each option identified or considered by the Secretary;

"(3) provide any technical data or other information, including the underlying assumptions, upon which the standard or requirement is based; and

"(4) include a statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each option identified or considered.

Costs and benefits shall be quantified to the extent feasible and appropriate and may otherwise be qualitatively described.

"(c) RISK ASSESSMENT DOCUMENTS.—A risk assessment document prepared by the Secretary for a significant standard or regulatory requirement shall, at a minimum and to the extent feasible—

"(1) provide the best estimate for the impacts addressed and a statement of the reasonable range of scientific uncertainties;

"(2) include a statement of any significant substitution risks to public safety or the environment; and

"(3) contain a statement that places in context the nature and magnitude of risks to public safety or the environment.

"(d) STATEMENTS.—The statements referred to in subsections (b)(4) and (c)(3) of this section shall each provide, to the extent feasible, comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public, as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Department resulting from comparable activities. In making such comparisons, the Secretary should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, and the preventability or nonpreventability of risks.

"(e) REVIEW BY STANDARDS COMMITTEE.—

"(1) PEER REVIEW.—For any significant standard or regulatory requirement, the Secretary shall submit any risk assessment documents and cost-benefit analyses (prepared or received by the Secretary) for review by the Technical Pipeline Safety Standards Committee, the Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate, and make them available to the public. The Technical Pipeline Safety Standards Committee and the Hazardous Liquid Pipeline Safety Standards Committee shall function as peer review panels and shall prepare reports, including any recommended options for any significant standard or regulatory requirement and an evaluation of the technical scientific merit of the data and scientific method used for a risk assessment document or cost-benefit analysis. The Committee or Committees shall submit such

reports to the Secretary within 90 days after the date of receipt of the documents and analyses from the Secretary.

"(2) RESPONSE OF SECRETARY.—The Secretary shall review the report and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquids Pipeline Safety Standards Committee, or both, as the case may be. Within 90 days after receipt of such report, the Secretary—

"(A) shall submit to the Committee or Committees a written response to all peer review comments and recommended options; and

"(B) may revise the risk assessment document or cost-benefit analysis prior to determining whether the proposed significant standard or regulatory requirement should be promulgated.

"(f) EMERGENCIES.—In the case of an emergency, the Secretary may suspend the application of this section for the duration of the emergency.

"(g) REPORT.—Not later than March 31, 1999, the Secretary shall transmit to Congress a report on the application of the principles of the analyses of risk reduction benefits and costs and risk assessment to this chapter and their effect on pipeline safety.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60126. Analysis of risk reduction benefits and costs.
"60127. Risk management.".

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) by striking subparagraph (B) of paragraph (21) and inserting the following:

"(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (such as a subdivision, business, shopping center, or community development) or any similar populated area which the Secretary of Transportation may define as a nonrural area; but

"(C) includes the movement of gas through regulated gathering lines."; and

(2) by adding at the end the following:

"(23) 'best estimate' means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

"(A) Central estimates of risk using the most plausible assumptions.

"(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

"(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Secretary.

"(24) 'benefits' means the reasonably identifiable significant health, safety, environmental, social, and economic benefits that are expected to result directly or indirectly from implementation of a standard, regulatory requirement, or option.

"(25) 'costs' means the direct and indirect costs to the United States Government, to State, local, and tribal governments, and to the private sector, wage earners, consumers, and the economy of implementing and complying with a standard, regulatory requirement, or option.

"(26) 'risk assessment document' means a document containing—

"(A) an explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed; and

"(B) a statement by the preparer of the document accepting the findings of the document.

"(27) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of analyzing, assessing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities.

"(28) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management.

"(29) 'significant standard or regulatory requirement' means any safety or environmental standard or regulatory requirement, or closely related group of safety or environmental standards or regulatory requirements, that is likely to result in annualized compliance costs in excess of $25,000,000.

"(30) 'substitution risk' means a potential risk to public safety or the environment from a significant standard, regulatory requirement, or option designed to decrease other risks.".

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting ", if appropriate," after "Secretary" the first place it appears.

SEC. 5. GENERAL AUTHORITY.

(a) MINIMUM SAFETY STANDARDS.—Section 60102(a) is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by striking paragraph (2);

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(4) in paragraph (1), as redesignated by paragraph (3) of this subsection, by striking "transporters of gas and hazardous liquid and to"; and

(5) by striking paragraph (3), as redesignated by paragraph (3) of this subsection, and inserting the following:

"(3) shall include a requirement that all individuals who operate and maintain pipeline facilities must be qualified.

Such qualifications shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of the pipeline facility shall ensure that employees who operate and maintain the facility are qualified.".

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—Section 60102(b) is amended—

(1) by striking "section 60103" and inserting "sections 60103 and 60112";

(2) in paragraph (1)(B) by inserting "safety" after "pipeline";

(3) by striking "and" at the end of paragraph (3);

(4) in paragraph (4) by striking "contribute to" and inserting "benefit";

(5) by striking the period at the end of paragraph (4) and inserting "; and"; and

(6) by adding at the end the following new paragraph:

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

(c) FACILITY OPERATION INFORMATION STANDARDS.—Section 60102(d) is amended in the first sentence—

(1) by inserting after "operating the facility" the following: "as required by the standards prescribed under this chapter";

(2) by striking "to provide the information" and inserting "to make the information available"; and

(3) by inserting after "to the Secretary and an appropriate State official" the following: "as determined by the Secretary".

(d) PIPE INVENTORY STANDARDS.—Section 60102(e) is amended in the first sentence—

(1) by striking "and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gathering line (as defined under section 60101(b)(2) of this title),"; and

(2) by striking "transmission" and inserting "transportation".

(e) SMART PIGS.—

(1) MINIMUM SAFETY STANDARDS.—Section 60102(f) is amended by striking "(1)" and all that follows through "device." and inserting the following:

"(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline facility or hazardous liquid pipeline facility be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a 'smart pig'). The Secretary shall also prescribe minimum safety standards requiring replacement of an existing gas pipeline facility, hazardous liquid pipeline facility, or equipment, to be carried out, to the extent practicable, in a way that replacement of the existing gas pipeline facility, hazardous liquid pipeline facility, or equipment being replaced accommodates the passage through the facility of an instrumented internal inspection device. The Secretary may apply the standard to an existing gas or hazardous liquid facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.".

(2) PERIODIC INSPECTIONS.—Section 60102(f) is further amended—

(A) in paragraph (2) by inserting "PERIODIC INSPECTIONS.—" after "(2)";

(B) in paragraph (2) by inserting after "the Secretary shall prescribe" the following: ", if necessary, additional"; and

(C) by moving paragraph (2) 2 ems to the right.

(f) UPDATING STANDARDS.—Section 60102 is amended by adding at the end the following:

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

SEC. 6. RISK MANAGEMENT.

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

"§ 60127. Risk management

"(a) RISK MANAGEMENT DEMONSTRATION PROJECT.—The Secretary of Transportation shall carry out a project with voluntary participation by owners and operators of pipeline facilities to demonstrate applications of risk management. The purpose of the project shall be to evaluate the safety and cost effectiveness of such applications.

"(b) EXEMPTION.—During the period of the demonstration project carried out under this section, the Secretary may exempt owners and operators participating in the project from compliance with some or all of the standards and regulatory requirements that would otherwise apply to such owners and operators under this chapter. In addition, the Secretary shall exempt such owners and operators from complying with standards and regulatory requirements promulgated under this chapter during the period of such participation with respect to facilities included in the project.

"(c) REQUIREMENTS.—In carrying out the demonstration project under this section, the Secretary shall—

"(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

"(2) ensure that owners and operators implementing approved risk management plans under the project will achieve an equivalent or greater overall level of safety than such owners and operators would otherwise achieve by complying with the standards and regulatory requirements of this chapter; and

"(3) ensure that the project incorporates the following elements:

"(A) collaborative training;

"(B) methods to measure the performance of risk management plans;

"(C) development and application of new technologies;

"(D) promotion of community awareness;

"(E) development of a model to categorize the risks inherent to a selected pipeline facility, considering the location, volume, pressure, and material transported or stored by the facility;

"(F) application of risk assessment and risk management methodologies suitable to the inherent risks determined to exist by the model developed under subparagraph (E);

"(G) development of project elements needed to ensure that owners and operators participating in the project demonstrate that risks are being effectively managed and that risk management plans carried out under the project can be audited;

"(H) a process for making amendments, modifications, and adjustments to approved risk management plans under the project as agreed to by owners and operators carrying out such plans and the Secretary; and

"(I) such other elements as the Secretary and owners and operators participating in the project may agree would further the purposes of this section.

"(d) EMERGENCIES.—In the case of an emergency, the Secretary may suspend or revoke the participation of an owner or operator in the demonstration project carried out under this section.

"(e) REPORT.—Not later than March 31, 1999, the Secretary shall transmit to Congress a report on the results of the demonstration project carried out under this section together with an evaluation of the project and recommendations on whether or not the applications demonstrated under the project should be made a permanent part of the Federal pipeline safety program.".

SEC. 7. INSPECTION AND MAINTENANCE.

Section 60108 is amended—

(1) in subsection (a)(1) by striking "transporting gas or hazardous liquid or" each place it appears;

(2) in subsection (b)(2) by striking the second sentence;

(3) in the heading to subsection (c) by striking "NAVIGABLE WATERS" and inserting "OTHER WATERS"; and

(4) by striking clause (ii) of subsection (c)(2)(A) and inserting the following:

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

SEC. 8. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS.

(a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is amended by striking "a navigable waterway (as the Secretary defines by regulation)" and inserting "waters where a substantial likelihood of commercial navigation exists".

(b) UNUSUALLY SENSITIVE AREAS.—Section 60109(b) is amended by striking paragraph (1) and inserting the following:

"(1) intake locations for community water systems;".

SEC. 9. EXCESS FLOW VALUES.

Section 60110 is amended—

(1) in subsection (b) by inserting ", if any," after "circumstances";

(2) in subsection (b)(4) by inserting ", operating, and maintaining" after "cost of installing";

(3) in subsection (c)(1)(C) by inserting ", maintenance, and replacement" after "installation"; and

(4) in subsection (e) by inserting after the first sentence the following: "The Secretary may adopt industry accepted performance standards in order to comply with this requirement.".

SEC. 10. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.

Section 60113 is amended—

(1) by striking "(a) MAINTENANCE INFORMATION.—"; and

(2) by striking subsection (b).

SEC. 11. ONE-CALL NOTIFICATION SYSTEMS.

(a) APPLICATION.—Section 60114(a) is amended—

(1) in paragraph (1) by striking "the system apply to";

(2) in paragraph (1) by inserting before the period "be covered by a system";

(3) in each of paragraphs (1), (2), (3), (6), (7), (8), and (9) by striking "a" the first place it appears and inserting "A";

(4) in paragraph (4) by striking "qualifications" and inserting "Qualifications"; and

(5) in paragraph (5) by striking "procedures" and inserting "Procedures".

(b) SANCTIONS.—Section 60114(a)(9) is further amended by striking "60120, 60122, and 60123" and inserting "60120 and 60122".

SEC. 12. TECHNICAL SAFETY STANDARDS COMMITTEES.

(a) PEER REVIEW.—Section 60115(a) is amended by adding at the end the following: "The Committees shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the Committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws approved after the date of the enactment of the Pipeline Safety Act of 1995) as meeting any peer review requirements of such laws.".

(b) COMPOSITION AND APPOINTMENT.—Section 60115(b) is amended—

(1) in paragraph (1) by inserting "or risk management" before the period at the end of the last sentence;

(2) in paragraph (2) by inserting "or risk management" before the period at the end of the last sentence;

(3) in paragraph (3)(B) by striking "4" and inserting "5";

(4) in paragraph (3)(C) by striking "6" and inserting "5";

(5) in paragraph (4)(B) by adding at the end the following: "At least 1 of the individuals selected for each committee under paragraph (3)(B) must have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B)."; and

(6) in paragraph (4)(C) by inserting after the first sentence the following: "At least 1 of the individuals selected for each committee under paragraph (3)(C) must have education, background, or experience in risk assessment and cost-benefit analysis.".

(c) COMMITTEE REPORTS.—Section 60115(c) is amended—

(1) by inserting "or regulatory requirement" after "standard" each place it appears in paragraphs (1), (2), and (3);

(2) in paragraph (1)(A) by inserting after "gas pipeline facilities" the following: ", including the risk assessment document, cost-benefit, and other analyses supporting each proposed standard or regulatory requirement";

(3) in paragraph (1)(B) by inserting after "hazardous liquid pipeline facilities" the following: ", including the risk assessment document, cost-benefit, and other analyses supporting each proposed standard or regulatory requirement"; and

(4) in paragraph (2)—

(A) by inserting "and supporting analyses" before the first comma in the first sentence;

(B) by inserting "and submit to the Secretary" after "prepare" in the first sentence;

(C) by inserting "cost effectiveness," after "reasonableness," in the first sentence;

(D) by inserting "together with recommended actions" before the period at the end of the first sentence; and

(E) by inserting "any recommended actions and" after "including" in the second sentence.

(d) PROPOSED COMMITTEE STANDARDS AND REGULATORY REQUIREMENTS.—Section 60115(d)(1) is amended by inserting "or regulatory requirement" after "standard" each place it appears;

(e) MEETINGS.—Section 60115(e) is amended by striking "twice" and inserting "4 times".

(f) EXPENSES.—Section 60115(f) is amended—

(1) in the subsection heading by striking "PAY AND";

(2) by striking the first two sentences; and

(3) by inserting "of a committee under this section" after "A member".

SEC. 13. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended—

(1) by striking "person transporting gas" and inserting "owner or operator of a gas pipeline facility";

(2) by inserting "the use of damage prevention ('one-call') systems prior to excavation," after "educate the public on"; and

(3) by inserting a comma after "gas leaks".

SEC. 14. ADMINISTRATIVE.

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

"(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity to further the objectives of this chapter. Such objectives include, but are not limited to, the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.".

SEC. 15. COMPLIANCE AND WAIVERS.

Section 60118 is amended by adding at the end the following:

"(e) COMPLIANCE WITH RISK MANAGEMENT PLANS.—Owners and operators that are participating in the demonstration project under section 60127 shall be considered to be in compliance with any prescribed safety standard or regulatory requirement that is covered by an approved plan under section 60127.".

SEC. 16. DAMAGE REPORTING.

Section 60123(d)(2) is amended—

(1) by striking "or" at the end of subparagraph (A);

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

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

"(B) a pipeline facility and does not report the damage promptly to the operator of the pipeline facility and other appropriate authorities; or".

SEC. 17. ANNUAL REPORTS.

Section 60124 and the item relating to such section in the analysis for chapter 601 are repealed.

SEC. 18. POPULATION ENCROACHMENT.

(a) IN GENERAL.—Chapter 601 is amended by inserting after section 60123 the following new section:

"§ 60124. Population encroachment

"(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the Transportation Research Board's Special Report 219, entitled 'Pipelines and Public Safety'.

"(b) EVALUATION.—The Secretary shall evaluate the recommendations in the report referred to in subsection (a), determine to what extent the recommendations are being implemented, consider ways to improve implementation of the recommendations, and consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-ways of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60123 the following:

"60124. Population encroachment.".

SEC. 19. TECHNICAL CORRECTIONS.

(a) SECTION 60105.—The heading to section 60105 is amended by inserting "**pipeline safety program**" after "**State**".

(b) SECTION 60106.—The heading to section 60106 is amended by inserting "**pipeline safety**" after "**State**".

(c) SECTION 60107.—The heading to section 60107 is amended by inserting "**pipeline safety**" after "**State**".

(d) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended—

(1) in the item relating to section 60105 by inserting "pipeline safety program" after "State";

(2) in the item relating to section 60106 by inserting "pipeline safety" after "State"; and

(3) in the item relating to section 60107 by inserting "pipeline safety" after "State".

SEC. 20. AUTHORIZATIONS OF APPROPRIATION.

(a) GAS.—Section 60125(a) is amended by adding at the end the following:

"(4) $7,866,000 for fiscal year 1996.
"(5) $8,322,000 for fiscal year 1997.
"(6) $8,778,000 for fiscal year 1998.
"(7) $9,234,000 for fiscal year 1999.".

(b) HAZARDOUS LIQUID.—Section 60125(b) is amended by adding at the end the following:

"(4) $2,070,000 for fiscal year 1996.
"(5) $2,190,000 for fiscal year 1997.
"(6) $2,310,000 for fiscal year 1998.
"(7) $2,430,000 for fiscal year 1999.".

(c) STATE GRANTS.—Section 60125(c)(1) by adding at the end the following:

"(D) $10,764,000 for fiscal year 1996.
"(E) $11,388,000 for fiscal year 1997.
"(F) $12,012,000 for fiscal year 1998.
"(G) $12,636,000 for fiscal year 1999.".

PURPOSE

The purpose of this legislation is to reauthorize the Natural Gas and Hazardous Liquid Pipeline Safety programs and to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids.

BACKGROUND AND NEED

Pipeline safety was formerly governed by the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979. These two acts were combined into Chapter 601 of Title 49 during recodification of laws in 1994. The law is administered by the Department of Transportation, under delegation by the Secretary to the Research and Special Programs Administration through the Office of Pipeline Safety (OPS).

The Department of Transportation has regulatory authority over approximately 1.6 million miles of natural gas pipelines managed by 500 gathering operators, 1065 transmission and gathering operators, 1389 distribution operators, 52,000 master meter operators, 106 liquefied natural gas (LNG) operators and over approximately 155,000 miles of hazardous liquid pipelines (mainly gasoline and fuel oil) managed by 190 hazardous liquid operators.

The law provides for Federal safety regulation of facilities used in the transportation of natural and other gases by pipeline and authorizes the Department to regulate hazardous liquid pipelines for safety purposes and environmental protection. Pipeline safety provisions provide a regulatory framework for promoting pipeline safety through exclusive Federal authority for regulation of interstate pipelines and facilities. States may impose additional standards for intrastate pipelines and facilities as long as such standards are compatible with the minimum Federal standards.

Pipeline safety functions include developing, issuing, and enforcing regulations for the safe transportation of natural gas (including associated LNG facilities) and hazardous liquids by pipeline. Regulatory programs are fashioned to ensure safety in the design, construction, testing, operation and maintenance of pipeline facilities, and in the siting, construction, operation and maintenance of LNG facilities.

In support of those regulatory responsibilities, OPS manages grants to aid States in conducting intrastate gas and hazardous liquid pipeline safety programs; monitors performance of those State agencies participating in the programs; collects, compiles and analyzes pipeline safety and operating data; and conducts training programs through the Transportation Safety Institute for government and industry personnel in the application of the pipeline safety regulations. OPS also conducts a pipeline safety technology program with an emphasis on applied research.

The cornerstone of the Federal pipeline safety program is the partnership established with the States. States may be reimbursed for up to 50% of reasonable expense incurred in carrying out their pipeline safety programs. State adoption and enforcement of Federal pipeline safety regulations, influenced by financial incentives provided by the grant program, results in a uniform, effective nationwide pipeline safety program. This approach also results in a very cost-beneficial maximization of total resources dedicated to pipeline safety.

Pipelines remain one of the safest modes of transportation in the United States. Among all modes (highway, rail, aviation, marine and pipeline), fatalities from pipeline accidents represent less than .0003% of the total number of fatalities on an annual basis. From 1984 to present, 250 fatalities have resulted from pipeline accidents. Over 62% of incidents and accidents result from third-party excavation damage, a situation over which the pipeline operator has little control. Other incidents and accidents result from internal or external corrosion, construction or material defects, equipment malfunction or incorrect operation.

Risk assessment

In the past decade, Congress has directed the Secretary to issue certain regulations on a variety of safety measures and prescribed the contents and coverage of certain regulatory actions in detail. Legislation was largely driven by successive reactions to particular accidents, whereby Congress would impose additional prescriptions on the industry to remedy the perceived safety problems. In this time period however, these regulatory actions have had varying impacts on overall pipeline safety; the industry's record remained consistently excellent.

OPS and the pipeline industry have both proposed to move the program away from the prescriptive model towards a risk-based approach. The Committee agrees, and has therefore taken the program towards a risk-based approach featuring risk assessment, risk management and industry-agency partnership in this bill.

OPS has been doing preliminary work over the last several years to incorporate risk assessment techniques and risk management concepts into the program. They have created a risk assessment prioritization model, a program by which OPS will prioritize its activities based on the potential of each activity to reduce the risks of pipelines to public safety and the environment. In addition, OPS has created joint government/industry/public quality action teams. These teams have worked to create proposals for concepts by which OPS can incorporate into pipeline safety regulations the industry standard for risk management. The eventual goal would be to permit operators the option of applying an effective risk management program in lieu of conforming with certain regulations. The Committee commends OPS for the work they have already done in the risk area and believes the bill is consistent with this work.

The Committee notes that the House of Representatives has spoken in favor of a risk assessment approach to Federal agency-wide rulemaking in H.R. 1022, the Risk Assessment and Cost Benefit Act of 1995, which passed the House February 28, 1995 by a vote of 286–141. H.R. 1022 mandated that Federal agencies conduct unbiased analyses of the costs and benefits of major rules and set forth the method and analyses that Federal agencies must use when preparing risk assessment documents.

As stated in the House Report on H.R. 1022 (H. Rept. 104–33, part (1), the impetus for the Risk Assessment and Cost Benefit Act of 1995 is as follows:

> The general problem as perceived by many in State and local government and in the business community is that Federal regulatory costs are too often out of proportion to the problems that the regulations are designed to address. The concern in the area of health, safety and environmental regulations is that the Federal programs require expenditures of substantial economic resources on reductions in risk which are either too hypothetical, exaggerated or small. The overall perception from many quarters is that a significant portion of Federal health, safety or environmental regulatory costs reflect unwise priorities for national economic resources.

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> As part of the general problem, there is particular concern over the Federal practice of risk assessment, characterization and communication. There is also concern that Federal agencies do not consider the incremental costs and benefits or regulatory alternatives that are, in some instances, not even measured and, in other instances, not sufficiently considered.
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> The concern with Federal risk assessment practices is the perception among many that Federal risk assessment, characterization and communication is biased and based on a series of hypothetical assumptions which are designed to overstate the risks. Others argue that Federal risk assessments fail to consider important factors, and thus, understate risks in critical ways. Many of both sides argue that the Federal practice of risk assessment, characterization, and communication is not sufficiently transparent or informative.
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> In many contexts, Federal agencies explicitly state that their risk assessment process is designed to produce estimates that "err on the side of safety" because of scientific uncertainties and to ensure that the broadest range of the public is protected, consistent with Federal statutory intent. It is generally believed that these "upper bound estimates" are highly improbable and differ from the most plausible level of risk by many orders of magnitude. Moreover, the practice of only calculating upper bound or worst case estimates of risk is criticized as inappropriately collapsing scientific findings with a preconceived policy judgment or bias. The perceived overstatement of risk is a serious concern among the regulated community. Many argue there should also be "best estimates" or estimates of expected value in addition to upper-bound estimates to provide a more realistic benchmark.
>
> Many advocate giving more prominence to the consideration of the relationship between costs and benefits and setting regulatory priorities.

H.R. 1323 embraces the core concepts of H.R. 1022 in tailoring this approach directly to the pipeline safety program. The Committee believes the pipeline safety program is ideally suited to a risk assessment approach, particularly because cost and benefits related to it are generally readily identifiable and quantifiable.

Under H.R. 1323, no significant standard or regulatory requirement (likely to result in annualized compliance costs exceeding $25 million) may be promulgated unless the Secretary makes three certifications: (1) that the analysis of risk reduction benefits and costs is based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the Department by interested parties or generated by the Department; (2) that the incremental risk reduction or other benefits of any option chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State,

local, and tribal governments and the Federal Government and other public and private citizens; and (3) an explanation why any other options identified or considered by the Secretary were found either to be less cost-effective at achieving a substantially equivalent reduction in risk or to provide less flexibility to State, local, or tribal governments or regulated entities.

The bill prescribes the elements that the analysis of risk reduction benefits and costs must contain, including the options that were considered, incremental costs and risk reduction or other benefits associated with each option, technical data or other information on which the standard or regulatory requirement is based and a statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each option identified or considered. Costs and benefits are to be quantified to the extent feasible and appropriate and may otherwise be qualitatively described.

The bill also sets forth the minimum requirements that must be included in a risk assessment document including, the best estimate for impacts addressed and a statement of the reasonable range of scientific uncertainties, a statement of any significant substitution risks to public safety or the environment and a statement that places in context the nature and magnitude of risks to public safety or the environment.

The concept of peer review in H.R. 1022 is easily applied to the pipeline safety program because of the existence of two active advisory committees which perform a peer review function currently. These committees, the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee, operate under section 60115 of Title 49. H.R. 1323 incorporates these committees to perform the peer review for risk assessment documents and cost/benefit analyses. In addition, the bill makes several changes to composition of the Committees, number of meetings and pay for service. The Secretary is required to give proposed standards to the Technical Committees for review. Such review should include proposed rules as well as any significant changes to such proposals prior to issuance of final rules.

Risk management

The other major new element of this risk approach is the creation of a Risk Management Project to demonstrate the safety and cost-effectiveness of risk management applications. This project establishes a voluntary program within OPS whereby a participant may submit a risk management plan for all of its systems, or segments of its system, for approval by the Secretary that would achieve an equivalent or greater level of safety than that which would be achieved by complying with specific regulations. When participating in the demonstration project, participants would not be subject to pertinent existing standards or regulatory requirements. In addition, if new standards or regulatory requirements are promulgated during its participation, an owner or operator would not be subject to those requirements.

The project would incorporate elements such as collaborative training, testing, new technologies, community awareness, development of a risk model and applications or risk assessment and risk

management methodologies to it, and effective management of risk and auditing capability. In the event of an emergency, participation in the project may be suspended or revoked. The Secretary will submit a report to Congress prior to the next reauthorization evaluating the project and whether or not it should be made a permanent part of the Federal pipeline safety program.

The Committee intends for the project to run through the entire authorization period. Participation in the risk management demonstration project is expected to grow during the life of the authorization. As both companies and OPS become more comfortable with the project, the Committee expects more companies to volunteer to participate and OPS to accommodate more participants, as resources allow. Once a risk management plan is approved and unless the emergency authority is invoked, the participant may operate under the approved plan for the duration of the authorization period in the bill. The bill permits modification of the plan during the course of participation by agreement of all parties.

The risk management project will enable pipeline operators to focus finite resources on the greatest potential risks within their own covered operations. The operator, by integrating corporate knowledge and all its activities, will formulate a risk management plan utilizing alternative technologies or techniques than those contemplated in the current regulations. The project will enable companies to apply risk assessment and management methods suitable to the risks at a particular site and develop programs to ensure that the risks are being properly managed. The Committee stresses that prior to approving a plan, the Secretary must ensure that participants will achieve an equivalent or greater overall level of safety than they would by otherwise complying with the existing regulatory requirements.

The Committee intends to monitor the risk management demonstration project closely during the authorization period. The Committee expects the Secretary to conduct a thorough assessment of the results of the project so that the Congress can make a decision on whether risk management should be made a permanent part of the pipeline safety program prior to the next reauthorization.

Authorization levels

H.R. 1323 authorizes the pipeline safety program for fiscal years 1996 through 1999. The authorizations represent an increase of 6% per year from the fiscal year 1995 authorized level. The Committee arrived at these levels by factoring an average inflation factor plus a modest increase for each year. Given the requirement in this bill that the Office of Pipeline Safety implement a new risk assessment scheme and manage a risk management demonstration project, the Committee believes some additional expertise and resources will be necessary for OPS to acquire to comply with the law.

The Committee notes that these authorization levels represent a significant decrease from OPS's actual fiscal year 1995 funding level of $37.4 million enacted by the 1995 Department of Transportation Appropriations Act (P.L. 103–331). This level nearly doubled the OPS appropriation from the previous fiscal year ($19.3 million) and from the authorized level ($19.5 million). The Committee has

concerns about such a significant increase in an agency's budget in only one year and believes the agency's current funding level is not justified. In addition, because the pipeline safety program is funded entirely from industry user fees, the fiscal year 1995 appropriation meant the industry had to nearly double its per mile fee to the Department of Transportation.

The Committee believes the authorized increase in agency resources should be focused primarily on conducting adequate risk assessment and managing the risk management project. The Committee notes that the reduction in funding authorizations affects levels for the state grant program the least, representing a slight decrease from the fiscal year 1995 amounts actually appropriated for state grants. The Committee believes the reduction in funding will not significantly impact state pipeline safety programs.

Excess flow valves

Section 9 of H.R. 1323 makes a number of amendments to Section 60110 of Title 49 U.S.C. relating to excess flow valves. The Committee notes that the first amendment to this section merely reinserts the words "if any" into the statute after the word "circumstances" in subsection (b). The words "if any" were enacted into law in Section 104 of the Pipeline Safety Act of 1992 (P.L. 102–508). These words made it clear that the Secretary had discretion within the rulemaking to mandate excess flow valves in certain circumstances or to conclude that there were no circumstances under which excess flow valves would be mandated. In the recodification of Title 49 in 1994, these two words were inadvertently omitted. Section 9 of the bill restores these two important words to the statute as it existed prior to recodification.

The Committee notes that the Administrator of the Research and Special Programs Administration testified at the Surface Transportation Subcommittee hearing on March 28, 1995 of RSPA's intention not to pursue a mandate on excess flow valves. An April 4, 1995 letter to the Committee serves as official notification to the Congress of this decision, as required by 49 U.S.C. 60110(d). The letter appears as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION,
Washington, DC, April 4, 1995.

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

DEAR CHAIRMAN SHUSTER: I am writing to inform the Committee of the Research and Special Programs Administration's (RSPA) decision concerning the pending requirement in 49 U.S.C. § 60110 regarding the installation of excess flow valves (EFVs) in natural gas distribution systems.

After reviewing technical information, the advice of state safety representatives, and available operational data, I have determined that there are currently no circumstances under which PSPA should issue a federal rule requiring the universal installation of EFVs. A report of the reasons for this decision is enclosed. As required by 49 U.S.C. § 60110, RSPA is planning to issue perform-

ance standards and customer notification requirements for EFVs. Each action is designed to encourage the increased use of EFVs where appropriate, based on local conditions. Because there are no industry standards, performance standards will ensure that EFVs operate safely and reliably. Further, we believe this will encourage the development of EFVs for multi-occupant facilities.

RSPA has gone through extensive study and rulemaking in reaching this decision. RSPA published an Advance Notice of Proposed Rulemaking on December 20, 1990, a Notice of Proposed Rulemaking on April 21, 1993, and reopened the comment period on August 2, 1994, proposing that EFVs be installed on new and replaced single family residential service lines.

Although a requirement to install EFVs was supported by the National Transportation Safety Board, certain members of Congress and the EFV industry, it was opposed by virtually the entire gas distribution industry and a vast majority of our state regulatory partners.

An identical letter has been sent to the Ranking Minority Member, Committee on Transportation and Infrastructure; Chairman and Ranking Minority Member of the Committee on Commerce; and Chairman and Ranking Minority Members of the Senate Committee on Commerce, Science and Transportation.

If we can be for further assistance in this matter, please contact me or Ms. Kelley Coyner, Director, Office of Policy and Program Support.

Sincerely.

Dr. D.K. SHARMA.

H.R. 1323 retains the notification requirements of section 60110, and expands them to include notice of not only the costs of installation, but of maintenance and replacement as well. The bill also provides that the Secretary may adopt industry accepted performance standards for excess flow valves.

Smart pigs

Section 5(e) of H.R. 1323 clarifies the provision in existing law relating to inspection by instrumented internal inspection devices, commonly referred to as "smart pigs". The Pipeline Safety Reauthorization Act of 1988 directed the Secretary to establish minimum Federal safety standards requiring the accommodation of smart pigs, to the extent practicable, in new facilities and in replacement of existing facilities. (Section 108(b) and Section 207(b) of P.L. 100–561).

On November 20, 1992, RSPA issued a Notice of Proposed Rulemaking to implement the 1988 requirement. Many comments were received regarding the scope of the term "replacement" with regard to hazardous liquid. In the final rule issued on April 12, 1994, RSPA decided the scope of required replacement would be the already defined term "line section". Line section is defined in regulations for natural gas pipelines as "a continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves" and for hazardous liquid pipelines as "a continuous run of pipe between adjacent pres-

sure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station a block valve, or between adjacent block valves." In the final rule, RSPA said that when a replacement is made of line pipe, line valve, line fitting, or other line component in an existing pipeline covered by this rule, the complete line section must be made to accommodate smart pigs.

The impact of the rule would have required operators to replace or upgrade as much as 20 miles of pipeline to accommodate a smart pig, even in instances when the replacement work involves only 20 feet of pipeline.

Section 5(e) of H.R. 1323 clarifies what Congress intended regarding accommodation of smart pigs when it enacted the 1988 provisions; that only the facility or equipment being replaced must accommodate, to the extent feasible, smart pigs.

Updating standards

Section 5(f) of the bill directs the Secretary, to the extent appropriate and practicable, to update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program. The Committee encourages OPS to keep industry standards incorporated as regulations updated as frequently as necessary and as resources allow.

Operator qualifications

Section 5(a) of the bill modifies a current requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to properly operate and maintain those facilities. This provision is currently the subject of a rulemaking by OPS. Under H.R. 1323, pipeline owners and operators would be required to ensure that employees working on the pipeline be qualified to recognize and properly respond to unusual or dangerous conditions.

The Committee believes that the objective of the original provision is worthwhile, to ensure that pipeline employees are qualified to do their jobs and react properly to a dangerous situation. However, the Committee believes the resources of OPS are not efficiently utilized if used to regulate, in detail, how a company should conduct its employee training and certification programs. Such regulation could result in burdensome procedures and record keeping on both pipeline operators and OPS. Rather, OPS should make clear that as part of its regular inspections and accident investigations, it will look for evidence that employees are competent and knowledgeable about their areas of responsibility and that operators will be held accountable if employees are found to be incompetent.

The Committee notes that the specific statutory requirement that qualifications shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits is not intended to be exclusive; qualifications are intended to include all aspects of operating and maintaining a pipeline, including routine procedures.

Annual report

Section 17 of H.R. 1323, requested by the Administration, repeals the requirement in section 60123 which requires an annual report on pipeline safety be submitted to the Congress. The Committee notes that the annual report has been consistently issued at least two years late. The Committee has found the Office of Pipeline Safety able to respond to information requests whenever necessary on a timely basis and believes the time and effort expended to compile the annual report are an inefficient use of resources. The Committee expects OPS to continue to respond to information requests as accurately and efficiently as possible.

Damage reporting

Section 16 of H.R. 1323 creates a new federal crime of knowingly and willfully damaging a pipeline facility and not promptly reporting the damage to the pipeline operator and other appropriate authorities. Two recent accidents, the March 28, 1993 failure of a petroleum pipeline in Reston, Virginia and the March 23, 1994 rupture of a gas transmission line in Edison, New Jersey, were both as a result of mechanical damage to the pipelines caused by external damage that occurred at an indeterminate time before the failures. The Committee believes damaging a pipeline facility and failing to report that damage to the operator and other appropriate authorities is an omission with the potential for very serious consequences and should therefore carry with it significant punishment.

Administrative

Section 14 of H.R. 1323 authorizes the Secretary to enter into grants, cooperative agreements, and other transactions with any person, agency, State and local government, educational institution, or other entity. This provision, requested by the Administration, will provide the Secretary with general authority to enter into a broad range of financial arrangements with States, industry, nonprofit institutions and other entities to support activities that will achieve the objectives of the statute. The authority will be very useful to aid the Secretary in developing, improving and promoting one-call notification systems, the majority of which are not run by States. It will also aid in the agency's execution of risk assessment, by permitting the Secretary to obtain the data it will need to conduct risk assessment according to the statutory requirements.

Other provisions

H.R. 1323 makes a number of changes to provisions in existing law which prescribe specific regulatory actions for the Secretary to undertake. These include deletion of authority to the Secretary to set minimum standards requiring operators of gathering lines that are not regulated to maintain an inventory of appropriate information (Section 5(d)), deletion of requirement that inspections must occur at least once every two years (Section 7), and deletion of requirement that Secretary take actions to promote adoption of measures to improve safety of customer-owned natural gas service lines (Section 10).

The Committee believes the provisions cited above are inconsistent with the risk assessment approach taken in this bill. If the Secretary believes any of the perceived safety problems related to the above cited provisions are worthy of pursuit, the Secretary may initiate actions to address such problems.

SECTION-BY-SECTION ANALYSIS

PIPELINE SAFETY ACT OF 1995

Section-by-section summary

SEC. 1. SHORT TITLE

(a) Short Title: the "Pipeline Safety Act of 1995"

SEC. 2. REFERENCES

(a) The amendments and references in the bill are to sections and provisions in title 49, United States Code.

(b) The "Secretary" means the Secretary of Transportation

SEC. 3. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS

Adds new section 60127 to provide for risk assessment and cost-benefit analysis for new significant standards or regulatory requirements promulgated by the Secretary.

(a) Requirement.—No final significant standard or regulatory requirement may be promulgated under sections 60101(b), 60102, 60103, 60108, 60109, 60110, or 60113 unless the Secretary: certifies that an analysis of risk reduction benefits and costs has been conducted; certifies that the incremental risk reduction or other benefits of the option chosen justifies and is reasonably related to the incremental costs incurred by State, local, and tribal governments, the Federal government, and other citizens; and explains why other options identified or considered were found to be either less cost-effective or provided less flexibility to State, local or tribal governments or regulated entities.

(b) Elements of analysis.—In analyzing risk reduction benefits or costs, the Secretary shall: identify the various regulatory and non-regulatory options that were considered; analyze the incremental costs and benefits of the proposed standard or regulatory requirement; provide technical data or other information upon which the standard or regulatory requirement is based; and include a statement that places in context the nature and magnitude of the risk to be addressed and the residual risks likely to remain for each alternative identified or considered.

(c) Risk assessment documents.—Risk assessment documents prepared by the Secretary shall include at a minimum: the best estimate for impacts addressed and the reasonable range of scientific uncertainties; a statement of any significant substitution risk to public safety and the environment; and a statement that places in context the nature and magnitude of risks to human health, safety or the environment.

(d) Statements.—Statements that place in context the nature and magnitude of risks to public safety or the environment shall provide comparisons with estimates of greater, lesser, and substan-

tially equivalent risks that are familiar to and routinely encountered by the general public, as well as other risks and comparisons of those risks with other similar risks regulated by the Department.

(e) Review by Standards Committee.—For any significant standard or regulatory requirement, the Secretary must submit risk assessment documents and cost-benefit analyses for review to the Technical Pipeline Safety Standards Committee, the Hazardous Liquid Pipeline Safety Standards Committee, or both as appropriate. The documents shall also be available for public review. The Secretary must provide a written response to all peer review comments received from the panels and may revise the risk assessment and cost-benefit analysis prior to determining whether a significant standard or regulatory requirements should be promulgated.

(f) Emergencies.—In the case of an emergency, the Secretary may suspend analysis of risk reduction benefits and costs for the duration of the emergency.

(g) Report.—By March 31, 1999, the Secretary will send a report to Congress on the application of the principles of the analyses of risk reduction benefits and costs and risk assessment and their effect on pipeline safety.

SEC. 4. DEFINITIONS

(a) Amends section 60101 definitions:

Amends definition of "transporting gas" to original law prior to recodification.

"Best estimate" means a scientifically appropriate estimate based on one of several outlined methodologies.

"Benefits" means reasonably identifiable significant health, safety, environmental, social and economic benefits that are expected to result directly or indirectly from implementation of a standard, regulatory requirement or option.

"Costs" means direct and indirect costs to U.S. government, to State, local, and tribal government, and to the private sector, wage earners, consumers, and the economy of implementing and complying with the standard, regulatory requirement or option.

"Risk assessment document" means a document containing an explanation of how hazards have been identified, quantified, and assessed.

"Risk management" means systematic application by owners or operators of pipeline facilities of management policies, procedures, finite resources and practices in analyzing, assessing, and controlling risks.

"Risk management plan" means a management plan utilized by owners or operators that encompasses risk management.

"Significant standard or regulatory requirement" means a safety or environmental standard or regulatory requirement or closely related group of standards or requirements that is likely to result in annualized compliance costs of more than $25 million.

"Substitution risk" means a potential risk to health, safety, or the environment from a significant standard, regulatory requirement or option designed to decrease other risks.

(b) Amends section 60101(b)(2) to provide that the Secretary shall define the term "regulated gathering line" but only if it is appropriate to do so.

SEC. 5. GENERAL AUTHORITY

(a) Minimum safety standards.—Amends section 60102(a) to provide that operators of facilities must be qualified, but not certified, and must be able to recognize and react to abnormal operating conditions that may indicate dangerous situations.

(b) Practicability and safety needs standards.—Makes minor revisions in section 60102(b) and provides that recommendations of the Technical Pipeline Safety Standards Committee or the Hazardous Liquid Pipeline Safety Standards Committee be considered in setting minimum safety standards.

(c) Facility operation information standards.—Makes technical corrections to section 60102(d).

(d) Pipe inventory standards.—Amends section 60102(e) to strike provision directing Secretary, to the extent considered necessary, to set minimum standards requiring operators of gathering lines that are not regulated to maintain an inventory of appropriate information.

(e) Smart pigs.—Rewrites section to clarify congressional intent. New pipeline facilities must, to the extent practicable, accommodate instrumented internal inspection devices ("smart pigs"). When a pipe is being replaced, it is only the replaced section of pipe that must accommodate smart pigs.

(f) Updating standards.—Adds new section 60102(l) to direct the Secretary to update incorporated industry standards, as appropriate and practicable.

SEC. 6. RISK MANAGEMENT

Adds new section 60127 to establish a Risk Management Demonstration Project.

(a) Risk management demonstration project.—The Secretary shall carry out the project with voluntary participation of owners and operators of pipeline facilities. The purpose of the project is to demonstrate the safety and cost effectiveness of risk management.

(b) Exemption.—During the demonstration project, the Secretary may exempt participating owners and operators from compliance with some or all standards and regulations that would otherwise apply, including those promulgated during the demonstration project.

(c) Requirements.—In carrying out the project, the Secretary shall invite owners and operators to submit plans for approval and ensure that approved plans will achieve an equivalent or greater overall level of safety. Elements required to be incorporated into the project are specified.

(d) Emergencies.—In the case of an emergency, the Secretary may suspend or revoke the participation of an owner or operator in the project.

(e) By March 31, 1999, the Secretary shall submit a report to Congress evaluating the project and recommending whether the project should be made permanent.

SEC. 7. INSPECTION AND MAINTENANCE

Amends section 60108 to strike requirement that inspections must occur at least once every two years (Secretary currently directed to determine frequency of inspections). Clarifies meaning of "waters" where underwater pipelines are subject to inspections to be areas where a substantial likelihood of commercial navigation exits.

SEC. 8. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS

(a) Conforming change to "waters" amendment in Section 7.

(b) Amends section 60109 to make a technical correction and include revised factors for Secretary to consider in describing areas that are "unusually sensitive to environmental damage."

SEC. 9. EXCESS FLOW VALUES

Amends section 60110 to make a technical correction, provides that the notification from natural gas operators to customers having lines in which excess flow valves are not required but can be installed shall include costs associated with maintenance and replacement as well as installation, and provides that the Secretary may adopt industry accepted performance standards for excess flow valves.

SEC. 10. CUSTOMER-OWNED NATURAL GAS SERVICE LINES

Amends section 60113 to remove requirement that Secretary take actions to promote adoption of measures to improve safety of customer-owned natural gas service lines.

SEC. 11. ONE-CALL NOTIFICATION SYSTEMS

Makes technical corrections and corrects recodification errors to section 60114.

SEC. 12. TECHNICAL SAFETY STANDARDS COMMITTEES

(a) Peer review.—Amends section 60115 to provide that the Technical Safety Standards Committees shall serve as peer review committees and will be treated as such for purposes of all laws relating to risk assessment and peer review.

(b) Composition and appointment.—Increases the number of industry representatives on the Committees from 4 to 5 and decreases the number of public representatives from 6 to 5 (so committees would be composed of 5 individuals from each of government, industry, and the general public). At least one of the industry and one of the public members must have experience in risk assessment and cost-benefit analysis.

(c) Committee reports on proposed standards.—Specifies that risk assessment documents, cost-benefit and other analyses supporting proposed standards be submitted to the Committees for review.

(d) Meetings.—Increases the number of Committee meetings from two to four per year.

(e) Pay and expenses.—Strikes provisions allowing members of the Committees to be paid compensation when performing duties, although reimbursement for expense continues to be authorized.

SEC. 13. PUBLIC EDUCATION PROGRAMS

Makes a technical correction to section 60116 and expands the public education programs carried out by natural gas owners and operators to include the use of one-call systems prior to excavation to prevent pipeline damage.

SEC. 14. ADMINISTRATIVE

Amends section 60117 to authorize the Secretary to enter into grants, cooperative agreements, and other transactions with any person, agency, State and local government, educational institution, or other entity. The provision will permit the Secretary to provide funding to a one-call program which is not operated by State.

SEC. 15. COMPLIANCE AND WAIVERS

Amends section 60118 to clarify that owners and operators who utilize an approved risk management plan under the Risk Management Demonstration Project in section 60127 are to be considered in compliance with standards and regulatory requirements covered by the plan.

SEC. 16. DAMAGE REPORTING

Amends section 60123 to create a new federal crime of knowingly and willfully damaging a pipeline facility and not promptly reporting the damage to the pipeline operator and other appropriate authorities.

SEC. 17. ANNUAL REPORTS

Repeals section 60124 which requires annual reports be submitted to Congress.

SEC. 18. POPULATION ENCROACHMENT

Creates a new section 60124 which requires the Secretary to make available to State pipeline officials the land use recommendations from the Transportation Research Board's Special Report 219, entitled "Pipelines and Public Safety". In addition, the Secretary is directed to evaluate those recommendations, determine to what extent they are being implemented, consider ways to improve implementation and consider other initiatives to improve awareness of local planning and zoning entities regarding population encroachment in proximity to rights-of-ways of interstate pipeline facilities.

SEC. 19. TECHNICAL CORRECTIONS

Makes technical corrections to various sections of Chapter 601.

SEC. 20. AUTHORIZATIONS OF APPROPRIATION

(a) Natural Gas Activities:
$7,866,000 for fiscal year 1996.
$8,322,000 for fiscal year 1997.

$8,778,000 for fiscal year 1998.
$9,234,000 for fiscal year 1999.

(b) Hazardous Liquid
$2,070,000 for fiscal year 1996.
$2,190,000 for fiscal year 1997.
$2,310,000 for fiscal year 1998.
$2,430,000 for fiscal year 1999.

(c) State Grants
$10,764,000 for fiscal year 1996.
$11,388,000 for fiscal year 1997.
$12,012,000 for fiscal year 1998.
$12,636,000 for fiscal year 1999.

The Subcommittee on Surface Transportation conducted a hearing on H.R. 1323 on March 14, 1995 and on March 28, 1995 recommended the bill with amendments to the full Committee on Transportation and Infrastructure. On April 5, 1995, the Committee on Transportation and Infrastructure ordered the bill reported, by voice vote, with a quorum present.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 1, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, H–232, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing concerning the "Pipeline Safety Act of 1995" (H.R. 1323), which has been ordered reported by the Committee on Transportation and Infrastructure this week. Section 16 of that bill would amend section 60123 of Title 49, United States Code. That section of Title 49 provides for federal criminal penalties to be imposed upon persons who damage pipeline facilities.

Because the bill would amend federal law to make criminal certain actions which presently are not criminal, the Committee on the Judiciary has jurisdiction over this portion of the bill. This letter is to inform you that the Committee on the Judiciary will not exercise its right to request a sequential referral of H.R. 1323. The fact that the Committee has not requested a sequential referral with respect to this bill, however, should not be deemed to be a waiver of the Committee's jurisdiction over all other bills, resolutions, and other matters that affect the federal criminal law.

Sincerely,

HENRY J. HYDE, *Chairman.*

COMPLIANCE WITH HOUSE RULE XI

1. With respect to rule XI, clause 2(l)(4), the enactment of the bill will result in no significant inflationary impact.

2. With respect to rule XIII, clause 7(a), the Committee adopts as its own the CBO cost estimate included in this report.

3. With respect to the requirement of clause 2(l)(3)(D) of rule XI, no recommendations were submitted to the Committee pursuant to clause 4(c)(2) of rule X.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 7, 1995.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1323, the Pipeline Safety Act of 1995.

Enactment of H.R. 1323 could affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1323.

2. Bill title: Pipeline Safety Act of 1995.

3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on April 5, 1995.

4. Bill purpose: H.R. 1323 would authorize a total of $90 million to be appropriated for the gas and hazardous liquid pipeline safety programs and the pipeline safety grant program for fiscal years 1996 through 1999. The bill would require the Secretary of Transportation to conduct benefit and cost analyses of new pipeline safety standards and regulations which have a compliance cost of greater than $25 million per year. Finally, the bill would make technical changes to the pipeline safety program, establish a risk management demonstration project, and impose a criminal penalty on all excavators who do not report damaged pipeline facilities to the appropriate authorities.

5. Estimated cost to the Federal Government: For purposes of this estimate, CBO assumes that the full amount authorized for pipeline safety programs would be appropriated. Implementing H.R. 1323 would not result in any change in net federal spending because the Department of Transportation collects fees to completely offset pipeline safety funding. In fiscal year 1995, pipeline safety funding and fees (excluding oil pollution activities) were $35 million. If the 1996 appropriation equals the authorization, funding and fees would drop to $21 million. (The appropriations bill is charged with the level of new funding and any change in the level of fees.) Even though the bill's authorizations are substantially lower than the 1995 funding level, they are closer to the 1990 through 1994 funding levels of $10 million to $17 million.

CBO estimates that the new criminal penalty that would be established by H.R. 1323 would not result in any significant receipts. If fines are collected, they would be deposited in the Crime Victims Fund and spent the following year.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or re-

ceipts through 1998. CBO estimates that enactment of H.R. 1323 could increase penalty collections and spending from the Crime Victims Fund. Therefore, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any increase in direct spending or receipts would be less than $500,000 per year.

The pay-as-you-go effects of the bill are as follows:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

7. Estimated cost to the State and local governments: Of the $90 million four-year authorization, $47 million is for state pipeline safety grants. States would be required to contribute an additional $47 million to comply with the 50 percent matching requirement.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: John Patterson.

11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

CHAPTER 601 OF TITLE 49, UNITED STATES CODE

CHAPTER 601—SAFETY

Sec.
60101. Definitions.

* * * * * * *

60105. State *pipeline safety program* certifications.
60106. State *pipeline safety* agreements.
60107. State *pipeline safety* grants.

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[60124. Annual reports.]
60124. Population encroachment.
60125. Authorization of appropriations.
60126. Analysis of risk reduction benefits and costs.
60127. Risk management.

§ 60101. Definitions

(a) In this chapter—

(1) * * *

* * * * * * *

(21) "transporting gas"—

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

[(B) does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area.]

(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (such as a subdivision, business, shopping center, or community development) or any similar populated area which the Secretary of Transportation may define as a nonrural area; but

(C) includes the movement of gas through regulated gathering lines.

* * * * * * *

(23) "best estimate" means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Secretary.

(24) "benefits" means the reasonably identifiable significant health, safety, environmental, social, and economic benefits that are expected to result directly or indirectly from implementation of a standard, regulatory requirement, or option.

(25) "costs" means the direct and indirect costs to the United States Government, to State, local, and tribal governments, and to the private sector, wage earners, consumers, and the economy of implementing and complying with a standard, regulatory requirement, or option.

(26) "risk assessment document" means a document containing—

(A) an explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed; and

(B) a statement by the preparer of the document accepting the findings of the document.

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

(28) "risk management plan" means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management.

(29) "significant standard or regulatory requirement" means any safety or environmental standard or regulatory requirement, or closely related group of safety or environmental stand-

ards or regulatory requirements, that is likely to result in annualized compliance costs in excess of $25,000,000.

(30) "substitution risk" means a potential risk to public safety or the environment from a significant standard, regulatory requirement, or option designed to decrease other risks.

(b) GATHERING LINES.—(1) * * *

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

* * * * * * *

§ 60102. General authority

(a)**[**(1)**]** MINIMUM SAFETY STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

[(A)**]** *(1)* apply to **[**transporters of gas and hazardous liquid and to**]** owners and operators of pipeline facilities;

[(B)**]** *(2)* may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

[(C) shall include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.

[(2) As the Secretary considers appropriate, the operator of a pipeline facility may make the certification under paragraph (1)(C) of this subsection. Testing and certification under paragraph (1)(C) shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits.**]**

(3) shall include a requirement that all individuals who operate and maintain pipeline facilities must be qualified.

Such qualifications shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of the pipeline facility shall ensure that employees who operate and maintain the facility are qualified.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety, for safely transporting hazardous liquid, and for protecting the environment. Except as provided in **[**section 60103**]** *sections 60103 and 60112* of this title, when prescribing the standard the Secretary shall consider—

(1) relevant available—

(A) gas pipeline safety information; or

(B) hazardous liquid pipeline *safety* information;

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

(3) the reasonableness of the standard; [and]

(4) the extent to which the standard will [contribute to] *benefit* public safety and the protection of the environment[.]*; and*

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

* * * * * * *

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

(1) * * *

* * * * * * *

(e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter [and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gathering line (as defined under section 60101(b)(2) of this title),] to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the [transmission] *transportation* of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) * * *

* * * * * * *

(f) STANDARDS AS ACCOMMODATING "SMART PIGS".—[(1) The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig"). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.]

(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline facility or hazardous liquid pipeline facility be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to

as a "smart pig"). The Secretary shall also prescribe minimum safety standards requiring replacement of an existing gas pipeline facility, hazardous liquid pipeline facility, or equipment, to be carried out, to the extent practicable, in a way that replacement of the existing gas pipeline facility, hazardous liquid pipeline facility, or equipment being replaced accommodates the passage through the facility of an instrumented internal inspection device. The Secretary may apply the standard to an existing gas or hazardous liquid facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.

(2) *PERIODIC INSPECTIONS*.—Not later than October 24, 1995, the Secretary shall prescribe, *if necessary, additional* regulations requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The regulations shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

* * * * * * *

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

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§ 60105. State *pipeline safety program* certifications

(a) * * *

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§ 60106. State *pipeline safety* agreements

(a) * * *

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§ 60107. State *pipeline safety* grants

(a) * * *

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§ 60108. Inspection and maintenance

(a) PLANS.—(1) Each person [transporting gas or hazardous liquid or] owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person [transporting gas or hazardous liquid or] owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

(b) INSPECTION AND TESTING.—(1) * * *

* * * * * * *

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. [However, an inspection must occur at least once every 2 years.] The Secretary may reduce the frequency of an inspection of a master meter system.

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

(A) "abandoned" means permanently removed from service.

(B) "pipeline facility" includes an underwater abandoned pipeline facility.

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

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

(i) all offshore pipeline facilities; and

[(ii) any other pipeline facility crossing under, over, or through navigable waters (as defined by the Secretary) if the Secretary decides that the location of the facility in those navigable waters could pose a hazard to navigation or public safety.]

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

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

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

(1) establish criteria for identifying—

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

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

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

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

(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing an area that is unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider including—

[(1) earthquake zones and areas subject to landslides and other substantial ground movements;**]**

(1) intake locations for community water systems;

* * * * * * *

§ 60110. Excess flow valves

(a) APPLICATION.—This section applies only to—

(1) * * *

* * * * * * *

(b) INSTALLATION REQUIREMENTS AND CONSIDERATIONS.—Not later than April 24, 1994, the Secretary of Transportation shall prescribe regulations on the circumstances, *if any,* under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider—

(1) the system design pressure;

(2) the system operating pressure;

(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;

(4) the technical feasibility and cost of installing, *operating, and maintaining* the valve;

* * * * * * *

(c) NOTIFICATION OF AVAILABILITY.—(1) Not later than October 24, 1994, the Secretary shall prescribe regulations requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of—

(A) the availability of excess flow valves for installation in the system;

(B) safety benefits to be derived from installation; and

(C) costs associated with installation, *maintenance, and replacement.*

* * * * * * *

(e) PERFORMANCE STANDARDS.—Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. *The Secretary may adopt industry accepted performance standards in order to comply with this requirement.* The standards shall be incorporated into regulations the Secretary prescribes under this

section. All excess flow valves shall be installed according to the standards.

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§ 60113. Customer-owned natural gas service lines

[(a) MAINTENANCE INFORMATION.—]Not later than October 24, 1993, the Secretary of Transportation shall prescribe regulations requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of—

(1) * * *

* * * * * * *

[(b) ACTIONS TO PROMOTE SAFETY.—Not later than one year after submitting the report required under section 115(b) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3296), the Secretary, considering the report and in cooperation and coordination with appropriate State and local authorities, shall take appropriate action to promote the adoption of measures to improve the safety of customer-owned natural gas service lines.]

§ 60114. One-call notification systems

(a) MINIMUM REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) [a] *A* requirement that [the system apply to] all areas of the State containing underground pipeline facilities *be covered by a system*.

(2) [a] *A* requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) [a] *A* requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) [qualifications] *Qualifications* for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) [procedures] *Procedures* for advertisement and notice of the availability of a system.

(6) [a] *A* requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) [a] *A* requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) [a] *A* requirement that each State decide whether the system will be toll free.

(9) [a] *A* requirement for sanctions substantially the same as provided under sections [60120, 60122, and 60123] *60120 and 60122* of this title.

* * * * * * *

§ 60115. Technical safety standards committees

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. *The Committees shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the Committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws approved after the date of the enactment of the Pipeline Safety Act of 1995) as meeting any peer review requirements of such laws.*

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

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

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

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

(B) [4] *5* individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) [6] *5* individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State commissioners. The Secretary shall consult with the national organization of State commissions (referred to in section 10344(f) of this title) before selecting those 2 individuals.

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

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

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

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

(A) the Technical Pipeline Safety Standards Committee each standard *or regulatory requirement* proposed under this chapter for transporting gas and for gas pipeline facilities, *including the risk assessment document, cost-benefit, and other analyses supporting each proposed standard or regulatory requirement*; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard *or regulatory requirement* proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities, *including the risk assessment document, cost-benefit, and other analyses supporting each proposed standard or regulatory requirement.*

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

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

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

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

(f) [PAY AND] EXPENSES.—[The Secretary may establish the pay for each member of a committee for each day (including travel time) when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5.] A member *of a committee under this section* is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

§ 60116. Public education programs

Under regulations the Secretary of Transportation prescribes, each [person transporting gas] *owner or operator of a gas pipeline facility* shall carry out a program to educate the public on *the use of damage prevention ("one-call") systems prior to excavation,* the possible hazards associated with gas leaks, and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program.

§ 60117. Administrative

(a) * * *

* * * * * * *

(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity to further the objectives of this chapter. Such objectives include, but are not limited to, the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

§ 60118. Compliance and waivers

(a) * * *

* * * * * * *

(e) COMPLIANCE WITH RISK MANAGEMENT PLANS.—Owners and operators that are participating in the demonstration project under section 60127 shall be considered to be in compliance with any prescribed safety standard or regulatory requirement that is covered by an approved plan under section 60127.

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§ 60123. Criminal penalties

(a) * * *

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(d) PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person knowingly and willfully—

(1) engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than $50,000; [or]

(B) a pipeline facility and does not report the damage promptly to the operator of the pipeline facility and other appropriate authorities; or

[(B)] *(C)* a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

[§ 60124. Annual reports

[(a) SUBMISSION AND CONTENTS.—The Secretary of Transportation shall submit to Congress not later than August 15 of each year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

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

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

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

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

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

[(6) an analysis and evaluation of—

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

[(B) technological progress in safety achieved.

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

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

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

[(A) in effect; or

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

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

[(A) in effect; or

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

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

[(12) recommendations for legislation the Secretary considers necessary—

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

[(i) gas pipeline safety; or

[(ii) hazardous liquid pipeline safety programs; and

[(B) to strengthen the national gas pipeline safety program.

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

§ 60124. Population encroachment

(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the Transportation Research Board's Special Report 219, entitled Pipelines and Public Safety.

(b) EVALUATION.—The Secretary shall evaluate the recommendations in the report referred to in subsection (a), determine to what extent the recommendations are being implemented, consider ways to improve implementation of the recommendations, and consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-ways of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.

§ 60125. Authorization of appropriations

(a) GAS.—Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 60107 and 60114(b)) related to gas:

(1) $6,857,000 for the fiscal year ending September 30, 1993.

(2) $7,000,000 for the fiscal year ending September 30, 1994.

(3) $7,500,000 for the fiscal year ending September 30, 1995.

(4) $7,866,000 for fiscal year 1996.

(5) $8,322,000 for fiscal year 1997.

(6) $8,778,000 for fiscal year 1998.

(7) $9,234,000 for fiscal year 1999.

(b) HAZARDOUS LIQUID.—Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 60107 and 60114(b)) related to hazardous liquid:

(1) $1,728,500 for the fiscal year ending September 30, 1993.

(2) $1,866,800 for the fiscal year ending September 30, 1994.

(3) $2,000,000 for the fiscal year ending September 30, 1995.

(4) $2,070,000 for fiscal year 1996.

(5) $2,190,000 for fiscal year 1997.

(6) $2,310,000 for fiscal year 1998.

(7) $2,430,000 for fiscal year 1999.

(c) STATE GRANTS.—(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

(A) $7,750,000 for the fiscal year ending September 30, 1993.

(B) $9,000,000 for the fiscal year ending September 30, 1994.

(C) $10,000,000 for the fiscal year ending September 30, 1995.

(D) $10,764,000 for fiscal year 1996.

(E) $11,388,000 for fiscal year 1997.

(F) $12,012,000 for fiscal year 1998.

(G) $12,636,000 for fiscal year 1999.

* * * * * * *

§ 60126. Analysis of risk reduction benefits and costs

(a) REQUIREMENT.—No final significant standard or regulatory requirement issued under section 60101(b), 60102, 60103, 60108, 60109, 60110, or 60113 shall be promulgated unless the Secretary of Transportation—

(1) certifies that the Secretary has conducted an analysis of risk reduction benefits and costs that is based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the Department of Transportation by interested parties or generated by the Department itself relating to the costs, risks, and risk reduction and other benefits addressed by the standard or requirement;

(2) certifies that the incremental risk reduction or other benefits of any option chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments and the Federal Government and other public and private citizens; and

(3) explains why any other options identified or considered by the Secretary were found either—

(A) to be less cost-effective at achieving a substantially equivalent reduction in risk; or

(B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the standard or requirement, along with a brief explanation of why other options that were identified or considered by the Secretary were found to be less cost-effective or less flexible.

(b) ELEMENTS OF ANALYSIS.—An analysis of risk reduction benefits or costs prepared by the Secretary for a significant standard or regulatory requirement, at a minimum, shall—

(1) identify the various regulatory and nonregulatory options that were considered;

(2) analyze the incremental costs and incremental risk reduction or other benefits associated with each option identified or considered by the Secretary;

(3) provide any technical data or other information, including the underlying assumptions, upon which the standard or requirement is based; and

(4) include a statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each option identified or considered.

Costs and benefits shall be quantified to the extent feasible and appropriate and may otherwise be qualitatively described.

(c) RISK ASSESSMENT DOCUMENTS.—A risk assessment document prepared by the Secretary for a significant standard or regulatory requirement shall, at a minimum and to the extent feasible—

(1) provide the best estimate for the impacts addressed and a statement of the reasonable range of scientific uncertainties;

(2) include a statement of any significant substitution risks to public safety or the environment; and

(3) contain a statement that places in context the nature and magnitude of risks to public safety or the environment.

(d) STATEMENTS.—The statements referred to in subsections (b)(4) and (c)(3) of this section shall each provide, to the extent feasible, comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public, as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Department resulting from comparable activities. In making such comparisons, the Secretary should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, and the preventability or nonpreventability of risks.

(e) REVIEW BY STANDARDS COMMITTEE.—

(1) PEER REVIEW.—For any significant standard or regulatory requirement, the Secretary shall submit any risk assessment documents and cost-benefit analyses (prepared or received by the Secretary) for review by the Technical Pipeline Safety Standards Committee, the Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate, and make them available to the public. The Technical Pipeline Safety Standards Committee and the Hazardous Liquid Pipeline Safety Standards Committee shall function as peer review panels and shall prepare reports, including any recommended options for any significant standard or regulatory requirement and an evaluation of the technical scientific merit of the data and scientific method used for a risk assessment document or cost-benefit analysis. The Committee or Committees shall submit such reports to the Secretary within 90 days after the date of receipt of the documents and analyses from the Secretary.

(2) RESPONSE OF SECRETARY.—The Secretary shall review the report and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquids Pipeline Safety Standards Committee, or both, as the case may be. Within 90 days after receipt of such report, the Secretary—

(A) shall submit to the Committee or Committees a written response to all peer review comments and recommended options; and

(B) may revise the risk assessment document or cost-benefit analysis prior to determining whether the proposed sig-

nificant standard or regulatory requirement should be promulgated.

(f) EMERGENCIES.—In the case of an emergency, the Secretary may suspend the application of this section for the duration of the emergency.

(g) REPORT.—Not later than March 31, 1999, the Secretary shall transmit to Congress a report on the application of the principles of the analyses of risk reduction benefits and costs and risk assessment to this chapter and their effect on pipeline safety.

§ 60127. Risk management

(a) RISK MANAGEMENT DEMONSTRATION PROJECT.—The Secretary of Transportation shall carry out a project with voluntary participation by owners and operators of pipeline facilities to demonstrate applications of risk management. The purpose of the project shall be to evaluate the safety and cost effectiveness of such applications.

(b) EXEMPTION.—During the period of the demonstration project carried out under this section, the Secretary may exempt owners and operators participating in the project from compliance with some or all of the standards and regulatory requirements that would otherwise apply to such owners and operators under this chapter. In addition, the Secretary shall exempt such owners and operators from complying with standards and regulatory requirements promulgated under this chapter during the period of such participation with respect to facilities included in the project.

(c) REQUIREMENTS.—In carrying out the demonstration project under this section, the Secretary shall—

(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

(2) ensure that owners and operators implementing approved risk management plans under the project will achieve an equivalent or greater overall level of safety than such owners and operators would otherwise achieve by complying with the standards and regulatory requirements of this chapter; and

(3) ensure that the project incorporates the following elements:

(A) collaborative training;

(B) methods to measure the performance of risk management plans;

(C) development and application of new technologies;

(D) promotion of community awareness;

(E) development of a model to categorize the risks inherent to a selected pipeline facility, considering the location, volume, pressure, and material transported or stored by the facility;

(F) application of risk assessment and risk management methodologies suitable to the inherent risks determined to exist by the model developed under subparagraph (E);

(G) development of project elements needed to ensure that owners and operators participating in the project demonstrate that risks are being effectively managed and that risk management plans carried out under the project can be audited;

(H) a process for making amendments, modifications, and adjustments to approved risk management plans under

the project as agreed to by owners and operators carrying out such plans and the Secretary; and

(I) such other elements as the Secretary and owners and operators participating in the project may agree would further the purposes of this section.

(d) EMERGENCIES.—In the case of an emergency, the Secretary may suspend or revoke the participation of an owner or operator in the demonstration project carried out under this section.

(e) REPORT.—Not later than March 31, 1999, the Secretary shall transmit to Congress a report on the results of the demonstration project carried out under this section together with an evaluation of the project and recommendations on whether or not the applications demonstrated under the project should be made a permanent part of the Federal pipeline safety program.

ADDITIONAL VIEWS

The responsibility to protect public safety and the environment with respect to pipeline transportation is a very serious one; a responsibility that we ought not treat lightly. When pipeline accidents happen, even though they occur rarely, the consequences can be catastrophic.

Just one year ago, the gas pipeline explosion in Edison, New Jersey, incinerated eight apartment buildings, causing 1,500 people to lose their homes in a matter of minutes. Flames up to 500 feet in the air radiated heat in excess of 1,000 degrees Fahrenheit. Total damage from the accident exceeded $25 million.

And, only one year before that, the hazardous liquid pipeline accident in Fairfax County, Virginia, spilled over 400,000 gallons of fuel oil into the Potomac river.

Clearly, the potential for widespread public and environmental harm from pipeline accidents is enormous. And, the potential is increasing, as pipelines age and formerly remote areas become increasingly developed and populated. In many cases, residents do not even realize that they live near pipelines.

As a result, as we reauthorize the federal pipeline safety program and explore new approaches to safety oversight, we must ensure that owners and operators of pipeline facilities achieve an equivalent or greater overall level of safety than what exists today.

Some people have tried to seize what they see as an opportunity to make it more difficult for government to ensure safety through regulation. Among the devices they have seized upon are the concepts of cost-benefit analysis and risk assessment, the central issue which made this reauthorization of the pipeline program different from other reauthorizations.

In fact, these concepts have been incorporated into most safety rulemaking for some time; the concepts themselves are not controversial. What is controversial is how those who want to hamstring safety rulemaking have tried to make risk assessment and cost-benefit analysis more and more time-consuming, burdensome, and expensive, precisely so that fewer safety rules can be issued.

The issue, therefore, is not whether to utilize risk assessment and cost-benefit analysis to support federal rulemaking, but how best to incorporate these concepts without obstructing the overall objective—ensuring public safety and protecting the environment.

Risk assessment and cost-benefit analysis need not have been added to this bill at all. In 1993, the President signed an executive order requiring risk assessment and cost-benefit analysis. This year, the House passed, and the Senate is considering, legislation that would impose risk assessment and cost-benefit analysis requirements on all rulemaking, including the pipeline safety program. Our actions here then are at best redundant, and at worst dangerous.

Nevertheless, when it became clear that risk assessment and cost-benefit analysis requirements would be included in this bill, we concluded that those requirements should not be so burdensome as to make safety rulemaking unlikely, if not impossible. Furthermore, the requirements should not be so rigid and prescriptive that the Secretary of Transportation would have no responsibility for making common sense judgements. In the end, the Secretary must retain both the authority and the accountability for making decisions that protect public safety and the environment. And finally, it would make no sense to impose more restrictive and burdensome risk assessment requirements on pipeline safety related regulations than on other federal rulemakings.

We commend the Committee for the bipartisan cooperation that led to the reasonable compromise reflected in this bill as amended by the Subcommittee. The amendments to the risk assessment and cost-bearing analysis requirements will ensure that the Secretary of Transportation retains accountability for safety standards and regulatory requirements. While the Secretary must conduct the various layers of analysis called for in the bill, important safety judgements will not be based solely on some formula. The Secretary will ultimately have to determine that all important factors, even those for which accurate and reliable data are not readily available, have been fully considered. Moreover, the Secretary will retain the ability to issue safety regulations in an emergency without going through all the extra paperwork and process created by this bill. And finally, the bill's risk assessment provisions now parallel the House-passed risk assessment bill (H.R. 1022). To the extent that a larger risk assessment bill is made less restrictive or burdensome in the future, the risk assessment provisions in this bill should be correspondingly scaled back.

While we support the concept of the risk management demonstration project, we must ensure that it is implemented as intended in this bill. The demonstration is not an opportunity to roll back important public safety and environmental protections in the name of economic efficiency. The Secretary must ensure that the number of participating pipeline owners and operators does not overwhelm the Office of Pipeline Safety's ability to manage and evaluate the demonstration project effectively. The Secretary should exercise due caution in granting exemptions from existing safety standards and regulatory requirements to project participants. Participating owners and operators must clearly demonstrate that they are effectively managing risk and that their risk management plans can be audited and performance measured. With these considerations in mind, the demonstration project offers an excellent opportunity to evaluate, under real world conditions, the application of risk management principles to pipeline safety.

Although there are other provisions in the bill that we would have preferred to improve, particularly the funding levels, this compromise legislation is a constructive step forward by all sides. Both sides of the Committee leadership have committed themselves to defending this product against any efforts to weaken it from a public safety and environmental protection point of view. If the bill is weakened from the current compromise, we will be unable to support it further. We look forward to working with the Full Com-

mittee and Subcommittee Chairmen to move this compromise bill through the rest of the legislative process.

We believe that it would be particularly appropriate during further deliberations on this bill to reconsider the funding it provides for pipeline safety. The bill provides a sharp reduction from present appropriated levels in funding for pipeline safety programs. The FY 95 appropriated level is $37 million, and the President's request for FY 96 if $45 million. Yet the FY 96 authorized level in this bill is only $20 million, a level which would be inadequate to fund critical aspects of the pipeline safety program.

For example, the Office of Pipeline Safety would be unable to meet the 50 percent reimbursement goal for State grants, and could not begin its proposed initiative to encourage States to use risk management principles. The Committee bill only provides $10.8 million for fiscal year 1996 State grants. The President requested $13.2 million to meet the fiscal year 1996 reimbursement, and $1.8 million to help States develop risk assessment profiles of pipelines under their jurisdiction so that the State programs can begin using risk management principles.

Moreover, with the funding authorized in the Committee bill the Office of Pipeline Safety would not be able to continue efforts begun in fiscal year 1995 to improve its safety monitoring. Thirty percent of the increased funding in fiscal year 1995 will be used to hire 16 additional field inspectors and regulatory support specialists, and to contract for 33 engineers to inspect new pipeline construction and replacement projects and to assess the risk of pipeline failures. Clearly, these efforts could not be sustained with the 45 percent cut from current appropriations proposed in the Committee bill.

Technical studies being undertaken with the increased fiscal year 1995 funding on such issues as classifying environmentally sensitive areas, identifying corrosion, fractures, weld failures, and other defects in aging pipelines, and automating information systems would be jeopardized by the authorized funding in the Committee bill. The information these studies will provide is exactly what is needed to implement risk assessment and risk management effectively.

All of the funding for these programs comes from user fees; none comes from the general taxpayer. We should, in our further deliberations on the bill, consider providing for funding levels sufficient both to maintain the public safety and to credibly implement the reforms called for in this bill.

JAMES L. OBERSTAR.
NICK RAHALL.
CORRINE BROWN.
E.H. NORTON.
NORMAN Y. MINETA.
BOB BORSKI.
PETER DEFAZIO.
WALTER TUCKER III.

ADDITIONAL VIEWS OF JERROLD NADLER

I compliment the Ranking Member, Mr. Mineta, on his dedicated efforts to negotiate a compromise mitigating the damage to public safety laws threatened by the "Pipeline Safety Act of 1995" as introduced. The bill reported by the full Committee is a vast improvement.

Nonetheless, the "Pipeline Safety Act," as reported by the Transportation and Infrastructure Committee, still poses a serious threat to the environment and to public health and welfare by rolling back existing protections and by mandating burdensome new bureaucratic procedures. For example, the "Pipeline Safety Act of 1995" would lower the threshold level at which a cost/benefit analysis would be mandated from the $100 million level set by President Reagan and maintained by Presidents Bush and Clinton, to a mere $25 million—requiring extra time and resources and approval by extra layers of bureaucracy before most safety regulations could be promulgated.

Additionally, as the Minority dissenting views correctly point out, this bill fails to authorize adequate funding, further hampering federal officials in their efforts to protect public health and environmental safety, and compounding the problem of overly excessive bureaucratic procedures.

The danger, and the cost, to the public from pipeline disasters is all too clear. It should be just as clear that we must not tolerate a relaxation of our efforts to prevent further disasters.

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