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PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

JULY 23, 2002.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3609]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3609) to amend title 49, United States Code, to enhance the security and safety of pipelines, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Infrastructure Protection To Enhance Security and Safety Act".

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
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Sec. 19. Protection of employees providing pipeline safety information.
Sec. 20. Pipeline bridge risk study.

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SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) MINIMUM STANDARDS.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting ", including all government operators" before the semicolon at the end; and

(B) in paragraph (2) by inserting ", including all government and contract excavators" before the semicolon at the end; and

(2) in subsection (c) by striking "provide for" and inserting "provide for and document".

(b) COMPLIANCE WITH MINIMUM STANDARDS.—Section 6104(d) is amended by striking "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" and inserting "The Secretary shall".

(c) IMPLEMENTATION OF BEST PRACTICES GUIDELINES.—

(1) IN GENERAL.—Section 6105 is amended to read as follows:

"§ 6105. Implementation of best practices guidelines

"(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2002 through 2005. Such sums shall remain available until expended.

"(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

"6105. Implementation of best practices guidelines.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking "$1,000,000 for fiscal year 2000" and all that follows before the period at the end of the first sentence and inserting "$1,000,000 for each of fiscal years 2002 through 2005".

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking "for fiscal years 1999, 2000, and 2001" and inserting "for fiscal years 2002 through 2005".

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.".

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting ", including a government employee or contractor," after "person".

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking "knowingly and willfully";

(2) in paragraph (1) by inserting "knowingly and willfully" before "engages"; and

(3) by striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

SEC. 4. PUBLIC EDUCATION PROGRAMS.

(a) SECURITY AND SAFETY STANDARDS.—Section 60102(b) is amended—

(1) in the subsection heading by striking "PRACTICABILITY AND SAFETY NEEDS STANDARDS" and inserting "SECURITY AND SAFETY STANDARDS";

(2) in paragraph (1)(B)(i)—

(A) by striking "safety" and inserting "safety and security"; and
(B) by striking "safely" and inserting "safely and securely";
(3) in paragraph (2)(A)—
(A) by striking "and" at the end of clause (ii);
(B) by adding "and" at the end of clause (iii); and
(C) by adding at the end the following:
"(iv) security information;";
(4) in paragraph (2)—
(A) by striking "and" at the end of subparagraph (F);
(B) by striking the period at the end of subparagraph (G) and inserting "; and"; and
(C) by adding at the end the following:
"(H) the comments and recommendations of the Office of Homeland Security and the Transportation Security Administration."; and
(5) in paragraph (3)—
(A) by striking "and" at the end of subparagraph (C);
(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and
(C) by adding at the end the following:
"(E) assess the vulnerabilities of pipeline facilities to terrorist attacks.".

(b) PUBLIC SAFETY PROGRAM REQUIREMENTS.—Section 60102(c) is amended to read as follows:

"(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall include in the standards prescribed under subsection (a) a requirement that the operator of a pipeline facility participate in a public safety program that—

"(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

"(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

"(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

"(2) COMPARABLE SERVICES.—To the extent a public safety program referred to in paragraph (1) is not available, the Secretary shall prescribe standards requiring an operator to take action to provide services comparable to services that would be available under a public safety program.

"(3) PROMOTING PUBLIC SAFETY.—

"(A) PROVISION OF MAP TO MUNICIPALITIES.—The operator of a hazardous liquid or interstate gas pipeline facility shall provide on an annual basis to the governing body of each municipality in which the facility is located, a map identifying the location of the facility.

"(B) SURVEY.—The Secretary shall periodically survey and assess the public education programs under section 60116 and the public safety programs under this subsection and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include—

"(i) the methods by which operators notify residents of the location of the facility and its right of way;

"(ii) public information regarding existing One-Call programs; and

"(iii) appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate pipeline facilities.

"(C) RULEMAKING.—The Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate standards implementing those components on a nationwide basis. Such standards shall establish appropriate limitations on access to maps provided under subparagraph (A) based on the need for security of the information.

"(D) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to State and local officials in applying practices developed as part of the programs required under this subsection and section 60116 to their activities to educate and promote pipeline safety with the public.".

SEC. 5. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking "GENERAL AUTHORITY.—" and inserting "AGREEMENTS WITHOUT CERTIFICATION.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

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

"(b) AGREEMENTS WITH CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

"(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Infrastructure Protection To Enhance Security and Safety Act if—

"(A) the State authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

"(e) ENDING AGREEMENTS.—

"(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

"(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

(c) SECRETARY'S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking "Each agreement" and inserting the following:

"(1) IN GENERAL.—Each agreement";

(2) by adding at the end the following:

"(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

"(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

"(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions."; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 6. COMMUNITY RIGHT-TO-KNOW AND EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Section 60116 is amended to read as follows:

"§ 60116. Community right-to-know and emergency preparedness

"(a) PUBLIC EDUCATION PROGRAMS.—

"(1) IN GENERAL.—Each operator of a gas pipeline or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on—

"(A) the use of a one-call notification system prior to excavation and other damage prevention activities;

"(B) the possible hazards associated with unintended releases from the pipeline facility;

"(C) the physical indications that such a release may have occurred;

"(D) what steps should be taken for public safety in the event of a pipeline release; and

"(E) how to report such an event.

"(2) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of enactment of this paragraph, each operator of a gas pipeline or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall be reviewed by the Secretary of Transportation as an element of Departmental inspections.

"(3) STANDARDS.—The Secretary may issue standards prescribing the details of a public education program and providing for periodic review of the program's effectiveness and modification as needed. The Secretary may also develop material for use in the program.

"(4) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance on public safety and public education programming regarding pipeline safety as follows:

"(A) TO PIPELINE INDUSTRY.—To the pipeline industry, technical assistance on—

"(i) developing public safety and public education program content; and

"(ii) using best practices for program delivery and on evaluating the effectiveness of the programs.

"(B) TO STATE AND LOCAL OFFICIALS.—To State and local officials, technical assistance on applying practices developed in public safety and public education programs to their activities to promote pipeline safety.

"(b) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall make available to the public a safety-related condition report filed by an operator under section 60102(h) and, except as provided in section 60117(d)(2), a report of a pipeline incident filed by an operator under this chapter.

"(c) EMERGENCY PREPAREDNESS.—

"(1) OPERATOR LIAISON.—Not later than 1 year after the date of enactment of this subsection, each operator of a gas pipeline or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

"(2) EMERGENCY RESPONSE PLANS.—The Secretary shall prescribe standards to require each operator of a gas pipeline or hazardous liquid pipeline facility—

"(A) to develop an emergency response plan for responding to incidents involving the facility; and

"(B) to make the plan available upon request to State and local officials.

"(3) COOPERATION WITH LOCAL OFFICIALS.—Each operator of a gas pipeline or hazardous liquid pipeline facility shall work in cooperation with State and local officials in the development of State and local emergency response plans for responding to incidents involving the facility.

"(d) EMERGENCY RESPONSE GRANTS.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as such an area is defined by the Secretary, for emergency response management, training, and technical assistance.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

"60116. Community right-to-know and emergency preparedness.".

SEC. 7. SAFETY AND SECURITY ORDERS.

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

"(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potentially unsafe condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the unsafe condition.

"(m) SECURITY ORDERS.—If the Secretary decides that a pipeline facility has a vulnerability to terrorist attacks, the Secretary may order that the operator of the facility take necessary actions to eliminate or reduce the vulnerability.".

SEC. 8. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122(a)(1) is amended—

(1) by striking "$25,000" and inserting "$50,000"; and

(2) by striking "$500,000" and inserting "$750,000".

(b) CRIMINAL PENALTIES.—Section 60123(b) is amended by inserting "as an act of terrorism or for any other purpose" before "shall be fined".

SEC. 9. POPULATION ENCROACHMENT.

Section 60127 is amended to read as follows:

"§ 60127. Population encroachment

"(a) STUDY.—The Secretary of Transportation, in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices and zoning ordinances with regard to pipeline rights-of-way.

"(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices and zoning ordinances—

"(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

"(2) to address and prevent the hazards and risks to the public and the environment associated with encroachment on pipeline rights-of-way; and

"(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way.

"(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

"(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

"(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

"(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment on pipeline rights-of-way so as to more effectively protect public safety and the environment.

"(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

"(A) Congress and appropriate Federal agencies; and

"(B) States for further distribution to appropriate local authorities.

"(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way.

"(e) LOCAL ASSISTANCE.—

"(1) IN GENERAL.—In conducting the study and preparing the report under this section, the Secretary shall consult with a group of State and local officials

selected by the Secretary. The Secretary shall begin consulting with the group not later than 90 days after the date of enactment of this subsection.

"(2) MEMBERSHIP.—The group shall be composed of members selected by the Secretary from among elected officials of State and local governments representing areas in which pipeline facilities are located. At least one of the members shall be an elected official of a local government with a population of less than 10,000.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the group established under this subsection.".

SEC. 10. ADDITIONAL GAS PIPELINE PROTECTIONS.

(a) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—Section 60109 is amended by adding at the end the following:

"(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

"(1) REQUIREMENT.—Each operator of a gas transmission pipeline facility shall conduct an analysis of the risks to each facility of the operator in an area identified pursuant to subsection (a)(1) and shall adopt and implement a written integrity management program for such facility to reduce the risks.

"(2) REGULATIONS.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require the conduct of the risk analysis and adoption of the integrity management program to occur within a time period prescribed by the Secretary, not to exceed 1 year after the issuance of such regulations. The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

"(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

"(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1), to be completed not later than 10 years after the date of the adoption of the integrity management program, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety.

"(B) Subject to paragraph (4), periodic reinspection of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

"(4) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reinspection of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

"(5) CONSIDERATIONS.—In developing standards under paragraph (2), the Secretary shall take into consideration the following:

"(A) The level of safety, the characteristics of the gas, the application of existing or new technology, the results of technical studies by recognized experts and previous assessments, historical performance of gas pipelines, engineering criteria for determining the severity of threats to integrity, the availability of inspection equipment and analytical personnel, the security and reliability of supply, and the impact on gas prices to consumers.

"(B) The appropriateness of the application of various assessment methodologies, taking into account the nature of the anomalies of specific pipeline segments under investigation, including such methodologies as direct assessment, hydrostatic testing, in-line inspection, and other effective methods.

"(C) The application of a prescriptive or performance-based means of compliance (or a combination thereof).

"(D) Incorporation of applicable national consensus standards to create a consistent and effective approach to risk assessment and prioritization, high consequence areas, pipeline facility inspection, integrity management, and repair requirements for managing pipeline integrity.

"(E) The effectiveness of review and oversight of an operator's integrity management plan by a designated pipeline safety authority.

"(6) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

"(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

"(B) the use of emergency flow restricting devices.

"(7) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards as described in paragraph (2), an operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program under paragraph (1) not later than 30 months after the date of the enactment of this subsection.

"(8) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

"(A) REVIEW OF PROGRAMS.—

"(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

"(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

"(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

"(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment.

"(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

"(9) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (8), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

"(10) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.".

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

"(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).".

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking "and" at the end of paragraph (2);

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

(3) by adding at the end the following:

"(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).".

(d) STUDY OF PERFORMANCE-BASED WAIVERS FOR REINSPECTION INTERVALS.—

(1) STUDY.—The Secretary of Transportation shall conduct a study to determine the feasibility of extending the 7-year reinspection interval required by section 60109(c)(3)(B) of title 49, United States Code, on a case-by-case basis, as an incentive for pipeline operators whose intregity management plans exceed the minimum requirements for inspections and repairs under section 60109(c) of such title and provide a greater level of safety than such requirements.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted, together with such recommendations as the Secretary may have regarding extension of the reinspection interval.

SEC. 11. PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) ESTABLISHMENT OF COOPERATIVE PROGRAM.—

(1) IN GENERAL.—The heads of the participating agencies shall develop and implement a program of research, development, demonstration, and standardization to ensure the integrity of energy pipelines and next-generation pipelines.

(2) ELEMENTS.—The program shall include research, development, demonstration, and standardization activities related to—

(A) materials inspection;

(B) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(C) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(D) methods of analyzing content of pipeline throughput;

(E) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(F) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(G) communication, control, and information systems surety;

(H) fire safety of pipelines;

(I) improved excavation, construction, and repair technologies; and

(J) other elements the heads of the participating agencies consider appropriate.

(3) ACTIVITIES AND CAPABILITIES REPORT.—Not later than 6 months after the date of enactment of this Act, the participating agencies shall transmit to Congress a report on the existing activities and capabilities of the participating agencies, including the national laboratories. The report shall include the results of a survey by the participating agencies of any activities of other Federal agencies that are relevant to or could supplement existing research, development, demonstration, and standardization activities under the program created under this section.

(b) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the participating agencies shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Pipeline Integrity Technical Advisory Committee established under subsection (c) for review, and the report to Congress shall include the comments of the Advisory Committee. The 5-year program plan shall take into account related activities of Federal agencies that are not participating agencies.

(2) CONSULTATION.—In preparing the program plan, the participating agencies shall seek the advice of other Federal agencies, appropriate representatives of State and local government and the private sector, including companies owning energy pipelines and developers of next-generation pipelines, utilities, manufacturers, institutions of higher learning, pipeline research institutions, national laboratories, environmental organizations, pipeline safety advocates, professional and technical societies, and any other appropriate entities to help establish program priorities.

(c) PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The participating agencies shall establish and manage a Pipeline Integrity Technical Advisory Committee (in this subsection referred to as the "Advisory Committee"). The Advisory Committee shall be established not later than 6 months after the date of enactment of this Act.

(2) DUTIES.—The Advisory Committee shall—

(A) advise the participating agencies on the development and implementation of the program plan prepared under subsection (b); and

(B) have a continuing role in evaluating the progress and results of research, development, demonstration, and standardization activities carried out under this section.

(3) MEMBERSHIP.—

(A) APPOINTMENT.—The Advisory Committee shall be composed of—

(i) 3 members appointed by the Secretary of Energy;

(ii) 3 members appointed by the Secretary of Transportation; and

(iii) 3 members appointed by the Director of the National Institute of Standards and Technology.

In making appointments, the participating agencies shall seek recommendations from the National Academy of Sciences.

(B) QUALIFICATIONS.—Members appointed to the Advisory Committee shall have experience or be technically qualified, by training or knowledge, in the operations of the pipeline industry, and have experience in the research and development of pipeline or related technologies.

(C) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) MEETINGS.—The Advisory Committee shall meet at least 4 times each year.

(5) TERMINATION.—The Advisory Committee shall terminate 5 years after its establishment.

(d) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the participating agencies shall each transmit to Congress a report on the status and results to date of the implementation of their portion of the program plan prepared under subsection (b).

(e) MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the date of enactment of this Act, the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities under this section, consistent with the activities and capabilities identified under subsection (a)(3). Each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program plan within its jurisdiction are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its expertise in pipeline inspection and information systems surety. The Department of Energy's responsibilities shall reflect its expertise in low-volume leak detection and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in standards and materials research.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) ENERGY PIPELINE.—The term "energy pipeline" means a pipeline system used in the transmission or local distribution of natural gas (including liquefied natural gas), crude oil, or refined petroleum products.

(2) NEXT-GENERATION PIPELINE.—The term "next-generation pipeline" means a transmission or local distribution pipeline system designed to transmit energy or energy-related products, in liquid or gaseous form, other than energy pipelines.

(3) PARTICIPATING AGENCIES.—The term "participating agencies" means the Department of Energy, the Department of Transportation, and the National Institute of Standards and Technology.

(4) PIPELINE.—The term "pipeline" means an energy pipeline or a next-generation pipeline.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Secretary of Energy $10,000,000;

(2) to the Secretary of Transportation $5,000,000; and

(3) to the National Institute of Standards and Technology $5,000,000,

for each of the fiscal years 2003 through 2007 for carrying out this section.

SEC. 12. QUALIFICATION OF PIPELINE PERSONNEL.

(a) QUALIFICATION PROGRAMS.—

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

"§ 60129. Qualification of pipeline personnel

"(a) QUALIFICATION PROGRAM.—Not later than one year after the date of enactment of this section, each operator of a gas pipeline or hazardous liquid pipeline facility shall adopt and implement a written qualification program that ensures that all individuals performing covered tasks for the facility are qualified to perform such tasks.

"(b) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

"(1) A method for examining or testing the qualifications of individuals performing covered tasks for the facility. Such method may not be limited to observation of on-the-job performance unless such observation includes a written performance evaluation.

"(2) A requirement that the operator complete the qualification of all individuals performing covered tasks for the facility not later than 18 months after the date of adoption of the program.

"(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

"(c) REVIEW OF QUALIFICATION PROGRAMS.—

"(1) REVIEW OF PROGRAMS.—

"(A) IN GENERAL.—The Secretary or a State authority responsible for enforcing standards prescribed under this chapter shall review the qualification program of an operator and record the results of that review for use in the next review of an operator's program.

"(B) CONTEXT OF REVIEW.—The Secretary or State authority may conduct a review under subparagraph (A) as an element of its inspection of an operator.

"(C) INADEQUATE PROGRAMS.—If the Secretary or a State authority determines that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary or State authority shall act under section 60108(a)(2) to require the operator to revise the qualification program.

"(2) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this subsection, an operator shall notify the Secretary or State authority, as appropriate, of any amendment made to the operator's qualification program not later than 30 days after the date of adoption of the amendment.

"(3) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section.

"(d) COVERED TASK DEFINED.—In this section, the term 'covered task'—

"(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, as in effect on the date of enactment of this section.".

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

"60129. Qualification of pipeline personnel.".

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based supervisory control and data acquisition (referred to in this subsection as "SCADA") systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating SCADA systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate SCADA systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate SCADA systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) REPORT ON OPERATOR QUALIFICATION RULE IMPLEMENTATION.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the implementation of the operator qualification rule issued by the Secretary in August 1999.

SEC. 13. SECURITY OF PIPELINE FACILITIES.

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

"§ 60130. Security of pipeline facilities

"(a) TERRORISM SECURITY PROGRAMS.—

"(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary of Transportation shall require the operator of a pipeline facility to develop and implement a terrorism security program.

"(2) CONTENTS OF PROGRAMS.—

"(A) IN GENERAL.—A terrorism security program of a pipeline operator shall consist of written procedures to follow and actions to take in the event of a terrorist attack on a pipeline facility or an attack on other infrastructure facilities in the United States. Such procedures shall include procedures for communicating with military, law enforcement, emergency service, and other appropriate State and local government and non-government entities.

"(B) STANDARD.—A terrorism security program of a pipeline operator shall require the operator to establish and implement reasonable procedures to safeguard the pipeline facility and safely maintain its operations.

"(3) APPROVAL OF PROGRAMS.—Not later than 1 year after the date of enactment of this section, the Secretary shall conduct a review of, and approve or disapprove, the terrorism security program of each pipeline operator. The Secretary shall prescribe procedures for the review and standards for the approval of such programs.

"(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to an operator of a pipeline facility, or to State, tribal, or local officials, to prevent or respond to acts of terrorism that may affect the pipeline facility. Such technical assistance may include at a minimum—

"(1) actions by the Secretary that support the use of National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack;

"(2) use of resources available to the Secretary to develop and implement security measures for a pipeline facility;

"(3) identification of security issues with respect to the operation of a pipeline facility; and

"(4) the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.".

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

"60130. Security of pipeline facilities.".

SEC. 14. NATIONAL PIPELINE MAPPING SYSTEM.

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

"§ 60131. National pipeline mapping system

"(a) INFORMATION TO BE PROVIDED.—Not later than 30 days after the date of enactment of this section, the operator of a pipeline facility shall provide to the Secretary of Transportation the following information with respect to the facility:

"(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

"(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

"(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

"(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary periodic updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

"(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.".

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

"60131. National pipeline mapping system.".

SEC. 15. ADMINISTRATIVE PROCESS FOR PERMITTING OF PIPELINE REPAIR ACTIVITY.

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

"§ 60132. Administrative process for permitting of pipeline repair activity

"(a) INTERAGENCY COMMITTEE.—

"(1) ESTABLISHMENT.—Within 30 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the President shall establish an Interagency Committee on Pipeline Repair Permitting (in this section referred to as the 'Interagency Committee').

"(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall also include each of the following persons (or a designee thereof):

"(A) The Secretary.

"(B) The Administrator of the Environmental Protection Agency.

"(C) The Director of the United States Fish and Wildlife Service.

"(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

"(E) The Director of the Bureau of Land Management.

"(F) The Director of the Minerals Management Service.

"(G) The Assistant Secretary of the Army for Civil Works.

"(H) The Chairman of the Federal Energy Regulatory Commission.

"(3) PURPOSES.—The Interagency Committee shall evaluate current Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs may be subject and shall recommend to the Secretary a process by which owners or operators of pipelines (in this section referred to as 'pipeline operators') may commence and complete all such activities necessary to carry out pipeline repairs that must be completed within time periods specified by rule by the Secretary under the integrity management program. As part of its evaluation, the Interagency Committee shall examine access, excavation, and restoration activities currently used in the pipeline industry in connection with pipeline repairs and shall develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

"(4) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials and such other officials as the Interagency Committee deems appropriate.

"(b) IMPLEMENTATION.—

"(1) PROPOSED RULE.—Within 180 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the Interagency Committee shall present its evaluation and recommendations to the Secretary. Within 30 days after the date on which such evaluation and recommendations are presented, the Secretary shall propose a rule, based on and consistent with such recommendations, to establish a process by which pipeline operators may commence and complete all access, excavation, and restoration activities necessary to carry out pipeline repairs that must be completed within time periods specified by rule by the Secretary under the integrity management program. Such proposed rule shall contain the provisions required by paragraph (2) and shall incorporate, to the extent practicable and cost effective, the compendium of best practices developed by the Interagency Committee.

"(2) FINAL RULE.—

"(A) ISSUANCE.—The Secretary shall issue a final rule not later than 180 days after the date on which the Interagency Committee presents its evaluation and recommendations to the Secretary.

"(B) CONTENT.—The final rule shall—

"(i) provide that a pipeline operator carrying out a pipeline repair project as part of its pipeline integrity management program may proceed with the project only if the operator provides notice to the Secretary that the operator is proceeding with the repairs in compliance with the applicable best practices incorporated in such final rule and the Secretary concurs;

"(ii) provide that if the Secretary disapproves of the operator proceeding with the repairs as described in the operator's notice, the Secretary shall provide notice to the operator of the disapproval in the 7-day period beginning on the date of receipt by the Secretary of the operator's notice, together with a description of the actions that the operator must take to receive the Secretary's concurrence;

"(iii) provide that if the Secretary does not provide notice to an operator of the Secretary's disapproval of the operator proceeding with the repairs as described in the operator's notice in the 7-day period described in clause (ii), the Secretary shall be deemed to concur;

"(iv) provide that if the Secretary disapproves of the operator proceeding with the repairs as described in the operator's notice, the Secretary shall provide the operator with an opportunity to resubmit a notice for the pipeline repair project under clause (i); and

"(v) require a certification to the Secretary following completion of the repair project that the project was completed in compliance with all such best practices.

"(C) EFFECTIVE DATE.—The final rule shall be made effective no later than 90 days after it is published in the Federal Register.

"(c) RELATIONSHIP TO OTHER PERMITS.—

"(1) OTHER FEDERAL PERMITS.—A pipeline operator that proceeds to carry out a pipeline repair project under the provisions of the final rule described in subsection (b) shall not be required to obtain a permit from any other Federal agency before carrying out such repair project, except as may be provided in such final rule.

"(2) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed in connection with a particular repair situation—

"(A) to require a pipeline operator to comply with the final rule described in subsection (b) if no Federal permit would otherwise have been required under Federal law;

"(B) to prohibit a pipeline operator from opting to obtain all permits otherwise necessary under Federal law rather than proceeding under the final rule described in subsection (b); or

"(C) to preempt otherwise applicable State and local permitting requirements.

"(d) REPAIR PROJECTS NOT COMPORTING WITH BEST PRACTICES.—

"(1) PREPARATION OF SITE MANAGEMENT PLAN.—In the case of any pipeline repair that must be completed within time periods specified by rule by the Secretary under the integrity management program, but for which repair activities may not proceed under subsection (b) because the repair is not able to comport with the requirements of the final rule issued thereunder or for any other reason, or any repair project on which work has been commenced but which the pipeline operator thereafter discovers cannot comport with such requirements, the pipeline operator shall prepare a specific site management plan for the proposed access, excavation, and restoration activities.

"(2) SUBMISSION OF PLAN TO PERMITTING AGENCIES.—Such plan shall be submitted to all applicable permitting agencies for review and approval, and to the Secretary. In the event an agency has not approved a permit application within 60 days after its submission, or has not issued a denial of such application within 60 days together with a specification of items in the application requiring correction, the pipeline operator shall be permitted to proceed with the proposed repair activities as provided in its site management plan.

"(3) FAILURE TO ADHERE TO PLAN.—If the pipeline operator fails to adhere to its site management plan and such failure results in damage to human health, public safety, or the environment, the owner or operator shall be subject to such civil and criminal remedies and penalties as are otherwise provided by Federal, State, and local law.

"(e) INTERIM OPERATIONAL ALTERNATIVES.—

"(1) IN GENERAL.—Within 30 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the Secretary shall commence a rulemaking to permit pressure reduction, line monitoring, and other mitigation measures to be employed, as appropriate, during the period between such date of enactment and the date on which the final rule issued under subsection (b) becomes effective, on pipeline facilities subject to time periods for repair specified by rule by the Secretary under the integrity management program. Such alternative mitigation measures shall be available only to a pipeline operator that, with respect to a particular repair project, has applied for and is pursuing in good faith all required Federal, State, and local permits to carry out the project.

"(2) FACTORS TO CONSIDER.—In issuing the final rule under this subsection, the Secretary shall consider the need to protect human health, public safety, and the environment, to ensure continuity in energy supplies, and to avoid conflict between and among regulatory regimes.

"(3) DEADLINE FOR ISSUANCE.—The Secretary shall issue a final rule under this subsection within 90 days after the date on which a notice of proposed rulemaking is published in the Federal Register.

"(f) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between the permitting agency and the pipeline operator during agency review of any pipeline repair activity, or

during the review of any permit application under subsection (d), consistent with protection of human health, public safety, and the environment.

"(g) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to streamline their respective permitting processes for pipeline repair projects subject to time periods for repair specified by rule by the Secretary under pipeline integrity management programs. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such streamlining.

"(h) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval issued or made under this section, the relevant Federal or State agency shall be bound by the project purpose and need as defined by the Secretary.".

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

"60132. Administrative process for permitting of pipeline repair activity.".

SEC. 16. PIPELINE SECURITY-SENSITIVE INFORMATION.

Section 60117(d) is amended—

(1) by striking "Information" and inserting the following:

"(1) IN GENERAL.—Information";

(2) by moving the remainder of the text of paragraph (1) (as so designated) 2 ems to the right; and

(3) adding at the end the following:

"(2) INFORMATION REVEALING VULNERABILITIES.—

"(A) IN GENERAL.—If the Secretary determines that particular information obtained by the Secretary or an officer, employee, or agent in carrying out this chapter may reveal a systemic vulnerability of a pipeline system, or a vulnerability of pipeline facilities to attack, the information shall be withheld from public disclosure.

"(B) DISCLOSURE TO CERTAIN PERSONS.—Information withheld from public disclosure under subparagraph (A) may be disclosed only—

"(i) to an officer, employee, or agent of a Federal, State, tribal, or local government, including a volunteer fire department, concerned with carrying out this chapter, with protecting the facilities, with protecting public safety, or with national security issues;

"(ii) in an administrative or judicial proceeding brought under this chapter or one that addresses terrorist actions or threats of such actions; and

"(iii) to such other persons as the Secretary determines necessary to protect public safety and security.

"(C) DISCLOSURE DETERMINATIONS.—The Secretary, by regulation, may make a determination regarding disclosure under subparagraph (A) with respect to a category of information or a class of persons.

"(D) RELATIONSHIP TO TITLE 5.—A release of information withheld from public disclosure under subparagraph (A) to persons identified in subparagraph (B) is not a release to the public within the meaning of section 552 of title 5.".

SEC. 17. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60102(a)—

(A) by striking "(a)(1)" and all that follows through "The Secretary of Transportation" and inserting the following:

"(a) MINIMUM SAFETY STANDARDS.—

"(1) IN GENERAL.—The Secretary of Transportation";

(B) by moving the remainder of the text of paragraph (1), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(C) in paragraph (2) by inserting "QUALIFICATIONS OF PIPELINE OPERATORS.—" before "The qualifications";

(2) in section 60110(b) by striking "circumstances" and all that follows through "operator" and inserting the following: "circumstances, if any, under which an operator";

(3) in section 60114 by redesignating subsection (d) as subsection (c);

(4) in section 60122(a) by striking "section 60114(c)" and inserting "section 60114(b)"; and

(5) in section 60123(a) by striking "60114(c)" and inserting "60114(b)".

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

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

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60130) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

"(1) $35,500,000 for fiscal year 2002, of which $29,500,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title.

"(2) $37,900,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(3) $41,700,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(4) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.".

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsections (c) and (e) as subsections (b) and (d), respectively; and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

"(A) $18,500,000 for fiscal year 2002, of which $13,500,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title.

"(B) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(C) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(D) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.".

(c) RESEARCH.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

"(c) PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—In addition to amounts authorized under subsections (a) and (b), not more than $3,000,000 for each of fiscal years 2002 through 2005 may be appropriated to the Secretary to carry out section 60130.".

(d) CONFORMING AMENDMENT.—Section 60125(d) (as redesignated by subsection (b)(1) of this section) is amended by striking "or (b) of this section".

(e) EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by adding after subsection (d) (as redesignated by subsection (b)(1) of this section) the following:

"(e) EMERGENCY RESPONSE GRANTS.—There are authorized to be appropriated $6,000,000 for each of fiscal years 2002, 2003, and 2004 to carry out subsection (d) of section 60116.".

SEC. 19. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

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

"§ 60133. Protection of employees providing pipeline safety information

"(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator, or contractor or subcontractor of a pipeline operator, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

"(2) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

"(3) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

"(4) testified or is about to testify in such a proceeding; or

"(5) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may file (or have any person file on his or her behalf), not later than 90 days after the date on which such violation occurs, a complaint with

the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses

(including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline operator, contractor, or subcontractor who, acting without direction from the pipeline operator, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline operator.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

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

"60133. Protection of employees providing pipeline safety information.".

SEC. 20. PIPELINE BRIDGE RISK STUDY.

(a) INITIATION.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and

comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

PURPOSE OF THE LEGISLATION

The Pipeline Infrastructure Protection to Enhance Security and Safety Act, H.R. 3609, reauthorizes the Office of Pipeline Safety within the Department of Transportation for fiscal years 2002 through 2005. The Office's authorization expires September 30, 2002.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 3609 amends Federal "one-call notification system" provisions concerning notification to underground facility operators of excavations to: (1) require participation by government operators; and (2) encourage the adoption of the "Common Ground" report. The bill also provides improvements in public education programs concerning pipeline safety issues under the jurisdiction of the Office of Pipeline Safety (OPS) with in the Department of Transportation (DOT).

The bill also provides the Secretary of Transportation and OPS guidelines through which States act as agents for the OPS in the regulatory interstate pipelines. The bill provides authority and guidance under which the Secretary of Transportation may provide information to local communities concerning pipeline safety. The bill additionally improves the emergency preparedness of the local communities.

The bill also requires the Secretary of Transportation: when assessing the security and safety of pipeline facilities; (1) to assess the vulnerabilities of such facilities to terrorist attacks; (2) to include in such standards a requirement that pipeline facility operators participate in a public safety program when prescribing minimum safety standards for pipeline transportation and for pipeline facilities; and (3) to establish pipeline public education and safety standards.

The bill amends the penalties the Secretary of Transportation may seek against violators of pipeline safety regulations and laws by increasing the daily and total dollar amounts. The bill also directs the Secretary of Transportation to conduct a study concerning population encroachment issues and how they affect pipeline safety.

The bill requires the Secretary of Transportation to promulgate a rule regarding Integrity Management Programs for operators of pipelines that include required time periods for inspections.

It directs the Secretary of Transportation, in coordination with the Secretary of Energy, to develop and implement a cooperative program of research, development, and demonstration to ensure the integrity of pipeline facilities. The bill requires the establishment of a Pipeline Integrity Technical Advisory Committee to develop a cooperative pipeline facility integrity program. The bill also establishes a pipeline controller certification qualification program.

It additionally imposes new security requirements for pipeline facilities.

Under the bill, a pipeline facility operator is required to: (1) provide geospatial data appropriate for use in the National Pipeline Mapping System; (2) identify the person with primary operational control; (3) develop and implement terrorism security programs; and (4) take necessary corrective actions with a condition deemed potentially unsafe.

The bill provides for a coordinated environmental review process for pipeline repairs so that an operator may make repairs within the time periods required by current OPS regulations while obtaining, or otherwise complying with, the applicable environmental regulations or protections in current law.

The bill also permits withholding from the public certain pipeline information that may reveal the systemic vulnerability of a pipeline to attack. It additionally provides whistleblower protections to pipeline employees. It further requires OPS to conduct a study of the safety of suspension bridge pipelines.

H.R. 3609 reauthorizes the Office of Pipeline Safety within the Department of Transportation for fiscal years 2002 through 2005. The Office's authorization expires September 30, 2002.

The Department of Transportation's Research and Special Programs Administration, acting through the Office of Pipeline Safety (OPS), administers the Department's national regulatory program to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline. OPS develops regulations and other approaches to risk management to assure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. Since 1986, a user fee assessed on a per-mile basis on each pipeline operator OPS regulates has funded the entire pipeline safety program.

OPS safety jurisdiction over pipelines covers more than 3,000 gathering, transmission, and distribution operators as well as some 52,000 master meter and liquefied natural gas (LNG) operators who own and/or operate approximately 1.6 million miles of gas pipelines, in addition to over 200 operators and an estimated 155,000 miles of hazardous liquid pipelines. OPS currently has approximately 70 employees: half work at Headquarters in Washington, DC, and the other half work in the five OPS regional offices located in Washington, DC, Atlanta, GA, Kansas City, MO and Houston, TX.

SUMMARY OF THE LEGISLATION

SECTION 1. SHORT TITLE

The bill is named the "Pipeline Security and Safety Act." The Act amends Title 49 of the U.S. Code.

SECTION 2. ONE-CALL NOTIFICATION PROGRAMS

This section amends chapter 61 to improve the effectiveness of one-call notification programs. A significant number of outside force damage incidents occur because many counties and local governments are exempt from one-call requirements. Section 6103 is amended to impose additional requirements for those qualified to receive grants to States under section 6106 by including in sub-

section (a)(1) all government operators. Subsection (a)(2) is also amended to specifically include all government and contract excavators. Further, the section amends subsection (c) to require State one-call programs to document in addition to the previous requirement of "providing for" several criteria. Section 6104 is amended by striking its reporting requirement.

Section 6105 originally required a study to determine the most effective one-call notification practices. The "Implementation of best practices guidelines" section replaces current law with language directing the Secretary of Transportation to encourage the adoption and implementation of the Common Ground study. It further requires the Secretary to encourage the adoption and implementation of the best practices contained in the study, which is periodically updated. The section further requires the Secretary to provide technical assistance to and participate in programs sponsored by non-profits specifically established to reduce construction related damage. The Secretary may also provide grants to the non-profits not exceeding $500,000 per fiscal year.

Section 6107 is amended to provide authorization of appropriations for State grants of $1 million for each of Fiscal Year's 2002–2005, and language providing for FY 2000 appropriations is removed. The Act further amends the appropriations authorization for sections 6103–6105 provides such sums as may be necessary for Fiscal Year's 2002–2005.

SECTION 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS

Section 60104(c) is amended to allow a State to enforce that State's one-call notification program requirements if they are compatible with the federal program requirements.

Section 60114(a)(2) is amended to include a government employee or contractor in the definition of a person required to contact the appropriate system prior to engaging in an activity the Secretary determines could cause physical damage to an underground facility.

Section 60123(d), criminal penalties for failure to use one-call notification or not heeding location information or markings, is amended to clarify the intent requirement by placing it in a more appropriate subsection. ("knowingly and willfully" engages in) The section further makes an individual liable if his activity subsequently damages a pipeline facility, if he does not promptly report it but only when he knows or has reason to know of the damage.

SECTION 4. PUBLIC EDUCATION PROGRAMS

Section 60102(b) is renamed "Security and Safety Standards" currently know as "Practicability and Safety Needs Standards." Other changes are made to include security as a compliment of the section.

Section 60102(c) is amended to include of hazardous liquid pipeline facilities in the public safety program described in the section. The original language required only that gas pipeline facilities participate in the program. The subsections are renumbered to reflect the removal of section 3, which addressed hazardous liquid lines separate from gas lines.

The new subsection 3 is renamed "Promoting Public Safety" from "Promoting Public Awareness" and is updated to remove language

setting deadlines which pass prior to the date of enactment. Hazardous liquid pipelines are added to the annual mapping requirement. Subsection 3 is further amended to restructure existing language for clarification and enable the Secretary to provide technical assistance to State and local officials in applying practices to educate the public and promote pipeline safety. The Secretary is required to institute rulemakings on public safety and education program components and on appropriate limitations on access to pipeline maps.

SECTION 5. STATE ROLE OVERSIGHT

Section 60106 is amended to expand the authority of the Secretary of Transportation with regard to agreements with States where no certification exists under section 60105.

Section 60106(b)(1), the content requirements of the agreement with certification is amended where the Secretary authorizes a State to participate in the oversight of interstate pipeline transportation. Each agreement must include a plan for participation in special investigations involving incidents or new construction and allow the State to expand its role to additional oversight and inspection or investigative activities. However, delegation of enforcement to the State is not allowed.

Section 60106(b)(2) contains the required determinations for each agreement, which must be made in writing by the Secretary. Subsection (A) requires the agreement be found consistent with other programs for inspection as well as safety policies and provisions. Subsection (B) requires the agreement be found not to harm the oversight responsibilities for intrastate pipeline transportation by the State. Subsection (C) requires the State to be found to be carrying a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines. Subsection (D) requires a finding that the State is in compliance with one-call notification in chapter 61. Subsection (E) requires that the actions planned under the agreements would not impede interstate commerce or public safety.

Section 60106(b)(3) allows the Secretary to continue agreements with States already in force, while the Secretary pursues a new agreement under the amended authority, until December 31, 2003. This section preserves the Secretary's authority to terminate an agreement or correct deficiencies, if: (A) the State fails to comply with the agreements, (B) a gap in oversight was created by the agreement in intrastate pipeline oversight, or (C), continuing the agreement has an adverse impact on pipeline safety.

Section 60106(c) notification authority is amended to include response requirements by the Secretary where a State notifies the Secretary under section 60106(c)(1) of a violation or probable violation of an applicable safety standard discovered under the agreement entered into under 60106. In 60106(c)(2)(a), the Secretary, not later than 60 days after receipt of such notification, shall: (A), either issue an order under section 60118(b) or take appropriate enforcement actions; or (B), provide the State with a written explanation why no action was taken.

Section 60106(e) is added to address new authority in ending agreements. Subsection (e)(1) contains permissive termination authority for the Secretary, while (e)(2) contains mandatory termi-

nation authority. Under 60106(e)(2), the Secretary must end an agreement if it is found that: (A), a gap in oversight responsibilities for intrastate pipeline transportation by the State Authority has been produced; (B) the State actions have failed to meet the requirements under subsection (b); or (C) that continuing the agreement does not promote pipeline safety.

Section 60106(e)(3) contains the procedural requirements for ending an agreement, permissively or by mandate.

SECTION 6. COMMUNITY RIGHT-TO-KNOW AND EMERGENCY PREPAREDNESS

This section amends existing authority of the Secretary under section 60116 concerning the requirement that each operator of a gas pipeline or hazardous liquid pipeline facility carry a continuing program to educate the public. The requirements for each operator's public education plan are mandatory, and listed in subsection 60116(a)(1), beginning with: (A) education on use of one-call systems prior to excavation and other activities, (B) education on the possible hazards from damage, (C) education on how to determine if damage has been done, and (D) what to do for public safety if damage is in fact done.

Section 60116(a)(2), requires each operator to review their plan after one year for effectiveness and modify it as necessary. The Secretary is also required to review each program as well. Under 60116(a)(3) the Secretary is given authority to issue standards for public education programs and their review, as well as to develop material for use in the programs. Under 60116(a)(4), the Secretary is given authority to provide technical assistance on public education programs to (A) the pipeline industry for (i) the content of the program and (ii) delivering the program and evaluating its effectiveness. Under (B) of the same section, the Secretary may provide technical assistance to State and local officials, on applying practices developed in public safety and public education programs to their activities to promote pipeline safety. Section 60116(b) requires the Secretary to make public a safety-related condition report filed by an operator under section 60102(h) and, subject to section 60117(d)(2), a report of a pipeline incident filed by an operator under this chapter.

Section 60116(c) requires that within one year of enactment, each operator establish and maintain a liaison with State and local emergency response and planning committees in the areas of pipeline right-of-way consistent with 42 U.S.C. 11001, in each State in which it operates. Section (2) grants authority to the Secretary to prescribe standards which require each operator to: (A) develop an emergency response plan and (B) make the plan available to the State upon request. Under subparagraph (3), each operator must work with the State and local officials in developing an emergency response plan. Section 60116(d) grants the Secretary authority to establish a grant program for State, county and local officials for emergency response management, training and technical assistance.

SECTION 7. SAFETY AND SECURITY ORDERS

Amends section 60117(d) to safeguard the confidentiality of information. Section 60117(d)(2)(A) amends the section to address the

treatment of information which may reveal vulnerabilities. Under this section, if the Secretary determines that information of a vulnerability of a pipeline system, or a vulnerability to attack, the information shall be withheld from public disclosure.

Section 60117(d)(2)(B) describes to whom information withheld under (A) may be disclosed. Subsection (C) grants the Secretary the authority to make the determinations under subparagraph (A) for a category of information or class of persons. Subparagraph (D) makes clear that disclosures in this section are not a release of information under FOIA, 5 U.S.C. 552. Subparagraphs (l) and (m) are added to address safety orders and security orders respectively. Subparagraph (l) grants the Secretary the authority to take necessary corrective action if he decides that a pipeline facility has a potentially unsafe condition. Subparagraph (m) may take similar corrective action if he decides a pipeline facility has a vulnerability to terrorist attacks.

SECTION 8. PENALTIES

Amends section 60112 to increase civil penalties for violations from $25,000 to $50,000 for daily fines with a cap per incident increase from $500,000 to $750,000. Subparagraph (3) establishes that a violation of section 60129 carries with it a civil liability to the government of not more than $1,000 for each violation, while making clear that penalties under subparagraph (1) do not apply to a violation of section 60129 or an order issued under there.

This section also amends section 60123(b) to include criminal penalties for damage to a pipeline facility due to a terrorist attack. Subparagraph (d) is amended to clarify the "knowing and willful" standard for finding an excavation activity a violation. Section 60123(d)(2)(B) is amended to clarify the events under 60123(d)(1), that trigger the authority in 60123(d)(2). The damage contemplated must occur at a pipeline facility and the person causing the damage must know or have reason to know of it, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities.

SECTION 9. POPULATION ENCROACHMENT

Section 60127 required the Secretary to make the land use recommendations of Transportation Research Board Report 219 available to States. Section 60127(a) would require a new study of land use practices and zoning ordinances with respect to pipeline rights-of-way to limit population encroachment. Under Section 60127(d) the Secretary must issue a report within one year of enactment regarding successful practices, laws and ordinances.

SECTION 10. ADDITIONAL GAS PIPELINE PROTECTIONS

Section 60109 is amended by adding at the end subparagraph (C) entitled Risk Analysis and Integrity Management Programs. Section 60109(c)(1) requires each operator of a gas pipeline facility to conduct an analysis of the risks to each facility that operates in a High Consequence Area and implement a written integrity management program for such facility to reduce the risks. Section 60109(c)(2) requires the Secretary, within 18 months of enactment, to issue regulations prescribing the standards of analysis for the

risk analysis each operator conducts under section 60109(c)(1). This section requires the analysis to be completed not later than one year after issuance of the standards. Section 60109(c)(3) States the minimum contents of the integrity management program required under 60109(c)(1). Under 60109(c)(3)(A), each operator must establish a baseline assessment of its facilities within 10 years after the date of adoption of the integrity management program. The methods of assessment are described within the paragraph. Subparagraph (3)(B) requires, subject to subparagraph (4), a periodic re-inspection of the facility at intervals not more than 7 years.

Section 60109(c)(4) makes clear the Secretary may grant a waiver under 60118(c) for re-inspections under 60109(c)(3)(B) for the additional need to maintain local product supply or the lack of an internal inspection device, if not inconsistent with pipeline safety.

In developing the standards under 60109(c)(2), the Secretary may take into account the items listed in 60109(c)(5)(A)–(E). Subparagraph (A) includes safety levels, gas characteristics, technologies, expert studies, historical information, engineering data, equipment and personnel availability, supply reliability and security and impact on gas prices. Subparagraph (B) includes appropriateness of various testing methodologies. Subparagraph (C) includes the application of a prescriptive or performance based means of compliance. Subparagraph (D) includes the incorporation of applicable national consensus standards, and subparagraph (E) includes the effectiveness of review and oversight of an operator's integrity management plan is a designated pipeline safety authority. Section 60109(c)(6) includes two additional optional standards for which the Secretary may prescribe standards: (A) for changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis, and (B) the use of emergency flow restrictors.

Under Section 60109(c)(7), an operator is required, within 30 months of enactment, to conduct a risk analysis and adopt a program under subparagraph (1), if the Secretary fails to prescribe the standards described in subparagraph (2). Once prescribed, the programs adopted under subparagraph (1), shall be reviewed and the results recorded under 60109(c)(8)(A)(i)–(iii). This section also describes the context of the review in section (ii), as well as action taken under section (iii). Under subparagraph (B), an operator must notify the Secretary within 30 days of any amendment to an integrity management program. Under subparagraph (C), the Secretary shall provide a copy of each risk analysis and integrity management program to any appropriate State authority. States that have an agreement under section 60106 may provide a review of the programs to the Secretary under section 60106(c)(9). Under section (10), it is made clear section 60104(b) does not apply to this section. Under Section 60106(d) an assessment and evaluation of the effects on public safety will be conducted not more than 5 years from promulgation of the standards described in subparagraph (c)(2).

SECTION 11. PROGRAM FOR PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION

This section provides for the establishment of a cooperative Federal research development and demonstration (RD&D) program to

ensure the integrity and safety of pipelines and related facilities through a coordinated Federal program of pipeline safety RD&D, and standardization program conducted by the Department of Energy, the Department of Transportation and the National Institute of Standards and Technology (identified as "the participating agencies"). The section:

• Requires that the participating agencies provide to Congress an analysis of their RD&D and standardization capabilities and activities within six months of enactment of this legislation.

• Requires that the participating agencies submit to Congress within one year of enactment, a plan for RD&D and standardization efforts to be undertaken under this legislation.

• Establishes a Pipeline Integrity Technical Advisory Committee (PITAC).

• Directs PITAC to review the plan and provide ongoing assessments of the RD&D and standardization efforts authorized under the Act.

• Calls upon the participating agencies to enter into a Memorandum of Understanding (MOU) within 120 days of enactment to outline research capabilities and responsibilities for each of the three agencies.

• Authorizes to be appropriated each fiscal year (2002–2006): $10,000,000 to DOE; $5,000,000 to DOT; and $5,000,000 to NIST.

These funds are in addition to any other fee-based funding used for pipeline research programs at DOT.

SECTION 12. QUALIFICATION OF PIPELINE PERSONNEL

There is a new section 60129 establishing a qualification program for all covered tasks for gas and hazardous liquid pipeline facilities. Under 60129(a), each pipeline operator must adopt within one year a written qualification program that will be reviewed and approved by the Secretary or proper State authority. Under 60129(b)(1)–(3) the qualification program must include a written performance evaluation, and provide for periodic re-qualification of individuals. Operators must ensure that all individuals receive qualification within 18 months of the adoption of the program, and must notify the Secretary or State authority of any amendments to an approved program within 30 days. The Secretary must report to Congress on the implementation of the qualification program within two years of enactment.

Within three years of enactment, the Secretary must develop a certification test for individuals who operate computer-based supervisory control and data acquisition ("SCADA") systems. The pilot program will be carried out at three facilities outfitted with SCADA systems, and the Secretary must report the results of the program within five years of enactment. The report must include a description of the SCADA certification pilot projects, an evaluation of the certification process, and any recommendations for industry-wide application of the SCADA certification program. The report also must include an assessment of the effects of certifying other individuals performing safety-sensitive functions.

SECTION 13. SECURITY OF PIPELINE FACILITIES

In the wake of the attacks of September 11, 2001, any legislation that seeks to enhance the safety of natural gas and hazardous liq-

uid pipelines must address terrorist threats. This legislation addresses this issue by providing the Secretary of Transportation with additional authority to work with pipeline operators to prepare for and respond to terrorist attacks.

Section 60130 addresses security-sensitive information. Section 60130(a)(1)–(3) requires that the operator of a pipeline facility develop and implement a terrorism security program. The contents of the programs shall consist of written procedures to follow and actions to take in the event of a terrorists attack on a pipeline facility. Communication procedures with appropriate officials in the event of such an attack are also required. Within one year of enactment, the Secretary shall conduct a review of each operator's program, and approve or disapprove each one. Under 60130(b), the secretary may provide technical assistance to operators to prevent or respond to acts of terrorism that may affect a facility. The technical assistance may include, at a minimum, actions that support the use of the National Guard or other federal personnel, resources available to the Secretary to develop and implement security measures, and the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.

To implement Section 60130, the Committee expects the Secretary of Transportation, in consultation with the Attorney General, the Secretary of Defense, the Director of the Office of Homeland Security, and the governors of the States, to develop plans for the deployment of federal and State personnel to protect pipeline facilities at risk of a terrorist attack, or in response to such an attack. This coordination should include the Research and Special Programs Administration to identify facilities in need of protection.

The Committee believes that such contingency plans should specify that temporary acquisition of property: (1) occur only during a declared national emergency, and when there is a catastrophic loss of pipeline infrastructure, or a protracted denial of access to the existing right-of-way with a major impact on public safety or national security; (2) be limited to the minimum amount of property necessary to reestablish the operation of the pipeline; (3) require a finding by the Secretary (or the Under Secretary of Transportation Security) that the acquisition would be in the public interest; and (4) be limited to a 6 month period, unless at the end of that period, the Secretary (or the Under Secretary) finds that the duration of the acquisition must be extended in order to meet the requirements specified in (1) and (3).

SECTION 14. NATIONAL PIPELINE MAPPING SYSTEM

New section 60131 would require each pipeline facility to provide to the Secretary within 30 days of enactment the information contained in 60131(a)(1)–(3) for each line it operates. Section 60131(a)(1) requires geo-spatial data format, or a format that can be readily converted to geo-spatial data, for mapping. Section 60131(a)(2) requires the name and address of person with primary operational control ("operator") over the facilities. Section 60131(a)(3) requires a method for a member of the public to contact the operator for information on the pipeline. This information must be updated to reflect changes. The Secretary may provide technical

assistance to provide this information electronically to emergency responders for pipeline emergencies.

SECTION 15. ADMINISTRATIVE PROCESS FOR PERMITTING A PIPELINE REPAIR ACTIVITY

New section 60132 requires the President, within 30 days of enactment, to establish an Interagency Committee on Pipeline Repair Permitting (ICPRP) with the following agencies represented: Department of Transportation; the Environmental Protection Agency; the U.S. Fish and Wildlife Service; the National Oceanic and Atmospheric Administration; the Bureau of Land Management; the Minerals Management Service; the Army Corps of Engineers; and the Federal Energy Regulatory Commission.

Section 60132(a)(3) directs the ICPRP to evaluate current federal permitting requirements that apply to pipeline inspection, excavation and repair and restoration activities. The ICPRP is required to recommend a process to allow pipeline operators to complete pipeline repairs within the deadlines required by the Secretary by rulemaking.

Section 60132(a)(4) requires the ICPRP to consult with the appropriate State and local environmental, pipeline safety, emergency response, and other appropriate officials.

Under Section 60132(b), the Secretary is required to promulgate a rule establishing a process by which pipeline operators can complete all necessary activities required under the integrity management program. The section requires the ICPRP to issue its recommendations to the Secretary within 180 days of enactment. Based on these recommendations, the Secretary shall propose a rule within 30 days. Under section 60132(b)(2) the Secretary shall issue a final rule within 180 days. The final rule shall be effective within 90 days of publication in the Federal Register.

Under Section 60132(b)(2)(B)(i)–(v) the contents of the rule are described. The final rule shall establish best practices which operators shall comply with in conducting repairs and activities required under the integrity management program. The operator shall provide notice that it will be conducting activities specified under the rule. The Secretary must disapprove of the operator's proposed activities specified in its notice within seven days of receipt of the notice, otherwise the Secretary shall be deemed to have concurred. The final rule must also provide for an opportunity for operators to resubmit proposals that are disapproved by the Secretary.

Section 60132(c) specifies that operators conducting repair projects under procedures established by the final rule shall not be required to obtain any other permit from any other Federal agency for the specified repairs and activities.

Section 60132(d) addresses cases where the operator is unable to conduct or complete a repair project with the best practices specified under 60132(b)(2)(B), the operator may submit to all applicable permitting agencies an application providing the specific site management plan for the proposed activities. Each agency has 60 days from the receipt of the management plan to approve or deny the application. If an agency does not approve or deny the application within 60 days, the operator shall be permitted to proceed with the activities provided in the site management plan. The section specifies that operators that fail to adhere to the site management plan

with damages resulting from this failure shall be subject to any civil or criminal penalties otherwise available under the law.

Section 60132(e) requires the Secretary to commence within 30 days of enactment a rulemaking, to be complete within 90 days of enactment, which provides for interim operational alternatives. These measures are meant to operate in the period of time between enactment and the date upon which the final rule issued under section 60132(b) becomes effective.

Under section 60132(f), the Secretary is required to designate an ombudsman to assist operators in completing repairs and resolving disagreements with permitting agencies.

Section 60132(g) requires the Secretary to encourage State and local governments to streamline the approval processes for permits required to be obtained by operators conducting repairs required under the integrity management program.

SECTION 16. PIPELINE SECURITY-SENSITIVE INFORMATION

Current law provides for the protection from release of certain sensitive information that is contained in government records; for example, information related to the privacy of individuals, trade secrets, commercial information, investigative records, and security information about aviation. This current authority allows or requires the withholding of certain information relating to transportation by pipeline. However, current authority does not protect all information that could be used by terrorists to plan for or to carry out terrorist acts relating to pipeline transportation.

Section 60117(d)(1) describes the information that is restricted from disclosure by 18 U.S.C. 1905. Security-sensitive information could include an order issued to a pipeline operator to make changes to the security procedures it employs, or a study of gaps in security with respect to liquefied natural gas facilities. Section 60117(2)(A)–(B) allows the Secretary to determine whether release of the information would be contrary to national security, and then to whom publicly withheld information may be disclosed. With most information, this will be done on a case-by-case basis. Certain persons will retain necessary access to such information including Federal, State, tribal, or local officials charged with protecting the facilities, public safety, or national security.

Section 60117(d)(2)(D) makes clear that if the Secretary does release information within the meaning of 60132(d)(2)(A), to a person falling within 60132(d)(2)(B), that disclosure does not constitute a release of information within the meaning of 5 USC Sec. 552.

SECTION 17. TECHNICAL AMENDMENTS

Section 60102 is amended by restructuring subsection (a) and (a)(1) and by inserting a heading for subsection (c). Section 60110(b) is amended to correct a technical mistake made in P.L. 104–304. Section 60114 is amended to rename subsection (d) as (c), correcting a mistake in lettering. Section 60122(a) is amended to correct a reference to the non-existent subsection (c) of section 60114. Section 60123(a) is also amended to correct an inaccurate reference to section 60114(c).

SECTION 18. AUTHORIZATION OF APPROPRIATIONS

Appropriations are authorized in section 60125(a), excluding amounts for State grants and the newly established pipeline integrity program, at $35.5 million ($29.5 million from user fees) for FY 2002, $37.9 million ($31.9 million from user fees) for FY 2003, $41.7 million ($35.7 million from user fees) for FY 2004, and $47.1 million ($41.1 million from user fees) for FY 2005. Subsections (b) Hazardous liquid, (d) Grants for one-call notification systems and (f) availability of unused amounts for grants are stricken and authorizations are combined with the other subsections or are for outdated programs. Subsections (c) and (e) are re-designated as (b) and (d) respectively.

Amounts authorized for State grants include $18.5 million ($13.5 million from user fees) for FY 2002, $19.8 million ($14.8 million from user fees) for FY 2003, $21.7 million ($16.7 million from user fees) for FY 2004, and $24.6 million ($19.6 million from user fees) for FY 2005. The Act also authorizes $3 million for each of Fiscal Year's 2002–2005 for the pipeline integrity program.

This section also authorizes appropriations of $6 million annually for emergency grants for each of FYs 2002–2004.

SECTION 19. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION

Section 60133 prohibits a pipeline operator, contractor or subcontractor of a pipeline from firing, or taking other adverse action, against an employee for doing any of the acts described in 60133(a)(1)–(5). These actions are listed as, (1) providing information to the employer or Federal government relating to pipeline safety; (2) refusing to take any action made unlawful under chapter 610 of Title 49 or any other provision of law related to pipeline safety; (3) filing or being about to file a proceeding relating to pipeline safety; (4) testifying or being about to testify in such a proceeding; or (5) assisting or participating in such a proceeding.

Section 60133(b) establishes procedures governing the filing of complaints by aggrieved whistleblowers at the Department of Labor. The procedures allow whistleblowers that believe they have been fired or otherwise treated unfairly in providing information about an alleged pipeline safety problem to file a complaint with the Secretary of Labor within 180 days of the violation. The Department of Labor is required to notify the person named in the complaint and the Administrator of the Research and Special Programs Administration of the complaint and the allegations contained in the complaint.

The section also establishes specific time frames under which the Department of Labor must proceed in investigating the whistleblower's complaint. In the event the Department of Labor concludes that there is a reason to believe a violation has occurred, the section requires it to issue a preliminary order providing a remedy. The section also requires that within 30 days of being notified of the Department of Labor's findings, either side may file objections and request a hearing, but this shall not stay a reinstatement remedy in the preliminary order.

The remedies that are available under this section are: action to abate the violation; reinstatement of the employee with back pay;

and monetary damages to the employee. The section provides that if a final order is issued, the Labor Secretary, at the request of the employee, shall assess the employee's attorney's fees against the person whom the order is issued. The section also provides that if the Secretary of Labor finds that a complaint is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

The section establishes judicial review procedures that permit either party, within 60 days of the issuance of the final order, to appeal to the circuit court where the violation allegedly occurred or where the employee resided at the time of the violation. The section further permits the Secretary of Labor to enforce the order by bringing suit in a district court against the person that has failed to comply. The section permits the court to issue an injunction or provide other relief.

The section also allows the party who won the case before the Secretary to sue the other party to force compliance with the Secretary of Labor's order in U.S. District Court.

The section makes clear that the whistleblower protections do not apply to any employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor, deliberately causes a violation of any requirement relating to pipeline safety.

SECTION 20. PIPELINE BRIDGE RISK STUDY

This section requires the Secretary to conduct a study to determine whether pipeline suspension bridges pose unique structural or other risks that would require particularized inspection standards. The Secretary must begin the study within 90 days of enactment and must complete and transmit the study to Congress within one year of enactment. In conducting the study, the Secretary is required to solicit comments and provide for a public process to the maximum extent practicable.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On December 20, 2001, the bill was introduced and referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be determined by the Speaker, in each case for consideration of such provisions as fell within the jurisdiction of the committee concerned.

The Chairman of the Transportation and Infrastructure Committee referred the bill on December 21, 2001 to the Subcommittee on Highways and Transit. The Subcommittee on Highways and Transit held a mark-up on May 16, 2002. An amendment in the nature of a substitute offered by Mr. Petri, Mr. Carson, Mr. Larson, et. al, was approved by voice vote. On May 16, 2002, the Subcommittee on Highways and Transit reported the bill and reported it, as amended, to the Full Committee.

On May 23, 2002, the Full Committee on Transportation and Infrastructure met to consider the bill. An amendment in the nature of a substitute was offered by Mr. Young of Alaska. Several amendments to the substitute amendment were offered and rejected on recorded votes. The substitute amendment was then adopted by a

recorded vote. The bill as amended was ordered reported, as amended, on a roll call vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. The following recorded votes were taken in connection with ordering H.R. 3609 reported to the House.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

Full Committee 107th Congress Date 5-22-02
Roll No. 1

Bill No. H.R. 3609 Short Title Pipeline Safety
Amendment or matter voted on: Oberstar amendment on Training Programs

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Young, Chairman		X		*Mr. Oberstar*	X		
Mr. Petri		X		*Mr. Rahall*	X		
Mr. Boehlert				*Mr. Borski*	X		
Mr. Coble		X		*Mr. Lipinski*	X		
Mr. Duncan		X		*Mr. DeFazio*	X		
Mr. Gilchrest		X		*Mr. Clement*	X		
Mr. Horn		X		*Mr. Costello*	X		
Mr. Mica		X		*Ms. Norton*	X		
Mr. Quinn		X		*Mr. Nadler*	X		
Mr. Ehlers		X		*Mr. Menendez*	X		
Mr. Bachus		X		*Ms. Brown*			
Mr. LaTourette		X		*Mr. Barcia*			
Mrs. Kelly		X		*Mr. Filner*	X		
Mr. Baker		X		*Ms. Johnson*			
Mr. Ney		X		*Mr. Mascara*			
Mr. Thune				*Mr. Taylor*	X		
Mr. LoBiondo		X		*Ms. Millender-McDonald*			
Mr. Moran		X		*Mr. Cummings*	X		
Mr. Pombo		X		*Mr. Blumenauer*	X		
Mr. DeMint		X		*Mr. Sandlin*		X	
Mr. Bereuter		X		*Ms. Tauscher*	X		
Mr. Simpson				*Mr. Pascrell*	X		
Mr. Isakson		X		*Mr. Boswell*	X		
Mr. Hayes		X		*Mr. Holden*	X		
Mr. Simmons		X		*Mr. Lampson*	X		
Mr. Rogers		X		*Mr. Balducci*	X		
Mrs. Capito		X		*Mr. Berry*	X		
Mr. Kirk		X		*Mr. Baird*	X		
Mr. Brown		X		*Ms. Berkley*	X		
Mr. Johnson		X		*Mr. Carson*		X	
Mr. Kerns		X		*Mr. Matheson*		X	
Mr. Rehberg		X		*Mr. Honda*	X		
Mr. Platts		X		*Mr. Larsen*	X		
Mr. Ferguson		X					
Mr. Graves		X					
Mr. Otter							
Mr. Kennedy		X					
Mr. Culberson		X					
Mr. Shuster		X					
Mr. Boozman		X					
Mr. Sullivan		X		TOTAL	25	40	

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

Full Committee — 107th Congress — Date 5-22-02
Roll No. 2

Bill No. H.R. 3609 Short Title Pipeline Safety
Amendment or matter voted on: Pascrell #2

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Young, Chairman		X		*Mr. Oberstar*	X		
Mr. Petri		X		*Mr. Rahall*	X		
Mr. Boehlert				*Mr. Borski*	X		
Mr. Coble		X		*Mr. Lipinski*	X		
Mr. Duncan				*Mr. DeFazio*	X		
Mr. Gilchrest		X		*Mr. Clement*	X		
Mr. Horn				*Mr. Costello*	X		
Mr. Mica		X		*Ms. Norton*	X		
Mr. Quinn		X		*Mr. Nadler*	X		
Mr. Ehlers		X		*Mr. Menendez*	X		
Mr. Bachus		X		*Ms. Brown*			
Mr. LaTourette		X		*Mr. Barcia*	X		
Mrs. Kelly		X		*Mr. Filner*	X		
Mr. Baker		X		*Ms. Johnson*			
Mr. Ney				*Mr. Mascara*			
Mr. Thune		X		*Mr. Taylor*	X		
Mr. LoBiondo		X		*Ms. Millender-McDonald*			
Mr. Moran		X		*Mr. Cummings*	X		
Mr. Pombo		X		*Mr. Blumenauer*	X		
Mr. DeMint		X		*Mr. Sandlin*		X	
Mr. Bereuter		X		*Ms. Tauscher*		X	
Mr. Simpson		X		*Mr. Pascrell*	X		
Mr. Isakson		X		*Mr. Boswell*	X		
Mr. Hayes		X		*Mr. Holden*	X		
Mr. Simmons		X		*Mr. Lampson*		X	
Mr. Rogers		X		*Mr. Baldacci*	X		
Mrs. Capito		X		*Mr. Berry*		X	
Mr. Kirk		X		*Mr. Baird*	X		
Mr. Brown		X		*Ms. Berkley*	X		
Mr. Johnson		X		*Mr. Carson*		X	
Mr. Kerns		X		*Mr. Matheson*		X	
Mr. Rehberg		X		*Mr. Honda*	X		
Mr. Platts		X		*Mr. Larsen*	X		
Mr. Ferguson		X					
Mr. Graves		X					
Mr. Otter		X					
Mr. Kennedy		X					
Mr. Culberson		X					
Mr. Shuster		X					
Mr. Boozman		X					
Mr. Sullivan		X		TOTAL	23	43	

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

Full Committee 107th Congress Date 5-22-02
Roll No. 3

Bill No. H.R. 3609 Short Title Pipeline Safety
Amendment or matter voted on: Oberstar amendment on Streamlining

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Young, Chairman		X		*Mr. Oberstar*	X		
Mr. Petri		X		*Mr. Rahall*		X	
Mr. Boehlert				*Mr. Borski*	X		
Mr. Coble		X		*Mr. Lipinski*	X		
Mr. Duncan		X		*Mr. DeFazio*	X		
Mr. Gilchrest		X		*Mr. Clement*	X		
Mr. Horn		X		*Mr. Costello*	X		
Mr. Mica		X		*Ms. Norton*	X		
Mr. Quinn		X		*Mr. Nadler*			
Mr. Ehlers		X		*Mr. Menendez*	X		
Mr. Bachus				*Ms. Brown*	X		
Mr. LaTourette		X		*Mr. Barcia*		X	
Mrs. Kelly				*Mr. Filner*	X		
Mr. Baker		X		*Ms. Johnson*	X		
Mr. Ney				*Mr. Mascara*			
Mr. Thune				*Mr. Taylor*		X	
Mr. LoBiondo	X			*Ms. Millender-McDonald*	X		
Mr. Moran		X		*Mr. Cummings*			
Mr. Pombo		X		*Mr. Blumenauer*			
Mr. DeMint				*Mr. Sandlin*		X	
Mr. Bereuter		X		*Ms. Tauscher*		X	
Mr. Simpson		X		*Mr. Pascrell*	X		
Mr. Isakson		X		*Mr. Boswell*	X		
Mr. Hayes		X		*Mr. Holden*	X		
Mr. Simmons		X		*Mr. Lampson*		X	
Mr. Rogers		X		*Mr. Baldacci*	X		
Mrs. Capito		X		*Mr. Berry*	X		
Mr. Kirk		X		*Mr. Baird*	X		
Mr. Brown				*Ms. Berkley*	X		
Mr. Johnson		X		*Mr. Carson*		X	
Mr. Kerns		X		*Mr. Matheson*		X	
Mr. Rehberg		X		*Mr. Honda*	X		
Mr. Platts		X		*Mr. Larsen*		X	
Mr. Ferguson	X						
Mr. Graves		X					
Mr. Otter		X					
Mr. Kennedy		X					
Mr. Culberson		X					
Mr. Shuster		X					
Mr. Boozman		X					
Mr. Sullivan		X		TOTAL	22	41	

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

Full Committee — 107th Congress — Date 5-22-02
Roll No. 4

Bill No. H.R. 3609 Short Title Pipeline Safety
Amendment or matter voted on: Final Passage

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Young, Chairman	X			*Mr. Oberstar*		X	
Mr. Petri	X			*Mr. Rahall*	X		
Mr. Boehlert				*Mr. Borski*		X	
Mr. Coble	X			*Mr. Lipinski*		X	
Mr. Duncan	X			*Mr. DeFazio*		X	
Mr. Gilchrest	X			*Mr. Clement*	X		
Mr. Horn	X			*Mr. Costello*		X	
Mr. Mica	X			*Ms. Norton*		X	
Mr. Quinn	X			*Mr. Nadler*			
Mr. Ehlers	X			*Mr. Menendez*		X	
Mr. Bachus	X			*Ms. Brown*		X	
Mr. LaTourette	X			*Mr. Barcia*	X		
Mrs. Kelly	X			*Mr. Filner*		X	
Mr. Baker	X			*Ms. Johnson*	X		
Mr. Ney				*Mr. Mascara*			
Mr. Thune	X			*Mr. Taylor*	X		
Mr. LoBiondo	X			*Ms. Millender-McDonald*		X	
Mr. Moran	X			*Mr. Cummings*		X	
Mr. Pombo	X			*Mr. Blumenauer*			
Mr. DeMint				*Mr. Sandlin*	X		
Mr. Bereuter	X			*Ms. Tauscher*	X		
Mr. Simpson	X			*Mr. Pascrell*		X	
Mr. Isakson	X			*Mr. Boswell*	X		
Mr. Hayes	X			*Mr. Holden*		X	
Mr. Simmons	X			*Mr. Lampson*	X		
Mr. Rogers	X			*Mr. Baldacci*	X		
Mrs. Capito	X			*Mr. Berry*	X		
Mr. Kirk	X			*Mr. Baird*	X		
Mr. Brown	X			*Ms. Berkley*	X		
Mr. Johnson	X			*Mr. Carson*	X		
Mr. Kerns	X			*Mr. Matheson*	X		
Mr. Rehberg	X			*Mr. Honda*	X		
Mr. Platts	X			*Mr. Larsen*	X		
Mr. Ferguson	X						
Mr. Graves	X						
Mr. Otter	X						
Mr. Kennedy	X						
Mr. Culberson	X						
Mr. Shuster	X						
Mr. Boozman	X						
Mr. Sullivan	X			TOTAL	55	13	

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has not been timely submitted prior to the filing of the report. The letter from CBO will be inserted in the Congressional Record at a later date.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office which will be inserted in the Congressional Record.
2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to improve the safety of pipeline oversight by the Office of Pipeline Safety (OPS). This objective is accomplished by improved authority for the OPS.
3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has not received a cost estimate for H.R. 3609 from the Director of the Congressional Budget Office.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local or tribal law. The Committee states that H.R. 3609 does not preempt any State, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 49, UNITED STATES CODE

* * * * * * *

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

* * * * * * *

CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

Sec.
6101. Purposes.

* * * * * * *

[6105. Review of one-call system best practices.]
6105. Implementation of best practices guidelines.

* * * * * * *

§ 6103. Minimum standards for State one-call notification programs

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

(1) appropriate participation by all underground facility operators*, including all government operators*;

(2) appropriate participation by all excavators*, including all government and contract excavators*; and

* * * * * * *

(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for *and document*—

(1) * * *

* * * * * * *

§ 6104. Compliance with minimum standards

(a) * * *

* * * * * * *

(d) REPORT.—[Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to] *The Secretary shall* include the following information in reports submitted under section 60124 of this title—

(1) * * *

* * * * * * *

[§ 6105. Review of one-call system best practices

[(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

[(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to gather information in order to determine which existing one-call notification systems practices appear to be the most effective in protecting the public, excavators, and the environment and in preventing disruptions to public services and damage to underground facilities. As part of the study, the Secretary shall consider, at a minimum—

[(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

[(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

[(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

[(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

[(5) the effectiveness and accuracy of mapping used by one-call notification systems;

[(6) the relationship between one-call notification systems and preventing damage to underground facilities;

[(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

[(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

[(9) the extent to which personnel engaged in marking underground facilities may be endangered;

[(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

[(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

[(c) REPORT.—Within 1 year after the date of the enactment of this chapter, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

[(1) preventing damage to underground facilities; and

[(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage each State and operator of one-call notification programs to adopt and implement those practices identified in the report that the State determines are the most appropriate.

[(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.]

§ 6105. Implementation of best practices guidelines

(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled "Common Ground", as periodically updated.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a nonprofit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to a nonprofit organization described in subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2002 through 2005. Such sums shall remain available until expended.

(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.

* * * * * * *

§ 6107. Authorization of appropriations

(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 [$1,000,000 for fiscal year 2000 and $5,000,000 for fiscal year 2001] *$1,000,000 for each of fiscal years 2002 through 2005*. Such funds shall remain available until expended.

(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 [for fiscal years 1999, 2000, and 2001] *for fiscal years 2002 through 2005*.

* * * * * * *

SUBTITLE VIII—PIPELINES

* * * * * * *

CHAPTER 601—SAFETY

Sec.
60101. Definitions.

* * * * * * *

[60116. Public education programs.]
60116. Community right-to-know and emergency preparedness.

* * * * * * *

60129. Qualification of pipeline personnel.
60130. Security of pipeline facilities.
60131. National pipeline mapping system.
60132. Administrative process for permitting of pipeline repair activity.
60133. Protection of employees providing pipeline safety information.

* * * * * * *

§ 60102. General authority

[(a)(1) MINIMUM SAFETY STANDARDS.—The Secretary of Transportation]

(a) MINIMUM SAFETY STANDARDS.—

(1) IN GENERAL.—The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to owners and operators of pipeline facilities;

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

* * * * * * *

(2) *QUALIFICATIONS OF PIPELINE OPERATORS.*—The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

(b) [PRACTICABILITY AND SAFETY NEEDS STANDARDS] *SECURITY AND SAFETY STANDARDS.—*

(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

(A) practicable; and

(B) designed to meet the need for—

(i) gas pipeline safety *and security*, or safely *and securely* transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

(A) relevant available—

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; [and]

(iii) environmental information; *and*

(iv) security information;

* * * * * * *

(F) comments and information received from the public; [and]

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate[.]*; and*

(H) the comments and recommendations of the Office of Homeland Security and the Transportation Security Administration.

(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

(A) * * *

* * * * * * *

(C) include—

(i) * * *

(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; [and]

(D) identify technical data or other information upon which the risk assessment information and proposed standard is based[.]*; and*

(E) assess the vulnerabilities of pipeline facilities to terrorist attacks.

* * * * * * *

[(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

[(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

[(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

[(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

[(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

[(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

[(4) PROMOTING PUBLIC AWARENESS.—

[(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

[(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

[(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.]

(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall include in the standards prescribed under subsection (a) a requirement that the operator of a pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) COMPARABLE SERVICES.—To the extent a public safety program referred to in paragraph (1) is not available, the Secretary shall prescribe standards requiring an operator to take action to provide services comparable to services that would be available under a public safety program.

(3) PROMOTING PUBLIC SAFETY.—

(A) PROVISION OF MAP TO MUNICIPALITIES.—The operator of a hazardous liquid or interstate gas pipeline facility shall provide on an annual basis to the governing body of each municipality in which the facility is located, a map identifying the location of the facility.

(B) SURVEY.—The Secretary shall periodically survey and assess the public education programs under section 60116

and the public safety programs under this subsection and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include—

(i) the methods by which operators notify residents of the location of the facility and its right of way;

(ii) public information regarding existing One-Call programs; and

(iii) appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate pipeline facilities.

(C) RULEMAKING.—The Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate standards implementing those components on a nationwide basis. Such standards shall establish appropriate limitations on access to maps provided under subparagraph (A) based on the need for security of the information.

(D) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to State and local officials in applying practices developed as part of the programs required under this subsection and section 60116 to their activities to educate and promote pipeline safety with the public.

* * * * * * *

§ 60104. Requirements and limitations

(a) * * *

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(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. *Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.*

* * * * * * *

§ 60106. State pipeline safety agreements

(a) **[**GENERAL AUTHORITY.—**]** *AGREEMENTS WITHOUT CERTIFICATION*.—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) * * *

* * * * * * *

(b) AGREEMENTS WITH CERTIFICATION.—

(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required

under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Infrastructure Protection To Enhance Security and Safety Act if—

(A) the State authority fails to comply with the terms of the agreement;

(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

[(b)**]** *(c)* NOTIFICATION.—**[**Each agreement**]**

(1) IN GENERAL.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.

[(c)**]** *(d)* MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

[(d) ENDING AGREEMENTS.—The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.**]**

(e) ENDING AGREEMENTS.—

(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.

* * * * * * *

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

(a) * * *

* * * * * * *

(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

(1) REQUIREMENT.—Each operator of a gas transmission pipeline facility shall conduct an analysis of the risks to each facility of the operator in an area identified pursuant to subsection (a)(1) and shall adopt and implement a written integrity management program for such facility to reduce the risks.

(2) REGULATIONS.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require the conduct of the risk analysis and adoption of the integrity management program to occur within a time period prescribed by the Secretary, not to exceed 1 year after the issuance of such regulations. The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1), to be completed not later than 10 years after the date of the adoption of the integrity management program, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety.

(B) Subject to paragraph (4), periodic reinspection of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

(4) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reinspection of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

(5) CONSIDERATIONS.—In developing standards under paragraph (2), the Secretary shall take into consideration the following:

(A) The level of safety, the characteristics of the gas, the application of existing or new technology, the results of technical studies by recognized experts and previous assessments, historical performance of gas pipelines, engineering criteria for determining the severity of threats to integrity, the availability of inspection equipment and analytical personnel, the security and reliability of supply, and the impact on gas prices to consumers.

(B) The appropriateness of the application of various assessment methodologies, taking into account the nature of the anomalies of specific pipeline segments under investigation, including such methodologies as direct assessment, hydrostatic testing, in-line inspection, and other effective methods.

(C) The application of a prescriptive or performance-based means of compliance (or a combination thereof).

(D) Incorporation of applicable national consensus standards to create a consistent and effective approach to risk assessment and prioritization, high consequence areas, pipeline facility inspection, integrity management, and repair requirements for managing pipeline integrity.

(E) The effectiveness of review and oversight of an operator's integrity management plan by a designated pipeline safety authority.

(6) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

(B) the use of emergency flow restricting devices.

(7) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards as described in paragraph (2), an operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program under paragraph (1) not later than 30 months after the date of the enactment of this subsection.

(8) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

(A) REVIEW OF PROGRAMS.—

(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment.

(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

(9) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk

analysis and integrity management program pursuant to paragraph (8), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

(10) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.

(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).

§ 60110. Excess flow valves

(a) * * *

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

(1) * * *

* * * * * * *

§ 60114. One-call notification systems

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

(1) * * *

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

* * * * * * *

⟦(d)⟧ *(c)* RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

* * * * * * *

⟦§ 60116. Public education programs

⟦Under regulations the Secretary of Transportation prescribes, each owner or operator of a gas pipeline facility shall carry out a

program to educate the public on the use of a one-call notification system prior to excavation, the possible hazards associated with gas leaks, and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program.]

§ 60116. Community right-to-know and emergency preparedness

(a) PUBLIC EDUCATION PROGRAMS.—

(1) IN GENERAL.—Each operator of a gas pipeline or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on—

(A) the use of a one-call notification system prior to excavation and other damage prevention activities;

(B) the possible hazards associated with unintended releases from the pipeline facility;

(C) the physical indications that such a release may have occurred;

(D) what steps should be taken for public safety in the event of a pipeline release; and

(E) how to report such an event.

(2) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of enactment of this paragraph, each operator of a gas pipeline or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall be reviewed by the Secretary of Transportation as an element of Departmental inspections.

(3) STANDARDS.—The Secretary may issue standards prescribing the details of a public education program and providing for periodic review of the program's effectiveness and modification as needed. The Secretary may also develop material for use in the program.

(4) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance on public safety and public education programming regarding pipeline safety as follows:

(A) TO PIPELINE INDUSTRY.—To the pipeline industry, technical assistance on—

(i) developing public safety and public education program content; and

(ii) using best practices for program delivery and on evaluating the effectiveness of the programs.

(B) TO STATE AND LOCAL OFFICIALS.—To State and local officials, technical assistance on applying practices developed in public safety and public education programs to their activities to promote pipeline safety.

(b) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall make available to the public a safety-related condition report filed by an operator under section 60102(h) and, except as provided in section 60117(d)(2), a report of a pipeline incident filed by an operator under this chapter.

(c) EMERGENCY PREPAREDNESS.—

(1) OPERATOR LIAISON.—Not later than 1 year after the date of enactment of this subsection, each operator of a gas pipeline or hazardous liquid pipeline facility shall initiate and maintain

liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

(2) EMERGENCY RESPONSE PLANS.—The Secretary shall prescribe standards to require each operator of a gas pipeline or hazardous liquid pipeline facility—

(A) to develop an emergency response plan for responding to incidents involving the facility; and

(B) to make the plan available upon request to State and local officials.

(3) COOPERATION WITH LOCAL OFFICIALS.—Each operator of a gas pipeline or hazardous liquid pipeline facility shall work in cooperation with State and local officials in the development of State and local emergency response plans for responding to incidents involving the facility.

(d) EMERGENCY RESPONSE GRANTS.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as such an area is defined by the Secretary, for emergency response management, training, and technical assistance.

§ 60117. Administrative

(a) * * *

* * * * * * *

(d) CONFIDENTIALITY OF INFORMATION.—**[**Information**]**

(1) IN GENERAL.—Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(2) INFORMATION REVEALING VULNERABILITIES.—

(A) IN GENERAL.—If the Secretary determines that particular information obtained by the Secretary or an officer, employee, or agent in carrying out this chapter may reveal a systemic vulnerability of a pipeline system, or a vulnerability of pipeline facilities to attack, the information shall be withheld from public disclosure.

(B) DISCLOSURE TO CERTAIN PERSONS.—Information withheld from public disclosure under subparagraph (A) may be disclosed only—

(i) to an officer, employee, or agent of a Federal, State, tribal, or local government, including a volunteer fire department, concerned with carrying out this chapter, with protecting the facilities, with protecting public safety, or with national security issues;

(ii) in an administrative or judicial proceeding brought under this chapter or one that addresses terrorist actions or threats of such actions; and

(iii) to such other persons as the Secretary determines necessary to protect public safety and security.

(C) DISCLOSURE DETERMINATIONS.—The Secretary, by regulation, may make a determination regarding disclosure

under subparagraph (A) with respect to a category of information or a class of persons.

(D) RELATIONSHIP TO TITLE 5.—A release of information withheld from public disclosure under subparagraph (A) to persons identified in subparagraph (B) is not a release to the public within the meaning of section 552 of title 5.

* * * * * * *

(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potentially unsafe condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the unsafe condition.

(m) SECURITY ORDERS.—If the Secretary decides that a pipeline facility has a vulnerability to terrorist attacks, the Secretary may order that the operator of the facility take necessary actions to eliminate or reduce the vulnerability.

§ 60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person owning or operating a pipeline facility shall—

(1) * * *

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title; **[**and**]**

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title**[**.**]***; and*

(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).

* * * * * * *

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section **[**60114(c)**]** *60114(b)* or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than **[**$25,000**]** *$50,000* for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is **[**$500,000**]** *$750,000*.

* * * * * * *

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

* * * * * * *

§ 60123. Criminal penalties

(a) GENERAL PENALTY.—A person knowingly and willfully violating section **[**60114(c)**]** *60114(b)*, 60118(a), or 60128 of this title

or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PENALTY FOR DAMAGING OR DESTROYING FACILITY.—A person knowingly and willfully damaging or destroying an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or attempting or conspiring to do such an act, *as an act of terrorism or for any other purpose* shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

* * * * * * *

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

(1) *knowingly and willfully* engages in an excavation activity—

(A) * * *

* * * * * * *

(2) subsequently damages—

(A) * * *

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

(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or

* * * * * * *

§ 60125. Authorization of appropriations

[(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

[(1) $19,448,000 for fiscal year 1996;

[(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

[(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

[(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title; and

[(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.

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

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

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

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

(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60130) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

(1) $35,500,000 for fiscal year 2002, of which $29,500,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title.

(2) $37,900,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

(3) $41,700,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

(4) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

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

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

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

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

[(D) $12,000,000 for fiscal year 1996.

[(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

[(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

[(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

[(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.]

(A) $18,500,000 for fiscal year 2002, of which $13,500,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title.

(B) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

(C) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

(D) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

* * * * * * *

(c) PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—In addition to amounts authorized under subsections (a) and (b), not more than $3,000,000 for each of fiscal years 2002 through 2005 may be appropriated to the Secretary to carry out section 60130.

[(d) GRANTS FOR ONE-CALL NOTIFICATION SYSTEMS.—Not more than $_____ may be appropriated to the Secretary for the fiscal year ending September 30, 19__, to carry out section 60114(b) of this title. Amounts under this subsection remain available until expended.]

[(e)] *(d)* CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) [or (b) of this section] amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(e) EMERGENCY RESPONSE GRANTS.—There are authorized to be appropriated $6,000,000 for each of fiscal years 2002, 2003, and 2004 to carry out subsection (d) of section 60116.

[(f) AVAILABILITY OF UNUSED AMOUNTS FOR GRANTS.—(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 60107 of this title.

[(2) A grant under this subsection is available to a State that after December 31, 1987—

[(A) undertakes a new responsibility under section 60105 of this title; or

[(B) implements a one-call damage prevention program established under State law.

[(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

[(4) A State may receive not more than $75,000 under this subsection.

[(5) Amounts under this subsection remain available until expended.]

* * * * * * *

[§ 60127. Population encroachment

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

[(b) EVALUATION.—The Secretary shall—

[(1) evaluate the recommendations in the report referred to in subsection (a);

[(2) determine to what extent the recommendations are being implemented;

[(3) consider ways to improve the implementation of the recommendations; and

[(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way

of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.]

§ 60127. Population encroachment

(a) STUDY.—The Secretary of Transportation, in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices and zoning ordinances with regard to pipeline rights-of-way.

(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices and zoning ordinances—

(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

(2) to address and prevent the hazards and risks to the public and the environment associated with encroachment on pipeline rights-of-way; and

(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way.

(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

(d) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment on pipeline rights-of-way so as to more effectively protect public safety and the environment.

(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

(A) Congress and appropriate Federal agencies; and

(B) States for further distribution to appropriate local authorities.

(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way.

(e) LOCAL ASSISTANCE.—

(1) IN GENERAL.—In conducting the study and preparing the report under this section, the Secretary shall consult with a group of State and local officials selected by the Secretary. The Secretary shall begin consulting with the group not later than 90 days after the date of enactment of this subsection.

(2) MEMBERSHIP.—The group shall be composed of members selected by the Secretary from among elected officials of State and local governments representing areas in which pipeline fa-

cilities are located. At least one of the members shall be an elected official of a local government with a population of less than 10,000.

(3) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the group established under this subsection.

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§ 60129. Qualification of pipeline personnel

(a) QUALIFICATION PROGRAM.—Not later than one year after the date of enactment of this section, each operator of a gas pipeline or hazardous liquid pipeline facility shall adopt and implement a written qualification program that ensures that all individuals performing covered tasks for the facility are qualified to perform such tasks.

(b) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

(1) A method for examining or testing the qualifications of individuals performing covered tasks for the facility. Such method may not be limited to observation of on-the-job performance unless such observation includes a written performance evaluation.

(2) A requirement that the operator complete the qualification of all individuals performing covered tasks for the facility not later than 18 months after the date of adoption of the program.

(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

(c) REVIEW OF QUALIFICATION PROGRAMS.—

(1) REVIEW OF PROGRAMS.—

(A) IN GENERAL.—The Secretary or a State authority responsible for enforcing standards prescribed under this chapter shall review the qualification program of an operator and record the results of that review for use in the next review of an operator's program.

(B) CONTEXT OF REVIEW.—The Secretary or State authority may conduct a review under subparagraph (A) as an element of its inspection of an operator.

(C) INADEQUATE PROGRAMS.—If the Secretary or a State authority determines that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary or State authority shall act under section 60108(a)(2) to require the operator to revise the qualification program.

(2) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this subsection, an operator shall notify the Secretary or State authority, as appropriate, of any amendment made to the operator's qualification program not later than 30 days after the date of adoption of the amendment.

(3) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section.

(d) COVERED TASK DEFINED.—In this section, the term "covered task"—

(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section; and

(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, as in effect on the date of enactment of this section.

§ 60130. Security of pipeline facilities

(a) TERRORISM SECURITY PROGRAMS.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary of Transportation shall require the operator of a pipeline facility to develop and implement a terrorism security program.

(2) CONTENTS OF PROGRAMS.—

(A) IN GENERAL.—A terrorism security program of a pipeline operator shall consist of written procedures to follow and actions to take in the event of a terrorist attack on a pipeline facility or an attack on other infrastructure facilities in the United States. Such procedures shall include procedures for communicating with military, law enforcement, emergency service, and other appropriate State and local government and non-government entities.

(B) STANDARD.—A terrorism security program of a pipeline operator shall require the operator to establish and implement reasonable procedures to safeguard the pipeline facility and safely maintain its operations.

(3) APPROVAL OF PROGRAMS.—Not later than 1 year after the date of enactment of this section, the Secretary shall conduct a review of, and approve or disapprove, the terrorism security program of each pipeline operator. The Secretary shall prescribe procedures for the review and standards for the approval of such programs.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to an operator of a pipeline facility, or to State, tribal, or local officials, to prevent or respond to acts of terrorism that may affect the pipeline facility. Such technical assistance may include at a minimum—

(1) actions by the Secretary that support the use of National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack;

(2) use of resources available to the Secretary to develop and implement security measures for a pipeline facility;

(3) identification of security issues with respect to the operation of a pipeline facility; and

(4) the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.

§ 60131. National pipeline mapping system

(a) INFORMATION TO BE PROVIDED.—Not later than 30 days after the date of enactment of this section, the operator of a pipeline facility shall provide to the Secretary of Transportation the following information with respect to the facility:

(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary periodic updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.

§ 60132. Administrative process for permitting of pipeline repair activity

(a) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Within 30 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the President shall establish an Interagency Committee on Pipeline Repair Permitting (in this section referred to as the "Interagency Committee").

(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall also include each of the following persons (or a designee thereof):

(A) The Secretary.

(B) The Administrator of the Environmental Protection Agency.

(C) The Director of the United States Fish and Wildlife Service.

(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(E) The Director of the Bureau of Land Management.

(F) The Director of the Minerals Management Service.

(G) The Assistant Secretary of the Army for Civil Works.

(H) The Chairman of the Federal Energy Regulatory Commission.

(3) PURPOSES.—The Interagency Committee shall evaluate current Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs may be subject and shall recommend to the Secretary a process by which owners or operators of pipelines (in this section referred to as "pipeline operators") may commence and complete all such activities necessary to carry out pipeline repairs that must be completed within time periods specified by rule by the Secretary under the integrity management program. As part of its evaluation, the Interagency Committee shall examine access, excavation, and restoration activities currently

used in the pipeline industry in connection with pipeline repairs and shall develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

(4) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials and such other officials as the Interagency Committee deems appropriate.

(b) IMPLEMENTATION.—

(1) PROPOSED RULE.—Within 180 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the Interagency Committee shall present its evaluation and recommendations to the Secretary. Within 30 days after the date on which such evaluation and recommendations are presented, the Secretary shall propose a rule, based on and consistent with such recommendations, to establish a process by which pipeline operators may commence and complete all access, excavation, and restoration activities necessary to carry out pipeline repairs that must be completed within time periods specified by rule by the Secretary under the integrity management program. Such proposed rule shall contain the provisions required by paragraph (2) and shall incorporate, to the extent practicable and cost effective, the compendium of best practices developed by the Interagency Committee.

(2) FINAL RULE.—

(A) ISSUANCE.—The Secretary shall issue a final rule not later than 180 days after the date on which the Interagency Committee presents its evaluation and recommendations to the Secretary.

(B) CONTENT.—The final rule shall—

(i) provide that a pipeline operator carrying out a pipeline repair project as part of its pipeline integrity management program may proceed with the project only if the operator provides notice to the Secretary that the operator is proceeding with the repairs in compliance with the applicable best practices incorporated in such final rule and the Secretary concurs;

(ii) provide that if the Secretary disapproves of the operator proceeding with the repairs as described in the operator's notice, the Secretary shall provide notice to the operator of the disapproval in the 7-day period beginning on the date of receipt by the Secretary of the operator's notice, together with a description of the actions that the operator must take to receive the Secretary's concurrence;

(iii) provide that if the Secretary does not provide notice to an operator of the Secretary's disapproval of the operator proceeding with the repairs as described in the operator's notice in the 7-day period described in clause (ii), the Secretary shall be deemed to concur;

(iv) provide that if the Secretary disapproves of the operator proceeding with the repairs as described in the operator's notice, the Secretary shall provide the op-

erator with an opportunity to resubmit a notice for the pipeline repair project under clause (i); and

(v) require a certification to the Secretary following completion of the repair project that the project was completed in compliance with all such best practices.

(C) EFFECTIVE DATE.—The final rule shall be made effective no later than 90 days after it is published in the Federal Register.

(c) RELATIONSHIP TO OTHER PERMITS.—

(1) OTHER FEDERAL PERMITS.—A pipeline operator that proceeds to carry out a pipeline repair project under the provisions of the final rule described in subsection (b) shall not be required to obtain a permit from any other Federal agency before carrying out such repair project, except as may be provided in such final rule.

(2) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed in connection with a particular repair situation—

(A) to require a pipeline operator to comply with the final rule described in subsection (b) if no Federal permit would otherwise have been required under Federal law;

(B) to prohibit a pipeline operator from opting to obtain all permits otherwise necessary under Federal law rather than proceeding under the final rule described in subsection (b); or

(C) to preempt otherwise applicable State and local permitting requirements.

(d) REPAIR PROJECTS NOT COMPORTING WITH BEST PRACTICES.—

(1) PREPARATION OF SITE MANAGEMENT PLAN.—In the case of any pipeline repair that must be completed within time periods specified by rule by the Secretary under the integrity management program, but for which repair activities may not proceed under subsection (b) because the repair is not able to comport with the requirements of the final rule issued thereunder or for any other reason, or any repair project on which work has been commenced but which the pipeline operator thereafter discovers cannot comport with such requirements, the pipeline operator shall prepare a specific site management plan for the proposed access, excavation, and restoration activities.

(2) SUBMISSION OF PLAN TO PERMITTING AGENCIES.—Such plan shall be submitted to all applicable permitting agencies for review and approval, and to the Secretary. In the event an agency has not approved a permit application within 60 days after its submission, or has not issued a denial of such application within 60 days together with a specification of items in the application requiring correction, the pipeline operator shall be permitted to proceed with the proposed repair activities as provided in its site management plan.

(3) FAILURE TO ADHERE TO PLAN.—If the pipeline operator fails to adhere to its site management plan and such failure results in damage to human health, public safety, or the environment, the owner or operator shall be subject to such civil and criminal remedies and penalties as are otherwise provided by Federal, State, and local law.

(e) INTERIM OPERATIONAL ALTERNATIVES.—

(1) IN GENERAL.—Within 30 days after the date of enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, the Secretary shall commence a rulemaking to permit pressure reduction, line monitoring, and other mitigation measures to be employed, as appropriate, during the period between such date of enactment and the date on which the final rule issued under subsection (b) becomes effective, on pipeline facilities subject to time periods for repair specified by rule by the Secretary under the integrity management program. Such alternative mitigation measures shall be available only to a pipeline operator that, with respect to a particular repair project, has applied for and is pursuing in good faith all required Federal, State, and local permits to carry out the project.

(2) FACTORS TO CONSIDER.—In issuing the final rule under this subsection, the Secretary shall consider the need to protect human health, public safety, and the environment, to ensure continuity in energy supplies, and to avoid conflict between and among regulatory regimes.

(3) DEADLINE FOR ISSUANCE.—The Secretary shall issue a final rule under this subsection within 90 days after the date on which a notice of proposed rulemaking is published in the Federal Register.

(f) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between the permitting agency and the pipeline operator during agency review of any pipeline repair activity, or during the review of any permit application under subsection (d), consistent with protection of human health, public safety, and the environment.

(g) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to streamline their respective permitting processes for pipeline repair projects subject to time periods for repair specified by rule by the Secretary under pipeline integrity management programs. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such streamlining.

(h) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval issued or made under this section, the relevant Federal or State agency shall be bound by the project purpose and need as defined by the Secretary.

§ 60133. Protection of employees providing pipeline safety information

(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator, or contractor or subcontractor of a pipeline operator, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration

or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

(2) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

(3) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

(4) testified or is about to testify in such a proceeding; or

(5) assisted or participated or is about to assist or participate in such a proceeding.

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may file (or have any person file on his or her behalf), not later than 90 days after the date on which such violation occurs, a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (includ-

ing attorney's and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline operator, contractor, or subcontractor who, acting without direction from the pipeline operator, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to

pipeline safety under this chapter or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term "contractor" means a company that performs safety-sensitive functions by contract for a pipeline operator.

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