

112TH CONGRESS
1ST SESSION

H. R. 2937

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2011

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

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Pipeline Infrastructure and Community Protection Act
6 of 2011”.

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

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

17 (d) **TABLE OF CONTENTS.**—The table of contents for
18 this Act is as follows:

- Sec. 1. Short title; amendment of title 49, United States Code; definitions;
table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Offshore gathering lines.
- Sec. 5. Automatic and remote-controlled shut-off valves.
- Sec. 6. Excess flow valves.
- Sec. 7. Integrity management.
- Sec. 8. Public education and awareness.
- Sec. 9. Cast iron gas pipelines.
- Sec. 10. Leak detection.
- Sec. 11. Incident notification.
- Sec. 12. Transportation-related onshore facility response plan compliance.
- Sec. 13. Pipeline infrastructure data collection.
- Sec. 14. International cooperation and consultation.
- Sec. 15. Transportation-related oil flow lines.

- Sec. 16. Alaska project coordination.
- Sec. 17. Cost recovery for design reviews.
- Sec. 18. Special permits.
- Sec. 19. Biofuel pipelines.
- Sec. 20. Carbon dioxide pipelines.
- Sec. 21. Study of the transportation of diluted bitumen.
- Sec. 22. Study of non-petroleum hazardous liquids transported by pipeline.
- Sec. 23. Clarifications.
- Sec. 24. Additional resources.
- Sec. 25. Maintenance of effort.
- Sec. 26. Administrative enforcement process.
- Sec. 27. Maximum allowable operating pressure.
- Sec. 28. Cover over buried pipeline.
- Sec. 29. Onshore gathering lines.
- Sec. 30. Authorization of appropriations.

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

2 (a) PENALTY CONSIDERATIONS; MAJOR CON-
 3 SEQUENCE VIOLATIONS.—Section 60122 is amended—

4 (1) by striking “the ability to pay,” in sub-
 5 section (b)(1)(B);

6 (2) by redesignating subsections (e) through (f)
 7 as subsections (d) through (g), respectively; and

8 (3) by inserting after subsection (b) the fol-
 9 lowing:

10 “(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLA-
 11 TIONS.—

12 “(1) IN GENERAL.—A person that the Sec-
 13 retary of Transportation decides, after written notice
 14 and an opportunity for a hearing, has committed a
 15 major consequence violation of section 60114(b),
 16 60114(d), or 60118(a) of this title or a regulation
 17 prescribed or order issued under this chapter is lia-
 18 ble to the United States Government for a civil pen-

1 alty of not more than \$250,000 for each violation.
2 A separate violation occurs for each day the violation
3 continues. The maximum civil penalty under this
4 paragraph for a related series of major consequence
5 violations is \$2,500,000.

6 “(2) PENALTY CONSIDERATIONS.—In deter-
7 mining the amount of a civil penalty for a major
8 consequence violation under this subsection, the Sec-
9 retary shall consider the factors prescribed in sub-
10 section (b).

11 “(3) MAJOR CONSEQUENCE VIOLATION DE-
12 FINED.—In this subsection, the term ‘major con-
13 sequence violation’ means a violation that contrib-
14 uted to a pipeline facility incident resulting in—

15 “(A) 1 or more deaths;

16 “(B) 1 or more injuries or illnesses requir-
17 ing in-patient hospitalization; or

18 “(C) environmental harm exceeding
19 \$250,000 in estimated damages to the environ-
20 ment including property loss, other than the
21 value of natural gas or hazardous liquid lost
22 and damage to pipeline facility equipment.”.

23 (b) PENALTY FOR OBSTRUCTION OF INSPECTIONS
24 AND INVESTIGATIONS.—Section 60118(e) is amended by
25 adding at the end the following: “The Secretary may im-

1 pose a civil penalty under section 60122 on a person who
2 obstructs or prevents the Secretary from carrying out in-
3 spections or investigations under this chapter.”.

4 (c) ADMINISTRATIVE PENALTY CAPS INAPPLI-
5 CABLE.—Section 60120(a)(1) is amended by adding at the
6 end the following: “The maximum amount of civil pen-
7 alties for administrative enforcement actions under section
8 60122 shall not apply to enforcement actions under this
9 section.”.

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

12 (1) in the subsection heading by striking “AND
13 WAIVER ORDERS” and inserting “, ORDERS, AND
14 OTHER FINAL AGENCY ACTIONS”; and

15 (2) by striking “about an application for a
16 waiver under section 60118(c) or (d) of” and insert-
17 ing “under”.

18 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

19 (a) MINIMUM STANDARDS FOR STATE ONE-CALL
20 NOTIFICATION PROGRAMS.—Section 6103(a) is amended
21 to read as follows:

22 “(a) MINIMUM STANDARDS.—

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

1 “(A) appropriate participation by all un-
2 derground facility operators, including all gov-
3 ernment operators;

4 “(B) appropriate participation by all exca-
5 vators, including all government and contract
6 excavators; and

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

10 “(2) EXEMPTIONS PROHIBITED.—A State one-
11 call notification program may not exempt mecha-
12 nized excavation, municipalities, State agencies, or
13 their contractors from its one-call notification sys-
14 tem requirements.”.

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

17 (1) by striking “and” after the semicolon in
18 paragraph (1);

19 (2) by striking “(b).” in paragraph (2)(B) and
20 inserting “(b); and”; and

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

22 “(3) does not provide any exemptions to mecha-
23 nized excavation, municipalities, State agencies, or
24 their contractors from its one-call notification sys-
25 tem requirements.”.

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

4 **SEC. 4. OFFSHORE GATHERING LINES.**

5 Section 60102(k)(1) is amended by striking the last
6 sentence and inserting “Not later than 2 years after the
7 date of enactment of the Pipeline Infrastructure and Com-
8 munity Protection Act of 2011, the Secretary shall issue
9 regulations, after notice and an opportunity for a hearing,
10 subjecting offshore hazardous liquid gathering lines and
11 hazardous liquid gathering lines located within the inlets
12 of the Gulf of Mexico to the same standards and regula-
13 tions as other hazardous liquid pipelines, except as pro-
14 vided in paragraph (3). The regulations issued under this
15 paragraph shall not apply to production pipelines or flow
16 lines”.

17 **SEC. 5. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF**
18 **VALVES.**

19 Section 60102 is amended by adding at the end the
20 following:

21 “(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-
22 OFF VALVES.—

23 “(1) STANDARDS FOR NEW TRANSMISSION
24 PIPELINES.—Not later than 2 years after the date
25 of enactment of the Pipeline Infrastructure and

1 Community Protection Act of 2011, the Secretary
2 shall by regulation, after notice and an opportunity
3 for a hearing, require the use of automatic or re-
4 mote-controlled shut-off valves, or equivalent tech-
5 nology, where economically, technically, and oper-
6 ationally feasible on transmission pipelines con-
7 structed or entirely replaced after the date on which
8 the Secretary issues a final rule.

9 “(2) RETROFIT REVIEW AND ANALYSIS.—The
10 Secretary shall conduct a review of transmission
11 pipeline facility operators’ ability to respond to a
12 hazardous liquid or gas release from a pipeline seg-
13 ment located in a high consequence area (as de-
14 scribed in section 60109(a)). The Secretary’s anal-
15 ysis shall consider the swiftness of leak detection
16 and pipeline shutdown capabilities, the location of
17 nearest response personnel, and the costs, risks, and
18 benefits of installing automatic and remote-con-
19 trolled shut-off valves. Not later than 1 year after
20 the date of enactment of the Pipeline Infrastructure
21 and Community Protection Act of 2011, the Sec-
22 retary shall report the results of such review and
23 analysis to the Senate Committee on Commerce,
24 Science, and Transportation, and the House of Rep-
25 resentatives Committee on Transportation and In-

1 frastructure and Committee on Energy and Com-
2 merce.”.

3 **SEC. 6. EXCESS FLOW VALVES.**

4 Section 60109(e)(3) is amended—

5 (1) by redesignating subparagraph (B) as sub-
6 paragraph (C); and

7 (2) by inserting after subparagraph (A) the fol-
8 lowing:

9 “(B) DISTRIBUTION BRANCH SERVICES,
10 MULTIFAMILY FACILITIES, AND SMALL COM-
11 MERCIAL FACILITIES.—Not later than 2 years
12 after the date of enactment of the Pipeline In-
13 frastructure and Community Protection Act of
14 2011, the Secretary shall by regulation, after
15 notice and an opportunity for a hearing, require
16 the use of excess flow valves, or equivalent tech-
17 nology, where economically, technically, and
18 operationally feasible on new or entirely re-
19 placed distribution branch services, multifamily
20 facilities, and small commercial facilities.”.

21 **SEC. 7. INTEGRITY MANAGEMENT.**

22 (a) EVALUATION.—Within 1 year after the date of
23 enactment of this Act, the Secretary of Transportation
24 shall evaluate—

1 (1) whether integrity management system re-
2 quirements, or elements thereof, should be expanded
3 beyond high consequence areas (as described in sec-
4 tion 60109(a) of title 49, United States Code); and

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

10 (b) REPORT.—Based on the evaluation described in
11 subsection (a), the Secretary shall submit a report to the
12 Senate Committee on Commerce, Science, and Transpor-
13 tation and the House of Representatives Committee on
14 Transportation and Infrastructure and Committee on En-
15 ergy and Commerce containing the Secretary’s analysis
16 and findings regarding expansion of integrity management
17 requirements, or elements thereof, beyond high con-
18 sequence areas and whether applying the integrity man-
19 agement program requirements, or elements thereof, to
20 additional areas would mitigate the need for class location
21 requirements.

22 (c) STANDARDS.—Not later than 2 years after com-
23 pletion of the evaluation, the Secretary shall, as appro-
24 priate, prescribe regulations, after notice and an oppor-
25 tunity for a hearing, that—

1 (1) expand integrity management system re-
2 quirements, or elements thereof, beyond high con-
3 sequence areas; and

4 (2) remove redundant class location require-
5 ments for gas transmission pipeline facilities that
6 are regulated under an integrity management pro-
7 gram adopted and implemented under section
8 60109(c)(2) of title 49, United States Code.

9 (d) DATA REPORTING.—The Secretary shall collect
10 any relevant data necessary to complete the evaluation re-
11 quired by subsection (a) and may collect such additional
12 data pursuant to regulations promulgated under sub-
13 section (b) as may be necessary.

14 (e) TECHNICAL CORRECTION.—Section
15 60109(c)(3)(B) is amended to read as follows:

16 “(B) Subject to paragraph (5), periodic re-
17 assessments of the facility, at a minimum of
18 once every 7 calendar years, using methods de-
19 scribed in subparagraph (A). Such deadline
20 shall be extended for an additional 6 months if
21 the operator submits written notice to the Sec-
22 retary that includes an explanation of the need
23 for such extension.”.

1 **SEC. 8. PUBLIC EDUCATION AND AWARENESS.**

2 (a) IN GENERAL.—Chapter 601 is amended by add-
3 ing at the end the following:

4 **“§ 60138. Public education and awareness**

5 “(a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of the Pipeline Infrastructure and Com-
7 munity Protection Act of 2011, the Secretary shall—

8 “(1) maintain a monthly updated summary of
9 all completed and final natural gas and hazardous
10 liquid pipeline facility inspections conducted by or
11 reported to the Pipeline and Hazardous Materials
12 Safety Administration that includes—

13 “(A) identification of the operator in-
14 spected;

15 “(B) the type of inspection;

16 “(C) the results of the inspection, includ-
17 ing any deficiencies identified; and

18 “(D) any corrective actions required to be
19 taken by the operator to remediate such defi-
20 ciencies;

21 “(2) maintain a detailed summary of each ap-
22 proved emergency response plan written by the oper-
23 ator that includes the key elements of the plan, but
24 which may exclude—

25 “(A) proprietary information;

1 “(B) sensitive security information, includ-
2 ing as referenced in section 1520.5(a) of title
3 49, Code of Federal Regulations;

4 “(C) specific response resources and tac-
5 tical resource deployment plans; and

6 “(D) the specific amount and location of
7 worst-case discharges, including the process by
8 which an operator determines the worst-case
9 discharge; and

10 “(3) maintain, as part of the National Pipeline
11 Mapping System, a map of all currently designated
12 high consequence areas (as described in section
13 60109(a)) in which pipelines are required to meet
14 integrity management safety regulations, excluding
15 any proprietary or sensitive security information,
16 and update the map annually.

17 “(b) PUBLIC AVAILABILITY.—The requirements of
18 subsection (a) shall be satisfied if the information required
19 to be made public is made available on the Pipeline and
20 Hazardous Materials Safety Administration’s public Web
21 site.

22 “(c) RELATIONSHIP TO FOIA.—Nothing in this sec-
23 tion shall be construed to require disclosure of information
24 or records that are exempt from disclosure under section
25 552 of title 5.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 601 is amended by inserting after the item
3 relating to section 60137 the following:

“60138. Public education and awareness.”.

4 **SEC. 9. CAST IRON GAS PIPELINES.**

5 (a) SURVEY UPDATE.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary of Trans-
7 portation shall conduct a follow-on survey to the survey
8 conducted under section 60108(d) of title 49, United
9 States Code, to determine—

10 (1) the extent to which each operator has
11 adopted a plan for the safe management and re-
12 placement of cast iron pipelines;

13 (2) the elements of the plan, including the an-
14 ticipated rate of replacement; and

15 (3) the progress that has been made.

16 (b) SURVEY FREQUENCY.—Section 60108(d) is
17 amended by adding at the end the following new para-
18 graph:

19 “(4) The Secretary shall conduct a follow-up survey
20 to measure progress of plan implementation biennially.”.

21 **SEC. 10. LEAK DETECTION.**

22 (a) LEAK DETECTION REPORT.—Not later than 1
23 year after the date of enactment of this Act, the Secretary
24 of Transportation shall submit to the Senate Committee
25 on Commerce, Science, and Transportation and the House

1 of Representatives Committee on Transportation and In-
2 frastructure and Committee on Energy and Commerce a
3 report on leak detection systems utilized by operators of
4 hazardous liquid pipeline facilities and transportation-re-
5 lated flow lines. The report shall include an analysis of
6 the technical limitations of current leak detection systems,
7 including the systems' ability to detect ruptures and small
8 leaks that are ongoing or intermittent, and what can be
9 done to foster development of better technologies.

10 (b) STANDARDS.—Not later than 2 years after sub-
11 mission of the report under subsection (a), the Secretary
12 shall, as appropriate, based on the findings of such report,
13 prescribe regulations, after notice and an opportunity for
14 a hearing—

15 (1) requiring an operator of a hazardous liquid
16 pipeline facility to use leak detection systems; and

17 (2) establishing technically, operationally, and
18 economically feasible standards for the capability of
19 such systems to detect leaks.

20 **SEC. 11. INCIDENT NOTIFICATION.**

21 (a) REVIEW OF PROCEDURES.—Not later than 18
22 months after the date of enactment of this Act, the Sec-
23 retary of Transportation shall review procedures for the
24 National Response Center to provide thorough and coordi-
25 nated notification to all relevant State and local emer-

1 gency response officials and revise such procedures as ap-
 2 propriate.

3 (b) TELEPHONIC NOTICE OF CERTAIN INCIDENTS.—

4 (1) IN GENERAL.—Chapter 601, as amended by
 5 this Act, is further amended by adding at the end
 6 the following:

7 **“§ 60139. Telephonic notice of certain incidents**

8 “(a) IN GENERAL.—An owner or operator of a pipe-
 9 line facility shall provide immediate telephonic notice of—

10 “(1) a failure of a hazardous liquid pipeline fa-
 11 cility described in section 195.50 of title 49, Code of
 12 Federal Regulations; and

13 “(2) an incident, as defined in section 191.3 of
 14 title 49, Code of Federal Regulations.

15 “(b) IMMEDIATE TELEPHONIC NOTICE DEFINED.—

16 In subsection (a), the term ‘immediate telephonic notice’
 17 means telephonic notice, as described in section 191.5 of
 18 such title, to the National Response Center at the earliest
 19 practicable moment following confirmed discovery and not
 20 later than one hour following the time of such discovery.

21 “(c) ESTIMATES OF RELEASE VOLUMES.—When
 22 providing immediate telephonic notice under subsection
 23 (a), the owner or operator of a pipeline facility shall esti-
 24 mate the general volume of a release using ranges such
 25 as ‘small’, ‘medium’, ‘large’, and ‘very large’, with the vol-

1 ume of such ranges, but shall not be required to provide
2 a numerical estimate of the size of the release. The owner
3 or operator shall be required to revise an estimate to pro-
4 vide more specific information, including, but not limited
5 to, a numerical estimate of the size of the release within
6 48 hours, to the extent practicable.

7 “(d) REFERENCES.—Any reference to a regulation in
8 this section means the regulation as in effect on the date
9 of enactment of this section.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for chapter 601 is amended by inserting after
12 the item relating to section 60138 the following:

“60139. Telephonic notice of certain incidents.”.

13 (c) STANDARDS.—Not later than 2 years after the
14 date of enactment of this Act, the Secretary of Transpor-
15 tation shall prescribe regulations, after notice and an op-
16 portunity for comment, defining the meaning of the terms
17 “discovery”, “small”, “medium”, “large”, and “very
18 large” as used in section 60139(c) of title 49, United
19 States Code, as added by subsection (b) of this section.

20 **SEC. 12. TRANSPORTATION-RELATED ONSHORE FACILITY**
21 **RESPONSE PLAN COMPLIANCE.**

22 (a) IN GENERAL.—Subparagraphs (A) and (B) of
23 section 311(m)(2) of the Federal Water Pollution Control
24 Act (33 U.S.C. 1321(m)(2)) are amended to read as fol-
25 lows:

1 “(A) RECORDKEEPING.—Whenever re-
2 quired to carry out the purposes of this section,
3 the Administrator, the Secretary of Transpor-
4 tation, or the Secretary of the department in
5 which the Coast Guard is operating shall re-
6 quire the owner or operator of a facility to
7 which this section applies to establish and
8 maintain such records, make such reports, in-
9 stall, use, and maintain such monitoring equip-
10 ment and methods, and provide such other in-
11 formation as the Administrator, the Secretary
12 of Transportation, or Secretary of the depart-
13 ment in which the Coast Guard is operating, as
14 the case may be, may require to carry out the
15 objectives of this section.

16 “(B) ENTRY AND INSPECTION.—Whenever
17 required to carry out the purposes of this sec-
18 tion, the Administrator, the Secretary of Trans-
19 portation, or the Secretary of the Department
20 in which the Coast Guard is operating or an au-
21 thorized representative of the Administrator,
22 the Secretary of Transportation, or Secretary of
23 the department in which the Coast Guard is op-
24 erating, upon presentation of appropriate cre-
25 dentials, may—

1 “(i) enter and inspect any facility to
2 which this section applies, including any
3 facility at which any records are required
4 to be maintained under subparagraph (A);
5 and

6 “(ii) at reasonable times, have access
7 to and copy any records, take samples, and
8 inspect any monitoring equipment or meth-
9 ods required under subparagraph (A).”.

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

15 **SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.**

16 (a) IN GENERAL.—Section 60132(a) is amended—

17 (1) in the text preceding paragraph (1), by
18 striking “and gathering lines”; and

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

20 “(4) Any other geospatial or technical data, in-
21 cluding design and material specifications, that the
22 Secretary determines is necessary to carry out the
23 purposes of this section. The Secretary shall give
24 reasonable notice to operators that the data are
25 being requested.”.

1 (b) DISCLOSURE LIMITED TO FOIA REQUIRE-
2 MENTS.—Section 60132 is amended by adding at the end
3 the following:

4 “(d) PUBLIC DISCLOSURE LIMITED.—The Secretary
5 may not disclose information collected pursuant to sub-
6 section (a) except to the extent permitted by section 552
7 of title 5.”.

8 **SEC. 14. INTERNATIONAL COOPERATION AND CONSULTA-**
9 **TION.**

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

12 “(o) INTERNATIONAL COOPERATION AND CONSULTA-
13 TION.—

14 “(1) INFORMATION EXCHANGE AND TECHNICAL
15 ASSISTANCE.—If the Secretary determines that it
16 would benefit the United States, subject to guidance
17 from the Secretary of State, the Secretary may en-
18 gage in activities supporting cooperative inter-
19 national efforts to share information about the risks
20 to the public and the environment from pipeline fa-
21 cilities and means of protecting against those risks.
22 Such cooperation may include the exchange of infor-
23 mation with domestic and appropriate international
24 organizations to facilitate efforts to develop and im-
25 prove safety standards and requirements for pipeline

1 transportation in or affecting interstate or foreign
2 commerce.

3 “(2) CONSULTATION.—To the extent prac-
4 ticable, subject to guidance from the Secretary of
5 State, the Secretary may consult with interested au-
6 thorities in Canada, Mexico, and other interested au-
7 thorities, as needed, to ensure that the respective
8 pipeline facility safety standards and requirements
9 prescribed by the Secretary and those prescribed by
10 such authorities are consistent with the safe and re-
11 liable operation of cross-border pipeline facilities.

12 “(3) DIFFERENCES IN INTERNATIONAL STAND-
13 ARDS AND REQUIREMENTS.—Nothing in this section
14 requires that a standard or requirement prescribed
15 by the Secretary under this chapter be identical to
16 a standard or requirement adopted by a foreign or
17 international authority.”.

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

19 Section 60102, as amended by section 5, is further
20 amended by adding at the end the following:

21 “(o) TRANSPORTATION-RELATED OIL FLOW
22 LINES.—

23 “(1) DATA COLLECTION.—The Secretary may
24 collect geospatial or technical data on transpor-

1 tation-related oil flow lines, including unregulated
2 transportation-related oil flow lines.

3 “(2) TRANSPORTATION-RELATED OIL FLOW
4 LINE DEFINED.—In this subsection, the term ‘trans-
5 portation-related oil flow line’ means a pipeline
6 transporting oil off of the grounds of the well where
7 it originated across areas not owned by the pro-
8 ducer, regardless of the extent to which the oil has
9 been processed, if at all.

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

15 **SEC. 16. ALASKA PROJECT COORDINATION.**

16 (a) IN GENERAL.—Chapter 601, as amended by this
17 Act, is further amended by adding at the end the fol-
18 lowing:

19 **“§ 60140. Alaska project coordination**

20 “The Secretary may provide technical assistance to
21 the State of Alaska for the purpose of achieving coordi-
22 nated and effective oversight of the construction and oper-
23 ation of new and prospective pipeline facility systems in
24 Alaska. The assistance may include—

1 “(1) conducting coordinated inspections of pipe-
2 line facility systems subject to the respective au-
3 thorities of the Department of Transportation and
4 the State of Alaska;

5 “(2) consulting on the development and imple-
6 mentation of programs designed to manage the in-
7 tegrity risks associated with operating pipeline facil-
8 ity systems in the unique conditions of Alaska;

9 “(3) training inspection and enforcement per-
10 sonnel and consulting on the development and imple-
11 mentation of inspection protocols and training pro-
12 grams; and

13 “(4) entering into cooperative agreements,
14 grants, or other transactions with the State of Alas-
15 ka, the Joint Pipeline Office, other Federal agencies,
16 and other public and private agencies to carry out
17 the objectives of this section.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 601 is amended by inserting after the item
20 relating to section 60139 the following:

“60140. Alaska project coordination.”.

21 **SEC. 17. COST RECOVERY FOR DESIGN REVIEWS.**

22 (a) Section 60117(n) is amended to read as follows:

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

24 “(1) IN GENERAL.—

1 “(A) REVIEW COSTS.—For any project de-
2 scribed in subparagraph (B), if the Secretary
3 conducts facility design safety reviews in con-
4 nection with a proposal to construct, expand, or
5 operate a new gas or hazardous liquid pipeline
6 facility or liquefied natural gas pipeline facility,
7 including construction inspections and over-
8 sight, the Secretary may require the person or
9 entity proposing the project to pay the costs in-
10 curred by the Secretary relating to such re-
11 views. If the Secretary exercises the cost recov-
12 ery authority described in this section, the Sec-
13 retary shall prescribe a fee structure and as-
14 sessment methodology that is based on the
15 costs of providing these reviews and shall pre-
16 scribe procedures to collect fees under this sec-
17 tion. The Secretary shall not collect design safe-
18 ty review fees under this chapter and section
19 60301 for the same design safety review.

20 “(B) PROJECTS TO WHICH APPLICABLE.—
21 Subparagraph (A) applies to any project that—

22 “(i) has design and construction costs
23 totaling at least \$1,000,000,000, as ad-
24 justed for inflation; or

1 “(ii) uses new or novel technologies or
2 design.

3 “(2) NOTIFICATION.—For any new pipeline fa-
4 cility construction project in which the Secretary will
5 conduct design reviews, the person or entity pro-
6 posing the project shall notify the Secretary and pro-
7 vide the design specifications, construction plans and
8 procedures, and related materials at least 120 days
9 prior to the commencement of construction. Within
10 90 days of receiving such design specifications, con-
11 struction plans and procedures, the Secretary shall
12 provide written comments, feedback, and guidance
13 on such project.

14 “(3) DEPOSIT AND USE.—There is established
15 a Pipeline Safety Design Review Fund in the Treas-
16 ury of the United States. The Secretary shall deposit
17 funds paid under this subsection into the Fund.
18 Funds deposited under this subsection are author-
19 ized to be appropriated for the purposes set forth in
20 this chapter. Fees authorized under this subsection
21 shall be available for obligation only to the extent
22 and in the amount provided in advance in appropria-
23 tions Acts.”.

24 (b) GUIDANCE.—Not later than 1 year after the date
25 of enactment of this Act, the Secretary of Transportation

1 shall issue guidance to clarify the meaning of the term
2 “new or novel technologies or design” as used in section
3 60117(n) of title 49, United States Code, as amended by
4 subsection (a) of this section.

5 **SEC. 18. SPECIAL PERMITS.**

6 (a) IN GENERAL.—Section 60118(c)(1) is amended
7 to read as follows:

8 “(1) ISSUANCE OF WAIVERS.—

9 “(A) IN GENERAL.—On application of an
10 owner or operator of a pipeline facility, the Sec-
11 retary by order may waive compliance with any
12 part of an applicable standard prescribed under
13 this chapter with respect to the facility on
14 terms the Secretary considers appropriate, if
15 the Secretary finds that the waiver is not incon-
16 sistent with pipeline facility safety.

17 “(B) CONSIDERATIONS.—In determining
18 whether to grant a waiver, the Secretary shall
19 consider—

20 “(i) the applicant’s compliance his-
21 tory;

22 “(ii) the applicant’s accident history;
23 and

24 “(iii) any additional factors the Sec-
25 retary considers relevant.

1 “(C) EFFECTIVE PERIOD.—A waiver of
2 one or more pipeline facility operating require-
3 ments shall be reviewed by the Secretary 5
4 years after its effective date. In reviewing a
5 waiver, the Secretary shall consider any change
6 in ownership or control of the pipeline facility,
7 any change in the conditions around the pipe-
8 line facility, and other factors as appropriate.
9 The Secretary may modify, suspend, or revoke
10 a waiver after such review in accordance with
11 subparagraph (E).

12 “(D) PUBLIC NOTICE AND HEARING.—The
13 Secretary may act on a waiver under this sub-
14 section only after public notice and an oppor-
15 tunity for a hearing, which may consist of pub-
16 lication of notice in the Federal Register that
17 an application for a waiver has been filed and
18 providing the public with the opportunity to re-
19 view and comment on the application. If a waiv-
20 er is granted, the Secretary shall state in the
21 order and associated analysis the reasons for
22 granting it.

23 “(E) NONCOMPLIANCE AND MODIFICA-
24 TION, SUSPENSION, OR REVOCATION.—After no-
25 tice to a holder of a waiver and opportunity to

1 show cause, the Secretary may modify, suspend,
2 or revoke a waiver issued under this subsection
3 for failure to comply with its terms or condi-
4 tions, intervening changes in Federal law, a ma-
5 terial change in circumstances affecting safety,
6 including erroneous information in the applica-
7 tion, or any other reason. If necessary to avoid
8 a significant risk of harm to persons, property,
9 or the environment, the Secretary may waive
10 the show cause procedure and make the action
11 immediately effective.”.

12 (b) REGULATIONS; EFFECTIVE DATE.—

13 (1) REGULATIONS.—Not later than 6 months
14 after the date of enactment of this Act, the Sec-
15 retary shall publish a rule, after notice and an op-
16 portunity for comment, describing the additional fac-
17 tors the Secretary considers relevant under section
18 60118(c)(1)(B)(iii) of title 49, United States Code,
19 as amended by subsection (a) of this section.

20 (2) EFFECTIVE DATE.—The requirements for
21 consideration under section 60118(c)(1)(B) of title
22 49, United States Code, as amended by subsection
23 (a) of this section, shall not take effect until the
24 date on which the Secretary publishes a rule under
25 paragraph (1).

1 **SEC. 19. BIOFUEL PIPELINES.**

2 Section 60101(a)(4) is amended—

3 (1) by striking “and” after the semicolon in
4 subparagraph (A);

5 (2) by redesignating subparagraph (B) as sub-
6 paragraph (C); and

7 (3) by inserting after subparagraph (A) the fol-
8 lowing:

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

13 **SEC. 20. CARBON DIOXIDE PIPELINES.**

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

15 “(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—
16 The Secretary shall prescribe minimum safety standards
17 for the transportation of carbon dioxide by pipeline in ei-
18 ther a liquid or gaseous state.”.

19 **SEC. 21. STUDY OF THE TRANSPORTATION OF DILUTED BI-**
20 **TUMEN.**

21 Not later than 18 months after the date of enactment
22 of this Act, the Secretary of Transportation shall complete
23 a comprehensive review of hazardous liquid pipeline facil-
24 ity regulations to determine whether these regulations are
25 sufficient to regulate pipeline facilities used for the trans-
26 portation of diluted bitumen. In conducting this review,

1 the Secretary shall conduct an analysis of whether any in-
2 crease in risk of release exists for pipeline facilities trans-
3 porting diluted bitumen. The Secretary shall report the
4 results of this review to the Senate Committee on Com-
5 merce, Science, and Transportation, and the House of
6 Representatives Committee on Transportation and Infra-
7 structure and Committee on Energy and Commerce.

8 **SEC. 22. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**
9 **TRANSPORTED BY PIPELINE.**

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

1 Transportation and Infrastructure and Committee on En-
2 ergy and Commerce.

3 **SEC. 23. CLARIFICATIONS.**

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

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

11 **SEC. 24. ADDITIONAL RESOURCES.**

12 (a) IN GENERAL.—To the extent funds are appro-
13 priated, the Secretary of Transportation shall increase the
14 personnel of the Pipeline and Hazardous Materials Safety
15 Administration by a total of 39 full-time employees to
16 carry out the pipeline safety program and the administra-
17 tion of that program, of which—

18 (1) 9 employees shall be added in fiscal year
19 2011;

20 (2) 10 employees shall be added in fiscal year
21 2012;

22 (3) 10 employees shall be added in fiscal year
23 2013; and

24 (4) 10 employees shall be added in fiscal year
25 2014.

1 (b) FUNCTIONS.—In increasing the number of em-
2 ployees under subsection (a), the Secretary shall hire em-
3 ployees—

4 (1) to conduct inspections of pipeline facilities
5 to determine compliance with applicable regulations
6 and standards;

7 (2) to conduct data collection, analysis, and re-
8 porting;

9 (3) to develop, implement, and update informa-
10 tion technology;

11 (4) to provide administrative, legal, and other
12 support for pipeline facility enforcement activities;
13 and

14 (5) to support the overall pipeline safety mis-
15 sion of the Pipeline and Hazardous Materials Safety
16 Administration, including training of pipeline en-
17 forcement personnel.

18 **SEC. 25. MAINTENANCE OF EFFORT.**

19 Section 60107(b) is amended to read as follows:

20 “(b) PAYMENTS.—After notifying and consulting
21 with a State authority, the Secretary may withhold any
22 part of a payment when the Secretary decides that the
23 authority is not carrying out satisfactorily a safety pro-
24 gram or not acting satisfactorily as an agent. The Sec-
25 retary may pay an authority under this section only when

1 the authority ensures the Secretary that it will provide the
2 remaining costs of a safety program and that the total
3 State amount spent for a safety program (excluding
4 grants of the United States Government) will at least
5 equal the average amount spent for gas and hazardous
6 liquid safety programs for fiscal years 2004 through 2006,
7 except when the Secretary waives the requirements of this
8 subsection. The Secretary may grant such a waiver if a
9 State can demonstrate an inability to maintain or increase
10 the required funding share of its pipeline safety program
11 at or above the level required by this subsection due to
12 economic hardship in that State.”.

13 **SEC. 26. ADMINISTRATIVE ENFORCEMENT PROCESS.**

14 (a) ISSUANCE OF REGULATIONS.—

15 (1) IN GENERAL.—Not later than two years
16 after the date of enactment of this Act, the Sec-
17 retary shall prescribe regulations—

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

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

1 (C) ensuring expedited review of any order
2 issued pursuant to section 60112(e); and

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

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

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

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

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

1 (b) STANDARDS OF JUDICIAL REVIEW.—Section
2 60119(a) is amended by adding at the end the following
3 new paragraph:

4 “(3) All judicial review of agency action under this
5 section shall apply the standards of review established in
6 section 706 of title 5.”.

7 **SEC. 27. MAXIMUM ALLOWABLE OPERATING PRESSURE.**

8 (a) ESTABLISHMENT OF RECORDS.—

9 (1) IN GENERAL.—Not later than 6 months
10 after the date of enactment of this Act, the Sec-
11 retary of Transportation shall require pipeline facil-
12 ity operators to conduct a verification of records for
13 all interstate and intrastate gas transmission lines in
14 class 3 and class 4 locations and class 1 and class
15 2 high consequence areas (as described in section
16 60109(a) of title 49, United States Code) con-
17 structed before July 1, 1970, that accurately reflect
18 the pipeline’s physical and operational characteris-
19 tics and confirm the established maximum allowable
20 operating pressure of those pipeline segments.

21 (2) ELEMENTS.—Verification of each record
22 under paragraph (1) shall include such elements as
23 the Secretary considers appropriate.

24 (b) REPORTING.—

1 (1) DOCUMENTATION OF CERTAIN PIPE-
2 LINES.—Not later than 18 months after the date of
3 enactment of this Act, pipeline facility operators
4 shall submit to the Secretary documentation of all
5 interstate and intrastate gas transmission pipelines
6 in class 3 and class 4 locations and class 1 and class
7 2 high consequence areas (as described in section
8 60109(a) of title 49, United States Code) con-
9 structed before the July 1, 1970, where the records
10 required under subsection (a) are not sufficient to
11 confirm the established maximum allowable oper-
12 ating pressure of those pipeline segments.

13 (2) EXCEEDENCES OF MAXIMUM ALLOWABLE
14 OPERATING PRESSURE.—All pipeline facility opera-
15 tors shall report any exceedence of the maximum al-
16 lowable operating pressure for gas transmission
17 pipelines that exceed the build-up allowed for oper-
18 ation of pressure-limiting or control devices to the
19 Secretary not later than 5 working days after the
20 exceedence occurs. Notice of exceedence by intra-
21 state gas transmission pipelines shall be provided
22 concurrently to appropriate State authorities.

23 (c) DETERMINATION OF MAXIMUM ALLOWABLE OP-
24 ERATING PRESSURE.—

1 (1) IN GENERAL.—For any transmission line
2 reported in subsection (b), the Secretary shall re-
3 quire the operator of the transmission line to recon-
4 firm a maximum allowable operational pressure as
5 expeditiously as economically feasible.

6 (2) INTERIM ACTIONS.—For cases described in
7 paragraph (1), the Secretary shall determine what
8 actions are appropriate for a pipeline facility oper-
9 ator to take to maintain safety until a maximum al-
10 lowable operating pressure is confirmed. In deter-
11 mining what actions an operator should take, the
12 Secretary shall take into account consequences to
13 public safety and the environment, impacts on pipe-
14 line facility system reliability and deliverability, and
15 other factors, as appropriate.

16 **SEC. 28. COVER OVER BURIED PIPELINE.**

17 (a) AMENDMENT.—Chapter 601 is amended by add-
18 ing at the end the following:

19 **“§ 60141. Cover over buried pipeline**

20 “Not later than 1 year after the date of enactment
21 of the Pipeline Infrastructure and Community Protection
22 Act of 2011, the Secretary shall complete an evaluation
23 to determine whether or not current regulations regarding
24 cover over buried pipeline at crossings of inland bodies of
25 water with a width of at least 100 feet from high water

1 mark to high water mark are sufficient to prevent a re-
2 lease of hazardous liquid.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for chapter 601 is amended by inserting after the item
5 relating to section 60140 the following:

“60141. Cover over buried pipeline.”.

6 **SEC. 29. ONSHORE GATHERING LINES.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary shall conduct a review of all on-
9 shore gas and hazardous liquid gathering lines not regu-
10 lated under title 49, United States Code, and submit a
11 report based on such review to the Senate Committee on
12 Commerce, Science, and Transportation and the House of
13 Representatives Committee on Transportation and Infra-
14 structure and Committee on Energy and Commerce con-
15 taining the Secretary’s recommendations with respect to—

16 (1) the sufficiency of existing laws and regula-
17 tions to ensure pipeline safety;

18 (2) the economical and technical practicability
19 of applying existing regulations to currently unregu-
20 lated onshore gathering lines; and

21 (3) the modification or revocation of existing
22 statutory or regulatory exemptions.

23 **SEC. 30. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) GAS AND HAZARDOUS LIQUID.—

1 (1) Section 60125(a)(1) is amended by striking
2 subparagraphs (A) through (D) and inserting the
3 following:

4 “(A) For fiscal year 2011, \$92,206,000, of
5 which \$9,200,000 is for carrying out such sec-
6 tion 12 and \$36,958,000 is for making grants.

7 “(B) For fiscal year 2012, \$96,144,000, of
8 which \$9,600,000 for carrying out such section
9 12 and \$39,611,000 is for making grants.

10 “(C) For fiscal year 2013, \$99,876,000, of
11 which \$9,900,000 is for carrying out such sec-
12 tion 12 and \$41,148,000 is for making grants.

13 “(D) For fiscal year 2014, \$102,807,000,
14 of which \$10,200,000 is for carrying out such
15 section 12 and \$42,356,000 is for making
16 grants.”.

17 (2) Section 60125(a)(2) is amended by striking
18 subparagraphs (A) through (D) and inserting the
19 following:

20 “(A) For fiscal year 2011, \$18,905,000, of
21 which \$7,562,000 is for carrying out such sec-
22 tion 12 and \$7,864,000 is for making grants.

23 “(B) For fiscal year 2012, \$19,661,000, of
24 which \$7,864,000 is for carrying out such sec-
25 tion 12 and \$7,864,000 is for making grants.

1 “(C) For fiscal year 2013, \$20,000,000, of
2 which \$8,000,000 is for carrying out such sec-
3 tion 12 and \$8,000,000 is for making grants.

4 “(D) For fiscal year 2014, \$20,000,000, of
5 which \$8,000,000 is for carrying out such sec-
6 tion 12 and \$8,000,000 is for making grants.”.

7 (b) EMERGENCY RESPONSE GRANTS.—Section
8 60125(b)(2) is amended by striking “2007 through 2010”
9 and inserting “2011 through 2014”.

10 (c) ONE-CALL NOTIFICATION PROGRAMS.—Section
11 6107 is amended—

12 (1) by striking “2007 through 2010.” in sub-
13 section (a) and inserting “2011 through 2014.”;

14 (2) by striking “2007 through 2010.” in sub-
15 section (b) and inserting “2011 through 2014.”; and

16 (3) by striking subsection (c).

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

19 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary to pro-
21 vide grants under this section \$2,000,000 for each of fiscal
22 years 2011 through 2014. The funds shall remain avail-
23 able until expended.”.

24 (e) COMMUNITY PIPELINE SAFETY INFORMATION
25 GRANTS.—Section 60130 is amended—

1 (1) by striking “\$50,000” in subsection (a)(1)
2 and inserting “\$100,000”;

3 (2) by inserting “, for direct advocacy for or
4 against a pipeline,” after “for lobbying” in sub-
5 section (b); and

6 (3) by striking “\$1,000,000 for each of the fis-
7 cal years 2003 through 2010. Such amounts shall
8 not be derived from user fees collected under section
9 60301.” in subsection (d) and inserting “\$2,000,000
10 for each of the fiscal years 2011 through 2014.”.

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

14 (1) by adding at the end of subsection (d) the
15 following:

16 “(3) ONGOING PIPELINE TRANSPORTATION RE-
17 SEARCH AND DEVELOPMENT.—After the initial 5-
18 year program plan has been carried out by the par-
19 ticipating agencies, the Secretary of Transportation
20 shall prepare a research and development program
21 plan every 5 years thereafter and shall transmit a
22 report to Congress on the status and results-to-date
23 of implementation of the program each year that
24 funds are appropriated for carrying out the plan.”;
25 and

- 1 (2) by striking “2003 through 2006.” in sub-
- 2 section (f) and inserting “2011 through 2014.”.

○