

112TH CONGRESS
1ST SESSION

S. 275

AN ACT

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

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

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

5 (a) **SHORT TITLE.**—This Act may be cited as the
 6 “Pipeline Transportation Safety Improvement Act of
 7 2011”.

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

15 (c) **TABLE OF CONTENTS.**—The table of contents for
 16 this Act is as follows:

- Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
- Sec. 2. Civil penalties.
- Sec. 3. Pipeline damage prevention.
- Sec. 4. Offshore gathering pipelines.
- Sec. 5. Automatic and remote-controlled shut-off valves.
- Sec. 6. Excess flow valves.
- Sec. 7. Integrity management.
- Sec. 8. Public education and awareness.
- Sec. 9. Cast iron gas pipelines.
- Sec. 10. Leak detection.
- Sec. 11. Incident notification.
- Sec. 12. Transportation-related onshore facility response plan compliance.
- Sec. 13. Pipeline infrastructure data collection.
- Sec. 14. International cooperation and consultation.
- Sec. 15. Gas and hazardous liquid gathering lines.
- Sec. 16. Transportation-related oil flow lines.
- Sec. 17. Alaska project coordination.
- Sec. 18. Cost recovery for design reviews.
- Sec. 19. Special permits.

- Sec. 20. Biofuel pipelines.
- Sec. 21. Carbon dioxide pipelines.
- Sec. 22. Study of the transportation of tar sands crude oil.
- Sec. 23. Study of non-petroleum hazardous liquids transported by pipeline.
- Sec. 24. Clarifications.
- Sec. 25. Additional resources.
- Sec. 26. Maintenance of effort.
- Sec. 27. Maximum allowable operating pressure.
- Sec. 28. Administrative enforcement process.
- Sec. 29. Authorization of appropriations.
- Sec. 30. PAYGO compliance.

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

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

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

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

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

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

12 “(1) IN GENERAL.—A person that the Sec-
 13 retary of Transportation decides, after written notice
 14 and an opportunity for a hearing, has committed a
 15 major consequence violation of section 60114(b),
 16 60114(d), or 60118(a) of this title or a regulation
 17 prescribed or order issued under this chapter is lia-
 18 ble to the United States Government for a civil pen-
 19 alty of not more than \$250,000 for each violation.

20 A separate violation occurs for each day the violation

1 continues. The maximum civil penalty under this
2 paragraph for a related series of major consequence
3 violations is \$2,500,000.

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

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

13 “(A) 1 or more deaths;

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

16 “(C) environmental harm exceeding
17 \$250,000 in estimated damage to the environ-
18 ment including property loss other than the
19 value of natural gas or hazardous liquid lost, or
20 damage to pipeline equipment.”.

21 (b) PENALTY FOR OBSTRUCTION OF INSPECTIONS
22 AND INVESTIGATIONS.—Section 60118(e) is amended by
23 adding at the end the following: “The Secretary may im-
24 pose a civil penalty under section 60122 of this title on
25 a person who obstructs or prevents the Secretary from

1 carrying out inspections or investigations under this chap-
2 ter.”.

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

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

11 (1) by striking the subsection caption and in-
12 serting “(a) REVIEW OF REGULATIONS, ORDERS,
13 AND OTHER FINAL AGENCY ACTIONS.—”; and

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

17 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

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

21 “(a) MINIMUM STANDARDS.—

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

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

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

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

10 “(2) EXEMPTIONS PROHIBITED.—A State one-
11 call notification program may not exempt munici-
12 palities, State agencies, or their contractors from its
13 one-call notification system requirements.”.

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

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

18 (2) by striking “(b).” in paragraph (2) and in-
19 serting “(b); and”; and

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

21 “(3) does not provide any exemptions to mu-
22 nicipalities, State agencies, or their contractors from
23 its one-call notification system requirements.”.

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

4 **SEC. 4. OFFSHORE GATHERING PIPELINES.**

5 Section 60102(k)(1) is amended by striking the last
6 sentence and inserting “Not later than 1 year after the
7 date of enactment of the Pipeline Transportation Safety
8 Improvement Act of 2011, the Secretary shall issue regu-
9 lations, after notice and an opportunity for a hearing, sub-
10 jecting offshore hazardous liquid gathering pipelines and
11 hazardous liquid gathering pipelines located within the in-
12 lets of the Gulf of Mexico to the same standards and regu-
13 lations as other hazardous liquid gathering pipelines. The
14 regulations issued under this paragraph shall not apply
15 to low-stress distribution pipelines.”.

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

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

20 “(n) AUTOMATIC AND REMOTE-CONTROLLED SHUT-
21 OFF VALVES.—Not later than 2 years after the date of
22 enactment of the Pipeline Transportation Safety Improve-
23 ment Act of 2011, the Secretary shall by regulation, after
24 notice and an opportunity for a hearing, require the use
25 of automatic or remote-controlled shut-off valves, or equiv-

1 alent technology, where economically, technically, and
2 operationally feasible on transmission pipelines con-
3 structed or entirely replaced after the date on which the
4 Secretary issues a final rule.”.

5 **SEC. 6. EXCESS FLOW VALVES.**

6 Section 60109(e)(3) is amended—

7 (1) by redesignating subparagraph (B) as sub-
8 paragraph (C); and

9 (2) by inserting after subparagraph (A) the fol-
10 lowing:

11 “(B) DISTRIBUTION BRANCH SERVICES,
12 MULTI-FAMILY FACILITIES, AND SMALL COM-
13 Mercial FACILITIES.—Not later than 2 years
14 after the date of enactment of the Pipeline
15 Transportation Safety Improvement Act of
16 2011, the Secretary shall prescribe regulations,
17 after notice and an opportunity for hearing, to
18 require the use of excess flow valves, where eco-
19 nomically and technically feasible, on new or en-
20 tirely replaced distribution branch services,
21 multi-family facilities, and small commercial fa-
22 cilities.”.

1 **SEC. 7. INTEGRITY MANAGEMENT.**

2 (a) EVALUATION.—Within 1 year after the date of
3 enactment of this Act, the Secretary of Transportation
4 shall evaluate—

5 (1) whether integrity management system re-
6 quirements, or elements thereof, should be expanded
7 beyond high consequence areas (as defined under
8 section 60109(a) of title 49, United States Code);

9 (2) with respect to gas pipeline facilities, wheth-
10 er applying the integrity management program re-
11 quirements to additional areas would mitigate the
12 need for class location requirements, with an empha-
13 sis on class 3 and 4 facilities; and

14 (3) whether data collected outside high con-
15 sequence areas as part of gas transmission pipeline
16 integrity management programs should be included
17 as part of the records required to be maintained by
18 operators.

19 (b) STANDARDS.—Not later than 1 year after com-
20 pletion of the evaluation, the Secretary shall prescribe
21 such regulations, as appropriate, after notice and an op-
22 portunity for a hearing.

23 (c) DATA REPORTING.—The Secretary shall collect
24 any relevant data necessary to complete the evaluation re-
25 quired by subsection (a) and may collect such additional

1 data pursuant to regulations promulgated under sub-
 2 section (b) as may be necessary.

3 (d) SEISMICITY.—In identifying high consequence
 4 areas under section 60109, the Secretary shall consider
 5 the seismicity of the area.

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

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

9 **“§ 60138. Public education and awareness**

10 “(a) IN GENERAL.—Not later than 1 year after the
 11 date of enactment of the Pipeline Transportation Safety
 12 Improvement Act of 2011, the Secretary shall—

13 “(1) maintain a monthly updated summary of
 14 all completed and final natural gas and hazardous
 15 liquid pipeline inspections conducted by or reported
 16 to the Pipeline and Hazardous Materials Safety Ad-
 17 ministration that includes—

18 “(A) identification of the operator in-
 19 spected;

20 “(B) the type of inspection;

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

23 “(D) any corrective actions required to be
 24 taken by the operator to remediate such defi-
 25 ciencies;

1 “(2) maintain—

2 “(A) a status indication of the review and
3 approval of each gas emergency response plan
4 pursuant to section 60102(d)(5) of this title
5 and of each hazardous liquid pipeline operator’s
6 response plan pursuant to part 194 of title 49,
7 Code of Federal Regulations;

8 “(B) a comprehensive description of the re-
9 quirements for such plans; and

10 “(C) a detailed summary of each approved
11 plan written by the operator that includes the
12 key elements of the plan, but which may ex-
13 clude—

14 “(i) proprietary information;

15 “(ii) security-sensitive information, in-
16 cluding as referenced in section 1520.5(a)
17 of title 49, code of Federal Regulations;

18 “(iii) specific response resources and
19 tactical resource deployment plans; and

20 “(iv) the specific amount and location
21 of worst-case discharges, including the
22 process by which an operator determines
23 the worst discharge.

24 “(3) excluding any proprietary or security-sen-
25 sitive information, as part of the National Pipeline

1 Mapping System maintain a map of all currently
2 designated high consequence areas in which pipelines
3 are required to meet integrity management safety
4 regulations and update the map annually; and

5 “(4) maintain a copy or, at a minimum, a de-
6 tailed summary of any industry-developed or profes-
7 sional organization pipeline safety standards that
8 have been incorporated by reference into regulations,
9 to the extent consistent with fair use.

10 “(b) PUBLIC AVAILABILITY.—The requirements of
11 subsection (a) shall be considered to have been met if the
12 information required to be made public is made available
13 on the Pipeline and Hazardous Materials Safety Adminis-
14 tration’s public Web site.

15 “(c) RELATIONSHIP TO FOIA.—Nothing in this sec-
16 tion shall be construed to require disclosure of information
17 or records that are exempt from disclosure under section
18 552 of title 5.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 for chapter 601 is amended by inserting after the item
21 relating to section 60137 the following new item:

“60138. Public education and awareness”.

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

23 (a) SURVEY UPDATE.—Not later than one year after
24 the enactment of this Act, the Secretary of Transportation

1 shall conduct a follow-on survey to the survey conducted
2 under section 60108(d) to determine—

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

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

8 (3) the progress that has been made.

9 (b) SURVEY FREQUENCY.—Section 60108(d) is
10 amended by adding at the end the following new para-
11 graph:

12 “(4) The secretary shall conduct a follow-up survey
13 to measure progress of plan implementation biannually.”.

14 **SEC. 10. LEAK DETECTION.**

15 (a) LEAK DETECTION STUDY UPDATE.—Not later
16 than 1 year after the date of enactment of this Act, the
17 Secretary of Transportation shall submit to the Com-
18 mittee on Commerce, Science, and Transportation of the
19 Senate and the Committees on Transportation and Infra-
20 structure and on Energy and Commerce of the House of
21 Representatives an updated report on leak detection sys-
22 tems utilized by operators of hazardous liquid pipelines
23 and transportation-related flow lines. The report shall in-
24 clude an analysis of the technical limitations of current
25 leak detection systems, including the systems’ ability to

1 detect ruptures and small leaks that are ongoing or inter-
2 mittent, and what can be done to foster development of
3 better technologies.

4 (b) LEAK DETECTION STANDARDS.—Not later than
5 1 year after completion of the report, the Secretary shall,
6 as appropriate, based on the study in subsection (a), pre-
7 scribe regulations, after notice and an opportunity for a
8 hearing, requiring an operator of a hazardous liquid pipe-
9 line to use leak detection technologies, particularly in high
10 consequence areas.

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

12 Not later than 18 months after the date of enactment
13 of this Act, the Secretary of Transportation shall—

14 (1) prescribe regulations, after notice and an
15 opportunity for a hearing, that establish time limits
16 for accident and incident telephonic or electronic no-
17 tification by pipeline operators to State and local
18 government officials and emergency responders when
19 a spill or rupture occurs; and

20 (2) review procedures for pipeline operators and
21 the National Response Center to provide thorough
22 and coordinated notification to all relevant emer-
23 gency response officials and revise such procedures
24 as appropriate.

1 **SEC. 12. TRANSPORTATION-RELATED ONSHORE FACILITY**
2 **RESPONSE PLAN COMPLIANCE.**

3 (a) IN GENERAL.—Subparagraphs (A) and (B) of
4 section 311(m)(2) of the Federal Water Pollution Control
5 Act (33 U.S.C. 1321(m)(2)) are each amended by striking
6 “Administrator or” and inserting “Administrator, the
7 Secretary of Transportation, or”.

8 (b) CONFORMING AMENDMENT.—Section
9 311(b)(6)(A) of the Federal Water Pollution Control Act
10 (33 U.S.C. 1321(b)(6)(A)) is amended by striking “oper-
11 ating or” and inserting “operating, the Secretary of
12 Transportation, or”.

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

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

15 (1) by striking “and gathering lines”; and

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

17 “(4) Any other geospatial, technical, or other
18 related pipeline data, including design and material
19 specifications, that the Secretary determines is nec-
20 essary to carry out the purposes of this section. The
21 Secretary shall give reasonable notice to operators
22 that the data are being requested.”.

23 (b) DISCLOSURE LIMITED TO FOIA REQUIRE-
24 MENTS.—Section 60132 is amended by adding at the end
25 the following:

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

5 **SEC. 14. INTERNATIONAL COOPERATION AND CONSULTA-**
6 **TION.**

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

9 “(o) INTERNATIONAL COOPERATION AND CONSULTA-
10 TION.—

11 “(1) INFORMATION EXCHANGE AND TECHNICAL
12 ASSISTANCE.—If the Secretary determines that it
13 would benefit the United States, subject to guidance
14 from the Secretary of State, the Secretary may en-
15 gage in activities supporting cooperative inter-
16 national efforts to share information about the risks
17 to the public and the environment from pipelines
18 and means of protecting against those risks. Such
19 cooperation may include the exchange of information
20 with domestic and appropriate international organi-
21 zations to facilitate efforts to develop and improve
22 safety standards and requirements for pipeline
23 transportation in or affecting interstate or foreign
24 commerce.

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

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

16 **SEC. 15. GAS AND HAZARDOUS LIQUID GATHERING LINES.**

17 Not later than 2 years after the date of enactment
18 of this Act, the Secretary of Transportation shall complete
19 a review of all exemptions for gas and hazardous liquid
20 gathering lines. Based on this review the Secretary shall
21 submit a report to the Committee on Commerce, Science,
22 and Transportation of the Senate and the Committees on
23 Transportation and Infrastructure and on Energy and
24 Commerce of the House of Representatives containing the

1 Secretary’s recommendations with respect to the modifica-
2 tion or revocation of existing exemptions.

3 **SEC. 16. TRANSPORTATION-RELATED OIL FLOW LINES.**

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

6 “(o) TRANSPORTATION-RELATED OIL FLOW
7 LINES.—

8 “(1) DATA COLLECTION.—The Secretary may
9 collect geospatial, technical, or other pipeline data on
10 transportation-related oil flow lines, including un-
11 regulated transportation-related oil flow lines.

12 “(2) TRANSPORTATION-RELATED OIL FLOW
13 LINE DEFINED.—In this subsection, the term ‘trans-
14 portation-related oil flow line’ means a pipeline
15 transporting oil off of the grounds of the well where
16 it originated across areas not owned by the producer
17 regardless of the extent to which the oil has been
18 processed, if at all.

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

1 **SEC. 17. ALASKA PROJECT COORDINATION.**

2 (a) IN GENERAL.—Chapter 601, as amended by sec-
3 tion 8 of this Act, is further amended by adding at the
4 end the following:

5 **“§ 60139. Alaska project coordination**

6 “The Secretary may provide technical assistance to
7 the State of Alaska for the purpose of achieving coordi-
8 nated and effective oversight of the construction, expan-
9 sion, or operation of pipeline systems in Alaska. The as-
10 sistance may include—

11 “(1) conducting coordinated inspections of pipe-
12 line systems subject to the respective authorities of
13 the Department of Transportation and the State of
14 Alaska;

15 “(2) consulting on the development and imple-
16 mentation of programs designed to manage the in-
17 tegrity risks associated with operating pipeline sys-
18 tems in the unique conditions of Alaska;

19 “(3) training inspection and enforcement per-
20 sonnel and consulting on the development and imple-
21 mentation of inspection protocols and training pro-
22 grams; and

23 “(4) entering into cooperative agreements,
24 grants, or other transactions with the State of Alas-
25 ka, the Joint Pipeline Office, other Federal agencies,

1 and other public and private agencies to carry out
2 the objectives of this section.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for chapter 601, as amended by section 8 of this Act, is
5 further amended by inserting after the item relating to
6 section 60138 the following new item:

“60139. Alaska project coordination”.

7 **SEC. 18. COST RECOVERY FOR DESIGN REVIEWS.**

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

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

10 “(1) IN GENERAL.—

11 “(A) REVIEW COSTS.—For any project de-
12 scribed in subparagraph (B), if the Secretary
13 conducts facility design safety reviews in con-
14 nection with a proposal to construct, expand, or
15 operate a new gas or hazardous liquid pipeline
16 or liquefied natural gas pipeline facility, includ-
17 ing construction inspections and oversight, the
18 Secretary may require the person or entity pro-
19 posing the project to pay the costs incurred by
20 the Secretary relating to such reviews. If the
21 Secretary exercises the cost recovery authority
22 described in this section, the Secretary shall
23 prescribe a fee structure and assessment meth-
24 odology that is based on the costs of providing
25 these reviews and shall prescribe procedures to

1 collect fees under this section. This authority is
2 in addition to the authority provided in section
3 60301 of this title, but the Secretary may not
4 collect fees under this section and section
5 60301 for the same design safety review.

6 “(B) PROJECTS TO WHICH APPLICABLE.—

7 Subparagraph (A) applies to any project that—

8 “(i) has design and construction costs
9 totaling at least \$3,400,000,000; or

10 “(ii) uses new or novel technologies or
11 designs.

12 “(2) NOTIFICATION.—For any new pipeline
13 construction project in which the Secretary will con-
14 duct design reviews, the person or entity proposing
15 the project shall notify the Secretary and provide the
16 design specifications, construction plans and proce-
17 dures, and related materials at least 120 days prior
18 to the commencement of construction.

19 “(3) DEPOSIT AND USE.—There is established
20 a Pipeline Safety Design Review Fund in the Treas-
21 ury of the United States. The Secretary shall deposit
22 funds paid under this subsection into the Fund.
23 Funds deposited under this section are authorized to
24 be appropriated for the purposes set forth in this
25 chapter. Fees authorized under this section shall be

1 collected and available for obligation only to the ex-
2 tent and in the amount provided in advance in ap-
3 propriations Acts.

4 “(4) NO ADDITIONAL PERMITTING AUTHOR-
5 ITY.—Nothing in this subsection shall be construed
6 as authorizing the Secretary to require a person to
7 obtain a permit before beginning design and con-
8 struction in connection with a project described in
9 paragraph (1)(B).”.

10 **SEC. 19. SPECIAL PERMITS.**

11 Section 60118(e)(1) is amended to read as follows:

12 “(1) ISSUANCE OF WAIVERS.—

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

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

24 “(i) the fitness of the applicant to
25 conduct the activity authorized by the

1 waiver in a manner that is consistent with
2 pipeline safety;

3 “(ii) the applicant’s compliance his-
4 tory;

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

7 “(iv) any other information or data
8 the Secretary considers relevant to making
9 the determination.

10 “(C) EFFECTIVE PERIOD.—A waiver of
11 one or more pipeline operating requirements
12 shall be reviewed by the Secretary 5 years after
13 its effective date. In reviewing a waiver, the
14 Secretary shall consider any change in owner-
15 ship or control of the pipeline, any change in
16 the conditions around the pipeline, and other
17 factors as appropriate. The Secretary may mod-
18 ify, suspend, or revoke a waiver after such re-
19 view under subparagraph (E).

20 “(D) PUBLIC NOTICE AND HEARING.—The
21 Secretary may act on a waiver under this sec-
22 tion only after public notice and an opportunity
23 for a hearing, which may consist of publication
24 of notice in the Federal Register that an appli-
25 cation for a waiver has been filed and providing

1 the public with the opportunity to review and
2 comment on the application. If a waiver is
3 granted, the Secretary shall state in the order
4 and associated analysis the reasons for granting
5 it.

6 “(E) NONCOMPLIANCE AND MODIFICA-
7 TION, SUSPENSION, OR REVOCATION.—After no-
8 tice to a holder of a waiver and opportunity to
9 show cause, the Secretary may modify, suspend,
10 or revoke a waiver issued under this section for
11 failure to comply with its terms or conditions,
12 intervening changes in Federal law, a material
13 change in circumstances affecting safety, in-
14 cluding erroneous information in the applica-
15 tion, or any other reason. If necessary to avoid
16 a significant risk of harm to persons, property,
17 or the environment, the Secretary may waive
18 the show cause procedure and make the action
19 immediately effective.”.

20 **SEC. 20. BIOFUEL PIPELINES.**

21 Section 60101(a)(4) is amended—

22 (1) by striking “and” after the semicolon in
23 subparagraph (A);

24 (2) by redesignating subparagraph (B) as sub-
25 paragraph (C); and

1 (3) by inserting after subparagraph (A) the fol-
2 lowing:

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

7 **SEC. 21. CARBON DIOXIDE PIPELINES.**

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

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

13 **SEC. 22. STUDY OF THE TRANSPORTATION OF TAR SANDS**
14 **CRUDE OIL.**

15 Not later than 18 months after the date of enactment
16 of this Act, the Secretary of Transportation shall complete
17 a comprehensive review of hazardous liquid pipeline regu-
18 lations to determine whether these regulations are suffi-
19 cient to regulate pipelines used for the transportation of
20 tar sands crude oil. In conducting this review, the Sec-
21 retary shall conduct an analysis of whether any increase
22 in risk of release exists for pipelines transporting tar
23 sands crude oil. The Secretary shall report the results of
24 this review to the Committee on Commerce, Science, and
25 Transportation of the Senate and the Committees on

1 Transportation and Infrastructure and on Energy and
2 Commerce of the House of Representatives.

3 **SEC. 23. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**
4 **TRANSPORTED BY PIPELINE.**

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

22 **SEC. 24. CLARIFICATIONS.**

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

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

5 (c) ONE-CALL ENFORCEMENT CLARIFICATION.—Sec-
6 tion 60114(f) is amended by adding at the end the fol-
7 lowing: “This subsection does not apply to proceedings
8 against persons who are pipeline operators.”.

9 **SEC. 25. ADDITIONAL RESOURCES.**

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

16 (1) 9 employees shall be added in fiscal year
17 2012;

18 (2) 10 employees shall be added in fiscal year
19 2013;

20 (3) 10 employees shall be added in fiscal year
21 2014; and

22 (4) 10 employees shall be added in fiscal year
23 2015.

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

4 (1) to conduct data collection, analysis, and re-
5 porting;

6 (2) to develop, implement, and update informa-
7 tion technology;

8 (3) to conduct inspections of pipeline facilities
9 to determine compliance with applicable regulations
10 and standards;

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

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

17 **SEC. 26. MAINTENANCE OF EFFORT.**

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

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

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

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

13 (a) ESTABLISHMENT OF RECORDS.—

14 (1) IN GENERAL.—Not later than 6 months
15 after the date of enactment of this Act, the Sec-
16 retary of Transportation shall require pipeline opera-
17 tors to conduct a verification of records for all inter-
18 state and intrastate gas transmission lines in class
19 3 and class 4 locations and class 1 and class 2 high
20 consequence areas that accurately reflect the pipe-
21 line’s physical and operational characteristics and
22 confirm the established maximum allowable oper-
23 ating pressure of those pipelines.

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

4 (b) REPORTING.—

5 (1) DOCUMENTATION OF CERTAIN PIPE-
6 LINES.—Not later than 18 months after the date of
7 enactment of this Act, pipeline operators shall sub-
8 mit to the Secretary documentation of all interstate
9 and intrastate gas transmission pipelines in class 3
10 and class 4 locations and class 1 and class 2 high
11 consequence areas where the records required under
12 subsection (a) are not sufficient to confirm the es-
13 tablished maximum allowable operating pressure of
14 those pipeline segments.

15 (2) EXCEEDANCES OF MAXIMUM ALLOWABLE
16 OPERATING PRESSURE.—All pipeline operators shall
17 report any exceedance of the maximum allowable op-
18 erating pressure for gas transmission pipelines that
19 exceed the build-up allowed for operation of pres-
20 sure-limiting or control devices to the Secretary not
21 later than 5 working days after the exceedance oc-
22 curs. Notice of exceedance by gas transmission pipe-
23 lines shall be provided concurrently to appropriate
24 State authorities.

1 (c) DETERMINATION OF MAXIMUM ALLOWABLE OP-
2 ERATING PRESSURE.—

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

8 (2) INTERIM ACTIONS.—For cases described in
9 paragraph (1), the Secretary will determine what ac-
10 tions are appropriate for a pipeline operator to take
11 to maintain safety until a maximum allowable oper-
12 ating pressure is confirmed. In determining what ac-
13 tions an operator should take, the Secretary shall
14 take into account consequences to public safety and
15 the environment, impacts on pipeline system reli-
16 ability and deliverability, and other factors, as ap-
17 propriate.

18 (d) TESTING REGULATIONS.—The Secretary shall,
19 not later than 18 months after the date of the enactment
20 of this Act, prescribe regulations for conducting tests to
21 confirm the material strength of previously untested nat-
22 ural gas transmission pipelines located in areas identified
23 pursuant to section 60109(a) of title 49, United States
24 Code, and operating at a pressure greater than 30 percent
25 of specified minimum yield strength. The Secretary shall

1 consider safety testing methodologies including, at a min-
2 imum, pressure testing or other alternative methods, in-
3 cluding in-line inspections, determined by the Secretary to
4 be of equal or greater effectiveness. The Secretary, in con-
5 sultation with the Chairman of the Federal Energy Regu-
6 latory Commission and State regulators, as appropriate,
7 shall establish timeframes for the completion of such test-
8 ing that take into account consequences to public safety
9 and the environment and that minimize costs and service
10 disruptions.

11 **SEC. 28. ADMINISTRATIVE ENFORCEMENT PROCESS.**

12 (a) ISSUANCE OF REGULATIONS.—

13 (1) IN GENERAL.—Not later than 2 years after
14 the date of the enactment of this Act, the Secretary
15 shall prescribe regulations—

16 (A) requiring hearings under sections
17 60112, 60117, 60118, and 60122 to be con-
18 vened before a presiding official;

19 (B) providing the opportunity for any per-
20 son requesting a hearing under sections 60112,
21 60117, 60118, and 60122 to arrange for a
22 transcript of that hearing, at the expense of the
23 requesting person; and

24 (C) ensuring expedited review of any order
25 issued pursuant to section 60112(e).

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

3 (A) define the term “presiding official” to
4 mean the person who conducts any hearing re-
5 lating to civil penalty assessments, compliance
6 orders, safety orders, or corrective action or-
7 ders; and

8 (B) require that the presiding official must
9 be an attorney on the staff of the Deputy Chief
10 Counsel that is not engaged in investigative or
11 prosecutorial functions, including the prepara-
12 tion of notices of probable violations, orders re-
13 lating to civil penalty assessments, compliance
14 orders, or corrective action orders.

15 (b) STANDARDS OF JUDICIAL REVIEW.—Section
16 60119(a) is amended by adding at the end the following
17 new paragraph:

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

21 **SEC. 29. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) GAS AND HAZARDOUS LIQUID.—

23 (1) Section 60125(a)(1) is amended by striking
24 subparagraphs (A) through (D) and inserting the
25 following:

1 “(A) for fiscal year 2012, \$92,206,000, of
2 which \$9,200,000 is for carrying out such sec-
3 tion 12 and \$36,958,000 is for making grants;

4 “(B) for fiscal year 2013, \$96,144,000, of
5 which \$9,600,000 for carrying out such section
6 12 and \$39,611,000 is for making grants;

7 “(C) for fiscal year 2014, \$99,876,000, of
8 which \$9,900,000 is for carrying out such sec-
9 tion 12 and \$41,148,000 is for making grants;
10 and

11 “(D) for fiscal year 2015, \$102,807,000,
12 of which \$10,200,000 is for carrying out such
13 section 12 and \$42,356,000 is for making
14 grants.”.

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

18 “(A) for fiscal year 2012, \$18,905,000, of
19 which \$7,562,000 is for carrying out such sec-
20 tion 12 and \$7,864,000 is for making grants;

21 “(B) for fiscal year 2013, \$19,661,000, of
22 which \$7,864,000 is for carrying out such sec-
23 tion 12 and \$7,864,000 is for making grants;

24 “(C) for fiscal year 2014, \$20,000,000, of
25 which \$8,000,000 is for carrying out such sec-

1 tion 12 and \$8,000,000 is for making grants;
2 and

3 “(D) for fiscal year 2015, \$20,000,000, of
4 which \$8,000,000 is for carrying out such sec-
5 tion 12 and \$8,000,000 is for making grants.”.

6 (b) EMERGENCY RESPONSE GRANTS.—Section
7 60125(b)(2) is amended by striking “2007 through 2010”
8 and inserting “2012 through 2015”.

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

11 (1) by striking “2007 through 2010.” in sub-
12 section (a) and inserting “2012 through 2015.”;

13 (2) by striking “2007 through 2010.” in sub-
14 section (b) and inserting “2012 through 2015.”; and

15 (3) by striking subsection (c).

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

18 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary to pro-
20 vide grants under this section \$2,000,000 for each of fiscal
21 years 2012 through 2015. The funds shall remain avail-
22 able until expended.”.

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

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

3 (2) by striking “2003 through 2010.” in sub-
4 section (d) and inserting “2012 through 2015.”.

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

8 (1) by adding at the end of subsection (d) the
9 following:

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

20 (2) by striking “2003 through 2006.” in sub-
21 section (f) and inserting “2012 through 2015.”.

22 **SEC. 30. PAYGO COMPLIANCE.**

23 The budgetary effects of this Act, for the purpose of
24 complying with the Statutory Pay-As-You-Go-Act of 2010,
25 shall be determined by reference to the latest statement

1 titled “Budgetary Effects of PAYGO Legislation” for this
2 Act, submitted for printing in the Congressional Record
3 by the Chairman of the Senate Budget Committee, pro-
4 vided that such statement has been submitted prior to the
5 vote on passage.

Passed the Senate October 17, 2011.

Attest:

Secretary.

112TH CONGRESS
1ST SESSION

S. 275

AN ACT

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