

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2845

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## AN ACT

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

1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,**  
 4                    **UNITED STATES CODE; DEFINITIONS; TABLE**  
 5                    **OF CONTENTS.**

6        (a) SHORT TITLE.—This Act may be cited as the  
 7 “Pipeline Safety, Regulatory Certainty, and Job Creation  
 8 Act of 2011”.

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

16        (c) DEFINITIONS.—Any term used in this Act that  
 17 is defined in chapter 601 of title 49, United States Code,  
 18 shall have the meaning given that term in that chapter.

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

- Sec. 1. Short title; amendment of title 49, United States Code; definitions;  
table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Automatic and remote-controlled shut-off valves.
- Sec. 5. Integrity management.
- Sec. 6. Public education and awareness.
- Sec. 7. Cast iron gas pipelines.
- Sec. 8. Leak detection.
- Sec. 9. Accident and incident notification.
- Sec. 10. Transportation-related onshore facility response plan compliance.
- Sec. 11. Transportation-related oil flow lines.

- Sec. 12. Cost recovery for design reviews.
- Sec. 13. Biofuel pipelines.
- Sec. 14. Carbon dioxide pipelines.
- Sec. 15. Study of transportation of diluted bitumen.
- Sec. 16. Study of non-petroleum hazardous liquids transported by pipeline.
- Sec. 17. Clarifications.
- Sec. 18. Maintenance of effort.
- Sec. 19. Administrative enforcement process.
- Sec. 20. Gas and hazardous liquid gathering lines.
- Sec. 21. Authorization of appropriations.

1 **SEC. 2. CIVIL PENALTIES.**

2 (a) GENERAL PENALTIES; PENALTY CONSIDER-  
 3 ATIONS.—Section 60122 is amended—

4 (1) in subsection (a)(1)—

5 (A) in the first sentence by striking

6 “\$100,000” and inserting “\$175,000”; and

7 (B) in the last sentence by striking

8 “\$1,000,000” and inserting “\$1,750,000”; and

9 (2) in subsection (b)(1)(B) by striking “the  
 10 ability to pay,”.

11 (b) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

12 Section 60118(e) is amended to read as follows:

13 “(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

14 “(1) ASSISTANCE AND ACCESS.—If the Sec-  
 15 retary or the National Transportation Safety Board  
 16 investigates an accident involving a pipeline facility,  
 17 the operator of the facility shall—

18 “(A) make available to the Secretary or  
 19 the Board all records and information that in

1 any way pertain to the accident (including in-  
2 tegrity management plans and test results); and

3 “(B) afford all reasonable assistance in the  
4 investigation of the accident.

5 “(2) OPERATOR ASSISTANCE IN INVESTIGA-  
6 TIONS.—

7 “(A) IN GENERAL.—The Secretary may  
8 impose a civil penalty under section 60122 on  
9 a person who obstructs or prevents the Sec-  
10 retary from carrying out inspections or inves-  
11 tigations under this chapter.

12 “(B) DEFINITIONS.—In this paragraph,  
13 the following definitions apply:

14 “(i) OBSTRUCTS.—The term ‘ob-  
15 structs’ includes actions that were known,  
16 or reasonably should have been known, to  
17 prevent, hinder, or impede an investigation  
18 without good cause.

19 “(ii) GOOD CAUSE.—The term ‘good  
20 cause’ includes, at a minimum, restricting  
21 access to facilities that are not secure or  
22 safe for non-pipeline personnel or visi-  
23 tors.”.

24 (c) ADMINISTRATIVE PENALTY CAPS INAPPLI-  
25 CABLE.—Section 60120(a)(1) is amended by adding at the

1 end the following: “The maximum amount of civil pen-  
2 alties for administrative enforcement actions under section  
3 60122 shall not apply to enforcement actions under this  
4 section.”.

5 (d) JUDICIAL REVIEW OF ADMINISTRATIVE EN-  
6 FORCEMENT ORDERS.—Section 60119(a) is amended—

7 (1) in the subsection heading by striking “AND  
8 WAIVER ORDERS” and inserting “, ORDERS, AND  
9 OTHER FINAL AGENCY ACTIONS”; and

10 (2) by striking “about an application for a  
11 waiver under section 60118(c) or (d) of this title”  
12 and inserting “under this chapter”.

13 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

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

17 “(a) MINIMUM STANDARDS.—

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

21 “(A) appropriate participation by all un-  
22 derground facility operators, including all gov-  
23 ernment operators;

1           “(B) appropriate participation by all exca-  
2           vators, including all government and contract  
3           excavators; and

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

7           “(2) EXEMPTIONS PROHIBITED.—In order to  
8           qualify for a grant under section 6106, a State one-  
9           call notification program may not exempt munici-  
10          palities, State agencies, or their contractors from its  
11          one-call notification system requirements.”.

12          (b) STATE DAMAGE PREVENTION PROGRAMS.—Sec-  
13          tion 60134(a) is amended—

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

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

18           (3) by adding at the end the following:

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

22          (c) EFFECTIVE DATE.—The amendments made by  
23          this section shall take effect 2 years after the date of en-  
24          actment of this Act.

25          (d) THIRD PARTY DAMAGE.—

1           (1) STUDY.—The Secretary of Transportation  
2 shall conduct a study on the impact of third party  
3 damage on pipeline safety.

4           (2) CONTENTS.—The study shall include—

5                 (A) an analysis of the frequency and sever-  
6 ity of different types of third party damage in-  
7 cidents;

8                 (B) an analysis of exemptions to the one-  
9 call notification system requirements in each  
10 State;

11                (C) a comparison of exemptions to the one-  
12 call notification system requirements in each  
13 State to the types of third party damage inci-  
14 dents in that State; and

15                (D) an analysis of the potential safety ben-  
16 efits and adverse consequences of eliminating  
17 all exemptions for mechanized excavation from  
18 State one-call notification systems.

19           (3) REPORT.—Not later than 2 years after the  
20 date of enactment of this Act, the Secretary shall  
21 submit to the House of Representatives Committee  
22 on Transportation and Infrastructure and Com-  
23 mittee on Energy and Commerce and the Senate  
24 Committee on Commerce, Science, and Transpor-  
25 tation a report on the results of the study.

1 **SEC. 4. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF**  
2 **VALVES.**

3 Section 60102 is amended—

4 (1) by striking subsection (j)(3); and

5 (2) by adding at the end the following:

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

8 “(1) IN GENERAL.—The Secretary may require  
9 by regulation, if determined appropriate by the Sec-  
10 retary, the use of automatic or remote-controlled  
11 shut-off valves, or equivalent technology, where eco-  
12 nomically, technically, and operationally feasible on  
13 transmission pipeline facilities constructed or en-  
14 tirely replaced after the date on which the Secretary  
15 issues the final rule containing such requirement.

16 “(2) FACTORS FOR CONSIDERATION.—In deter-  
17 mining whether to proceed with a rulemaking under  
18 paragraph (1), the Secretary shall consider the fac-  
19 tors specified in subsection (b)(2).”.

20 **SEC. 5. INTEGRITY MANAGEMENT.**

21 (a) EVALUATION.—Not later than 2 years after the  
22 date of enactment of this Act, the Secretary of Transpor-  
23 tation shall evaluate—

24 (1) whether integrity management system re-  
25 quirements, or elements thereof, should be expanded  
26 beyond high consequence areas; and



1           (2) with respect to gas transmission pipeline fa-  
2           cilities, whether applying integrity management pro-  
3           gram requirements, or elements thereof, to addi-  
4           tional areas would mitigate the need for class loca-  
5           tion requirements.

6           (b) REPAIR CRITERIA.—In conducting the evaluation  
7           under subsection (a), the Secretary shall consider applying  
8           repair criteria, such as pressure reductions and special re-  
9           quirements for scheduling remediation, to areas that are  
10          not high consequence areas.

11          (c) REPORT.—Based on the evaluation to be con-  
12          ducted under subsection (a), the Secretary shall submit  
13          to the House of Representatives Committee on Transpor-  
14          tation and Infrastructure and Committee on Energy and  
15          Commerce and the Senate Committee on Commerce,  
16          Science, and Transportation a report containing the Sec-  
17          retary’s analysis and findings regarding—

18                (1) expansion of integrity management require-  
19                ments, or elements thereof, beyond high consequence  
20                areas; and

21                (2) with respect to gas transmission pipeline fa-  
22                cilities, whether applying the integrity management  
23                program requirements, or elements thereof, to addi-  
24                tional areas would mitigate the need for class loca-  
25                tion requirements.

1 (d) DATA REPORTING.—The Secretary shall collect  
2 any relevant data necessary to complete the evaluation re-  
3 quired by subsection (a).

4 (e) TECHNICAL CORRECTION.—Section  
5 60109(c)(3)(B) is amended to read as follows:

6 “(B) Subject to paragraph (5), periodic re-  
7 assessments of the facility, at a minimum of  
8 once every 7 calendar years, using methods de-  
9 scribed in subparagraph (A). Such deadline  
10 shall be extended for an additional 6 months if  
11 the operator submits written notice to the Sec-  
12 retary that includes an explanation of the need  
13 for the extension.”.

14 (f) RULEMAKING REQUIREMENTS.—

15 (1) REVIEW PERIOD DEFINED.—In this sub-  
16 section, the term “review period” means the period  
17 beginning on the date of enactment of this Act and  
18 ending on the earlier of—

19 (A) the date that is 1 year after the date  
20 of completion of the report under subsection  
21 (c); or

22 (B) the date that is 3 years after the date  
23 of enactment of this Act.

24 (2) CONGRESSIONAL AUTHORITY.—In order to  
25 provide Congress the necessary time to review the

1 results of the report required by subsection (c) and  
2 implement appropriate recommendations, the Sec-  
3 retary shall not, during the review period, proceed  
4 with a rulemaking to prescribe regulations described  
5 in paragraph (3).

6 (3) STANDARDS.—Following the review period,  
7 the Secretary may, as appropriate, prescribe regula-  
8 tions that—

9 (A) expand integrity management system  
10 requirements, or elements thereof, beyond high  
11 consequence areas; and

12 (B) remove redundant class location re-  
13 quirements for gas transmission pipeline facili-  
14 ties that are regulated under an integrity man-  
15 agement program adopted and implemented  
16 under section 60109(c)(2) of title 49, United  
17 States Code.

18 (4) SAVINGS CLAUSE.—

19 (A) IN GENERAL.—Notwithstanding any  
20 other provision of this subsection, the Sec-  
21 retary, during the review period, may proceed  
22 to a rulemaking to prescribe regulations de-  
23 scribed in paragraph (3), and may prescribe the  
24 regulations, if the Secretary determines that a  
25 condition that poses a risk to public safety,

1 property, or the environment is present or an  
2 imminent hazard exists and that the rule-  
3 making will address the risk or hazard.

4 (B) IMMINENT HAZARD DEFINED.—In  
5 subparagraph (A), the term “imminent hazard”  
6 means the existence of a condition related to  
7 pipelines or pipeline operations that presents a  
8 substantial likelihood that death, serious illness,  
9 severe personal injury, or substantial  
10 endangerment to health, property, or the envi-  
11 ronment may occur.

12 (g) REPORT TO CONGRESS ON RISK-BASED PIPE-  
13 LINE REASSESSMENT INTERVALS.—Not later than 2  
14 years after the date of enactment of this Act, the Comp-  
15 troller General of the United States shall evaluate—

16 (1) whether risk-based reassessment intervals  
17 are a more effective alternative for managing risks  
18 to pipelines in high-consequence areas once baseline  
19 assessments are complete when compared to a 7-  
20 year reassessment interval;

21 (2) the number of anomalies found in baseline  
22 assessments required under section 60109(c)(3)(A)  
23 of title 49, United States Code, as compared to the  
24 number of anomalies found in reassessments re-

1       quired under section 60109(c)(3)(B) of such title;  
2       and

3               (3) the progress made in incorporating the rec-  
4       ommendations in GAO Report 06–945 and the cur-  
5       rent relevance of recommendations not incorporated  
6       to date.

7       (h) HIGH CONSEQUENCE AREA DEFINED.—In this  
8       section, the term “high consequence area” means an area  
9       described in section 60109(a) of title 49, United States  
10      Code.

11      **SEC. 6. PUBLIC EDUCATION AND AWARENESS.**

12      (a) NATIONAL PIPELINE MAPPING SYSTEM.—

13               (1) MAP OF HIGH CONSEQUENCE AREAS.—The  
14      Secretary of Transportation shall—

15                   (A) maintain, as part of the National Pipe-  
16                   line Mapping System, a map of all designated  
17                   high consequence areas (as described in section  
18                   60109(a) of title 49, United States Code) in  
19                   which pipelines are required to meet integrity  
20                   management safety regulations, excluding any  
21                   proprietary or sensitive security information;  
22                   and

23                   (B) update the map biennially.

24               (2) PROGRAM TO PROMOTE AWARENESS OF NA-  
25      TIONAL PIPELINE MAPPING SYSTEM.—Not later

1 than 1 year after the date of enactment of this Act,  
2 the Secretary shall develop and implement a pro-  
3 gram promoting greater awareness of the existence  
4 of the National Pipeline Mapping System to State  
5 and local emergency responders and other interested  
6 parties. The program shall include guidance on how  
7 to use the National Pipeline Mapping System to lo-  
8 cate pipelines in communities and local jurisdictions.

9 (b) INFORMATION TO EMERGENCY RESPONSE AGEN-

10 CIES.—

11 (1) GUIDANCE.—Not later than 18 months  
12 after the date of enactment of this Act, the Sec-  
13 retary shall issue guidance to owners and operators  
14 of pipeline facilities on the importance of providing  
15 system-specific information about their pipeline fa-  
16 cilities to emergency response agencies of the com-  
17 munities and jurisdictions in which those facilities  
18 are located.

19 (2) CONSULTATION.—Before issuing guidance  
20 under paragraph (1), the Secretary shall consult  
21 with owners and operators of pipeline facilities to de-  
22 termine the extent to which the owners and opera-  
23 tors are already providing system-specific informa-  
24 tion about their pipeline facilities to emergency re-  
25 sponse agencies.

1 **SEC. 7. CAST IRON GAS PIPELINES.**

2 (a) FOLLOW-UP SURVEYS.—Section 60108(d) is  
3 amended by adding at the end the following:

4 “(4) Not later than December 31, 2012, and every  
5 2 years thereafter, the Secretary shall conduct a follow-  
6 up survey to measure the progress that owners and opera-  
7 tors of pipeline facilities have made in implementing their  
8 plans for the safe management and replacement of cast  
9 iron gas pipelines.”.

10 (b) STATUS REPORT.—Not later than December 31,  
11 2013, the Secretary of Transportation shall transmit to  
12 the House of Representatives Committee on Transpor-  
13 tation and Infrastructure and Committee on Energy and  
14 Commerce and the Senate Committee on Commerce,  
15 Science, and Transportation a report that—

16 (1) identifies the total mileage of cast iron gas  
17 pipelines in the United States; and

18 (2) evaluates the progress that owners and op-  
19 erators of pipeline facilities have made in imple-  
20 menting their plans for the safe management and  
21 replacement of cast iron gas pipelines.

22 **SEC. 8. LEAK DETECTION.**

23 (a) LEAK DETECTION REPORT.—

24 (1) IN GENERAL.—Not later than 1 year after  
25 the date of enactment of this Act, the Secretary of  
26 Transportation shall submit to the Senate Com-

1 mittee on Commerce, Science, and Transportation  
2 and the House of Representatives Committee on  
3 Transportation and Infrastructure and Committee  
4 on Energy and Commerce a report on leak detection  
5 systems utilized by operators of hazardous liquid  
6 pipeline facilities and transportation-related flow  
7 lines.

8 (2) CONTENTS.—The report shall include—

9 (A) an analysis of the technical limitations  
10 of current leak detection systems, including the  
11 systems’ ability to detect ruptures and small  
12 leaks that are ongoing or intermittent, and  
13 what can be done to foster development of bet-  
14 ter technologies; and

15 (B) an analysis of the feasibility of estab-  
16 lishing technically, operationally, and economi-  
17 cally feasible standards for the capability of  
18 such systems to detect leaks, and the safety  
19 benefits and adverse consequences of requiring  
20 operators to use leak detection systems.

21 (b) RULEMAKING REQUIREMENTS.—

22 (1) REVIEW PERIOD DEFINED.—In this sub-  
23 section, the term “review period” means the period  
24 beginning on the date of enactment of this Act and  
25 ending on the earlier of—



1 (A) the date that is 1 year after the date  
2 of completion of the report under subsection  
3 (a); or

4 (B) the date that is 2 years after the date  
5 of enactment of this Act.

6 (2) CONGRESSIONAL AUTHORITY.—In order to  
7 provide Congress the necessary time to review the  
8 results of the report required by subsection (a) and  
9 implement appropriate recommendations, the Sec-  
10 retary shall not, during the review period, proceed  
11 with a rulemaking to prescribe regulations described  
12 in paragraph (3).

13 (3) STANDARDS.—Following the review period,  
14 the Secretary may, as appropriate, prescribe regula-  
15 tions that—

16 (A) require operators of hazardous liquid  
17 pipeline facilities to use leak detection systems;  
18 and

19 (B) establish technically, operationally, and  
20 economically feasible standards for the capa-  
21 bility of such systems to detect leaks.

22 (4) SAVINGS CLAUSE.—

23 (A) IN GENERAL.—Notwithstanding any  
24 other provision of this subsection, the Sec-  
25 retary, during the review period, may proceed

1 to a rulemaking to prescribe regulations de-  
2 scribed in paragraph (3), and may prescribe the  
3 regulations, if the Secretary determines that a  
4 condition that poses a risk to public safety,  
5 property, or the environment is present or an  
6 imminent hazard exists and that the rule-  
7 making will address the risk or hazard.

8 (B) IMMINENT HAZARD DEFINED.—In  
9 subparagraph (A), the term “imminent hazard”  
10 means the existence of a condition related to  
11 pipelines or pipeline operations that presents a  
12 substantial likelihood that death, serious illness,  
13 severe personal injury, or substantial  
14 endangerment to health, property, or the envi-  
15 ronment may occur.

16 **SEC. 9. ACCIDENT AND INCIDENT NOTIFICATION.**

17 (a) REVISION OF REGULATIONS.—Not later than 18  
18 months after the date of enactment of this Act, the Sec-  
19 retary of Transportation shall revise regulations issued  
20 under sections 191.5 and 195.52 of title 49, Code of Fed-  
21 eral Regulations, to establish specific time limits for tele-  
22 phonic or electronic notice of accidents and incidents in-  
23 volving pipeline facilities to the Secretary and the National  
24 Response Center.

1 (b) MINIMUM REQUIREMENTS.—In revising the regu-  
2 lations, the Secretary, at a minimum, shall—

3 (1) establish time limits for telephonic or elec-  
4 tronic notification of an accident or incident to re-  
5 quire such notification not less than 1 hour and not  
6 more than 2 hours after discovery of the accident or  
7 incident;

8 (2) review procedures for owners and operators  
9 of pipeline facilities and the National Response Cen-  
10 ter to provide thorough and coordinated notification  
11 to all relevant State and local emergency response  
12 officials, including 911 emergency call centers, for  
13 the jurisdictions in which those pipeline facilities are  
14 located in the event of an accident or incident, and  
15 revise such procedures as appropriate; and

16 (3) require such owners and operators to revise  
17 their initial telephonic or electronic notice to the  
18 Secretary and the National Response Center with an  
19 estimated amount of the product released, an esti-  
20 mated number of fatalities and injuries, if any, and  
21 any other information determined appropriate by the  
22 Secretary within 24 to 48 hours of the accident or  
23 incident, to the extent practicable.

24 (c) UPDATING OF REPORTS.—After receiving revi-  
25 sions described in subsection (b)(3), the National Re-

1 sponse Center shall update the initial report on an acci-  
2 dent or incident instead of generating a new report.

3 **SEC. 10. TRANSPORTATION-RELATED ONSHORE FACILITY**  
4 **RESPONSE PLAN COMPLIANCE.**

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

10 (b) CONFORMING AMENDMENT.—Section  
11 311(b)(6)(A) of the Federal Water Pollution Control Act  
12 (33 U.S.C. 1321(b)(6)(A)) is amended by striking “oper-  
13 ating or” and inserting “operating, the Secretary of  
14 Transportation, or”.

15 **SEC. 11. TRANSPORTATION-RELATED OIL FLOW LINES.**

16 Section 60102, as amended by this Act, is further  
17 amended by adding at the end the following:

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

20 “(1) DATA COLLECTION.—The Secretary may  
21 collect geospatial or technical data on transpor-  
22 tation-related oil flow lines, including unregulated  
23 transportation-related oil flow lines.

24 “(2) TRANSPORTATION-RELATED OIL FLOW  
25 LINE DEFINED.—In this subsection, the term ‘trans-

1 portation-related oil flow line’ means a pipeline  
2 transporting oil off of the grounds of the well where  
3 it originated across areas not owned by the pro-  
4 ducer, regardless of the extent to which the oil has  
5 been processed, if at all.

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

11 **SEC. 12. COST RECOVERY FOR DESIGN REVIEWS.**

12 (a) IN GENERAL.—Section 60117(n) is amended to  
13 read as follows:

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

15 “(1) IN GENERAL.—

16 “(A) REVIEW COSTS.—For any project de-  
17 scribed in subparagraph (B), if the Secretary  
18 conducts facility design safety reviews in con-  
19 nection with a proposal to construct, expand, or  
20 operate a new gas or hazardous liquid pipeline  
21 facility or liquefied natural gas pipeline facility,  
22 the Secretary may require the person proposing  
23 the project to pay the costs incurred by the Sec-  
24 retary relating to such reviews. If the Secretary  
25 exercises the cost recovery authority described

1 in this subsection, the Secretary shall prescribe  
2 a fee structure and assessment methodology  
3 that is based on the costs of providing these re-  
4 views and shall prescribe procedures to collect  
5 fees under this subsection. The Secretary shall  
6 not collect design safety review fees under this  
7 chapter and section 60301 for the same design  
8 safety review.

9 “(B) PROJECTS TO WHICH APPLICABLE.—

10 Subparagraph (A) applies to any project that—

11 “(i) has design and construction costs  
12 totaling at least \$3,400,000,000, as ad-  
13 justed for inflation, based on a good faith  
14 estimate developed by the person proposing  
15 the project; or

16 “(ii) uses new or novel technologies or  
17 design.

18 “(2) NOTIFICATION.—For any new pipeline fa-  
19 cility construction project for which the Secretary  
20 will conduct design reviews, the person proposing the  
21 project shall notify the Secretary and provide the de-  
22 sign specifications, construction plans and proce-  
23 dures, and related materials at least 120 days prior  
24 to the commencement of construction. If the Sec-  
25 retary determines that the proposed design of the

1 project is inconsistent with pipeline safety, the Sec-  
2 retary shall provide written comments, feedback, and  
3 guidance on the project on or before the 60th day  
4 following the date of receipt of the design specifica-  
5 tions, construction plans and procedures, and related  
6 materials for the project.

7 “(3) PIPELINE SAFETY DESIGN REVIEW  
8 FUND.—

9 “(A) ESTABLISHMENT.—There is estab-  
10 lished a Pipeline Safety Design Review Fund in  
11 the Treasury of the United States.

12 “(B) DEPOSITS.—The Secretary shall de-  
13 posit funds paid under this subsection into the  
14 Fund.

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

20 “(4) NO ADDITIONAL PERMITTING AUTHOR-  
21 ITY.—Nothing in this subsection shall be construed  
22 as authorizing the Secretary to require a person to  
23 obtain a permit before beginning design and con-  
24 struction in connection with a project described in  
25 paragraph (1)(B).”.

1 (b) GUIDANCE.—Not later than 1 year after the date  
2 of enactment of this Act, the Secretary of Transportation  
3 shall issue guidance to clarify the meaning of the term  
4 “new or novel technologies or design” as used in section  
5 60117(n) of title 49, United States Code, as amended by  
6 subsection (a) of this section.

7 **SEC. 13. BIOFUEL PIPELINES.**

8 Section 60101(a)(4) is amended—

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

11 (2) by redesignating subparagraph (B) as sub-  
12 paragraph (C); and

13 (3) by inserting after subparagraph (A) the fol-  
14 lowing:

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

19 **SEC. 14. CARBON DIOXIDE PIPELINES.**

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

21 “(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—

22 “(1) MINIMUM SAFETY STANDARDS.—The Sec-  
23 retary shall prescribe minimum safety standards for  
24 the transportation of carbon dioxide by pipeline in a  
25 gaseous state.



1           “(2) STANDARDS APPLICABLE TO CERTAIN  
2 PIPELINES.—For pipelines that transport carbon di-  
3 oxide in both a liquid and gaseous state, the Sec-  
4 retary shall apply standards, in effect on the date of  
5 enactment of the Pipeline Safety, Regulatory Cer-  
6 tainty, and Job Creation Act of 2011, for the trans-  
7 portation of carbon dioxide by pipeline in a liquid  
8 state to the transportation of carbon dioxide by pipe-  
9 line in a gaseous state.”.

10 **SEC. 15. STUDY OF TRANSPORTATION OF DILUTED BITU-**  
11 **MEN.**

12           Not later than 18 months after the date of enactment  
13 of this Act, the Secretary of Transportation shall complete  
14 a comprehensive review of hazardous liquid pipeline facil-  
15 ity regulations to determine whether these regulations are  
16 sufficient to regulate pipeline facilities used for the trans-  
17 portation of diluted bitumen. In conducting this review,  
18 the Secretary shall conduct an analysis of whether any in-  
19 crease in risk of release exists for pipeline facilities trans-  
20 porting diluted bitumen. The Secretary shall report the  
21 results of this review to the Senate Committee on Com-  
22 merce, Science, and Transportation and the House of Rep-  
23 resentatives Committee on Transportation and Infrastruc-  
24 ture and Committee on Energy and Commerce.

1 **SEC. 16. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**  
2 **TRANSPORTED BY PIPELINE.**

3 The Secretary of Transportation may conduct an  
4 analysis of the transportation of non-petroleum hazardous  
5 liquids by pipeline facility for the purpose of identifying  
6 the extent to which pipeline facilities are currently being  
7 used to transport non-petroleum hazardous liquids, such  
8 as chlorine, from chemical production facilities across land  
9 areas not owned by the producer that are accessible to  
10 the public. The analysis should identify the extent to which  
11 the safety of the pipeline facilities is unregulated by the  
12 States and evaluate whether the transportation of such  
13 chemicals by pipeline facility across areas accessible to the  
14 public would present significant risks to public safety,  
15 property, or the environment in the absence of regulation.  
16 The results of the analysis shall be made available to the  
17 Senate Committee on Commerce, Science, and Transpor-  
18 tation and the House of Representatives Committee on  
19 Transportation and Infrastructure and Committee on En-  
20 ergy and Commerce.

21 **SEC. 17. CLARIFICATIONS.**

22 (a) AMENDMENT OF PROCEDURES CLARIFICA-  
23 TION.—Section 60108(a)(1) is amended by striking “an  
24 intrastate” and inserting “a”.

25 (b) OWNER AND OPERATOR CLARIFICATION.—Sec-  
26 tion 60102(a)(2)(A) is amended by striking “owners and

1 operators” and inserting “any or all of the owners or oper-  
2 ators”.

3 **SEC. 18. MAINTENANCE OF EFFORT.**

4 Section 60107(b) is amended by adding at the end  
5 the following: “For each of fiscal years 2012 and 2013,  
6 the Secretary shall grant such a wavier to a State if the  
7 State can demonstrate an inability to maintain or increase  
8 the required funding share of its pipeline safety program  
9 at or above the level required by this subsection due to  
10 economic hardship in that State. For fiscal year 2014 and  
11 each fiscal year thereafter, the Secretary may grant such  
12 a waiver to a State if the State can make the demonstra-  
13 tion described in the preceding sentence.”.

14 **SEC. 19. ADMINISTRATIVE ENFORCEMENT PROCESS.**

15 (a) ISSUANCE OF REGULATIONS.—

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

19 (A) requiring hearings under sections  
20 60112, 60117, 60118, and 60122 to be con-  
21 vened before a presiding official;

22 (B) providing the opportunity for any per-  
23 son requesting a hearing under section 60112,  
24 60117, 60118, or 60122 to arrange for a tran-

1           script of that hearing, at the expense of the re-  
2           questing person;

3           (C) ensuring expedited review of any order  
4           issued pursuant to section 60112(e);

5           (D) implementing a separation of functions  
6           between personnel involved with investigative  
7           and prosecutorial activities and advising the  
8           Secretary on findings and determinations; and

9           (E) prohibiting ex-parte communication  
10          relevant to the question to be decided in the  
11          case by parties to an investigation or hearing.

12          (2) PRESIDING OFFICIAL.—The regulations pre-  
13          scribed under this subsection shall—

14                 (A) define the term “presiding official” to  
15                 mean the person who conducts any hearing re-  
16                 lating to civil penalty assessments, compliance  
17                 orders, safety orders, or corrective action or-  
18                 ders; and

19                 (B) require that the presiding official must  
20                 be an attorney on the staff of the Deputy Chief  
21                 Counsel that is not engaged in investigative or  
22                 prosecutorial functions, including the prepara-  
23                 tion of notices of probable violations, notices re-  
24                 lating to civil penalty assessments, notices relat-

1           ing to compliance, or notices of proposed cor-  
2           rective actions.

3           (3) EXPEDITED REVIEW.—The regulations pre-  
4           scribed under this subsection shall define the term  
5           “expedited review” for the purposes of paragraph  
6           (1)(C).

7           (b) STANDARDS OF JUDICIAL REVIEW.—Section  
8           60119(a) is amended by adding at the end the following  
9           new paragraph:

10          “(3) A judicial review of agency action under this sec-  
11          tion shall apply the standards of review established in sec-  
12          tion 706 of title 5.”.

13   **SEC. 20. GAS AND HAZARDOUS LIQUID GATHERING LINES.**

14          (a) REVIEW.—The Secretary of Transportation shall  
15          complete a review of existing Federal and State regula-  
16          tions for gas and hazardous liquid gathering lines located  
17          onshore and offshore in the United States, including with-  
18          in the inlets of the Gulf of Mexico.

19          (b) REPORT TO CONGRESS.—

20                 (1) IN GENERAL.—Not later than 2 years after  
21          the date of enactment of this Act, the Secretary  
22          shall submit to the House of Representatives Com-  
23          mittee on Transportation and Infrastructure and  
24          Committee on Energy and Commerce and the Sen-

1       ate Committee on Commerce, Science, and Trans-  
2       portation a report on the results of the review.

3               (2) RECOMMENDATIONS.—The report shall in-  
4       clude the Secretary’s recommendations with respect  
5       to—

6                       (A) the sufficiency of existing Federal and  
7       State laws and regulations to ensure the safety  
8       of gas and hazardous liquid gathering lines;

9                       (B) quantifying the economical and tech-  
10      nical practicability and challenges of applying  
11      existing Federal regulations to gathering lines  
12      that are currently not subject to Federal regu-  
13      lation when compared to the public safety bene-  
14      fits; and

15                      (C) subject to a risk-based assessment, the  
16      need to modify or revoke existing exemptions  
17      from Federal regulation for gas and hazardous  
18      liquid gathering lines.

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

20       (a) GAS AND HAZARDOUS LIQUID.—Section  
21   60125(a) is amended to read as follows:

22       “(a) GAS AND HAZARDOUS LIQUID.—

23               “(1) IN GENERAL.—To carry out the provisions  
24      of this chapter related to gas and hazardous liquid  
25      and section 12 of the Pipeline Safety Improvement

1 Act of 2002 (49 U.S.C. 60101 note; Public Law  
2 107–355), there is authorized to be appropriated to  
3 the Department of Transportation for each of fiscal  
4 years 2012 through 2015, from fees collected under  
5 section 60301, \$88,014,000, of which \$4,686,000 is  
6 for carrying out such section 12 and \$34,461,000 is  
7 for making grants.

8 “(2) TRUST FUND AMOUNTS.—In addition to  
9 the amounts authorized to be appropriated by para-  
10 graph (1), there is authorized to be appropriated for  
11 each of fiscal years 2012 through 2015 from the Oil  
12 Spill Liability Trust Fund to carry out the provi-  
13 sions of this chapter related to hazardous liquid and  
14 section 12 of the Pipeline Safety Improvement Act  
15 of 2002 (49 U.S.C. 60101 note; Public Law 107–  
16 355), \$18,905,000, of which \$2,185,000 is for car-  
17 rying out such section 12 and \$4,985,000 is for  
18 making grants.”.

19 (b) EMERGENCY RESPONSE GRANTS.—Section  
20 60125(b)(2) is amended by striking “2007 through 2010”  
21 and inserting “2012 through 2015”.

22 (c) ONE-CALL NOTIFICATION PROGRAMS.—Section  
23 6107 is amended—

24 (1) in subsection (a) by striking “2007 through  
25 2010.” and inserting “2012 through 2015.”;

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

3           (3) by striking subsection (c).

4           (d) STATE DAMAGE PREVENTION PROGRAMS.—Sec-  
5           tion 60134 is amended by adding at the end the following:

6           “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
7           authorized to be appropriated to the Secretary to provide  
8           grants under this section \$1,500,000 for each of fiscal  
9           years 2012 through 2015. Such funds shall remain avail-  
10          able until expended.”.

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

13               (1) in subsection (b)—

14                       (A) by inserting “to grant recipients and  
15                       their contractors” after “this section”; and

16                       (B) by inserting “, for any type of advo-  
17                       cacy activity for or against a pipeline construc-  
18                       tion or expansion project,” after “for lobbying”;  
19                       and

20               (2) in subsection (d) by striking “2010” and in-  
21               serting “2015”.

22          (f) PIPELINE TRANSPORTATION RESEARCH AND DE-  
23          VELOPMENT.—Section 12 of the Pipeline Safety Improve-  
24          ment Act of 2002 (49 U.S.C. 60101 note) is amended—



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

3           “(3) ONGOING PIPELINE TRANSPORTATION RE-  
4 SEARCH AND DEVELOPMENT.—

5           “(A) IN GENERAL.—After the initial 5-  
6 year program plan has been carried out by the  
7 participating agencies, the Secretary of Trans-  
8 portation shall prepare a research and develop-  
9 ment program plan every 5 years thereafter and  
10 shall transmit a report to Congress on the sta-  
11 tus and results-to-date of implementation of the  
12 program every 2 years.

13           “(B) CONSULTATION.—The Secretary of  
14 Transportation shall comply with the consulta-  
15 tion requirements of subsection (d)(2) when  
16 preparing the program plan and in the selection  
17 and prioritization of research and development  
18 projects.

19           “(C) FUNDING FROM NON-FEDERAL  
20 SOURCES.—When carrying out research and de-  
21 velopment activities, the Secretary, to the great-  
22 est extent practicable, shall obtain funding for  
23 research and development projects from non-  
24 Federal sources.”; and

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

          Passed the House of Representatives December 12,  
2011.

Attest:

*Clerk.*



112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# **H. R. 2845**

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## **AN ACT**

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