

Calendar No. 370

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-209

SECURING AMERICA'S FUTURE ENERGY:
PROTECTING OUR INFRASTRUCTURE OF
PIPELINES AND ENHANCING SAFETY ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2276



FEBRUARY 24, 2016.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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FEBRUARY 24, 2016.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2276]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2276) to amend title 49, United States Code, to provide enhanced safety in pipeline transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 2276, is to reauthorize pipeline safety programs at the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the Department of Transportation (DOT).

BACKGROUND AND NEEDS

Pipeline safety reauthorizations authorize appropriations for the Office of Pipeline Safety (OPS), one of the two operating elements of PHMSA.¹ The previous pipeline safety authorization, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011,² (2011 Act) expired on September 30, 2015, but absent authorization, the agency retains operating authority.

The OPS has exclusive jurisdiction to regulate key aspects of *interstate* pipeline safety, including pipeline design, construction,

¹ The Division of Hazardous Materials Safety of PHMSA was reauthorized in the Fixing America's Surface Transportation Act, (P.L. 114-94).

² P.L. 112-90.

operation and maintenance, and emergency response planning.³ The OPS is fully funded by a user fee assessed on a per-mile basis and oversees the pipeline inspection process, which is largely conducted by State officials via delegated authorities. The office is authorized to have 311 positions, and 103 remain unfilled as of September 1, 2015. PHMSA has suggested that filling inspector positions that require technical backgrounds is difficult due to competition with industry for qualified staff.

The Nation's energy pipelines consist of three primary types: (1) approximately 300,000 miles of *gas transmission pipelines*, including 180,000 miles of interstate pipelines, which transport natural gas from producing regions to consuming regions⁴; (2) over 2.1 million miles of *gas distribution pipelines*, which distribute gas to homes and businesses from a connection with a gas transmission pipeline; and (3) approximately 199,000 miles of *liquid pipelines*, which transport crude oil, refined petroleum products, propane, anhydrous ammonia, biofuels, carbon dioxide, and other hazardous liquid chemical products.⁵

The natural gas industry consists of more than 6,300 producers of natural gas, 160 pipeline companies, and 1,200 natural gas distribution companies.⁶ Natural gas transmission pipelines are generally only in the business of transportation, and are not associated with producers or distributors. The map below shows gas transmission pipelines, but does not show the extensive network of distribution pipelines that carry natural gas products to homes and businesses.⁷ Additional information on the location of both liquid and gas pipelines is available through the PHMSA National Pipeline Mapping Service.⁸

³ PHMSA does not have jurisdiction over pipeline siting. Siting of gas transmission pipelines is under the jurisdiction of the Federal Energy Regulatory Commission (FERC). Jurisdiction over the siting of oil pipelines rests with the States.

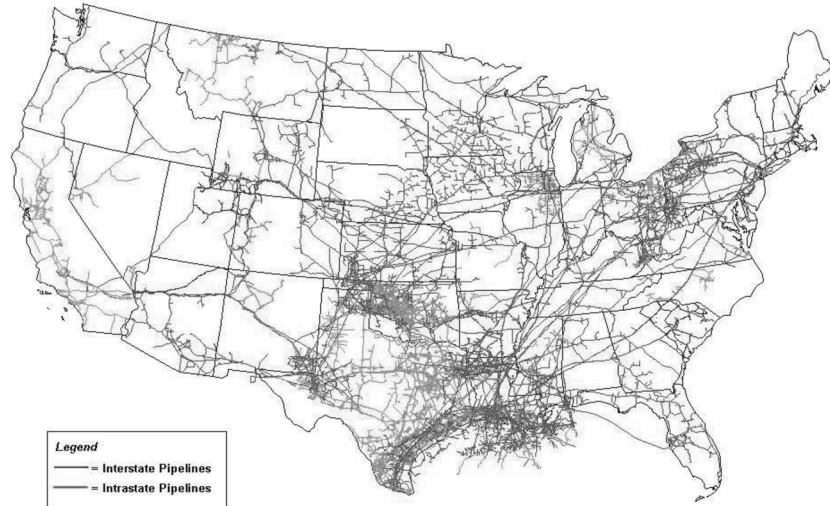
⁴ www.NaturalGas.org.

⁵ Statistics on gas distribution and liquid pipelines courtesy of PHMSA.

⁶ NaturalGas.org.

⁷ Energy Information Administration.

⁸ PHMSA. National Pipeline Mapping Service <https://www.npms.phmsa.dot.gov/PublicViewer>.



Source: Energy Information Administration, Office of Oil & Gas, Natural Gas Division, Gas Transportation Information System

Oil pipeline companies also are generally separate from oil production companies, with the pipeline company only providing transportation services. Crude oil transmission pipeline deliveries are up 1.35 billion barrels over the last 5 years, an increase of almost 20 percent from 2009 to 2013. Hazardous liquid pipelines deliver approximately two-thirds of the oil transported in the United States.⁹

Pipeline Inspection

PHMSA requires that pipelines be periodically inspected in order to identify any possible defects, such as corrosion, cracks, or manufacturing defects that would adversely affect their integrity. The pipeline operator chooses the inspection technique that it believes to be the most appropriate for a particular pipeline segment.¹⁰ The selected method may be based upon known or perceived threats or the specific characteristics of a pipeline.

SUMMARY OF PROVISIONS

If enacted, S. 2276 would do the following:

- Require PHMSA to conduct a workforce analysis, and provide limited direct hire authority to PHMSA for the term of the authorization fiscal year (FY) 2016 to 2019.
- Require PHMSA to develop safety regulations for underground natural gas storage facilities.
- Require the Comptroller General to conduct reviews of the Gas and Liquid Integrity Management programs.

⁹ Association of Oil Pipelines. <http://www.aopl.org/pipeline-basics/about-pipelines/> (Accessed September 14, 2015).

¹⁰ National Transportation Safety Board. (2015). Safety Study: Integrity Management of Gas Transmission Pipelines in High Consequence Areas. Report PB2015-102735. Retrieved from <http://www.ntsb.gov/safety/safety-studies/Documents/SS1501.pdf>. (Accessed on September 9, 2015).

LEGISLATIVE HISTORY

The Committee held two hearings on reauthorization of pipeline safety programs on September 18, 2015, and September 29, 2015.¹¹ The Committee also held a July 22, 2015, nomination hearing for PHMSA Administrator Marie Therese Dominguez, who was confirmed by the Senate on August 5, 2015.

S. 2276 was introduced by Senators Fischer, Booker, Daines, and Peters on November 10, 2015. On December 9, 2015, the Committee met in open Executive Session to consider the bill. A substitute amendment was offered by Senator Fischer and adopted by voice vote. Further amendments were offered by Senators Ayotte and Markey and accepted by unanimous consent. The Committee, by a voice vote, ordered S. 2276, as amended, reported favorably.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 2276—SAFE PIPES Act

Summary: The Pipeline and Hazardous Materials Safety Administration (PHMSA) oversees the safety of pipelines that transport natural gas or hazardous liquids and provides grants to states for programs to ensure pipeline safety. S. 2276 would require PHMSA to pursue a variety of regulatory and administrative activities related to such programs and would authorize appropriations for those purposes. The bill also would authorize PHMSA to establish safety standards for certain underground natural gas storage facilities, assess fees on entities that operate such facilities, and spend such fees—subject to authority provided in advance in appropriation acts—to ensure that such facilities meet those standards.

CBO estimates that implementing S. 2276 would require gross appropriations totaling \$525 million over the 2017–2021 period. CBO also estimates that those appropriations would be offset by \$462 million in fees paid by pipeline owners, which are considered offsets to discretionary spending. Assuming appropriation of amounts specified and estimated to be necessary, CBO estimates that the resulting net outlays would total \$50 million over the 2017–2021 period.

In addition, CBO estimates that enacting S. 2276 would increase revenues from assessments on entities that operate certain underground natural gas storage facilities by \$17 million over the 2017–2026 period. Pay-as-you-go procedures apply because enacting the legislation would affect revenues. Enacting S. 2276 would not affect direct spending.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

¹¹Pipeline Safety: State and Local Perspectives held on September 18, 2015, accessed at: <http://www.commerce.senate.gov/public/index.cfm/hearings?ID=D7D78250-62BD-4AA9-9FD7-09303D6179D0>; Pipeline Safety: Oversight of Our Nation's Pipeline Network held on September 29, 2015, accessed at : <http://www.commerce.senate.gov/public/index.cfm/hearings?ID=B120A00A-D4A8-44F9-8300-6A23C6305F76>.

S. 2276 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by establishing new safety standards on storage facilities for natural gas and imposing new fees. Based on information from PHMSA and industry sources, CBO estimates the aggregate cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

Estimated cost to the Federal government: The estimated budgetary effect of S. 2276 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Spending for Pipeline Safety and Related Activities:						
Estimated Authorization Level	168	174	177	3	3	525
Estimated Outlays	82	147	168	90	25	512
Offsetting Collections from User Fees:						
Estimated Authorization Level	–151	–154	–157	0	0	–462
Estimated Outlays	–151	–154	–157	0	0	–462
Estimated Net Changes:						
Estimated Authorization Level	17	20	20	3	3	63
Estimated Outlays	–69	–7	11	90	25	50
CHANGES IN REVENUES ¹						
Assessments for Underground Natural Gas Storage Facilities ...	0	0	2	2	2	7

¹ CBO estimates that enacting S. 2276 would increase revenues by \$17 million over the 2019–2026 period.
Note: Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 2276 will be enacted near the start of fiscal year 2017 and the amounts authorized and estimated to be necessary over the 2017–2021 period will be appropriated each year. Estimates of outlays are based on historical spending patterns for pipeline safety programs.

Spending subject to appropriation

S. 2276 would reauthorize the laws that govern PHMSA’s role in pipeline safety. The bill would specify new administrative requirements and authorize the agency to establish and enforce safety standards for certain underground natural gas storage facilities. The bill also would require the Government Accountability Office (GAO) and other agencies to conduct a variety of studies and reports related to pipeline safety and related activities.

CBO estimates that implementing the bill would require appropriations totaling \$168 million in 2017 and \$525 million over the 2017–2021 period. (By comparison, CBO estimates that funding related to PHMSA’s pipeline safety programs in 2016 totals \$147 million.) The amounts authorized by the bill include:

- \$513 million specifically authorized for PHMSA’s pipeline safety programs;
- \$9 million in estimated authorizations stemming from PHMSA’s authority to spend, subject to authority provided in advance in appropriation acts, proposed assessments on entities that operate certain underground natural gas storage facilities; and

- \$3 million for GAO and other agencies to carry out various reporting and administrative requirements.

Assuming appropriation of the authorized and estimated amounts, CBO estimates that resulting discretionary outlays would total \$512 million over the 2017–2021 period, and \$13 million in later years. CBO also estimates that those outlays would be offset by \$462 million in fees paid by entities that operate pipelines and related facilities regulated by PHMSA. Under current law, such annual fees are based on appropriations provided for pipeline safety and related activities and are recorded as discretionary offsetting collections.

Revenues

S. 2276 would authorize PHMSA to regulate the safety of certain underground natural gas storage facilities. To cover the cost of regulating such facilities, the bill would direct the Secretary of Transportation to impose fees on entities that operate such facilities. In CBO’s view, such regulatory fees should be recorded as revenues because of their compulsory nature. Under the bill, PHMSA’s authority to spend those fees would be subject to appropriation.

Based on information from PHMSA and the natural gas industry about the anticipated costs to establish and implement the proposed safety standards, CBO estimates gross revenues from such fees would total about \$3 million annually starting in 2019 (the year when CBO expects PHMSA would issue regulations as required by the bill) and \$24 million through 2026. Because excise taxes and other indirect business taxes (such as the proposed assessment under S. 2276) reduce the base of income and payroll taxes, higher amounts of those indirect business taxes would lead to reductions in revenues from income and payroll taxes. As a result, gross assessments would be partially offset by a loss of receipts of about 25 percent each year. Thus, CBO estimates that enacting S. 2276 would increase net revenues by \$17 million over the 2019–2026 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 2276, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON DECEMBER 9, 2015

	By fiscal year, in millions of dollars—													2016–2021	2016–2026
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
	NET INCREASE OR DECREASE (–) IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	0	0	–2	–2	–2	–2	–2	–2	–2	–2	–2	–7	–17	

Note: Components may not sum to totals because of rounding.

Increase in long term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 2276 would impose intergovernmental and private-sector mandates as defined in UMRA by establishing new safety standards for storage facilities for natural gas and by imposing new fees. Because the majority of pipelines and facilities that would be affected are owned by private entities, CBO estimates that the aggregate cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 million in 2016, adjusted annually for inflation). Based on information from PHMSA and industry sources, CBO estimates the aggregate cost of the mandates on private entities also would fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

Mandates that apply to both public and private entities

The bill would impose a mandate on operators of underground natural gas storage facilities by directing the Secretary of Transportation to establish safety standards for those facilities. According to the Department of Energy, there are about 400 underground natural gas storage facilities in the United States, and the vast majority of the facilities are operated by private entities. The industry recently issued voluntary standards for ensuring the safety and integrity of natural gas storage facilities. CBO estimates that the incremental cost of the mandate would be minimal for facilities that are currently working to comply with those industry standards. Moreover, based on information from industry sources, CBO estimates that the aggregate cost of the mandate on all private facilities could total tens of millions of dollars annually.

The bill also would impose a mandate on operators of underground natural gas storage facilities by requiring those operators to pay fees to the Secretary of Transportation. The fees would be used to offset the cost of establishing and implementing the safety standards for those facilities. CBO estimates that those fees would total \$3 million annually beginning in 2019.

Mandate that applies to private entities only

The bill would impose a mandate on operators of oil pipelines by requiring those operators, when preparing an oil spill response plan, to take into consideration discharges of oil into navigable water or on adjoining shorelines that may be covered in whole or in part by ice. Operators of oil pipelines must prepare response plans pursuant to current law. The cost of the mandate would depend on whether operators need to amend current plans to address discharges onto ice. Based on information from PHMSA and industry sources, CBO estimates that the cost of the mandate would not be substantial.

Estimate prepared by: Federal costs and revenues: Megan Carroll; Impact on State, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2276, as reported, would require the establishment of minimum safety standards for underground natural gas storage facilities, a new regulatory requirement. It is expected that the underground storage facilities regulated by the new standard would, in most cases, be owned and managed by parties currently subject to PHMSA regulation.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any inflationary or adverse impact on the Nation's economy.

PRIVACY

The bill would not impact the personal privacy of individuals.

PAPERWORK

S. 2276 would require reports from the Federal Government. The PHMSA Administrator would be required to provide regular updates on the status of outstanding rulemakings. The PHMSA Administrator would be further required to provide a report on staff management practices, including any critical hiring needs. The PHMSA Administrator also would be required to submit a report on natural gas loss reporting standards.

In addition, the Comptroller General would be required to produce reports on the status of the hazardous liquid and gas integrity management programs, State policies that encourage the repair or replacement of leaking pipes, and provide a review of the feasibility of odorizing all gas in transportation.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; references

This section would designate the short title of this bill as the, "Securing America's Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2015" or the "SAFE PIPES Act."

Section 2. Authorization of appropriations

This section would authorize appropriations for FY 2016 through FY 2019 at levels consistent with current appropriations, with approximately \$147 million in FY 2016, and \$156 million in FY 2019.

The Committee is concerned that PHMSA has not yet updated emergency response programs with the goal of delivering effective emergency response training to the first responders who must answer the calls when pipeline emergencies occur. The Committee notes that, during the term of the previous authorization, appropriations report language was included to direct funding of updates for these training programs. In each fiscal year, concern was expressed that PHMSA was not taking a pro-active role. The Committee notes that, with the Nation's aging pipeline infrastructure, and its exposure to future emergency incidents, the situation must be aggressively addressed by the PHMSA Administrator.

The Committee believes the the Secretary of Transportation should consider upgrading the current pipeline emergencies curriculum as part of its Emergency Response Grants in order to take a more active role in the upgrade and enhancement of emergency training.

Section 3. Regulatory updates

This section would require the PHMSA Administrator to submit a periodic report to Congress on the status of final rules for long overdue regulatory requirements.

The Committee notes that the 2011 Act prescribed a significant number of regulations, and the regulations required by that law should be completed as quickly as possible.

Section 4. Hazardous materials identification numbers

This section would rescind a June 26, 2015, PHMSA interpretative letter clarifying placarding requirements for flammable hazardous materials carriers. Currently, placards are required to be mounted on cargo tanks and vehicles carrying hazardous materials. The lowest flash point of the flammable materials must be included on the placard, even if the carrier is shipping multiple flammable materials at one time. Until June 2015, as long as carriers did not transport a fuel with a lower flash point than the placard, they would not have to change the placard or purchase adjustable placards. On June 26, 2015, PHMSA issued an interpretative letter requiring placards to be changed to represent the lowest flash point of the particular type of fuel transported during each shipment.

Section 5. Statutory preference

This section would require the PHMSA Administrator to prioritize PHMSA resources dedicated to pipeline safety to complete any outstanding pipeline safety statutory requirements for a rulemaking before undertaking any new pipeline safety rulemakings required in this Act, unless the Secretary of Transportation otherwise certifies a need to move forward with a new rulemaking.

Section 6. Natural gas integrity management review

This section would require the Comptroller General to report to Congress on the natural gas integrity management program within one year of the date of publication of the final rule on natural gas transmission.

Section 7. Hazardous liquids integrity management review

This section would require the Comptroller General, within one year of the date of publication of a final rule on hazardous liquid pipelines, to report to Congress on the hazardous liquid integrity management program.

Section 8. Technical safety standards committees

This section would provide greater flexibility for the Secretary of Transportation to appoint State pipeline safety officials to advisory committees.

Section 9. Inspection report information

This section would require the PHMSA Administrator to conduct a post-inspection briefing with the operator or issue the final inspection report to the operator within 30 days of a pipeline facility inspection.

PHMSA's internal inspection practices are composed of five distinct parts, which typically occur over three to eight months. The five parts are: entrance interview; procedure interview; records review; field/facility review; and exit interview. This section would codify that the PHMSA Administration conduct exit interviews within 30 days of completion of a pipeline safety inspection.

Current PHMSA internal performance goals set timeframes for completion of inspection paperwork and reports. The goal is to complete a preliminary inspection report within 30 days after completion of an inspection, and a final report within 60 days of completion of an inspection.

The Committee expects that the report to Congress directed by this section would include statistics relating to the timeliness of actions, including data on formal letters relating to an inspection between PHMSA and pipeline operators.

Section 10. Pipeline odorization study

This section would require the Comptroller General to report on the feasibility of odorizing all combustible gas in transportation. The report would include an assessment of the impact of odorization on manufacturers, agricultural producers, and other end users. The Comptroller General would also be required to report on the benefits and costs of odorization of all combustible gas in transportation in comparison with other methods to address pipeline leaks.

The Committee expects that, to the extent practicable, the Comptroller General will assess the health and safety benefits of odorization of pipelines that are not currently required to be odorized.

Section 11. Improving damage prevention technology

This section would require the Secretary of Transportation to conduct a study on technological improvements in location and communications practices to prevent accidental excavation damage to a pipeline.

Section 12. Workforce of Pipeline and Hazardous Materials Safety Administration

This section would require the PHMSA Administrator to review PHMSA's current staffing, including hiring challenges, geographic allocation plans, and expected retirement rates and strategies, and then provide recommendations on how to address any hiring or other staff resource challenges.

This section would also provide the PHMSA Administrator with direct hire authority, until September 30, 2019, where a severe shortage of candidates or a critical hiring need exists for a position or group of positions at the agency.

Section 13. Research and development

This section would encourage additional collaboration between the PHMSA Administrator and stakeholders in setting research priorities, leveraging limited Federal research dollars to conduct more relevant and timely research.

The Committee notes that the PHMSA Administrator has traditionally worked with operators, the vendor community, and research organization to form public-private partnerships to develop new technologies to improve pipeline safety. These collaborative programs with funding from both the private sector and DOT/PHMSA should be renewed and focused on developing new technologies to improve safety and reduce emissions.

The Committee expects that the PHMSA Administrator will implement and maintain proper protocols to prevent any undue influence on the agency's research activities. Nothing in this section would prevent the agency from conducting its own research that is not co-funded or coordinated with stakeholders.

Section 14. Information sharing system

This section would require the Secretary of Transportation to convene a working group to consider developing a no-fault information sharing system to facilitate collaborative efforts to improve pipeline inspection information sharing. The working group would be required to consider and provide recommendations to the Secretary on: (1) ways to encourage the exchange of pipeline inspection information; (2) opportunities to share dig verification data; (3) options to create a secure system which safeguards proprietary data; and (4) regulatory and legal barriers to sharing information.

To ensure continued safe operation of both crude and natural gas pipelines, it is essential that these assets be the subject of inspection on a regular basis. These inspections should take full advantage of advances in technology. While both visual and hydrostatic inspection of lines have a role in an integrity management program, so too does "in-line" inspection. While executing a PHMSA approved integrity management program, each pipeline operator is ultimately responsible for the safety of its line. Beyond encouraging the use of the best available and most advanced technology to keep pipelines safe, the Committee gives no preference to a particular type of inspection and believes that visual, hydrostatic, and ILI inspection should have equal weight in the regulations and corrective action orders and that the pipeline operator is in the best position to determine the efficacy of each type of inspection for any given situation.

Section 15. Nationwide integrated pipeline database

This section would require the Secretary of Transportation to submit a report on the feasibility of a national integrated pipeline database in order to improve communication and collaboration between the PHMSA Administrator and State pipeline regulators. The report would include efforts currently underway to test secure information sharing systems, any progress in establishing common standards for collecting and presenting pipeline data, any existing gaps in State and Federal pipeline data, the potential safety benefits of an integrated pipeline database, and recommendations for implementing a secure information-sharing system.

Section 16. Underground natural gas storage facilities

This section would require the PHMSA Administrator to develop minimum uniform safety standards for underground natural gas storage facilities including wellbores, geologic reservoirs, and aquifers.

In 2010, the United States Court of Appeals for the 10th Circuit ruled in *Colorado Interstate Gas Co. v. Thomas E. Wright, et al.* that statutes previously developed by the Kansas State Legislature governing natural gas storage violated Federal jurisdiction; it is the sense of the Committee that the Secretary of Transportation should consider authorizing a State authority to take necessary action to provide or participate in the oversight of interstate underground natural gas storage facilities in the same manner as provided in section 60106 of title 49, United States Code.

This section also would establish a fee to fund the oversight of underground natural gas storage facilities that shall be imposed on an entity operating an underground natural gas storage facility. Any such fee imposed shall be collected before the end of the fiscal year to which it applies.

It is the intent of the Committee that nothing in this section shall be construed to prevent States from adopting additional or more stringent safety standards, as long as they are not in conflict with the Federal standards for intrastate facilities.

Section 17. Joint inspection and oversight

This section would provide certified State authorities with the opportunity to accompany Federal inspection teams for inspections.

Section 18. Response plans

This section would require the PHMSA Administrator and an operator, in preparing or reviewing a response plan for onshore oil pipelines, to consider and include all procedures necessary to respond to a worst case discharge of oil into or on any waters that may be covered by ice.

Section 19. High consequence areas

This section would explicitly state that the Great Lakes should be considered a high consequence area.

Section 20. Surface transportation security review

This section would require the Comptroller General to submit a report reviewing the Transportation Security Administration's surface transportation programs, including pipelines. In preparing the

report the Comptroller General would be required to look at the staffing, resource allocation, oversight strategy, and overall management of these programs.

Section 21. Small scale liquefied natural gas facilities

This section would require the PHMSA Administrator to develop minimum safety standards for deciding the location of a new permanent Liquefied Natural Gas facility. This section is intended to apply to small scale facilities, as defined.

Section 22. Report on natural gas leak reporting

This section would direct the PHMSA Administrator to study the reporting of lost and unaccounted for natural gas from distribution pipelines, make recommendations as appropriate, and, where appropriate and cost effective, implement recommendations that would significantly improve safety.

Section 23. Comptroller General review of State policies relating to natural gas leaks

This section would direct the Comptroller General to review State policies that encourage or may create barriers for repairing and replacing leaking natural gas distribution pipelines, make recommendations to the PHMSA Administrator and Congress, and require the PHMSA Administrator to consider rulemaking, where cost effective, on any recommendations that would significantly improve pipeline safety.

Section 24. Provision of pipeline oil spill response plans to congressional committees

This section would codify and expand the practice of sharing oil spill response plans with each chairman and ranking member of a relevant congressional committee. Under current practice, the PHMSA Administrator may provide the chairman of a relevant congressional committee the opportunity to review an unredacted copy of an oil spill response plan. This section would expand the courtesy to the ranking member of a relevant congressional committee. The Committee expects that confidentiality requirements relating to the protection of sensitive security information would be applied in the same manner as under current practice, consistent with the protection of Security Sensitive Information. Nothing in this section is intended to limit the access of other committees of Congress to such information, and the Committee expects that individuals receiving the unredacted copies of the reports will protect the data identified in section 60138 of title 49, United States Code, from public disclosure.

Section 25. Consultation with FERC as part of the pre-filing procedures and permitting process for new natural gas pipeline infrastructure

This section would require PHMSA to consult with the Federal Energy Regulatory Commission (FERC) in the pre-filing phase of FERC's permit consideration.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49. TRANSPORTATION

SUBTITLE III. GENERAL AND INTERMODAL PROGRAMS

CHAPTER 61. ONE-CALL NOTIFICATION PROGRAMS

§ 6107. Authorization of appropriations

(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 **[\$1,000,000 for each of fiscal years 2012 through 2015]** *\$1,060,000 for each of the fiscal years 2016 through 2019*. Such funds shall remain available until expended.

(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years **[2012 through 2015]** *2016 through 2019*.

TITLE 49. TRANSPORTATION

SUBTITLE VIII. PIPELINES

CHAPTER 601. SAFETY

§ 60101. Definitions

(a) GENERAL.—In this chapter—

- * * * * *
- (21) “transporting gas”—
- (A) means—
- (i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and
- (ii) the movement of gas through regulated gathering lines; but
- (B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term “transporting gas” includes the movement of gas through regulated gathering lines~~].~~;
- (22) “transporting hazardous liquid”—
- (A) means—
- (i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and

- (ii) the movement of hazardous liquid through regulated gathering lines; but
- (B) does not include moving hazardous liquid through—
 - (i) gathering lines (except regulated gathering lines) in a rural area;
 - (ii) onshore production, refining, or manufacturing facilities; or
 - (iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;
- (23) “risk management” means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;
- (24) “risk management plan” means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; **[and]**
- (25) “Secretary” means the Secretary of Transportation**[.]**;
- (26) “*small scale liquefied natural gas facility*” means an intrastate liquefied natural gas facility (other than a peak shaving facility) that produces liquefied natural gas for—
 - (A) use as a fuel in the United States; or
 - (B) transportation in the United States by a means other than a pipeline facility; and
- (27) “*underground natural gas storage facility*” means a gas pipeline facility that stores gas in an underground facility, including—
 - (A) a depleted hydrocarbon reservoir;
 - (B) an aquifer reservoir; or
 - (C) a solution mined salt cavern reservoir.

* * * * *

§ 60103. Standards for liquefied natural gas pipeline facilities

[(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

- [(1) kind and use of the facility;**
- [(2) existing and projected population and demographic characteristics of the location;**
- [(3) existing and proposed land use near the location;**
- [(4) natural physical aspects of the location;**
- [(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and**
- [(6) need to encourage remote siting.]**

(a) LOCATION STANDARDS.—

(1) IN GENERAL.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility or small scale liquefied natural gas facility.

(2) *LIQUEFIED NATURAL GAS FACILITIES.*—In prescribing a minimum safety standard for deciding on the location of a new liquefied natural gas facility, the Secretary of Transportation shall consider—

- (A) the kind and use of the facility;
- (B) the existing and projected population and demographic characteristics of the location;
- (C) the existing and proposed land uses near the location;
- (D) the natural physical aspects of the location;
- (E) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and
- (F) the need to encourage remote siting.

(3) *SMALL SCALE LIQUEFIED NATURAL GAS FACILITIES.*—

(A) *IN GENERAL.*—Not later than 18 months after the date of the enactment of the SAFE PIPES Act, the Secretary of Transportation shall prescribe minimum safety standards for small scale liquefied natural gas facilities.

(B) *CONSIDERATIONS.*—In prescribing minimum safety standards under this paragraph, the Secretary shall consider—

- (i) the value of establishing risk-based approaches;
- (ii) the benefit of incorporating industry standards and best practices;
- (iii) the need to encourage the use of best available technology; and
- (iv) the factors prescribed in paragraph (2), as appropriate.

* * * * *

§ 60103A. Standards for underground natural gas storage facilities

(a) *MINIMUM UNIFORM SAFETY STANDARDS.*—Not later than 2 years after the date of the enactment of the SAFE PIPES Act, the Secretary of Transportation, in consultation with the heads of other relevant Federal agencies, shall issue minimum uniform safety standards, incorporating, to the extent practicable, consensus standards for the operation, environmental protection, and integrity management of underground natural gas storage facilities.

(b) *CONSIDERATIONS.*—In developing uniform safety standards under subsection (a), the Secretary shall—

- (1) consider the economic impacts of the regulations on individual gas customers to the extent practicable;
- (2) ensure that the regulations do not have a significant economic impact on end users to the extent practicable; and
- (3) consider existing consensus standards.

(c) *USER FEES.*—

(1) *IN GENERAL.*—A fee shall be imposed on an entity operating an underground natural gas storage facility to which this section applies. Any such fee imposed shall be collected before the end of the fiscal year to which it applies.

(2) *MEANS OF COLLECTION.*—The Secretary shall prescribe procedures to collect fees under this subsection. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect

the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(3) USE OF FEES.—

(A) ACCOUNT.—There is established an underground natural gas storage facility safety account in the Pipeline Safety Fund established under section 60301, in the Treasury of the United States.

(B) USE OF FEES.—A fee collected under this subsection—

(i) shall be deposited in the underground natural gas storage facility safety account; and

(ii) if the fee is related to an underground natural gas storage facility, may be used only for an activity related to underground natural gas storage safety under this section.

(C) LIMITATION.—Amounts collected under this subsection shall be made available only to the extent provided in advance in an appropriation law for an activity related to underground natural gas storage safety.

(d) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section may be construed to affect any Federal regulation relating to gas pipeline facilities that is in effect on the day before the date of enactment of the SAFE PIPES Act.

(2) LIMITATIONS.—Nothing in this section may be construed to authorize the Secretary—

(A) to prescribe the location of an underground natural gas storage facility; or

(B) to require the Secretary's permission to construct a facility referred to in subparagraph (A).

§ 60115. Technical safety standards committees

* * * * *

(b) COMPOSITION AND APPOINTMENT.—

(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards or risk management principles.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid

pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 5 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be **State commissioners.** The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals. *State officials. The Secretary shall consult with national organizations representing State commissioners or governors when making a selection under this subparagraph.*

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate. At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis. At least one individual selected for each committee under paragraph (3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

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

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§ 60124. Biennial reports

(a) SUBMISSION AND CONTENTS.—Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; **[and]**

(B) technological progress in safety achieved~~[\.]~~; and

(C) *research activities in collaboration with non-Federal entities, including the intended improvements to safety technology, inspection technology, operator response time, and emergency responder incident response time.*

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§ 60125. Authorization of appropriations

(a) GAS AND HAZARDOUS LIQUID.—

(1) IN GENERAL.—To carry out the provisions of this chapter related to gas and hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355), **[there is authorized to be appropriated to the Department of Transportation for each of fiscal years 2012 through 2015, from fees collected under section 60301, \$90,679,000, of which \$4,746,000 is for carrying out such section 12 and \$36,194,000 is for making grants.]** *there are authorized to be appropriated to the Department of Transportation from fees collected under section 60301—*

(A) *\$127,060,000 for fiscal year 2016, of which \$9,325,000 shall be expended for carrying out such section 12 and \$42,515,000 shall be expended for making grants;*

(B) *\$129,671,000 for fiscal year 2017, of which \$9,418,000 shall be expended for carrying out such section 12 and \$42,941,000 shall be expended for making grants;*

(C) *\$132,334,000 for fiscal year 2018, of which \$9,512,000 shall be expended for carrying out such section 12 and \$43,371,000 shall be expended for making grants; and*

(D) *\$135,051,000 for fiscal year 2019, of which \$9,607,000 shall be expended for carrying out such section 12 and \$43,805,000 shall be expended for making grants.*

(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1), **[there is authorized to be appropriated for each of fiscal years 2012 through 2015 from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355), \$18,573,000, of which \$2,174,000 is for carrying out such section 12 and \$4,558,000**

is for making grants.] *there are authorized to be appropriated from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355)—*

(A) \$19,890,000 for fiscal year 2016, of which \$3,108,000 shall be expended for carrying out such section 12 and \$8,708,000 shall be expended for making grants;

(B) \$20,288,000 for fiscal year 2017, of which \$3,139,000 shall be expended for carrying out such section 12 and \$8,795,000 shall be expended for making grants;

(C) \$20,694,000 for fiscal year 2018, of which \$3,171,000 shall be expended for carrying out such section 12 and \$8,883,000 shall be expended for making grants; and

(D) \$21,108,000 for fiscal year 2019, of which \$3,203,000 shall be expended for carrying out such section 12 and \$8,972,000 shall be expended for making grants.

(b) EMERGENCY RESPONSE GRANTS.—

(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance. To the extent that such grants are used to train emergency responders, such training shall ensure that emergency responders have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving gas or hazardous liquid pipelines, in accordance with existing regulations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years [2012 through 2015] 2016 through 2019 to carry out this subsection.

(c) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

§ 60130. Pipeline safety information grants to communities

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(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,500,000 for each of fiscal years [2012 through 2015] 2016 through 2019. Such amounts shall not be derived from user fees collected under section 60301.

§ 60134. State damage prevention programs

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(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section \$1,500,000 for each of fiscal years [2012 through 2015] 2016 through 2019. Such funds shall remain available until expended.

PIPELINE SAFETY IMPROVEMENT ACT OF 2002

[Public Law 107-355; 116 Stat. 2997]

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

[49 U.S.C. 60101 note]

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(f) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), \$3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years **2012 through 2015** *2016 through 2019*.

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