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PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

JULY 23, 2002.—Ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 3609]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, 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.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

80–877

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.
Sec. 2. One-call notification programs.
Sec. 3. One-call notification of pipeline operators.
Sec. 4. Protection of employees providing pipeline safety information.
Sec. 5. Safety orders.
Sec. 6. Penalties.
Sec. 7. Pipeline safety information grants to communities.
Sec. 8. Population encroachment.
Sec. 9. Pipeline integrity research, development, and demonstration.
Sec. 10. Certification of pipeline qualification programs.
Sec. 11. Additional gas pipeline protections.
Sec. 12. Security of pipeline facilities.
Sec. 13. National pipeline mapping system.
Sec. 14. Coordination of environmental reviews.
Sec. 15. Nationwide toll-free number system.
Sec. 16. Recommendations and responses.
Sec. 17. Miscellaneous amendments.
Sec. 18. Technical amendments.
Sec. 19. Authorization of appropriations.
Sec. 20. Inspections by direct assessment.

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 2003 through 2006".

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking "for fiscal years 1999, 2000, and 2001" and inserting "for fiscal years 2003 through 2006".

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";

(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"; and

(4) by adding after paragraph (2) the following:

"Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.".

SEC. 4. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

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

"§ 60129. Protection of employees providing pipeline safety information

"(a) DISCRIMINATION AGAINST EMPLOYEE.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

"(B) 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;

"(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

"(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

"(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

"(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

"(2) For purposes of this section, the term 'employer' means—

"(A) a person owning or operating a pipeline facility; or

"(B) a contractor or subcontractor of such a person.

"(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, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) 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 or persons named in the complaint and the Secretary of Transportation 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 or persons 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 or per-

sons 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 of Labor to present statements from witnesses, the Secretary of Labor 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 or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a 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 60-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 (4) 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 of Labor 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 of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) 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 90 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 of Labor, the complainant, and the person or persons alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons 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 of Labor, at the request of the complainant, shall assess against the person or persons against 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 of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith,

the Secretary of Labor 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, United States Code. 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 of Labor 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, but not to be limited to, 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 or persons 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, United States Code.

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

(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 chapter analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

SEC. 5. SAFETY 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.".

SEC. 6. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE AND PROPERTY.—

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.".

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking "is hazardous" and inserting "is or would be hazardous".

(b) ENFORCEMENT.—(1) Section 60122(a)(1) is amended—

(A) by striking "$25,000" and inserting "$100,000"; and

(B) by striking "$500,000" and inserting "$1,000,000".

(2) Section 60122(b) is amended by striking "under this section" and all that follows through paragraph (4) and inserting "under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

"(B) other matters that justice requires.".

(3) Section 60120(a)(1) is amended by striking the second sentence and inserting the following: "The Attorney General may seek appropriate relief in such action, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, and the court may award such relief as appropriate.".

SEC. 7. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) GRANT AUTHORITY.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The Secretary shall establish competitive procedures for awarding grants under this section, and criteria for selection of grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.

SEC. 8. POPULATION ENCROACHMENT.

Section 60127 is amended to read as follows:

"§ 60127. Population encroachment

"(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and 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, pipeline workers, 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, pipeline workers, 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.".

SEC. 9. PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) ESTABLISHMENT OF COOPERATIVE PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, 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 Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, considers appropriate.

(3) ACTIVITIES AND CAPABILITIES REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, shall transmit to the Congress a report on the existing activities and capabilities of the Department of Energy, including the national laboratories, the Department of Transportation, and the National Institute of Standards and Technology. The report shall include the results of a survey by the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, 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 the enactment of this Act, the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, 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 all Federal agencies.

(2) CONSULTATION.—In preparing the program plan, the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the Na-

tional Institute of Standards and Technology, shall consult with appropriate representatives of State and local government and the private sector, including companies owning energy pipelines and developers of next-generation pipelines, to help establish program priorities.

(3) ADVICE FROM OTHER ENTITIES.—In preparing the program plan, the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, shall also seek the advice of other Federal agencies, utilities, manufacturers, institutions of higher learning, pipeline research institutions, national laboratories, environmental organizations, pipeline safety advocates, professional and technical societies, labor unions, and any other appropriate entities.

(c) PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, 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 the enactment of this Act.

(2) DUTIES.—The Advisory Committee shall—

(A) advise the Secretary of Energy, the Secretary of Transportation, and the Director of the National Institute of Standards and Technology 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 Secretary of Energy, the Secretary of Transportation, and the Director of the National Institute of Standards and Technology 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 the enactment of this Act, and annually thereafter, the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, shall transmit to the Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (b).

(e) MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Transportation, and the Director of the National Institute of Standards and Technology 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). 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) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated—

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

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

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

for each of the fiscal years 2003 through 2006 for carrying out this section.

(2) 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 of title 49, United States Code.

(g) DEFINITIONS.—For purposes of this section—

(1) 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) 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; and

(3) the term "pipeline" means an energy pipeline or a next-generation pipeline.

SEC. 10. CERTIFICATION OF PIPELINE QUALIFICATION PROGRAMS.

(a) CERTIFICATION PROGRAM.—

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

"§ 60130. Certification of pipeline qualification programs

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the personnel of the operator who perform covered tasks are qualified to conduct such tasks.

"(b) STANDARDS AND CRITERIA.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

"(2) CONTENTS.—The standards and criteria shall include the following:

"(A) The establishment of industry standards for the qualifications of personnel described in subsection (a).

"(B) A requirement that pipeline operators develop and implement written plans and procedures to train and evaluate the abilities of personnel described in subsection (a) to meet the industry standards established under subparagraph (A).

"(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be certified under subsection (e).

"(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall require a pipeline operator to develop and adopt a qualification program that complies with the standards and criteria described in subsection (b).

"(d) 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 personnel described in subsection (a). Such method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

"(2) A requirement that the operator complete the qualification of all personnel described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

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

"(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

"(e) CERTIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall certify the qualification program of each pipeline operator. The qualification program of a pipeline operator shall be certified if the operator's program complies with the standards and criteria described in subsection (b) and includes the elements described in paragraphs (1) through (3) of subsection (d).

"(2) AGREEMENT OR STATE AUTHORIZATION.—The Secretary may enter into a cooperative agreement or contract with a public or private entity, or may authorize a State authority, to certify qualification programs under this subsection.

"(3) DEADLINE FOR COMPLETION.—Certifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

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

"(5) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility seeks to modify significantly a program that has been certified under this subsection, the operator shall submit the modifications to the Secretary for approval.

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

"(7) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in paragraphs (1) through (3) of subsection (d) not later than 2 years after the date of enactment of this section.

"(f) 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.

"(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.".

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

"60130. Certification of pipeline qualification programs.".

(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 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 computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60130(g), as added by subsection (a) of this section, 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 computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based 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) DEFINITION.—For purposes of this subsection, the term "computer-based systems" means supervisory control and data acquisition systems.

SEC. 11. 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 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 reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

"(C) Clearly defined criteria for evaluating the results of inspections conducted under subparagraph (B) and for taking actions based on such results.

"(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

"(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

"(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

"(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

"(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

"(4) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment 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) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

"(A) The minimum requirements described in paragraph (3).

"(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

"(C) The manner in which the inspections or testing are conducted.

"(D) The criteria used in analyzing results of the inspections or testing.

"(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

"(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

"(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

"(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 REASSESSMENT INTERVALS.—

(1) STUDY.—The Secretary of Transportation shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 7 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

SEC. 12. SECURITY OF PIPELINE FACILITIES.

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

"§ 60131. Security of pipeline facilities

"(a) TERRORISM SECURITY PROGRAMS.—

"(1) IN GENERAL.—Subject to the requirements of this subsection, the operator of a pipeline facility shall develop and implement a terrorism security program reviewed and verified under paragraph (3).

"(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 infrastruc-

ture 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, and to safeguard pipeline workers.

"(3) REVIEW AND VERIFICATION OF PROGRAMS.—Not later than 1 year after the date of enactment of this section, the Secretary shall review the terrorism security program of each pipeline operator and verify its compliance with this section. The Secretary shall prescribe procedures for the review and standards for the verification of such programs. The Secretary shall record the results of that review for use in the next review of an operator's program.

"(4) INADEQUATE PROGRAMS.—If the Secretary determines that a terrorism security program does not comply with the requirements of this section, the Secretary shall act under section 60108(a)(2) to require the operator to revise the terrorism security program.

"(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.

"(c) SECURITY MEASURES TO PROTECT AGAINST ACTS OF TERRORISM OR SABOTAGE.—

"(1) RULEMAKING REQUIREMENT.—The Secretary of Transportation, not later than 60 days after the date of the enactment of this subsection, after consultation with any appropriate Federal, State, or nongovernmental entities, shall commence a rulemaking to require effective security measures which the Secretary determines are necessary to be adopted against acts of terrorism or sabotage directed against waterfront liquefied natural gas plants located in or within 1 mile of a densely populated urban area. Within 1 year after the date of the enactment of this subsection, the Secretary of Transportation shall issue a final rule.

"(2) FACTORS TO BE CONSIDERED.—Regulations issued under paragraph (1) shall take into account—

"(A) the events of September 11, 2001;

"(B) the potential for attack on facilities by multiple coordinated teams totaling in the aggregate a significant number of individuals;

"(C) the potential for assistance in an attack from several persons employed at the facility;

"(D) the potential for suicide attacks;

"(E) water-based and air-based threats;

"(F) the potential use of explosive devices of considerable size and other modern weaponry;

"(G) the potential for attacks by persons with a sophisticated knowledge of facility operations;

"(H) the threat of fires and large explosions; and

"(I) special threats and vulnerabilities affecting facilities located in or within 1 mile of a densely populated urban area.

"(3) REQUIREMENTS.—Regulations issued under paragraph (1) shall establish requirements for waterfront liquefied natural gas plants relating to construction, operation, security procedures, and emergency response, and shall require conforming amendments to applicable standards and rules.

"(4) OPERATIONAL SECURITY RESPONSE EVALUATION.—(A) Regulations issued under paragraph (1) shall include the establishment of policies and procedures by the Secretary of Transportation, which shall ensure that the operational security response of each facility described in subparagraph (B) is tested at least once every 2 years through the use of force-on-force exercises to determine whether the threat factors identified in regulations issued under paragraph (1) have been adequately addressed.

"(B) Facilities subject to testing under subparagraph (A) include waterfront liquefied natural gas plants located in or within 1 mile of a densely populated urban area, and associated support facilities and equipment.

"(5) REVIEW AND REVISION.—Regulations issued under paragraph (1) shall be reviewed and revised as appropriate at least once every 5 years.

"(6) DEFINITIONS.—For purposes of this subsection, the term 'densely populated urban area' means an area with a population density of more than 10,000 people per square mile.".

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

"60131. Security of pipeline facilities.".

SEC. 13. NATIONAL PIPELINE MAPPING SYSTEM.

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

"§ 60132. National pipeline mapping system

"(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) 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 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 amended by adding at the end the following:

"60132. National pipeline mapping system.".

SEC. 14. COORDINATION OF ENVIRONMENTAL REVIEWS.

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

"§ 60133. Coordination of environmental reviews

"(a) INTERAGENCY COMMITTEE.—

"(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

"(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

"(A) The Secretary of Transportation.

"(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) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, exca-

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

"(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

"(5) 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 considers appropriate.

"(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

"(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

"(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

"(2) to preempt applicable Federal, State, or local environmental law.

"(d) INTERIM OPERATIONAL ALTERNATIVES.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

"(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

"(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

"(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

"(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

"(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

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

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

"60133. Coordination of environmental reviews.".

SEC. 15. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 16. RECOMMENDATIONS AND RESPONSES.

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

"§ 60134. Recommendations and responses

"(a) RESPONSE REQUIREMENT.—Whenever the Office of Pipeline Safety has received recommendations from the National Transportation Safety Board regarding

pipeline safety, it shall submit a formal written response to each such recommendation within 90 days after receiving the recommendation. The response shall indicate whether the Office intends—

"(1) to carry out procedures to adopt the complete recommendations;

"(2) to carry out procedures to adopt a part of the recommendations; or

"(3) to refuse to carry out procedures to adopt the recommendations.

"(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendations. A response under subsection (a)(3) shall detail the reasons for the refusal to carry out procedures to adopt the recommendations.

"(c) PUBLIC AVAILABILITY.—The Office shall make a copy of each recommendation and response available to the public, including in electronic form.

"(d) REPORTS TO CONGRESS.—The Office shall submit to Congress on January 1 of each year a report describing each recommendation on pipeline safety made by the National Transportation Safety Board to the Office during the prior year and the Office's response to each recommendation.".

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

"60134. Recommendations and responses.".

SEC. 17. MISCELLANEOUS AMENDMENTS.

(a) PROTECTION OF PUBLIC HEALTH, WELFARE, AND THE ENVIRONMENT.—Section 60102(a)(1) is amended by inserting "in order to protect public health and welfare and the environment from reasonably anticipated threats that could be posed by such transportation and facilities" after "and for pipeline facilities".

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following new subparagraph:

"(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.".

SEC. 18. 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)(1) 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. 19. 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 section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

"(1) $45,800,000 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.

"(2) $46,800,000 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.

"(3) $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.

"(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 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 (c), respectively; and

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

"(A) $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.

"(B) $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.

"(C) $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.

"(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

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

SEC. 20. INSPECTIONS BY DIRECT ASSESSMENT.

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

"(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.".

PURPOSE AND SUMMARY

The purpose of H.R. 3609 is to reauthorize natural gas and hazardous liquid pipeline safety programs through the fiscal year 2006.

BACKGROUND AND NEED FOR LEGISLATION

The pipeline industry moves natural gas, oil, gasoline, diesel fuel, and other liquids from oil and gas wells, refineries, and other manufacturers to distribution points all over the United States, meeting the demand of nearly 23 trillion cubic feet (Tcf) of natural gas per year, and approximately 13 billion barrels of petroleum products per year.

Pipelines are regulated for safety by state and federal agencies. The federal pipeline safety program is administered by the Office of Pipeline Safety (OP, which falls under the purview of the Research & Special Programs Administration of the U.S. Department of Transportation (DOT). The Natural Gas Pipeline Safety Act of 1968, and the Hazardous Liquid Pipeline Safety Act of 1979, provide the statutory framework for the regulation of natural gas and hazardous liquid pipelines. The two acts were recodified in 1994, and in 1996, Congress passed the Accountable Pipeline Safety Act reauthorizing the pipeline safety program through fiscal year 2000.

OPS has taken several significant actions recently. The following is a summary:

- Operator Qualification (published 8/27/99): This final rule requires pipeline operators to develop and maintain a written qualification program for employees whose responsibility is to perform safety related tasks on pipelines.
- Unusually Sensitive Areas (published 12/21/00): This final rule defines drinking water areas and ecological resources areas unusually sensitive to environmental damage from hazardous liquid pipeline incidents.
- High consequence areas/integrity management programs for large hazardous liquid pipelines (published 12/01/00): This final rule is the first in a series of four integrity management rules establishing requirements for operators of hazardous liquid pipelines to develop and implement integrity management programs (IMP).

This rule only applies to hazardous liquid pipelines of 500 miles or more.

• Corrosion (published 12/27/01): This final rule defines how operators must evaluate and protect against corrosion in a wide range of circumstances. This rule strengthens the standards for qualification of personnel who manage corrosion protection.

• Integrity repair (published 1/14/02): This final rule expands the methods operators must use to address weaknesses identified through assessments.

• Accident reporting (published 1/08/02): This final rule substantially improves OPS' ability to determine the exact cause of pipeline failures by requiring that more data be included in accident reports.

• High consequence areas/integrity management programs for small hazardous liquid pipelines (published 1/16/02): This final rule is the second in a series of four integrity management rules establishing requirements for operators of hazardous liquid pipelines to develop and implement integrity management programs.

• High consequence areas gas transmission (published 1/09/02): This notice of proposed rulemaking (NPRM) is the first step in finalizing the third in a series of integrity management rules establishing an integrity management program for gas transmission pipelines.

OPS has been criticized for its failure to respond to Congressional mandates and recommendations from the National Transportation Safety Board (NTSB). In its May 2000 report, General Accounting Office (GAO) noted that OPS had not implemented 22 statutory requirements, 12 of which date from 1992 or earlier, and had not implemented 39 recommendations from NTSB. By September 2001, OPS had 11 remaining statutory requirements outstanding and 44 open recommendations from the NTSB, one of which was closed since the date of the previous report. Six new recommendations were issued in the interim.

HEARINGS

The Subcommittee on Energy and Air Quality held a hearing on Tuesday, March 19, 2002, on Reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act. The Subcommittee received testimony from: Ms. Ellen G. Engleman, Administrator, Research and Special Programs Administration, Department of Transportation; Mr. Robert Chipkevich, Director, Office of Railroad, Pipeline and Hazardous Materials Investigations, National Transportation Safety Board; Mr. Peter Guerrero, Director; Physical Infrastructure, U.S. General Accounting Office; Mr. James D. Anderson, National Vice-Chairperson, National Association of Pipeline Safety Representatives; Mr. Mark L. Hereth, Senior Vice President, HSB Solomon; Mr. William J. Haener, Vice President of Natural Gas, CMS Engineer Corporation, on behalf of the Interstate Natural Gas Association of America; Mr. William Shea, President and CEO, Buckeye Pipe Line Company, L.P., on behalf of: the Association of Oil Pipe Lines; Mr. Herman Morris, Jr, President and Chief Executive Officer, Memphis Light, Gas & Water, on behalf of American Gas Association; Mr. Robert R. Kipp, Executive Director, Common Ground Alliance; Mr. Edward C. Sullivan, President, Building and Construction Trades De-

partment, AFL–CIO; and Mr. Bruce Nilles, Staff Attorney, Earthjustice.

COMMITTEE CONSIDERATION

On Tuesday, June 11, 2002, the Subcommittee on Energy and Air Quality met in open markup session and approved H.R. 3609, the Pipeline Infrastructure Protection to Enhance Security and Safety Act for Full Committee consideration, as amended, by a voice vote. On Thursday, June 13, 2002, the Committee on Energy and Commerce met in open markup session and favorably ordered reported H.R. 3609, as amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3609 reported. A motion by Mr. Tauzin to order H.R. 3609 reported to the House, as amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held an oversight hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 3609 is to reauthorize the pipeline safety program through fiscal year 2006.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3609, the Pipeline Infrastructure Protection to Enhance Security and Safety Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 23, 2002.

Hon. W.J. "BILLY" TAUZIN,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3609, the Pipeline Infrastructure Protection to Enhance Security and Safety Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Rachel Milberg (for federal costs) and Lauren Marks (for the private-sector impact).

Sincerely,

ROBERT A. SUNSHINE
(for Dan L. Crippen, Director).

Enclosure.

H.R. 3609—Pipeline Infrastructure Protection to Enhance Security and Safety Act

Summary: Under current law, the Research and Special Programs Administration (RSPA) within the Department of Transportation (DOT) oversees the safety of pipelines that carry either gas or hazardous liquids and provides grants to states for safety programs. For these activities, H.R. 3609 would authorize a gross appropriation of $282 million over the 2003–2006 period. Of this total, $226 million would be offset by the collection of fees paid by pipeline operators.

In addition, H.R. 3609 would authorize the appropriation of $80 million over the 2003–2006 period for a new research program to improve pipeline inspection techniques, risk assessments, and technology to detect leaks. The bill also would authorize the appropriation of almost $6 million over the 2003–2006 period for grants to state programs that help excavators coordinate their work with the operators of underground pipelines, and another $4 million over the 2003–2006 period for grants to local communities to improve pipeline safety.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3609 would have a net cost of $141 million over the 2003–2007 period. Enacting H.R. 3609 also would affect governmental receipts, so pay-as-you-go procedures would apply, but CBO estimates that such effects would not be significant.

H.R. 3609 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of those mandates would not exceed the annual thresholds established in UMRA ($58 million for intergovernmental mandates and $115 million for private-sector mandates in 2002, adjusted annually for inflation). The bill also would authorize grants to states to reimburse up to 50 percent of the cost of state pipeline safety programs.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3609 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION[1]					
Estimated net authorization level[2]	41	39	34	32	0
Estimated net outlays	18	35	31	30	27

[1] H.R. 3609 also would increase revenues, but CBO estimates that those effects would not be significant.
[2] The amounts shown are the differences between the bill's authorized funding and fee collections for each year.

Basis of estimate: For this estimate, CBO assumes that H.R. 3609 will be enacted near the end of fiscal year 2002 and that the authorized amounts will be appropriated for each year. Outlay estimates are based on the historical spending patterns of pipeline safety programs.

CBO estimates that implementing H.R. 3609 would cost $141 million over the 2003–2007 period. This estimate includes net spending of $56 million for RSPA's oversight activities and grants to state safety programs, reflecting the difference between gross authorized appropriations of $282 million and authorized collections of $226 million from pipeline user fees over the four-year authorization period. The gross authorization for those activities would average about $70 million a year; and the fees would average $56 million a year. By comparison, the gross appropriation for those RSPA activities was $58 million in 2002, and CBO estimates that fees for this year will total $51 million.

H.R. 3609 would increase the minimum and maximum civil penalties for violating certain pipeline safety requirements, and it would impose civil penalties for violating employee protections required by the bill. collections of these penalties are recorded in the budget as governmental receipts. CBO estimates that implementing this legislation would increase such receipts by less than $500,000 a year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 3609 would result in governmental receipts of less than $500,000 a year.

Intergovernmental and private-sector impact: By placing requirements on operators of natural gas and hazardous liquid pipelines, H.R. 3609 would impose both intergovernmental and private-sector mandates as defined by UMRA. Although most natural gas pipeline operators are private entities, some are public entities; hazardous liquid pipelines are privately owned.

Mandates

Mandates in the bill would include requirements to:

- Pay user fees;
- Implement an integrity management program;
- Adopt an employee qualification program certified by the Office of Pipeline Safety (OPS);
- Implement a terrorism security program;
- Provide information to OPS for the national pipeline mapping system; and
- Comply with a whistleblower protection program.

Based on the information provided by OPS and industry representatives CBO estimates that the cost of those mandates would not exceed the annual thresholds for intergovernmental and pri-

vate-sector mandates established in UMRA ($58 million and $115 million in 2002 respectively, adjusted annually for inflation).

User Fees. Section 19 would authorize appropriations for DOT to carry out activities related to pipeline safety. The majority of each authorization would be derived from user fees, paid by operators of natural gas and hazardous liquid pipelines. By law, the fees are based upon the volume-miles, miles, and revenues of each pipeline operator. The authorization for such fees expired in 2000; however, pipeline operators have been required to pay such fees since that time through the annual DOT appropriations process and anticipate doing so in the absence of this legislation. Despite this, the reimposition of such fees would be a mandate as defined by UMRA. For fiscal year 2003, the bill would authorize the appropriation of $66 million, of which $47 million would be derived from user fees. Appropriations would rise to $77 million in fiscal year 2006, of which $67 million would be derived from user fees. Effectively, the actual cost of this mandate would depend on the amount of future appropriations. According to industry sources most of these fees would be paid by private-sector entities, but about 1 percent would be paid by governmental entities such as publicly owned gas utilities.

Integrity Management for Gas Pipeline Operators. Section 11 would require operators of gas pipeline facilities to conduct a risk analysis for each facility located in an unusually sensitive area and to implement a written integrity management program in order to reduce the risk of accidents occurring at such a facility. As part of the integrity management program, operators would be required to periodically reinspect the facility at an accelerated rate relative to what would be required under current law. The first year pipeline operators would bear an additional cost because of the accelerated reinspection schedule—and thus, the first year that the mandate would be in affect—would be around 2015. Based upon information provided by OPS and industry sources, CBO estimates that the cost of shortening the deadline for reinspection would not exceed the annual thresholds for private-sector or intergovernmental mandates in any of the first five years that the mandate goes into effect.

Employee Qualification Program. Section 10 would require pipeline operators to adopt and implement a written qualification program for employees who perform certain tasks. According to OPS and the pipeline industry, this provision closely mirrors an OPS operator qualification rule that operators must meet by October 2002. However, under the bill, each program would require certification by the Secretary of DOT within three years of the bill's enactment to ensure compliance with standards to be established by the Secretary. Based on information provided by OPS, CBO estimates that participation in the certification process would impose minimal costs on pipeline operators.

Terrorism Security Program. Section 12 would require operators of pipeline facilities to develop and implement a terrorism security program detailing procedures to safeguard the pipeline facility and safely maintain operations in the event of a terrorist attack. Secretarial approval would be required for each program. According to both OPS and representatives of the pipeline industry, pipeline operators are already heavily involved in developing such plans in

concert with a comprehensive security guidance crafted by the industry. Further, OPS anticipates incorporating the guidance into the agency's forthcoming regulations. Thus, CBO estimates that developing and implementing of terrorism security programs would impose little, if any, incremental costs on pipeline operators.

In addition, section 12 would require DOT to commence a rulemaking that would require specialized security measures at liquefied natural gas plants located on a waterfront within one mile of a densely populated area. Specifically, the bill would require that each waterfront facility located in a populated area be tested at least once every two years through the use of force-on-force exercises. According to OPS, only one facility would be affected by the rulemaking: Distrigas of Massachusetts Corporation. Based on information provided by OPS, and the nuclear power industry (where similar measures are conducted currently), CBO estimates that the cost of increasing security at the facility would be below $10 million.

National Pipeline Mapping System. Section 13 would require pipeline operators, except those operating distribution and gathering lines, to provide OPS with information for a national pipeline mapping system within six months of the bill's enactment. DOT is currently engaged in such an effort and thus far, participation by pipeline operators has been voluntary. According to OPS, 90 percent of the required information has been submitted by hazardous liquid pipeline operators, while 55 percent of the requisite information has been provided by the natural gas pipeline industry. Based on information provided by OPS and industry representatives, CBO estimates that the cost of the mandate would be less than $1 million annually.

Whistleblower Protection. Section 4 would protect employees of pipeline operators, contractors, or subcontractors that provide pipeline safety information to the U.S. Government. Under the bill, pipeline operators would be prohibited from discharging or discriminating against such employees with respect to compensation, term, conditions, or privileges of employment. Employees may already possess some or all of such protections under several environmental statutes. Section 4 would ensure that whistleblower protections are applicable to any activity governed by pipeline safety law or regulation. Because compliance with the broader whistleblower protections would involve only incremental administrative costs, CBO estimates that pipeline operators, their contractors and subcontractors would incur only minimal costs from enactment of this section.

Other impacts

Under current law, DOT is authorized to enter into agreements with states under which the states implement federal pipeline regulations applying to intrastate gas or hazardous liquid pipelines. Section 5 would expand DOT's authority to delegate the oversight of interstate pipelines to states. Section 10 would authorize states participating in regulatory agreements to review the risk analysis and integrity management program of certain pipeline operators, and to provide DOT with written assessments of those plans. Section 12 would require participating states to enforce new regulations related to employee qualification programs. Carrying out ad-

ditional reviews and oversight responsibilities would increase regulatory costs for the states, but the costs would be incurred voluntarily.

The bill also would authorized grants to states to reimburse up to 50 percent of the cost of state pipeline safety programs.

Previous CBO estimate: On April 5, 2002, CBO transmitted a cost estimate for H.R. 3929, the Energy Pipeline Research, Development, and Demonstration Act, as ordered reported by the House Committee on Science, on March 20, 2002. This bill would authorize a new research program similar to the program that would be authorized by H.R. 3609; however, H.R. 3609 would authorize the appropriation of $100 million for the program.

Estimate prepared by: Federal Costs: Rachel Milberg; state, local, and tribal impact: Susan Sieg Tompkins; private-sector impact: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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.

ADVISORY COMMITTEE STATEMENT

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO 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.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Amendment of Title 49, United States Code; table of contents

Section 1 designates the act as the "Pipeline Infrastructure Protection to Enhance Security and Safety Act."

Section 2. One-call notification programs

Section 2 requires that state one-call notification programs provide for the participation of government operators and contract excavators. Section 2 also requires that state one-call notification programs, not only provide for the enumerated items set forth in the statute, but must also document the same. Additionally, the re-

quirement that the Secretary include certain information in reports submitted under section 60124 of Title 49 is made permanent.

Section 2 also amends section 6105 of title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-call notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled "Common Ground," and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2002 through 2006 are provided at $500,000 per year, but not from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators

Section 3 provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term "person" who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

Section 60123(d) is amended by rearranging the phrase "knowingly and willfully" to address the problem raised when a court interpreted existing law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by requiring that the "knowingly and willfully" standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if a violation is promptly reported by the violator.

Section 4. Protection of employees providing pipeline safety information

Section 4 adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the federal government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

Section 5. Safety orders

Section 5 adds a paragraph to section 60117 of the Act to give the Secretary the authority to order an operator of a facility to take corrective action if the Secretary decides that a potentially unsafe condition exists.

Section 6. Penalties

Section 6 modifies the existing penalties provision set forth in section 60112 so that the Secretary of Transportation may decide a pipeline facility is hazardous if the pipeline's operation, facility, construction of the facility, or any component of the facility is or would be hazardous. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventive actions, instead of actions after a hazardous situation presents itself.

Section 6 also increases the penalties for violations of the bill. The per day, per incident amount has been increased to $100,000. The maximum civil penalty for a related series of violations has been increased to $1,000,000. Section 6 provides that, in determining the amount of a civil penalty, the Secretary shall consider as an additional consideration, the adverse impact on the environment. The Secretary may consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section by specifically providing that the Attorney General may seek appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation, remains in effect.

Section 7. Pipeline safety information grants to communities

Section 7 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision is to give grants to people in local communities who desire to hire engineers in order to verify safety concerns that may be raised because of pipelines being located in their communities. In order to receive the grants, the applicants must compete for the grants in a competitive procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one grant recipient may not receive more than $50,000. The grant funds may not be used for lobbying or to fund litigation. This section authorizes the appropriation of $1,000,000 for each of the fiscal years 2003 through 2006.

Section 8. Population encroachment

Section 8 requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC), other federal agencies, and state and local governments, to study land use practices and zoning ordinances with regard to pipeline rights-of-way. Based upon the purposes set forth in section 8, a report is to be written that identifies successful methods in the law for addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date

of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 9. Pipeline integrity research, development, and demonstration

This section requires the Secretary of Energy, in cooperation with the Secretary of Transportation and the Director of the National Institute of Standards and Technology, to develop a program of research, development, demonstration, and standardization to ensure the integrity of pipelines.

Section 10. Certification of pipeline qualification programs

Section 10 requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs. The Secretary is required to certify each operator's qualification program. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 11. Additional gas pipeline protections

This section requires operators of pipeline facilities subject to section 60109 of the Act to adopt and implement a written integrity management program to reduce risks to each facility. Within 18 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within one year from the issuance of regulations by the Secretary. This section sets forth the minimum requirements for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities. This assessment must be completed within 10 years after the date of the adoption of the integrity management program and a reassessment of each facility at a minimum of once every 7 years.

This section requires the Secretary of Transportation to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of the Act is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of the Act does not, nor was it intended to, apply to natural gas distribution lines.

The Secretary is authorized to grant waivers and modifications pursuant to section 60118(c) for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waiv-

ers or modifications shall not be inconsistent with pipeline safety. The Secretary is encouraged to make use of waivers and modifications where necessary and not inconsistent with the purposes of pipeline safety, especially if local product supply may be interrupted if a waiver or modification is not granted.

Section 11 also requires the Secretary of Transportation to conduct a study to evaluate the 7 year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 7 years from the date of enactment.

Section 12. Security of pipeline facilities

Section 12 requires the operator of a pipeline facility to develop and implement a terrorism security program, which must be reviewed and verified by the Secretary of Transportation in accordance with procedures and standards prescribed by the Secretary. The Secretary of Transportation 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.

This section also requires the Secretary of Transportation to commence rule-making procedures to guard against acts of terrorism or sabotage against waterfront liquefied natural gas plants located in or within one mile of a densely populated urban area. A densely populated area is defined as an area with a population density of more than 10,000 people per square mile. The intent of this provision is for a "densely populated urban area" in this context apply only to Everett, Massachusetts so that the only facility subject to this provision is the DistriGas liquefied natural gas facility located in Everett, Massachusetts. The phrase "waterfront liquefied natural gas plants" is used because it is defined in the regulations at 49 Code of Federal Regulations, section 193.2007. The definition of "liquefied natural gas plant" is as follows: "an LNG plant with docks, wharves, piers, or other structures in, on, or immediately adjacent to the navigable waters of the United States or Puerto Rico and any shore area immediately adjacent to those waters to which vessels may be secured and at which LNG cargo operations may be conducted." It is believed that the OPS interprets the phrase "to which vessels may be secured and at which LNG cargo operations may be conducted" as meaning facilities in which LNG tankers can load and unload liquefied natural gas. Such an interpretation precludes facilities located elsewhere that are used primarily for peak-shaving plants or storage of liquefied natural gas.

Section 13. National pipeline mapping system

This section requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System. The data shall include the name and address of the person with primary operational control, and a means for a member of the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 14. Coordination of environmental reviews

Section 14 requires the President to establish an interagency committee for the purpose of developing and ensuring the imple-

mentation of a coordinated environmental review and permitting process. This process will allow pipeline operators to complete the activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, State, and local permits necessary to carry out the repair project; and is compatible with pipeline safety. Depending on the circumstances of a particular situation, such alternative mitigation measures may include pressure reduction, periodic line monitoring, 24–hour line monitoring, and such other methods as the OPS determines would not violate the limitations set forth in this section.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 15. Nationwide toll-free number system

This section requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3–digit tele-

phone number system to be used by state one-call notification systems.

Section 16. Recommendations and responses

This section requires the OPS to respond to recommendations received from the National Transportation Safety Board (NTSB) within 90 days from receipt of such recommendations. Such responses shall state the intentions of the Office with respect to the recommendations, and shall state the timetable for completing the procedures and reasons for refusals to do so. The responses shall be made available to the public. The Office is required to submit an annual report describing each recommendation received and the Office's response to each recommendation for the previous year.

Section 17. Miscellaneous amendments

Section 17 modifies the general authority of the Secretary of Transportation by requiring the Secretary to prescribe minimum safety standards "in order to protect public health and welfare and the environment from reasonably anticipated threats that could be posed by such transportation and facilities."

Additionally, this section modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees so that none of the individuals selected for committee membership from the general public "may have a significant financial interest in the pipeline, petroleum, or gas industry." This provision is not intended to prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans. The intent of this provision is to prevent industry employees or those with major financial stakes in the industry from serving as representatives from the general public.

Section 18. Technical amendments

This section makes technical amendments to correct previous drafting errors that surfaced in the existing legislation.

Section 19. Authorization of appropriations

This section authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 20. Inspections by direct assessment

This section requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

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] *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 2003 through 2006*. 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 2003 through 2006*.

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SUBTITLE VIII—PIPELINES

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CHAPTER 601—SAFETY

Sec.
60101. Definitions.

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60129. Protection of employees providing pipeline safety information.
60130. Certification of pipeline qualification programs.
60131. Security of pipeline facilities.
60132. National pipeline mapping system.
60133. Coordination of environmental reviews.
60134. Recommendations and responses.

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§ 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 *in order to protect public health and welfare and the environment from reasonably anticipated*

threats that could be posed by such transportation and 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

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

(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.

* * * * * * *

(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.

* * * * * * *

§ 60104. Requirements and limitations

(a) * * *

* * * * * * *

(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.*

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

(a) * * *

* * * * * * *

(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

(1) REQUIREMENT.—Each operator of a gas 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 reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

(C) Clearly defined criteria for evaluating the results of inspections conducted under subparagraph (B) and for taking actions based on such results.

(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

(4) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment 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) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

(A) The minimum requirements described in paragraph (3).

(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

(C) The manner in which the inspections or testing are conducted.

(D) The criteria used in analyzing results of the inspections or testing.

(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

(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) * * *

* * * * * * *

§ 60112. Pipeline facilities hazardous to life and property

⟦(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

⟦(1) hazardous to life, property, or the environment; or

⟦(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life, property, or the environment.⟧

(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

(1) operation of the facility is or would be hazardous to life, property, or the environment; or

(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.

* * * * * * *

(d) CORRECTIVE ACTION ORDERS.—If the Secretary decides under subsection (a) of this section that a pipeline facility [is hazardous] *is or would be hazardous*, the Secretary shall order the operator of the facility to take necessary corrective action, including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

* * * * * * *

§ 60114. One-call notification systems

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

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(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.

§ 60115. Technical safety standards committees

(a) * * *

(b) COMPOSITION AND APPOINTMENT.—(1) * * *

* * * * * * *

(4)(A) * * *

* * * * * * *

(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.

* * * * * * *

§ 60117. Administrative

(a) * * *

* * * * * * *

(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.

§ 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).

* * * * * * *

§ 60120. Enforcement

(a) CIVIL ACTIONS.—(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. **[**The court may award appropriate relief, including punitive damages.**]** *The Attorney General may seek appropriate relief in such action, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, and the court may award such relief as appropriate.*

* * * * * * *

§ 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)**]** *section 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**]** *$100,000* 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**]** *$1,000,000*.

* * * * * * *

(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.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty [under this section, the Secretary shall consider—

[(1) the nature, circumstances, and gravity of the violation;

[(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

[(3) good faith in attempting to comply; and

[(4) other matters that justice requires.] *under this section—*

(1) the Secretary shall consider—

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

(C) good faith in attempting to comply; and

(2) the Secretary may consider—

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.

* * * * * * *

§ 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.

* * * * * * *

(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

* * * * * * *

Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.

* * * * * * *

§ 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 section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

(1) $45,800,000 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.

(2) $46,800,000 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.

(3) $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.

(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 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) $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.

(B) $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.

(C) $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.

(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.

* * * * * * *

[(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)] *(c)* 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.

[(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 conjunction with the Federal Energy Regulatory Commission and 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, pipeline workers, 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, pipeline workers, 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.

* * * * * * *

§ 60129. Protection of employees providing pipeline safety information

(a) DISCRIMINATION AGAINST EMPLOYEE.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

(B) 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;

(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

(2) For purposes of this section, the term "employer" means—

(A) a person owning or operating a pipeline facility; or

(B) a contractor or subcontractor of such a person.

(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, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) 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 or persons named in the complaint and the Secretary of Transportation 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 or persons 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 or persons 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 of Labor to present statements from witnesses, the Secretary of Labor 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 or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a 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 60-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 (4) 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 of Labor 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 of Labor may determine that a violation of subsection (a) has occurred only if the complainant

demonstrates that any behavior described in paragraphs (1) through (4) 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 90 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 of Labor, the complainant, and the person or persons alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons 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 of Labor, at the request of the complainant, shall assess against the person or persons against 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 of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor 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, United States Code. 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 of Labor 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, but not to be limited to, 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 or persons 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, United States Code.

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

§ 60130. Certification of pipeline qualification programs

(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the personnel of the operator who perform covered tasks are qualified to conduct such tasks.

(b) STANDARDS AND CRITERIA.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

(2) CONTENTS.—The standards and criteria shall include the following:

(A) The establishment of industry standards for the qualifications of personnel described in subsection (a).

(B) A requirement that pipeline operators develop and implement written plans and procedures to train and evaluate the abilities of personnel described in subsection (a) to meet the industry standards established under subparagraph (A).

(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be certified under subsection (e).

(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall require a pipeline operator to develop and adopt a qualification program that complies with the standards and criteria described in subsection (b).

(d) 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 personnel described in subsection (a). Such method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

(2) A requirement that the operator complete the qualification of all personnel described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

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

(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

(e) CERTIFICATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall certify the qualification program of each pipeline operator. The qualification program of a pipeline operator shall be certified if the operator's program complies with the standards and criteria described in subsection (b) and includes the elements described in paragraphs (1) through (3) of subsection (d).

(2) AGREEMENT OR STATE AUTHORIZATION.—The Secretary may enter into a cooperative agreement or contract with a public or private entity, or may authorize a State authority, to certify qualification programs under this subsection.

(3) DEADLINE FOR COMPLETION.—Certifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

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

(5) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility seeks to modify significantly a program that has been

certified under this subsection, the operator shall submit the modifications to the Secretary for approval.

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

(7) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in paragraphs (1) through (3) of subsection (d) not later than 2 years after the date of enactment of this section.

(f) 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.

(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.

§ 60131. Security of pipeline facilities

(a) TERRORISM SECURITY PROGRAMS.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the operator of a pipeline facility shall develop and implement a terrorism security program reviewed and verified under paragraph (3).

(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, and to safeguard pipeline workers.

(3) REVIEW AND VERIFICATION OF PROGRAMS.—Not later than 1 year after the date of enactment of this section, the Secretary shall review the terrorism security program of each pipeline operator and verify its compliance with this section. The Secretary shall prescribe procedures for the review and standards for the verification of such programs. The Secretary shall record the results of that review for use in the next review of an operator's program.

(4) INADEQUATE PROGRAMS.—If the Secretary determines that a terrorism security program does not comply with the requirements of this section, the Secretary shall act under section 60108(a)(2) to require the operator to revise the terrorism security program.

(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.

(c) SECURITY MEASURES TO PROTECT AGAINST ACTS OF TERRORISM OR SABOTAGE.—

(1) RULEMAKING REQUIREMENT.—The Secretary of Transportation, not later than 60 days after the date of the enactment of this subsection, after consultation with any appropriate Federal, State, or nongovernmental entities, shall commence a rulemaking to require effective security measures which the Secretary determines are necessary to be adopted against acts of terrorism or sabotage directed against waterfront liquefied natural gas plants located in or within 1 mile of a densely populated urban area. Within 1 year after the date of the enactment of this subsection, the Secretary of Transportation shall issue a final rule.

(2) FACTORS TO BE CONSIDERED.—Regulations issued under paragraph (1) shall take into account—

(A) the events of September 11, 2001;

(B) the potential for attack on facilities by multiple coordinated teams totaling in the aggregate a significant number of individuals;

(C) the potential for assistance in an attack from several persons employed at the facility;

(D) the potential for suicide attacks;

(E) water-based and air-based threats;

(F) the potential use of explosive devices of considerable size and other modern weaponry;

(G) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(H) the threat of fires and large explosions; and

(I) special threats and vulnerabilities affecting facilities located in or within 1 mile of a densely populated urban area.

(3) REQUIREMENTS.—Regulations issued under paragraph (1) shall establish requirements for waterfront liquefied natural gas plants relating to construction, operation, security proce-

dures, and emergency response, and shall require conforming amendments to applicable standards and rules.

(4) OPERATIONAL SECURITY RESPONSE EVALUATION.—(A) Regulations issued under paragraph (1) shall include the establishment of policies and procedures by the Secretary of Transportation, which shall ensure that the operational security response of each facility described in subparagraph (B) is tested at least once every 2 years through the use of force-on-force exercises to determine whether the threat factors identified in regulations issued under paragraph (1) have been adequately addressed.

(B) Facilities subject to testing under subparagraph (A) include waterfront liquefied natural gas plants located in or within 1 mile of a densely populated urban area, and associated support facilities and equipment.

(5) REVIEW AND REVISION.—Regulations issued under paragraph (1) shall be reviewed and revised as appropriate at least once every 5 years.

(6) DEFINITIONS.—For purposes of this subsection, the term "densely populated urban area" means an area with a population density of more than 10,000 people per square mile.

§ 60132. National pipeline mapping system

(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) 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 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.

§ 60133. Coordination of environmental reviews

(a) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline

repairs within any time periods specified by rule by the Secretary.

(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

(A) The Secretary of Transportation.

(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) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

(5) 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 considers appropriate.

(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

(2) to preempt applicable Federal, State, or local environmental law.

(d) INTERIM OPERATIONAL ALTERNATIVES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

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

§ 60134. Recommendations and responses

(a) RESPONSE REQUIREMENT.—Whenever the Office of Pipeline Safety has received recommendations from the National Transportation Safety Board regarding pipeline safety, it shall submit a formal written response to each such recommendation within 90 days after receiving the recommendation. The response shall indicate whether the Office intends—

(1) to carry out procedures to adopt the complete recommendations;

(2) to carry out procedures to adopt a part of the recommendations; or

(3) to refuse to carry out procedures to adopt the recommendations.

(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendations. A response under subsection (a)(3) shall detail the reasons for the refusal to carry out procedures to adopt the recommendations.

(c) PUBLIC AVAILABILITY.—The Office shall make a copy of each recommendation and response available to the public, including in electronic form.

(d) REPORTS TO CONGRESS.—The Office shall submit to Congress on January 1 of each year a report describing each recommendation on pipeline safety made by the National Transportation Safety Board to the Office during the prior year and the Office's response to each recommendation.

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