

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

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Minority (202) 225-3641

September 21, 2009

MEMORANDUM

TO: Energy and Environment Subcommittee Members and Staff

FR: Energy and Environment Subcommittee Staff

RE: Hearing on “Pipeline Safety Oversight and Legislation”

On Thursday, September 23, 2010, at 2:00 p.m. in Room 2123 of the Rayburn House Office Building, the Energy and Environment Subcommittee will hold a hearing entitled “Pipeline Safety Oversight and Legislation.” This hearing will address recent pipeline safety incidents and proposals for reauthorization or reform of the pipeline safety statute.

I. RECENT PIPELINE INCIDENTS

The issue of pipeline safety has come to the fore in recent months due to a wave of high-profile pipeline incidents.

On July 26, 2010, Enbridge reported to the National Response Center that a 30-inch diameter pipeline on its Lakehead System, known as line 6B, had ruptured just south of Marshall, Michigan. Line 6B runs from Griffith, Indiana to Sarnia, Ontario; the U.S. portion of the line is approximately 286 miles in length, and the portion that ruptured was laid in 1969. The rupture near Marshall resulted in the release of 800,000 to 1 million gallons of light crude oil, which entered the Talmadge Creek and flowed into the Kalamazoo River, a tributary to Lake Michigan. The oil was carried 30 miles downstream and ultimately was contained approximately 80 river miles from Lake Michigan.

According to the National Transportation Safety Board (NTSB), Enbridge experienced an abrupt pressure drop on line 6B at 5:58 p.m. on July 25, 2010. Shortly thereafter Enbridge received the first of several volume balance alarms indicating a discrepancy of flow between two points on the pipeline. The cause of this alarm was diagnosed as column separation – meaning a separation in the flow of oil through the line. Between 9:25 p.m. and 11:33 p.m. that evening, at least four 911 calls were received reporting odors of natural gas or oil. Enbridge received multiple volume balance alarms between 4:00 a.m. and 8:00 a.m. the following morning (July

26, 2010). At 9:49 a.m., Enbridge dispatched a technician to a nearby pump station, but the technician found no leak. At 11:18 a.m., a Consumers Energy service technician reported an oil leak, which ultimately was confirmed by a second Enbridge technician at 11:45 a.m. Enbridge reported the spill to the National Response Center at 1:29 p.m.

In accordance with Federal law, the U.S. Environmental Protection Agency (EPA) assumed responsibility for overseeing the response to the spill – in cooperation with multiple Federal and State agencies, local governments, and Enbridge. Cleanup activities, focusing on a 15-mile stretch of the most contaminated areas of the Kalamazoo River, are ongoing. Following the spill, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a Corrective Action Order to Enbridge prescribing conditions that must be met before Line 6B can be restarted. Enbridge has submitted a restart plan and is awaiting PHMSA’s approval. The NTSB is leading a safety investigation of the incident.

On September 9, 2010, Enbridge reported a second pipeline spill, this time on Line 6A of its Lakehead system, in Romeoville, Illinois – a suburb of Chicago. Enbridge estimates that over 256,000 gallons of oil were released before the pipeline could be shut down. Enbridge reports that most of the oil – which pooled onto a roadway and then a retention pond – was contained and recovered. After replacement of a 12-foot section of pipe, the line was restarted September 17, 2010. An NTSB investigation is underway.

Also on September 9, 2010, a natural gas pipeline operated by PG&E exploded in San Bruno, California – a suburb of San Francisco. The line was 30 inches in diameter and was installed in 1956. The explosion left a crater 167 feet long and 26 feet wide resulted in a fire that spread, aided by strong winds, to nearby homes. Reports indicate that seven people were killed in the incident, six are missing, and dozens were injured. An estimated 38 homes were destroyed and over 100 homes were damaged. NTSB and the California Public Utilities Commission (CPUC) are conducting investigations of the incident. CPUC has directed PG&E, among other actions, to conduct a leak survey of all its natural gas pipelines

II. REGULATORY BACKGROUND AND LEGISLATIVE PROPOSALS

A. Regulatory Background

PHMSA within the Department of Transportation oversees the safety of over 2.5 million miles of natural gas and hazardous liquid (principally oil) pipelines. PHMSA’s regulation of transportation-related pipeline facilities addresses design specifications, construction procedures, testing, operation, maintenance, and spill response.

A number of pipeline safety statutes – from the original Natural Gas Pipeline Safety Act of 1968 to the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006 – have been incorporated into Title 49 of the United States Code and are collectively referred to as the “Pipeline Safety Statute.” The Pipeline Safety Statute generally has been reauthorized every 4 years. Congress enacted reauthorization legislation in 1988, 1992, 1996, 2002, and 2006. The PIPES Act reauthorized continued appropriations for PHMSA’s programs from 2007 through 2010.

Under this statutory framework, a State may enforce the Federal standards and conduct inspections of intrastate and interstate pipelines as long as the state's pipeline safety program is certified by PHMSA. Today, virtually all natural gas distribution pipelines and intrastate natural gas transmission pipelines, 88 percent of hazardous liquid pipelines, and 20 percent of interstate natural gas pipelines are overseen by states. PHMSA provides federal funding to support state pipeline safety programs. In FY 2010, PHMSA received a \$40.5 million appropriation for this purpose.

In 2001 and 2004, PHMSA issued regulations requiring operators of hazardous liquid and natural gas transmission pipelines to implement integrity management programs. The 1996 PIPES Act required operators of natural gas distribution pipelines to implement a pipeline integrity management program with the same or similar elements. The integrity management program must enable the operator to continually evaluate the threats to each pipeline segment's integrity and the consequences of a failure on a "high consequence area" (such as unusually sensitive environmental areas, high population areas, and commercially navigable waterways). This integrity analysis considers information on the potential for damage due to excavation, the results of the required baseline assessment, and the results of other required inspections, tests, and surveillance. The regulations require operators to take prompt action to repair any defects that could reduce a pipeline's integrity. An operator must develop a schedule that prioritizes the defects for evaluation and repair. Currently, these requirements are limited to pipelines that could affect a high consequence area: 44 percent of hazardous liquid pipelines and 7 percent of natural gas transmission pipelines. Since 2001, over 34,000 anomalies have been detected and repaired.

B. Administration Proposal for Reauthorization

On September 15, 2010, Secretary of Transportation Ray LaHood presented to Congress the Obama Administration's legislative proposal for reauthorization of the Pipeline Safety Statute. The proposed legislation, entitled the "Strengthening Pipeline Safety and Safety Enforcement Act of 2010," is appended to this memo together with a section-by-section summary. Among other provisions, the proposal would:

- Increase the maximum administrative civil penalties for serious violations from \$100,000 per day (and \$1 million per related series of violations) to \$250,000 per day (and \$2.5 million per related series of violations).
- Add 40 additional full-time equivalent staff to PHMSA over the course of four years.
- Authorize expanded collection of data on pipeline infrastructure.
- Eliminate the Pipeline Safety Statute's current regulatory exemption for natural gas and hazardous liquids "gathering" pipelines – which collect products from processors or refiners for delivery to transmission pipelines.

- Require a review of the effectiveness of current rules that apply pipeline integrity management requirements to pipelines in high consequence areas to determine whether such requirements should be expanded to apply beyond high consequence areas and, in the case of natural gas pipelines, whether such expanded application would mitigate the need for class location-based requirements.

C. H.R. 6008, the “Corporate Liability and Emergency Accident Notification Act” or “CLEAN Act”

On July 30, 2010, Rep. Schauer and a bipartisan group of 12 co-sponsors introduced H.R. 6008, the “Corporate Liability and Emergency Accident Notification Act” or “CLEAN Act,” which has been referred to the Committee on Energy and Commerce and to the Energy and Environment Subcommittee in addition to the Transportation and Infrastructure Committee. The bill requires a pipeline owner or operator to provide immediate telephonic notice of covered hazardous liquid or natural gas releases to PHMSA and the National Response Center at the earliest practicable moment following discovery of the release and not later than one hour after discovery. The bill also expands the pipeline safety statute’s civil penalties provisions to include violations of the telephonic notice requirement and obstructing or preventing the Secretary from carrying out inspections or investigations. The CLEAN Act would increase the maximum per day civil penalty for a violation of the pipeline safety statute from \$100,000 to \$250,000 and increase the maximum civil penalty for a related series of violations from \$1 million to \$2.5 million. Finally, the bill would require PHMSA to maintain an online database of reportable incidents involving gas or hazardous liquid pipelines that the public can search by pipeline owner or operator.

III. WITNESSES

The following witnesses have been invited to testify:

Panel I:

Congressman Mark Schauer

Panel II:

The Honorable Cynthia Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration

The Honorable Christopher Hart
Vice Chairman
National Transportation Safety Board

Panel III:

Stephen Wuori

Executive Vice President
Enbridge Inc.

Rick Kessler
Vice President
Pipeline Safety Trust

Donald Santa, Jr.
President and CEO
Interstate Natural Gas Association of America

Andrew Black
President and CEO
Association of Oil Pipe Lines

Lori Traweek
Senior Vice President and Chief Operating Officer
American Gas Association

Staff contacts: Joel Beauvais or Jeff Baran at (202) 225-4407.

ATTACHMENTS

- **Administration's Reauthorization Proposal Section-by-Section**
- **Administration's Reauthorization Proposal Text**

STRENGTHENING PIPELINE SAFETY AND ENFORCEMENT ACT OF 2010

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Amendment of Title 49, United States Code; Table of Contents.

This section provides that the Act may be cited as the “Strengthening Pipeline Safety and Enforcement Act of 2010,” references Title 49, United States Code, and provides a table of contents.

Section 2. Civil Penalties.

This section amends section 60122(a) to provide for increased administrative civil penalties for the most serious violations involving deaths, injuries, and major environmental damage. For these types of violations, it increases the caps from \$100,000 per violation day/\$1,000,000 series to \$250,000 per violation day/\$2,500,000 series. The maximum penalties for violations of the pipeline safety requirements have not been increased in almost 10 years. Adequate levels of penalties are necessary to achieve deterrence goals, particularly in serious cases involving injuries, fatalities, or substantial environmental damage. This section also amends section 60120(a) to confirm that the section 60122 caps on administrative civil penalties do not apply to judicial actions under section 60120. It would also clarify that civil penalties are applicable to obstruction of an investigation. Finally, this section adds the availability of judicial review of final enforcement orders in the Courts of Appeals. Judicial review in the Court of Appeals is preferable because it would be consistent with current judicial review of pipeline rulemakings and other orders and the 89 day period would provide certainty to pipeline operators about the filing deadline.

Section 3. Additional Resources.

This section would provide 40 additional FTEs (10 per year x 4 years) for inspection and enforcement personnel and administrative support needed. This will enable PHMSA to enhance its oversight of major new gas and hazardous liquid pipeline construction projects including analyses of the anticipated Alaska natural gas project. It will also facilitate the implementation of recent safety mandates, additional inspections of existing systems, and enhanced special permit analyses.

Section 4. Pipeline Infrastructure Data Collection.

This section amends section 60132 to include additional geospatial pipeline data not currently being collected via the National Pipeline Mapping System on existing pipelines and expand collection of design information on new pipeline construction projects. Geospatially accurate pipeline infrastructure data is critical to PHMSA’s ability to perform its regulatory and oversight functions. PHMSA needs to be able to collect all necessary information beginning with the proposed construction phase to ensure that regulatory actions are taken where incident data shows they are needed.

Section 5. International Cooperation and Consultation.

This section amends section 60117 to authorize PHMSA to engage in activities supporting efforts to exchange expertise on pipeline safety with other governments. The proposal would allow PHMSA to obtain expertise from counterpart pipeline safety agencies in other governments, and consult on the safety of cross-border pipeline operations with Canada and Mexico.

Section 6. Gas and Hazardous Liquid Gathering Lines.

This section amends section 60101(b) to eliminate the statutory exemptions for both gas and hazardous liquid gathering lines. It would facilitate the closing of regulatory gaps by requiring a review of the existing regulatory exemptions within two years of this proposal becoming law. It also includes express provision requiring PHMSA to collect data on unregulated gathering lines in the interim. Significant spills and incidents have occurred on gathering lines and this proposal would be consistent with PHMSA's longstanding effort to capture the remaining pipeline mileage that is unregulated. Production facilities would remain non-jurisdictional.

Section 7. Transportation-Related Oil Flow Lines.

This section amends sections 60101 and 60102 to authorize PHMSA to collect information on onshore transportation-related oil flow lines regardless of whether they are currently regulated to determine whether there is any need for future regulation. A number of spills have occurred on (unregulated) onshore transportation-related oil flow lines and PHMSA needs to better understand the extent and condition of these lines. The operation of oil flow pipeline systems can impact the safety and reliability of downstream lines. Production-related oil flow lines would remain non-jurisdictional.

Section 8. Alaska Project Coordination and Cost Recovery.

This section provides for enhanced coordination with Alaska, the Joint Pipeline Office, and other agencies and organizations on inspector training programs and oversight of pipeline construction and expansion projects as well as repair and operation of existing lines. PHMSA needs to remain an effective partner to ensure the safety of major repair projects on existing systems and PHMSA will have major responsibilities regarding anticipated construction projects involving natural gas pipelines in Alaska. It would include authority for cost recovery for pipeline projects including, but not limited to, a natural gas project in Alaska as defined in Section 102 [15 U.S.C. 720] or 108 [15 U.S.C. 720f] of P.L. 108-324 Division C. Such cost recovery will ensure that the operator(s) involved incur the costs.

Section 9. Cost Recovery for Design Reviews.

This section amends section 60117(n) to authorize PHMSA to receive compensation from project applicants for design review, consulting, and field support that the agency performs

for new pipeline construction projects over 10 miles in length. It includes a requirement for project applicants to notify PHMSA at least 120 days before construction is scheduled to begin. Currently through user fees, all pipeline operators share the expenses associated with time-consuming design reviews conducted by PHMSA for pipeline project applicants. The proposal would place the associated financial burden on the applicant who stands to realize the benefits from the proposed project.

Section 10. Special Permits.

This section amends section 60118 to set forth general requirements for special permits to ensure they are not issued to operators with poor safety records. It would also authorize a filing fee for special permit applications; and authorize PHMSA to receive compensation for technical studies or environmental analysis from special permit applicants. The applicant who stands to benefit from the project should pay for this service.

Section 11. Class Location and Integrity Management.

This section authorizes a review of current rules to determine whether class location requirements should be revised or phased out in favor of more sophisticated risk-based approaches for gas pipelines. This would include a review to determine whether risk management principles should now be applied beyond high consequence areas to entire pipelines. The goal of prioritizing high consequence area (HCA) mileage has largely been achieved since baseline assessments and repairs have largely been completed. In addition, class location may not be the most effective mechanism for risk ranking. Therefore, PHMSA needs to determine whether risk management principles should now be applied to entire pipelines and if so whether it would mitigate the need for class location requirements.

Section 12. Biofuel Pipelines.

This section amends section 60101(a)(4) to expressly include all biofuels. While ethanol and other biofuels that are only transported in a form blended with petroleum products are jurisdictional, it is not clear that certain pure biofuels that are not blended with petroleum products are. This will potentially be an issue with B100 (biodiesel) which some argue is non-toxic and non-flammable. It is the intent of this section to clarify that all biofuels transported by pipeline are subject to transportation safety regulations

Section 13. Carbon Dioxide Pipelines.

This section amends section 60102(i) to include carbon dioxide transported as a gas. While carbon dioxide transported in a supercritical fluid state is currently regulated as a hazardous liquid, carbon dioxide transported as a gas is not. New clean energy carbon sequestration projects may involve pipelines transporting carbon dioxide as a gas.

Section 14. Study of Non-Petroleum Hazardous Liquids Transported by Pipeline.

This section authorizes a study on the extent to which pipelines are currently being used to transport non-petroleum hazardous liquids (e.g., chlorine). Currently anhydrous ammonia pipelines and liquid carbon dioxide pipelines are the only non-petroleum lines that are regulated by PHMSA. To date, any such lines are thought to be relatively short lines located entirely on the grounds of chemical plants and refineries, but the potential existence of longer lines that leave the grounds of such facilities is not well understood.

Section 15. Clarifications.

This section: (1) removes the word “intrastate” from the first sentence of section 60108(a) to clarify that PHMSA’s authority to require operators to amend operating plans and procedures is not limited to intrastate pipeline facilities; (2) clarifies that PHMSA’s authority for purposes of enforcement is not limited to an entity that is both the owner and operator of a pipeline; and (3) clarifies that the limitation on enforcement against excavators until the specified prerequisites are completed does not apply to pipeline operators.

Section 16. Authorization of Appropriations.

This section authorizes appropriations for Fiscal Years 2011–2014.

BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) SHORT TITLE.—This Act may be cited as the “Strengthening Pipeline Safety and Enforcement Act of 2010”.

(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. Civil Penalties.
- Sec. 3. Additional Resources.
- Sec. 4. Pipeline Infrastructure Data Collection.
- Sec. 5. International Cooperation and Consultation.
- Sec. 6. Gas and Hazardous Liquid Gathering Lines.
- Sec. 7. Transportation-Related Oil Flow Lines.
- Sec. 8. Alaska Project Coordination and Cost Recovery.
- Sec. 9. Cost Recovery for Design Reviews.
- Sec. 10. Special Permits.
- Sec. 11. Class Location and Integrity Management.
- Sec. 12. Biofuel Pipelines.
- Sec. 13. Carbon Dioxide Pipelines.
- Sec. 14. Study of Non-Petroleum Hazardous Liquids Transported by Pipeline.
- Sec. 15. Clarifications.
- Sec. 16. Authorization of Appropriations.

SEC. 2. CIVIL PENALTIES.

(a) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.—Section 60122 is amended—
(1) by amending subsection (c) to read as follows:

“(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.—

“(1) IN GENERAL.—A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has committed a major consequence violation of section 60114(b), 60114(d), 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 \$250,000 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 major consequence violations is \$2,500,000.

“(2) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a major consequence violation under this subsection, the Secretary shall consider the same factors prescribed in subsection (b).

“(3) DEFINITION.—For purposes of this subsection, the term ‘major consequence violation’ means a violation that contributed to an incident resulting in any of the following:

“(A) One or more deaths;

“(B) One or more injuries or illnesses requiring hospitalization;

“(C) Environmental harm exceeding \$250,000 in estimated damage to the environment including property loss; or

“(D) A release of gas or hazardous liquids that ignites or otherwise presents a safety threat to the public or presents a threat to the environment in an area identified under section 60109(a) of this title and defined in parts 192 and 195 of title 49, Code of Federal Regulations.”; and

(2) by redesignating subsections (c) through (f) as subsections (d) through (g).

(b) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—Section 60118(e) is amended by adding at the end the following: “The Secretary may impose a civil penalty under section 60122 of this title on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.”.

(c) NON-APPLICABILITY OF ADMINISTRATIVE PENALTY CAPS.—Section 60120(a)(1) is amended by adding at the end the following: “The maximum amount of civil penalties for administrative enforcement actions under section 60122 of this title shall not apply to enforcement actions under this section.”.

(d) JUDICIAL REVIEW OF ADMINISTRATIVE ENFORCEMENT ORDERS.—Section 60119(a) is amended by—

(1) striking the words “Review of regulations and waiver orders” and inserting in their place the words “Review of regulations, orders, and other final agency actions”; and

(2) striking the words “about an application for a waiver under section 60118(c) or (d) of” and inserting in their place the word “under”.

SEC. 3. ADDITIONAL RESOURCES.

(a) IN GENERAL.—To the extent funds are appropriated, the Secretary shall increase the personnel of the Pipeline and Hazardous Materials Safety Administration by a total of 40 full-time employees to carry out the pipeline safety program and the administration of that program, of which—

- (1) ten employees shall be added in fiscal year 2011;
- (2) ten employees shall be added in fiscal year 2012;
- (3) ten employees shall be added in fiscal year 2013; and
- (4) ten employees shall be added in fiscal year 2014.

(b) FUNCTIONS.—In increasing the number of employees under subsection (a), the Secretary shall focus on hiring employees to—

- (1) conduct data collection, analysis, and reporting;
 - (2) develop, implement, and update information technology;
 - (3) conduct inspections of pipeline facilities to determine compliance with applicable regulations and standards;
 - (4) provide administrative, legal, and other support for pipeline enforcement activities;
- and
- (5) support the overall pipeline safety mission of the Pipeline and Hazardous Materials Safety Administration, including training of pipeline enforcement personnel.

SEC. 4. PIPELINE INFRASTRUCTURE DATA COLLECTION.

Section 60132(a) is amended by adding at the end the following:

“(4) Any other geospatial, technical, or other pipeline data, including design and material specifications, that the Secretary determines is necessary to carry out the purposes of this chapter, including pre-construction design reviews and compliance inspection prioritization.

The Secretary shall give reasonable notice to operators that the data are being requested.”.

SEC. 5. INTERNATIONAL COOPERATION AND CONSULTATION.

Section 60117 is amended by adding at the end a new subsection (o) to read as follows:

“(o) INTERNATIONAL COOPERATION AND CONSULTATION.— (1) INFORMATION EXCHANGE AND TECHNICAL ASSISTANCE.— If the Secretary of Transportation determines that it would benefit the United States, subject to guidance from the Secretary of State, the Secretary may engage in activities supporting cooperative international efforts to share information about the risks to the public and the environment from pipelines and means of protecting against those risks. Such cooperation may include the exchange of information with domestic and appropriate international organizations to facilitate efforts to develop and improve safety standards and requirements for pipeline transportation in or affecting interstate or foreign commerce.

“(2) CONSULTATION.—To the extent practicable, subject to guidance from the Secretary of State, the Secretary may consult with interested authorities in Canada, Mexico, and other interested authorities to ensure that the respective pipeline safety standards and requirements prescribed by the Secretary and those prescribed by such authorities are consistent with the safe and reliable operation of cross-border pipelines.

“(3) DIFFERENCES IN INTERNATIONAL STANDARDS AND REQUIREMENTS.—Nothing in this section requires that a standard or requirement prescribed by the Secretary under this chapter be identical to a standard or requirement adopted by an international authority.”.

SEC. 6. GAS AND HAZARDOUS LIQUID GATHERING LINES.

(a) REMOVAL OF STATUTORY EXCLUSION FOR GAS GATHERING LINES.—Section 60101(a)(21) is revised to read as follows:

“(21) 'transporting gas' means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in interstate or foreign commerce.”.

(b) REMOVAL OF THE STATUTORY EXCLUSION FOR HAZARDOUS LIQUID GATHERING LINES.— Section 60101(a)(22)(B) is amended by striking subparagraph (i) and redesignating subparagraphs (ii) and (iii) as (i) and (ii).

(c) REGULATORY EXEMPTIONS.—Section 60101(b) is revised to read as follows:

“(b) REGULATORY TREATMENT OF GATHERING LINES.—(1) Not later than October 1, 2012, the Secretary shall complete a review of all existing regulatory exemptions for gas and hazardous liquid gathering lines. Based on this review and consistent with the purposes of this chapter, the Secretary shall eliminate exemptions as the Secretary determines appropriate.

“(2) DATA COLLECTION.—The Secretary may collect geospatial, technical, or other pipeline data on any gathering line, including unregulated gathering lines.

“(3) LIMITATION.—Nothing in this section authorizes the Secretary to regulate pipelines located on the grounds of a production facility.”.

SEC. 7. TRANSPORTATION-RELATED OIL FLOW LINES.

Section 60102 is amended by adding at the end a new subsection as follows:

“(n) TRANSPORTATION-RELATED OIL FLOW LINES.—

“(1) DATA COLLECTION.—The Secretary may collect geospatial, technical, or other pipeline data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

“(2) DEFINITION.—For purposes of this subsection, the term ‘transportation-related oil flow line’ means a pipeline transporting oil off of the grounds of the production facility where it originated across areas not owned by the producer regardless of the extent to which the oil has been processed, if at all.

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

SEC. 8. ALASKA PROJECT COORDINATION AND COST RECOVERY.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end a new section 60138 as follows:

“§ 60138. Alaska project coordination and cost recovery

“(a) IN GENERAL.—The Secretary may provide technical assistance to the State of Alaska for the purpose of achieving coordinated and effective oversight of the construction, expansion, or operation of pipeline systems in Alaska. Such assistance may include—

"(1) conducting coordinated inspections of pipeline systems subject to the respective authorities of the Department of Transportation and the State of Alaska;

"(2) consulting on the development and implementation of programs designed to manage the integrity risks associated with operating pipeline systems in the unique conditions of Alaska;

"(3) training inspection and enforcement personnel and consulting on the development and implementation of inspection protocols and training programs; and

"(4) entering into cooperative agreements, grants, or other transactions with the State of Alaska, the Joint Pipeline Office, other agencies of the United States Government, and other public and private agencies to carry out the objectives of this section.

“(b) COST RECOVERY FOR DESIGN AND CONSTRUCTION REVIEWS.—

“(1) IN GENERAL.—If the Secretary conducts facility design safety reviews, consulting, or field work in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline system in Alaska, including construction inspection and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. This authority is in addition to the authority provided in section 60301 of this title.

“(2) NOTIFICATION.—For any new pipeline construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction.

“(3) ESTABLISHMENT AND USE.—There is established a Pipeline Safety Design Review Fund in the Department of Treasury of the United States. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts.

(b) CONFORMING AMENDMENT.—The analysis of Chapter 601 is amended by inserting the following at the end:

"60138. Alaska project coordination and cost recovery."

SEC. 9. COST RECOVERY FOR DESIGN REVIEWS.

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

“(n) COST RECOVERY FOR DESIGN REVIEWS.—

“(1) IN GENERAL.—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. The Secretary shall not assess or collect costs for such reviews in Alaska under this subsection if the costs are assessed and collected under section 60138(b). This authority is in addition to the authority provided in section 60301 of this title.

“(2) NOTIFICATION.—For any new pipeline construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction.

“(3) DEPOSIT AND USE.—The Secretary shall deposit funds paid under this subsection into the Pipeline Safety Design Review Fund. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts.

SEC. 10. SPECIAL PERMITS.

(a) Section 60118(c) is amended by revising paragraph (1) to read as follows:

“(1) ISSUANCE OF WAIVERS.—

“(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to the facility on terms the Secretary considers appropriate, if the Secretary determines that the waiver is not inconsistent with pipeline safety.

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

“(i) the fitness of the applicant to conduct the activity authorized by the waiver in a manner that is consistent with pipeline safety;

“(ii) the applicant’s compliance history;

“(iii) the applicant’s accident history; and

“(iv) any other information the Secretary considers relevant to making the determination.

“(C) EFFECTIVE PERIOD.—A waiver of one or more pipeline operating requirements shall be effective for an initial period of not more than 5 years and may be renewed by the Secretary upon application for successive periods of not more than 5 years each. If the Secretary determines that a waiver of a design or materials requirement is warranted under this section, the Secretary may grant the waiver for any period deemed appropriate by the Secretary.

“(D) PUBLIC NOTICE AND HEARING.—The Secretary may act on a waiver under this section only after public notice and hearing, which may consist of publication of notice in the Federal Register that an application for a waiver has been filed and providing the public with the opportunity to review and comment on the application. If a waiver is granted, the Secretary shall state in the order and associated analysis the reasons for granting it.

“(E) NONCOMPLIANCE AND MODIFICATION, SUSPENSION OR REVOCATION.—After notice to a holder of a waiver and opportunity to show cause, the Secretary may modify, suspend, or revoke a waiver issued under this section for failure to comply with its terms or conditions, intervening changes in federal law, a material change in circumstances affecting safety, including erroneous information in the application, or any other reason. If necessary to avoid a significant risk of harm to persons, property, or the environment, the Secretary may waive the show cause procedure and make the action immediately effective.”.

(b) Section 60118(c) is further amended by revising paragraph (3) to read as follows:

“(3) FEES.—(A) IN GENERAL.—The Secretary shall establish reasonable fees for processing waiver applications that are based on the costs of providing these activities. The

fees may include a basic filing fee, as well as fees to recover the costs of technical studies or environmental analysis for special permit applications. The Secretary shall prescribe procedures to collect fees under this section. This authority is in addition to the authority provided in section 60301 of this title.

(B) ESTABLISHMENT AND USE.—There is established a Pipeline Safety Special Permit Fund in the Department of Treasury of the United States. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this Chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts.”.

SEC. 11. CLASS LOCATION AND INTEGRITY MANAGEMENT.

The Secretary shall review the effectiveness of the existing regulatory requirements for class location of gas pipelines to determine whether class location requirements should be modified or superseded by risk management regulations that allow full use of the latest technologies. In connection with this review, the Secretary shall evaluate whether the integrity management program requirements that apply to gas and hazardous liquid pipeline facilities located in areas identified under section 60109(a) of title 49, United States Code, and defined in parts 192 and 195 of title 49, Code of Federal Regulations, should apply to additional areas or entire pipelines. With respect to gas pipeline facilities, the Secretary shall evaluate whether applying the integrity management program requirements to additional areas would mitigate the need for class location requirements. Not later than October 31, 2012, the Secretary shall transmit the results of this review to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives.

SEC. 12. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended by—

- (1) striking the word “and” at the end of subparagraph (A);
- (2) redesignating subparagraph (B) as subparagraph (C); and
- (3) inserting a new subparagraph (B) after subparagraph (A) to read as follows:
“(B) non-petroleum fuels, including biofuels that are flammable, toxic, corrosive or would be harmful to the environment if released in significant quantities; and”.

SEC. 13. CARBON DIOXIDE PIPELINES.

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

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

SEC. 14. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

The Secretary may conduct an analysis of the transportation of non-petroleum hazardous liquids by pipeline for the purpose of identifying the extent to which pipelines are currently being used to transport non-petroleum hazardous liquids, such as chlorine, from chemical production facilities across land areas not owned by the producer that are accessible to the public. The analysis should identify the extent to which the safety of the lines is unregulated by the States and evaluate whether the transportation of such chemicals by pipeline across areas accessible to the public would present significant risks to public safety, property, or the environment in the absence of regulation. The results of the analysis shall be made available to Congress.

SEC. 15. CLARIFICATIONS.

(a) AMENDMENT OF PROCEDURES CLARIFICATION.—Section 60108(a)(1) is amended by striking the words “an intrastate” and inserting in their place the word “a”.

(b) OWNER OPERATOR CLARIFICATION.—Section 60102(a)(2)(A) is amended by striking the words “owners and operators” and inserting in their place the words “any or all of the owners or operators”.

(c) ONE CALL ENFORCEMENT CLARIFICATION.—Section 60114(f) is amended by adding at the end the following: “This limitation shall not apply to proceedings against persons who are pipeline operators.”.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 60125(a)(1) is amended by striking subparagraphs (A)–(D) and inserting in their place the following:

“(A) for fiscal year 2011, \$89,706,000, of which \$5,743,000 is for carrying out such section 12 and \$36,958,000 is for making grants;

“(B) for fiscal year 2012, such sums as may be necessary;

“(C) for fiscal year 2013, such sums as may be necessary; and

“(D) for fiscal year 2014, such sums as may be necessary.”.

(b) Section 60125(a)(2) is amended by striking subparagraphs (A)–(D) and inserting in their place the following:

“(A) for fiscal year 2011, \$18,905,000 of which \$1,176,000 is for carrying out such section 12 and \$7,570,000 is for making grants;

“(B) for fiscal year 2012, such sums as may be necessary;

“(C) for fiscal year 2013, such sums as may be necessary; and

“(D) for fiscal year 2014, \$20,000,000, such sums as may be necessary.”.

(c) Section 60125(b)(2) is amended by striking “2007 through 2010” and inserting “2011 through 2014”.

(d) Section 6107 is amended as follows:

(1) Subsection (a) is amended by striking “fiscal years 2007 through 2010” and inserting “fiscal years 2011 through 2014”.

(2) Subsection (b) is amended by striking “for fiscal years 2007 through 2010” and inserting “for fiscal years 2011 through 2014”.

(3) By striking subsection (c).

(e) Section 60134 is amended by adding the following at the end:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this section \$2,000,000 for each of fiscal years 2011 through 2014. The funds shall remain available until expended.”.

(f) Section 60130(d) is amended by striking the words “2003 through 2010” and inserting in their place “2011 through 2014”.

(g) Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355), is amended by—

(1) adding the following at the end of paragraph (d):

“(3) ONGOING PIPELINE TRANSPORTATION RESEARCH AND DEVELOPMENT.—After the initial 5-year program plan has been carried out by the participating agencies, the Secretary of Transportation shall prepare a research and development program plan every 5 years thereafter and shall transmit a report to Congress on the status and results to date of implementation of the program each year that funds are appropriated for carrying out the plan.”; and

(2) amending paragraph (f) by striking the words “fiscal years 2003 through 2006” and inserting in their place “fiscal years 2007-2014”.