

112TH CONGRESS
1ST SESSION

H. R. 2845

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2011

Mr. SHUSTER (for himself and Mr. MICA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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,*

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

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

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

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

17 (d) **TABLE OF CONTENTS.**—The table of contents for
18 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
 20 any way pertain to the accident (including in-
 21 tegrity management plans and test results); and

1 “(B) afford all reasonable assistance in the
2 investigation of the accident.

3 “(2) OPERATOR ASSISTANCE IN INVESTIGA-
4 TIONS.—

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

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

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

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

22 “(c) ADMINISTRATIVE PENALTY CAPS INAPPLI-
23 CABLE.—Section 60120(a)(1) is amended by adding at the
24 end the following: “The maximum amount of civil pen-
25 alties for administrative enforcement actions under section

1 60122 shall not apply to enforcement actions under this
2 section.”.

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

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

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

11 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

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

15 “(a) MINIMUM STANDARDS.—

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

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

22 “(B) appropriate participation by all exca-
23 vators, including all government and contract
24 excavators; and

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

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

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

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

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

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

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

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

22 (d) THIRD PARTY DAMAGE.—

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

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

2 (A) an analysis of the frequency and sever-
3 ity of different types of third party damage in-
4 cidents;

5 (B) an analysis of exemptions to the one-
6 call notification system requirements in each
7 State;

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

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

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

23 **SEC. 4. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF**
24 **VALVES.**

25 Section 60102 is amended—

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

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

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

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

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

17 **SEC. 5. INTEGRITY MANAGEMENT.**

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

21 (1) whether integrity management system re-
22 quirements, or elements thereof, should be expanded
23 beyond high consequence areas; and

24 (2) with respect to gas transmission pipeline fa-
25 cilities, whether applying integrity management pro-

1 gram requirements, or elements thereof, to addi-
2 tional areas would mitigate the need for class loca-
3 tion requirements.

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

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

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

19 (2) with respect to gas transmission pipeline fa-
20 cilities, whether applying the integrity management
21 program requirements, or elements thereof, to addi-
22 tional areas would mitigate the need for class loca-
23 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) PROHIBITION.—Notwithstanding the authority of
15 the Secretary under section 60102 of title 49, United
16 States Code, the Secretary shall not expand integrity man-
17 agement system requirements, or elements thereof, beyond
18 high consequence areas.

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

23 (1) whether risk-based reassessment intervals
24 are a more effective alternative for managing risks
25 to pipelines in high-consequence areas once baseline

1 assessments are complete when compared to a 7-
2 year reassessment interval;

3 (2) the number of anomalies found in baseline
4 assessments required under section 60109(c)(3)(A)
5 of title 49, United States Code, as compared to the
6 number of anomalies found in reassessments re-
7 quired under section 60109(c)(3)(B) of such title;
8 and

9 (3) the progress made in incorporating the rec-
10 ommendations in GAO Report 06–945 and the cur-
11 rent relevance of recommendations not incorporated
12 to date.

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

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

18 (a) NATIONAL PIPELINE MAPPING SYSTEM.—

19 (1) MAP OF HIGH CONSEQUENCE AREAS.—The
20 Secretary of Transportation shall—

21 (A) maintain, as part of the National Pipe-
22 line Mapping System, a map of all designated
23 high consequence areas (as described in section
24 60109(a) of title 49, United States Code) in
25 which pipelines are required to meet integrity

1 management safety regulations, excluding any
2 proprietary or sensitive security information;
3 and

4 (B) update the map biennially.

5 (2) PROGRAM TO PROMOTE AWARENESS OF NA-
6 TIONAL PIPELINE MAPPING SYSTEM.—Not later
7 than 1 year after the date of enactment of this Act,
8 the Secretary shall develop and implement a pro-
9 gram promoting greater awareness of the existence
10 of the National Pipeline Mapping System to State
11 and local emergency responders and other interested
12 parties. The program shall include guidance on how
13 to use the National Pipeline Mapping System to lo-
14 cate pipelines in communities and local jurisdictions.

15 (b) INFORMATION TO EMERGENCY RESPONSE AGEN-
16 CIES.—

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

1 (2) CONSULTATION.—Before issuing guidance
2 under paragraph (1), the Secretary shall consult
3 with owners and operators of pipeline facilities to de-
4 termine the extent to which the owners and opera-
5 tors are already providing system-specific informa-
6 tion about their pipeline facilities to emergency re-
7 sponse agencies.

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

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

11 “(4) Not later than December 31, 2012, and every
12 2 years thereafter, the Secretary shall conduct a follow-
13 up survey to measure the progress that owners and opera-
14 tors of pipeline facilities have made in implementing their
15 plans for the safe management and replacement of cast
16 iron gas pipelines.”.

17 (b) STATUS REPORT.—Not later than December 31,
18 2013, the Secretary of Transportation shall transmit to
19 the House of Representatives Committee on Transpor-
20 tation and Infrastructure and Committee on Energy and
21 Commerce and the Senate Committee on Commerce,
22 Science, and Transportation a report that—

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

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

5 **SEC. 8. LEAK DETECTION.**

6 (a) LEAK DETECTION REPORT.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary of
9 Transportation shall submit to the Senate Com-
10 mittee on Commerce, Science, and Transportation
11 and the House of Representatives Committee on
12 Transportation and Infrastructure and Committee
13 on Energy and Commerce a report on leak detection
14 systems utilized by operators of hazardous liquid
15 pipeline facilities and transportation-related flow
16 lines.

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

18 (A) an analysis of the technical limitations
19 of current leak detection systems, including the
20 systems' ability to detect ruptures and small
21 leaks that are ongoing or intermittent, and
22 what can be done to foster development of bet-
23 ter technologies; and

24 (B) an analysis of the feasibility of estab-
25 lishing technically, operationally, and economi-

1 cally feasible standards for the capability of
2 such systems to detect leaks, and the safety
3 benefits and adverse consequences of requiring
4 operators to use leak detection systems.

5 (b) PROHIBITION.—Notwithstanding the authority of
6 the Secretary under section 60102 of title 49, United
7 States Code, the Secretary shall not issue regulations es-
8 tablishing standards for the capability of leak detection
9 systems or requiring operators to use leak detection sys-
10 tems.

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

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

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

22 (1) establish time limits for telephonic or elec-
23 tronic notification of an accident or incident to re-
24 quire such notification not less than 1 hour and not

1 more than 2 hours after discovery of the accident or
2 incident;

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

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

19 (c) UPDATING OF REPORTS.—After receiving revi-
20 sions described in subsection (b)(3), the National Re-
21 sponse Center shall update the initial report on an acci-
22 dent or incident instead of generating a new report.

1 **SEC. 10. TRANSPORTATION-RELATED ONSHORE FACILITY**
2 **RESPONSE PLAN COMPLIANCE.**

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

8 (b) CONFORMING AMENDMENT.—Section
9 311(b)(6)(A) of the Federal Water Pollution Control Act
10 (33 U.S.C. 1321(b)(6)(A)) is amended by striking “oper-
11 ating or” and inserting “operating, the Secretary of
12 Transportation, or”.

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

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

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

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

22 “(2) TRANSPORTATION-RELATED OIL FLOW
23 LINE DEFINED.—In this subsection, the term ‘trans-
24 portation-related oil flow line’ means a pipeline
25 transporting oil off of the grounds of the well where
26 it originated across areas not owned by the pro-

1 ducer, regardless of the extent to which the oil has
2 been processed, if at all.

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

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

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

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

12 “(1) IN GENERAL.—

13 “(A) REVIEW COSTS.—For any project de-
14 scribed in subparagraph (B), if the Secretary
15 conducts facility design safety reviews in con-
16 nection with a proposal to construct, expand, or
17 operate a new gas or hazardous liquid pipeline
18 facility or liquefied natural gas pipeline facility,
19 the Secretary may require the person proposing
20 the project to pay the costs incurred by the Sec-
21 retary relating to such reviews. If the Secretary
22 exercises the cost recovery authority described
23 in this subsection, the Secretary shall prescribe
24 a fee structure and assessment methodology
25 that is based on the costs of providing these re-

1 views and shall prescribe procedures to collect
2 fees under this subsection. The Secretary shall
3 not collect design safety review fees under this
4 chapter and section 60301 for the same design
5 safety review.

6 “(B) PROJECTS TO WHICH APPLICABLE.—

7 Subparagraph (A) applies to any project that—

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

13 “(ii) uses new or novel technologies or
14 design.

15 “(2) NOTIFICATION.—For any new pipeline fa-
16 cility construction project for which the Secretary
17 will conduct design reviews, the person proposing the
18 project shall notify the Secretary and provide the de-
19 sign specifications, construction plans and proce-
20 dures, and related materials at least 120 days prior
21 to the commencement of construction. If the Sec-
22 retary determines that the proposed design of the
23 project is inconsistent with pipeline safety, the Sec-
24 retary shall provide written comments, feedback, and
25 guidance on the project on or before the 60th day

1 following the date of receipt of the design specifica-
2 tions, construction plans and procedures, and related
3 materials for the project.

4 “(3) PIPELINE SAFETY DESIGN REVIEW
5 FUND.—

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

9 “(B) DEPOSITS.—The Secretary shall de-
10 posit funds paid under this subsection into the
11 Fund.

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

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

23 (b) GUIDANCE.—Not later than 1 year after the date
24 of enactment of this Act, the Secretary of Transportation
25 shall issue guidance to clarify the meaning of the term

1 “new or novel technologies or design” as used in section
2 60117(n) of title 49, United States Code, as amended by
3 subsection (a) of this section.

4 **SEC. 13. BIOFUEL PIPELINES.**

5 Section 60101(a)(4) is amended—

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

8 (2) by redesignating subparagraph (B) as sub-
9 paragraph (C); and

10 (3) by inserting after subparagraph (A) the fol-
11 lowing:

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

16 **SEC. 14. CARBON DIOXIDE PIPELINES.**

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

18 “(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—

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

23 “(2) STANDARDS APPLICABLE TO CERTAIN
24 PIPELINES.—For pipelines that transport carbon di-
25 oxide in both a liquid and gaseous state, the Sec-

1 retary shall apply standards, in effect on the date of
2 enactment of the Pipeline Safety, Regulatory Cer-
3 tainty, and Job Creation Act of 2011, for the trans-
4 portation of carbon dioxide by pipeline in a liquid
5 state to the transportation of carbon dioxide by pipe-
6 line in a gaseous state.”.

7 **SEC. 15. STUDY OF TRANSPORTATION OF DILUTED BITU-**
8 **MEN.**

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

22 **SEC. 16. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**
23 **TRANSPORTED BY PIPELINE.**

24 The Secretary of Transportation may conduct an
25 analysis of the transportation of non-petroleum hazardous

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

17 **SEC. 17. CLARIFICATIONS.**

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

21 (b) OWNER AND OPERATOR CLARIFICATION.—Sec-
22 tion 60102(a)(2)(A) is amended by striking “owners and
23 operators” and inserting “any or all of the owners or oper-
24 ators”.

1 **SEC. 18. MAINTENANCE OF EFFORT.**

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

12 **SEC. 19. ADMINISTRATIVE ENFORCEMENT PROCESS.**

13 (a) ISSUANCE OF REGULATIONS.—

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

17 (A) requiring hearings under sections
18 60112, 60117, 60118, and 60122 to be con-
19 vened before a presiding official;

20 (B) providing the opportunity for any per-
21 son requesting a hearing under section 60112,
22 60117, 60118, or 60122 to arrange for a tran-
23 script of that hearing, at the expense of the re-
24 questing person;

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

1 (D) implementing a separation of functions
2 between personnel involved with investigative
3 and prosecutorial activities and advising the
4 Secretary on findings and determinations; and

5 (E) prohibiting ex-parte communication
6 relevant to the question to be decided in the
7 case by parties to an investigation or hearing.

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

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

15 (B) require that the presiding official must
16 be an attorney on the staff of the Deputy Chief
17 Counsel that is not engaged in investigative or
18 prosecutorial functions, including the prepara-
19 tion of notices of probable violations, notices re-
20 lating to civil penalty assessments, notices relat-
21 ing to compliance, or notices of proposed cor-
22 rective actions.

23 (3) EXPEDITED REVIEW.—The regulations pre-
24 scribed under this subsection shall define the term

1 “expedited review” for the purposes of paragraph
2 (1)(C).

3 (b) **STANDARDS OF JUDICIAL REVIEW.**—Section
4 60119(a) is amended by adding at the end the following
5 new paragraph:

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

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

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

15 (b) **REPORT TO CONGRESS.**—

16 (1) **IN GENERAL.**—Not later than 2 years after
17 the date of enactment of this Act, the Secretary
18 shall submit to the House of Representatives Com-
19 mittee on Transportation and Infrastructure and
20 Committee on Energy and Commerce and the Sen-
21 ate Committee on Commerce, Science, and Trans-
22 portation a report on the results of the review.

23 (2) **RECOMMENDATIONS.**—The report shall in-
24 clude the Secretary’s recommendations with respect
25 to—

1 (A) the sufficiency of existing Federal and
2 State laws and regulations to ensure the safety
3 of gas and hazardous liquid gathering lines;

4 (B) quantifying the economical and tech-
5 nical practicability and challenges of applying
6 existing Federal regulations to gathering lines
7 that are currently not subject to Federal regu-
8 lation when compared to the public safety bene-
9 fits; and

10 (C) subject to a risk-based assessment, the
11 need to modify or revoke existing exemptions
12 from Federal regulation for gas and hazardous
13 liquid gathering lines.

14 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) GAS AND HAZARDOUS LIQUID.—Section
16 60125(a) is amended to read as follows:

17 “(a) GAS AND HAZARDOUS LIQUID.—

18 “(1) IN GENERAL.—To carry out the provisions
19 of this chapter related to gas and hazardous liquid
20 and section 12 of the Pipeline Safety Improvement
21 Act of 2002 (49 U.S.C. 60101 note; Public Law
22 107–355), there is authorized to be appropriated to
23 the Department of Transportation for each of fiscal
24 years 2012 through 2015, from fees collected under
25 section 60301, \$88,014,000, of which \$4,686,000 is

1 for carrying out such section 12 and \$34,461,000 is
2 for making grants.

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

14 (b) EMERGENCY RESPONSE GRANTS.—Section
15 60125(b)(2) is amended by striking “2007 through 2010”
16 and inserting “2012 through 2015”.

17 (c) ONE-CALL NOTIFICATION PROGRAMS.—Section
18 6107 is amended—

19 (1) in subsection (a) by striking “2007 through
20 2010.” and inserting “2012 through 2015.”;

21 (2) in subsection (b) by striking “2007 through
22 2010.” and inserting “2012 through 2015.”; and

23 (3) by striking subsection (c).

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

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

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

8 (1) in subsection (b)—

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

11 (B) by inserting “, for any type of advoca-
12 cacy activity for or against a pipeline construc-
13 tion or expansion project,” after “for lobbying”;
14 and

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

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

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

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

24 “(A) IN GENERAL.—After the initial 5-
25 year program plan has been carried out by the

1 participating agencies, the Secretary of Trans-
2 portation shall prepare a research and develop-
3 ment program plan every 5 years thereafter and
4 shall transmit a report to Congress on the sta-
5 tus and results-to-date of implementation of the
6 program every 2 years.

7 “(B) CONSULTATION.—The Secretary of
8 Transportation shall comply with the consulta-
9 tion requirements of subsection (d)(2) when
10 preparing the program plan and in the selection
11 and prioritization of research and development
12 projects.

13 “(C) FUNDING FROM NON-FEDERAL
14 SOURCES.—When carrying out research and de-
15 velopment activities, the Secretary, to the great-
16 est extent practicable, shall obtain funding for
17 research and development projects from non-
18 Federal sources.”; and

19 (2) in subsection (f) by striking “2003 through
20 2006.” and inserting “2012 through 2015.”.

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