

117TH CONGRESS
2D SESSION

S. 4248

To enhance pipeline safety and oil spill preparedness and response,
particularly in the Great Lakes Basin, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, MAY 17), 2022

Mr. PETERS introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To enhance pipeline safety and oil spill preparedness and
response, particularly in the Great Lakes Basin, 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.**

4 This Act may be cited as the “Preventing Releases
5 Of Toxic Environmental Contaminants Threatening Our
6 Great Lakes Act” or the “PROTECT Our Great Lakes
7 Act”.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

1 (1) ADMINISTRATION.—The term “Administra-
2 tion” means the Pipeline and Hazardous Materials
3 Safety Administration.

4 (2) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Administra-
6 tion.

7 (3) BEST AVAILABLE TECHNOLOGY.—The term
8 “best available technology”, with respect to a pipe-
9 line, means commercially available technology that,
10 in the determination of the Administrator, provides
11 the greatest degree of protection with respect to lim-
12 iting the quantity of release in the event of a leak
13 or spill, taking into consideration whether the tech-
14 nology—

15 (A) is currently in use by pipeline opera-
16 tors; and

17 (B) can be readily purchased for use in the
18 United States.

19 (4) CENTER.—The term “Center” means the
20 Center of Expertise for Great Lakes Oil Spill Pre-
21 paredness and Response established under section
22 807(a) of the Frank LoBiondo Coast Guard Author-
23 ization Act of 2018 (Public Law 115–282; 14
24 U.S.C. 313 note).

1 (5) HIGH CONSEQUENCE AREA.—The term
 2 “high consequence area” has the meaning given the
 3 term in section 195.450 of title 49, Code of Federal
 4 Regulations (or a successor regulation).

5 (6) SECRETARY.—The term “Secretary” means
 6 the Secretary of Transportation.

7 (7) UNDER SECRETARY.—The term “Under
 8 Secretary” means the Under Secretary of Commerce
 9 for Oceans and Atmosphere.

10 **SEC. 3. ADJUSTMENT OF PHMSA EMPLOYEE PAY RATES.**

11 (a) ESTABLISHMENT OF PAY RATES.—Subject to
 12 section 5373 of title 5, United States Code, and notwith-
 13 standing any other provision of law, to ensure that the
 14 Administration is able to competitively attract and retain
 15 employees, including employees with the greatest talent
 16 with respect to the inspection of pipelines, the Secretary
 17 may establish, in accordance with this section, higher min-
 18 imum rates of basic pay for the employees of the Adminis-
 19 tration described in subsection (b).

20 (b) EMPLOYEES DESCRIBED.—The employees of the
 21 Administration referred to in subsection (a) are, as the
 22 Secretary determines to be appropriate, 1 or more of the
 23 following:

24 (1) Employees in a job series the duties of
 25 which are comparable, in the determination of the

1 Secretary, to the duties of a job series described in
2 section 121(c) of title I of division E of the Consoli-
3 dated Appropriations Act, 2012 (Public Law 112–
4 74; 125 Stat. 1012).

5 (2) Employees that are GS–0801 series General
6 Engineers.

7 (3) Employees in a job series the duties of
8 which involve—

9 (A) the inspection of pipelines; or

10 (B) the enforcement of laws (including reg-
11 ulations) relating to pipelines.

12 (c) REQUIREMENT.—A rate of basic pay established
13 under subsection (a) shall be—

14 (1) with respect to employees in a job series de-
15 scribed in subsection (b)(1), equal to the rate of
16 basic pay established by the Secretary of the Interior
17 under section 121(c) of title I of division E of the
18 Consolidated Appropriations Act, 2012 (Public Law
19 112–74; 125 Stat. 1012), for the employees of the
20 Department of the Interior in the applicable job se-
21 ries described in that subsection; and

22 (2) with respect to employees in a job series de-
23 scribed in paragraph (2) or (3) of subsection (b)—

24 (A) commensurate with the rate of basic
25 pay established by the Secretary of the Interior

1 under section 121(c) of title I of division E of
2 the Consolidated Appropriations Act, 2012
3 (Public Law 112–74; 125 Stat. 1012), for the
4 job series that, in the determination of the Sec-
5 retary, is most comparable to the applicable job
6 series described in paragraph (2) or (3) of that
7 subsection;

8 (B) not more than 30 percent above the
9 minimum rate of basic pay normally scheduled
10 for the applicable employee; and

11 (C) consistent with subsections (e) through
12 (j) of section 5305 of title 5, United States
13 Code.

14 (d) TIMING OF ADJUSTMENT.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law, if the Secretary of the Interior es-
17 tablishes a new minimum rate of basic pay under
18 section 121(c) of title I of division E of the Consoli-
19 dated Appropriations Act, 2012 (Public Law 112–
20 74; 125 Stat. 1012), after the date of enactment of
21 this Act, the Secretary, beginning on the date on
22 which the Secretary of the Interior establishes that
23 new minimum rate of basic pay, may establish—

1 (A) a new minimum rate of basic pay
2 under subsection (a) for applicable employees of
3 the Administration; and

4 (B) an effective date for that new min-
5 imum rate of basic pay, subject to the condition
6 that the effective date is not earlier than the ef-
7 fective date for the new minimum rate of basic
8 pay established by the Secretary of the Interior.

9 (2) INITIAL ESTABLISHMENT.—Not later than
10 45 days after the date of enactment of this Act, the
11 Secretary shall—

12 (A) determine whether the Secretary of the
13 Interior has established a higher minimum rate
14 of basic pay under section 121(c) of title I of
15 division E of the Consolidated Appropriations
16 Act, 2012 (Public Law 112–74; 125 Stat.
17 1012); and

18 (B) if applicable, establish—

19 (i) a minimum rate of basic pay under
20 subsection (a) for applicable employees of
21 the Administration that is based on the
22 most recent minimum rate of basic pay es-
23 tablished by the Secretary of the Interior
24 for the applicable job series under that sec-
25 tion; and

1 (ii) an effective date for that min-
2 imum rate of basic pay, subject to the con-
3 dition that the effective date is not earlier
4 than the date on which the Secretary es-
5 tablishes that minimum rate of basic pay
6 under clause (i).

7 (e) PRIOR APPROVAL NOT REQUIRED.—Notwith-
8 standing any other provision of law, the Secretary shall
9 not be required to seek or receive approval from the Direc-
10 tor of the Office of Management and Budget or the Direc-
11 tor of the Office of Personnel Management to establish
12 a new minimum rate of basic pay under this section.

13 (f) CLARIFICATION.—The authority to establish a
14 higher minimum rate of basic pay under this section is
15 in addition to the authority provided by section 102(c) of
16 the PIPES Act of 2020 (49 U.S.C. 60101 note; Public
17 Law 116–260).

18 (g) CONFORMING AMENDMENT.—Section 102(c) of
19 the PIPES Act of 2020 (49 U.S.C. 60101 note; Public
20 Law 116–260) is amended by adding at the end the fol-
21 lowing:

22 “(4) REQUIREMENT.—The rate of pay for an
23 employee of the Administration described in any of
24 paragraphs (1) through (3) of subsection (b) of sec-

1 tion 3 of the PROTECT Our Great Lakes Act shall
2 be the highest of—

3 “(A) any applicable special pay rate estab-
4 lished under paragraph (1);

5 “(B) any applicable minimum rate of basic
6 pay established under subsection (a) of that
7 section; and

8 “(C) the rate of pay otherwise applicable
9 to the employee.”.

10 **SEC. 4. OIL SPILL RESPONSE PLANS.**

11 (a) PURPOSES.—The purposes of this section are—

12 (1) to strengthen the preparedness of owners
13 and operators of onshore oil pipeline facilities for re-
14 leases of oil from pipelines; and

15 (2) to ensure that oil spill response plans sub-
16 mitted to the Administrator under part 194 of title
17 49, Code of Federal Regulations (or successor regu-
18 lations), adequately anticipate and ensure an ade-
19 quate response to spills of diluted bitumen.

20 (b) DEFINITIONS.—In this section, the terms “On-
21 Scene Coordinator”, “operator”, and “response plan”
22 have the meanings given those terms in section 194.5 of
23 title 49, Code of Federal Regulations (as in effect on the
24 date of enactment of this Act).

1 (c) RULEMAKING.—Not later than 90 days after the
2 date of enactment of this Act, the Secretary, acting
3 through the Administrator, shall revise part 194 of title
4 49, Code of Federal Regulations—

5 (1) to require response plans—

6 (A) to identify, using industry-standard
7 names, such as Cold Lake Blend, all of the
8 crude oils transported by the operator, includ-
9 ing diluted bitumen;

10 (B) to include safety data sheets for each
11 of the crude oils identified in the response plan;

12 (C) to adequately describe the geographic
13 areas most sensitive to the effects of a diluted
14 bitumen spill, including the water bodies poten-
15 tially at risk;

16 (D) to describe in sufficient detail the re-
17 sponse activities planned and resources avail-
18 able to mitigate the impacts of spills of diluted
19 bitumen, if applicable, including the capabilities
20 of the operator for detection, containment, and
21 recovery of submerged and sunken oil; and

22 (E) to specify the procedures by which the
23 operator will—

24 (i) not later than 6 hours after a spill
25 has been detected, provide to the applicable

1 On-Scene Coordinator or an equivalent
2 State official information identifying the
3 source and industry-standard name of any
4 spilled diluted bitumen; and

5 (ii) not later than 24 hours after the
6 spill, or whenever the operator and the ap-
7 plicable On-Scene Coordinator agree it is
8 safe to do so, provide to the On-Scene Co-
9 ordinator or an equivalent State official, on
10 request—

11 (I) a 1-liter sample drawn from
12 the batch of oil spilled; and

13 (II) specific compositional infor-
14 mation on the diluent;

15 (2) to require response plans and the safety
16 data sheets associated with response plans to include
17 spill-relevant properties and considerations with re-
18 spect to each crude oil transported by the operator
19 and identified in the response plan in accordance
20 with paragraph (1)(A);

21 (3) to require the Administrator—

22 (A) to consult with the Administrator of
23 the Environmental Protection Agency or the
24 Commandant of the Coast Guard, or both, as
25 applicable, with respect to whether response

1 plans submitted to the Administrator under
 2 that part meet the requirements in order to re-
 3 spond to spills of diluted bitumen; and

4 (B) to conduct reviews of response plans
 5 for pipelines carrying diluted bitumen to ensure
 6 the response plans comply with requirements
 7 under that part prior to approval; and

8 (4) to require operators to provide to the Ad-
 9 ministrator, and make publicly available on the
 10 website of the operator, annual reports that de-
 11 scribe—

12 (A) the volumes of diluted bitumen, light,
 13 medium, and heavy crude oils, and any other
 14 crude oils carried by each pipeline of the oper-
 15 ator; and

16 (B) the pipeline sections transporting the
 17 diluted bitumen and other crude oils described
 18 in subparagraph (A).

19 **SEC. 5. BEST AVAILABLE TECHNOLOGY FOR MONITORING**
 20 **AND SHUTTING OFF CERTAIN PIPELINES.**

21 (a) RULEMAKING.—

22 (1) IN GENERAL.—Not later than 2 years after
 23 the date of enactment of this Act, the Secretary, act-
 24 ing through the Administrator, shall promulgate reg-
 25 ulations requiring each operator of a pipeline located

1 in a high consequence area to implement, subject to
2 subsection (d), the best available technology for—

3 (A) real-time monitoring of the pipeline
4 through pressure monitoring at shutoff valves,
5 product flow monitoring, or product wave flow
6 monitoring;

7 (B) shutting off the pipeline; and

8 (C) isolating product flow through the in-
9 stallation of shutoff valves, including (subject to
10 section 60104(b) of title 49, United States
11 Code, if applicable) on existing pipelines, if de-
12 termined to be appropriate by the Adminis-
13 trator, for purposes of—

14 (i) implementing the best available
15 technology for the activities described in
16 subparagraphs (A) and (B); and

17 (ii) isolating any release in the event
18 of a leak or spill.

19 (2) RULEMAKING PROCESS.—Notwithstanding
20 any other provision of law, the requirements of para-
21 graphs (2)(D), (2)(E), (3)(B), and (5) of section
22 60102(b) of title 49, United States Code, shall not
23 apply to the rulemaking required under paragraph
24 (1) or any proceeding to revise the regulations pro-
25 mulgated under that paragraph.

1 (b) BEST AVAILABLE TECHNOLOGY.—

2 (1) IN GENERAL.—Subject to paragraphs (2)
3 and (3), unless the Administrator makes a deter-
4 mination that another technology provides a greater
5 degree of protection with respect to limiting the
6 quantity of release in the event of a leak or spill, the
7 best available technology for a pipeline described in
8 subsection (a)(1) shall include—

9 (A) 1 or more leak detection technologies,
10 such as through pressure monitoring at shutoff
11 valves, product flow monitoring, product detec-
12 tion, or product flow wave monitoring;

13 (B) 1 or more automatic shutoff systems
14 with pressure monitoring at the shutoff systems
15 that communicate to, as applicable—

16 (i) the appropriate control room (as
17 defined in section 192.3 of title 49, Code
18 of Federal Regulations (or a successor reg-
19 ulation)); or

20 (ii) the appropriate control room (as
21 defined in section 195.2 of that title (or a
22 successor regulation));

23 (C) remote-controlled sectionalized block
24 valves with pressure monitoring at shutoff
25 valves; or

1 (D) a combination of technologies de-
2 scribed in subparagraphs (A) through (C).

3 (2) ALTERNATIVE PROTECTIONS.—In areas
4 where it is not technically feasible to implement the
5 technologies described in paragraph (1) due to lack of
6 power or communications capabilities for installing
7 the necessary control equipment, the Administrator
8 may establish alternative methods of protection with
9 respect to limiting the quantity of release in the
10 event of a leak or spill that shall be deemed to be
11 the best available technology in that area for pur-
12 poses of subsection (a)(1).

13 (3) APPLICABILITY.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (B) and subsection (d), the Adminis-
16 trator shall establish requirements relating to
17 the diameter, flow volume, and operating pres-
18 sure at which the operator of a pipeline located
19 in a high consequence area shall be required to
20 implement a particular technology or combina-
21 tion of technologies described in paragraph (1)
22 or an alternative protection established under
23 paragraph (2) with respect to the pipeline.

24 (B) REQUIREMENT.—In establishing re-
25 quirements relating to diameter, flow volume,

1 and operating pressure under subparagraph
2 (A), the Administrator shall ensure that each
3 operator described in subsection (a)(1) is re-
4 quired to implement at least 1 technology de-
5 scribed in paragraph (1) or 1 alternative protec-
6 tion established under paragraph (2) with re-
7 spect to each pipeline of the operator that is lo-
8 cated in a high consequence area.

9 (4) RISK ANALYSIS.—

10 (A) IN GENERAL.—Not later than 2 years
11 after the date of enactment of this Act, and not
12 less frequently than once every 5 years there-
13 after, each operator of a pipeline described in
14 subsection (a)(1) shall submit to the Adminis-
15 trator a risk analysis with respect to the pipe-
16 line.

17 (B) REQUIREMENT.—A risk analysis sub-
18 mitted under subparagraph (A) shall include a
19 description of the technology that, in the assess-
20 ment of the operator and in light of the risks
21 identified in that risk analysis, is the best avail-
22 able technology for—

23 (i) monitoring and shutting off the
24 applicable pipeline; and

1 (ii) isolating any release in the event
2 of a leak or spill.

3 (C) DETERMINATION OF BEST AVAILABLE
4 TECHNOLOGY.—In making a determination of
5 the best available technology for monitoring and
6 shutting off each pipeline described in sub-
7 section (a)(1), the Administrator shall consider
8 the risk analysis submitted by the operator of
9 the pipeline under this paragraph.

10 (c) REQUIREMENT.—The Administrator shall estab-
11 lish a process for determining whether an operator de-
12 scribed in subsection (a)(1) has complied with the regula-
13 tions promulgated under that subsection, including a proc-
14 ess for determining whether the technology used by the
15 operator is the best available technology for—

16 (1) monitoring each applicable pipeline of the
17 operator;

18 (2) shutting off each applicable pipeline of the
19 operator; and

20 (3) isolating any releases from each applicable
21 pipeline of the operator in the event of a leak or
22 spill.

23 (d) EXEMPTIONS.—

24 (1) COMPLIANCE DEADLINES.—The Adminis-
25 trator may grant to an operator described in sub-

1 section (a)(1) an exemption from a compliance dead-
 2 line established under this section if the operator—

3 (A) submits to the Administrator a request
 4 for an exemption from the deadline; and

5 (B) demonstrates to the satisfaction of the
 6 Administrator that more time is needed to com-
 7 ply with the requirement to which the deadline
 8 relates.

9 (2) MONITORING REQUIREMENTS.—

10 (A) IN GENERAL.—The Administrator may
 11 grant to an operator described in subsection
 12 (a)(1) an exemption from a monitoring require-
 13 ment established under this section if the oper-
 14 ator—

15 (i) submits to the Administrator a re-
 16 quest for an exemption from the moni-
 17 toring requirement; and

18 (ii) demonstrates to the satisfaction of
 19 the Administrator that complying with the
 20 monitoring requirement or installing the
 21 best available technology for the applicable
 22 monitoring is not economically, technically,
 23 or operationally feasible.

24 (B) ALTERNATIVE COMPLIANCE.—The Ad-
 25 ministrator shall require an operator receiving a

1 waiver under subparagraph (A) to implement
 2 an alternative method of protection determined
 3 to be appropriate by the Administrator with re-
 4 spect to limiting the quantity of release in the
 5 event of a leak or spill.

6 (C) APPLICATION.—A waiver under sub-
 7 paragraph (A) shall not apply to any applicable
 8 requirement to implement the best available
 9 technology for—

10 (i) shutting off a pipeline once the op-
 11 erator is aware of a leak or spill; or

12 (ii) isolating any release from a leak
 13 or spill of which the operator is aware.

14 **SEC. 6. ACCEPTANCE OF GIFTS AND BEQUESTS BY THE**
 15 **UNDER SECRETARY OF COMMERCE FOR**
 16 **OCEANS AND ATMOSPHERE.**

17 (a) AUTHORITY.—The Under Secretary may accept,
 18 hold, administer, and utilize gifts and bequests of prop-
 19 erty, both real and personal, for the purposes of aiding
 20 or facilitating the work of the National Oceanic and At-
 21 mospheric Administration or the Center, including by car-
 22 rying out research related to the Center and the impacts
 23 of oil spills in freshwater environments such as the Great
 24 Lakes Basin.

1 (b) SEPARATE FUND; DISBURSEMENTS.—Gifts and
2 bequests of money described in subsection (a) and the pro-
3 ceeds from sales of other property received as gifts or be-
4 quests under that subsection shall be—

5 (1) deposited in the Treasury in a separate
6 fund; and

7 (2) available to the Under Secretary for the
8 purposes described in subsection (a) without further
9 appropriation.

10 (c) SCIENTIFIC EXCELLENCE AND SCIENTIFIC IN-
11 TEGRITY.—In carrying out any activity using a gift or be-
12 quest described in subsection (a) or the proceeds of a sale
13 of property received as a gift or bequest under that sub-
14 section, the Under Secretary shall—

15 (1) ensure a continuing culture of scientific ex-
16 cellence and scientific integrity intended to strength-
17 en confidence in the quality, validity, and reliability
18 of science administered by the National Oceanic and
19 Atmospheric Administration; and

20 (2) abide by the scientific integrity policy of the
21 National Oceanic and Atmospheric Administration.

22 (d) COORDINATION.—The Under Secretary and the
23 Commandant of the Coast Guard shall coordinate activi-
24 ties described in subsection (c)—

1 (1) to optimize data collection, sharing, and in-
2 tegration; and

3 (2) to minimize duplication.

4 (e) CLARIFICATION.—Nothing in this section affects
5 the application of United States copyright law.

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