AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. UPTON OF MICHIGAN AND MR.
DINGELL OF MICHIGAN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49,
2 UNITED STATES CODE; DEFINITIONS; TABLE
3 OF CONTENTS.
4 (a) SHORT TITLE.—This Act may be cited as the
5 “Pipeline Infrastructure and Community Protection Act
6 of 2011”.
7 (b) AMENDMENT OF TITLE 49, UNITED STATES
8 CODE.—Except as otherwise expressly provided, whenever
9 in this Act an amendment or repeal is expressed in terms
10 of an amendment to, or a repeal of, a section or other
11 provision, the reference shall be considered to be made to
12 a section or other provision of title 49, United States
13 Code.
14 (c) DEFINITIONS.—Any term used in this Act that
15 is defined in chapter 601 of title 49, United States Code,
16 shall have the meaning given that term in that chapter.
17 (d) TABLE OF CONTENTS.—The table of contents for
18 this Act is as follows:
1 Sec. 2. CIVIL PENALTIES.

2  (a) PEnalty COnsiderations; MajoR CoNsequeNce VIoLaTIONS.—Section 60122 is amended—

3    (1) by striking “the ability to pay,” in sub-

4        section (b)(1)(B);

5    (2) by redesignating subsections (c) through (f) 

6        as subsections (d) through (g), respectively; and 

7    (3) by inserting after subsection (b) the fol-

8        lowing:

9        “(c) PEnalties foR MajoR CoNsequeNce VIoLa-

10        TIONS.—
“(1) IN GENERAL.—A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has committed a major consequence violation of section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $250,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of major consequence violations is $2,500,000.

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

“(3) MAJOR CONSEQUENCE VIOLATION DEFINED.—In this subsection, the term ‘major consequence violation’ means a violation that contributed to a pipeline facility incident resulting in—

“(A) 1 or more deaths;

“(B) 1 or more injuries or illnesses requiring in-patient hospitalization; or
“(C) environmental harm exceeding $250,000 in estimated damages to the environment including property loss, other than the value of natural gas or hazardous liquid lost and damage to pipeline facility equipment.”.

(b) **Penalty for Obstruction of Inspections and Investigations.**—Section 60118(e) is amended by adding at the end the following: “The Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.”.

(c) **Administrative Penalty Caps Inapplicable.**—Section 60120(a)(1) is amended by adding at the end the following: “The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.”.

(d) **Judicial Review of Administrative Enforcement Orders.**—Section 60119(a) is amended—

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

(2) by striking “about an application for a waiver under section 60118(c) or (d) of” and inserting “under”.
SEC. 3. PIPELINE DAMAGE PREVENTION.

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

“(a) MINIMUM STANDARDS.—

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

“(A) appropriate participation by all underground facility operators, including all government operators;

“(B) appropriate participation by all excavators, including all government and contract excavators; and

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

“(2) EXEMPTIONS PROHIBITED.—A State one-call notification program may not exempt mechanized excavation, municipalities, State agencies, or their contractors from its one-call notification system requirements.”.

(b) STATE DAMAGE PREVENTION PROGRAMS.—Section 60134(a) is amended—

(1) by striking “and” after the semicolon in paragraph (1);
(2) by striking “(b).” in paragraph (2)(B) and inserting “(b); and”; and

(3) by adding at the end the following:

“(3) does not provide any exemptions to mechanized excavation, municipalities, State agencies, or their contractors from its one-call notification system requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 4. OFFSHORE GATHERING LINES.

Section 60102(k)(1) is amended by striking the last sentence and inserting “Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The regulations issued under this paragraph shall not apply to production pipelines or flow lines”.

SEC. 5. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF VALVES.

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

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

“(1) **STANDARDS FOR NEW TRANSMISSION PIPELINES.**—Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipelines constructed or entirely replaced after the date on which the Secretary issues a final rule.

“(2) **RETROFIT REVIEW AND ANALYSIS.**—The Secretary shall conduct a review of transmission pipeline facility operators’ ability to respond to a hazardous liquid or gas release from a pipeline segment located in a high consequence area (as described in section 60109(a)). The Secretary’s analysis shall consider the swiftness of leak detection and pipeline shutdown capabilities, the location of nearest response personnel, and the costs, risks, and
benefits of installing automatic and remote-controlled shut-off valves. Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall report the results of such review and analysis to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.”.

SEC. 6. EXCESS FLOW VALVES.

Section 60109(e)(3) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

“(B) DISTRIBUTION BRANCH SERVICES, MULTIFAMILY FACILITIES, AND SMALL COMMERCIAL FACILITIES.—Not later than 2 years after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall by regulation, after notice and an opportunity for a hearing, require the use of excess flow valves, or equivalent technology, where economically, technically, and
operationally feasible on new or entirely re-
placed distribution branch services, multifamily
facilities, and small commercial facilities.”.

SEC. 7. INTEGRITY MANAGEMENT.

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

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

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

(b) REPORT.—Based on the evaluation described in
subsection (a), the Secretary shall submit a report to the
Senate Committee on Commerce, Science, and Transpor-
tation and the House of Representatives Committee on
Transportation and Infrastructure and Committee on En-
ergy and Commerce containing the Secretary’s analysis
and findings regarding expansion of integrity management
requirements, or elements thereof, beyond high con-
sequence areas and whether applying the integrity man-

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agement program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

(c) STANDARDS.—Not later than 2 years after completion of the evaluation, the Secretary shall, as appropriate, prescribe regulations, after notice and an opportunity for a hearing, that—

(1) expand integrity management system requirements, or elements thereof, beyond high consequence areas; and

(2) remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under section 60109(c)(2) of title 49, United States Code.

(d) DATA REPORTING.—The Secretary shall collect any relevant data necessary to complete the evaluation required by subsection (a) and may collect such additional data pursuant to regulations promulgated under subsection (b) as may be necessary.

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

“(B) Subject to paragraph (5), periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods de-
scribed in subparagraph (A). Such deadline shall be extended for an additional 6 months if the operator submits written notice to the Secretary that includes an explanation of the need for such extension.”.

SEC. 8. PUBLIC EDUCATION AND AWARENESS.

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

“§ 60138. Public education and awareness

“(a) In general.—Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall—

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

“(A) identification of the operator inspected;

“(B) the type of inspection;

“(C) the results of the inspection, including any deficiencies identified; and

“(D) any corrective actions required to be taken by the operator to remediate such deficiencies;
“(2) maintain a detailed summary of each approved emergency response plan written by the operator that includes the key elements of the plan, but which may exclude—

“(A) proprietary information;

“(B) sensitive security information, including as referenced in section 1520.5(a) of title 49, Code of Federal Regulations;

“(C) specific response resources and tactical resource deployment plans; and

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

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

“(b) PUBLIC AVAILABILITY.—The requirements of subsection (a) shall be satisfied if the information required to be made public is made available on the Pipeline and

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

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

“60138. Public education and awareness.”.

SEC. 9. CAST IRON GAS PIPELINES.

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

(1) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron pipelines;

(2) the elements of the plan, including the anticipated rate of replacement; and

(3) the progress that has been made.

(b) SURVEY FREQUENCY.—Section 60108(d) is amended by adding at the end the following new paragraph:
“(4) The Secretary shall conduct a follow-up survey to measure progress of plan implementation biennially.”.

SEC. 10. LEAK DETECTION.

(a) LEAK DETECTION REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce a report on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines. The report shall include an analysis of the technical limitations of current leak detection systems, including the systems’ ability to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster development of better technologies.

(b) STANDARDS.—Not later than 2 years after submission of the report under subsection (a), the Secretary shall, as appropriate, based on the findings of such report, prescribe regulations, after notice and an opportunity for a hearing—

(1) requiring an operator of a hazardous liquid pipeline facility to use leak detection systems; and
establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

SEC. 11. INCIDENT NOTIFICATION.

(a) REVIEW OF PROCEDURES.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall review procedures for the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials and revise such procedures as appropriate.

(b) TELEPHONIC NOTICE OF CERTAIN INCIDENTS.—

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

"§ 60139. Telephonic notice of certain incidents

"(a) IN GENERAL.—An owner or operator of a pipeline facility shall provide immediate telephonic notice of—

"(1) a failure of a hazardous liquid pipeline facility described in section 195.50 of title 49, Code of Federal Regulations; and

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

"(b) IMMEDIATE TELEPHONIC NOTICE DEFINED.—In subsection (a), the term ‘immediate telephonic notice’
means telephonic notice, as described in section 191.5 of such title, to the National Response Center at the earliest practicable moment following confirmed discovery and not later than one hour following the time of such discovery.

“(c) Estimates of Release Volumes.—When providing immediate telephonic notice under subsection (a), the owner or operator of a pipeline facility shall estimate the general volume of a release using ranges such as ‘small’, ‘medium’, ‘large’, and ‘very large’, with the volume of such ranges, but shall not be required to provide a numerical estimate of the size of the release. The owner or operator shall be required to revise an estimate to provide more specific information, including, but not limited to, a numerical estimate of the size of the release within 48 hours, to the extent practicable.

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

(2) Clerical Amendment.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60138 the following:

“60139. Telephonic notice of certain incidents.”.

(e) Standards.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall prescribe regulations, after notice and an opportunity for comment, defining the meaning of the terms
“discovery”, “small”, “medium”, “large”, and “very large” as used in section 60139(e) of title 49, United States Code, as added by subsection (b) of this section.

SEC. 12. TRANSPORTATION-RELATED ONSHORE FACILITY RESPONSE PLAN COMPLIANCE.

(a) In General.—Subparagraphs (A) and (B) of section 311(m)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)(2)) are amended to read as follows:

“(A) Recordkeeping.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, as the case may be, may require to carry out the objectives of this section.
“(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator, the Secretary of Transportation, or Secretary of the department in which the Coast Guard is operating, upon presentation of appropriate credentials, may—

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

“(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).”.

(b) CONFORMING AMENDMENT.—Section 311(b)(6)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(6)(A)) is amended by striking “operating or” and inserting “operating, the Secretary of Transportation, or”. 
SEC. 13. PIPELINE INFRASTRUCTURE DATA COLLECTION.

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

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

(2) by adding at the end the following:

“(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines is necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.”.

(b) DISCLOSURE LIMITED TO FOIA REQUIREMENTS.—Section 60132 is amended by adding at the end the following:

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

SEC. 14. INTERNATIONAL COOPERATION AND CONSULTATION.

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

“(o) INTERNATIONAL COOPERATION AND CONSULTATION.—

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

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

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

SEC. 15. TRANSPORTATION-RELATED OIL FLOW LINES.

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

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

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

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

“(3) LIMITATION.—Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of wells.”.
SEC. 16. ALASKA PROJECT COORDINATION.

(a) In General.—Chapter 601, as amended by this Act, is further amended by adding at the end the following:

§ 60140. Alaska project coordination

“The Secretary may provide technical assistance to the State of Alaska for the purpose of achieving coordinated and effective oversight of the construction and operation of new and prospective pipeline facility systems in Alaska. The assistance may include—

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

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

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

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

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

“60140. Alaska project coordination.”.

SEC. 17. COST RECOVERY FOR DESIGN REVIEWS.

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

“(n) COST RECOVERY FOR DESIGN REVIEWS.—

“(1) IN GENERAL.—

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

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

“(i) has design and construction costs totaling at least $1,000,000,000, as adjusted for inflation; or

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

“(2) NOTIFICATION.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. Within 90 days of receiving such design specifications, construction plans and procedures, the Secretary shall provide written comments, feedback, and guidance on such project.

“(3) DEPOSIT AND USE.—There is established a Pipeline Safety Design Review Fund in the Treasury of the United States. The Secretary shall deposit funds paid under this subsection into the Fund.
Funds deposited under this subsection are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this subsection shall be available for obligation only to the extent and in the amount provided in advance in appropriations Acts.”.

(b) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue guidance to clarify the meaning of the term “new or novel technologies or design” as used in section 60117(n) of title 49, United States Code, as amended by subsection (a) of this section.

SEC. 18. SPECIAL PERMITS.

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

“(1) ISSUANCE OF WAIVERS.—

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

“(i) the applicant’s compliance history;

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

“(iii) any additional factors the Secretary considers relevant.

“(C) EFFECTIVE PERIOD.—A waiver of one or more pipeline facility operating requirements shall be reviewed by the Secretary 5 years after its effective date. In reviewing a waiver, the Secretary shall consider any change in ownership or control of the pipeline facility, any change in the conditions around the pipeline facility, and other factors as appropriate. The Secretary may modify, suspend, or revoke a waiver after such review in accordance with subparagraph (E).

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

“(E) NONCOMPLIANCE AND MODIFICA-
TION, SUSPENSION, OR REVOCATION.—After no-
tice to a holder of a waiver and opportunity to
show cause, the Secretary may modify, suspend,
or revoke a waiver issued under this subsection
for failure to comply with its terms or condi-
tions, intervening changes in Federal law, a ma-
terial change in circumstances affecting safety,
including erroneous information in the applica-
tion, or any other reason. If necessary to avoid
a significant risk of harm to persons, property,
or the environment, the Secretary may waive
the show cause procedure and make the action
immediately effective.”.

(b) REGULATIONS; EFFECTIVE DATE.—

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

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

SEC. 19. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended—

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

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

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

SEC. 20. CARBON DIOXIDE PIPELINES.

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

“(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—

The Secretary shall prescribe minimum safety standards
for the transportation of carbon dioxide by pipeline in either a liquid or gaseous state.”.

SEC. 21. STUDY OF THE TRANSPORTATION OF DILUTED BITUMEN.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a comprehensive review of hazardous liquid pipeline facility regulations to determine whether these regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen. In conducting this review, the Secretary shall conduct an analysis of whether any increase in risk of release exists for pipeline facilities transporting diluted bitumen. The Secretary shall report the results of this review to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.

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

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

SEC. 23. CLARIFICATIONS.

(a) Amendment of Procedures Clarification.—Section 60108(a)(1) is amended by striking “an intrastate” and inserting “a”.

(b) Owner and Operator Clarification.—Section 60102(a)(2)(A) is amended by striking “owners and operators” and inserting “any or all of the owners or operators”.

SEC. 24. ADDITIONAL RESOURCES.

(a) In General.—To the extent funds are appropriated, the Secretary of Transportation shall increase the personnel of the Pipeline and Hazardous Materials Safety Administration by a total of 39 full-time employees to
carry out the pipeline safety program and the administration of that program, of which—

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

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

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

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

(b) FUNCTIONS.—In increasing the number of employees under subsection (a), the Secretary shall hire employees—

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

   (2) to conduct data collection, analysis, and reporting;

   (3) to develop, implement, and update information technology;

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

   (5) to support the overall pipeline safety mission of the Pipeline and Hazardous Materials Safety
Administration, including training of pipeline enforcement personnel.

SEC. 25. MAINTENANCE OF EFFORT.

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

“(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent for gas and hazardous liquid safety programs for fiscal years 2004 through 2006, except when the Secretary waives the requirements of this subsection. The Secretary may grant such a waiver if a State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this subsection due to economic hardship in that State.”.

SEC. 26. ADMINISTRATIVE ENFORCEMENT PROCESS.

(a) ISSUANCE OF REGULATIONS.—
(1) IN GENERAL.—Not later than two years after the date of enactment of this Act, the Secretary shall prescribe regulations—

(A) requiring hearings under sections 60112, 60117, 60118, and 60122 to be convened before a presiding official;

(B) providing the opportunity for any person requesting a hearing under section 60112, 60117, 60118, or 60122 to arrange for a transcript of that hearing, at the expense of the requesting person;

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

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

(2) PRESIDING OFFICIAL.—The regulations prescribed under this subsection shall—

(A) define the term “presiding official” to mean the person who conducts any hearing relating to civil penalty assessments, compliance orders, safety orders, or corrective action orders; and
(B) require that the presiding official must be an attorney on the staff of the Deputy Chief Counsel that is not engaged in investigative or prosecutorial functions, including the preparation of notices of probable violations, orders relating to civil penalty assessments, compliance orders, or corrective action orders.

(3) EXPEDITED REVIEW.—The regulations prescribed under this subsection shall define the term “expedited review” for the purposes of paragraph (1)(C).

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

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

SEC. 27. MAXIMUM ALLOWABLE OPERATING PRESSURE.

(a) ESTABLISHMENT OF RECORDS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall require pipeline facility operators to conduct a verification of records for all interstate and intrastate gas transmission lines in class 3 and class 4 locations and class 1 and class
2 high consequence areas (as described in section 60109(a) of title 49, United States Code) constructed before July 1, 1970, that accurately reflect the pipeline’s physical and operational characteristics and confirm the established maximum allowable operating pressure of those pipeline segments.

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

(b) REPORTING.—

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

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

(c) DETERMINATION OF MAXIMUM ALLOWABLE OP-
erating Pressure.—

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

(2) INTERIM ACTIONS.—For cases described in
paragraph (1), the Secretary shall determine what
actions are appropriate for a pipeline facility oper-
ator to take to maintain safety until a maximum al-
lowable operating pressure is confirmed. In deter-
mining what actions an operator should take, the
Secretary shall take into account consequences to
public safety and the environment, impacts on pipe-
line facility system reliability and deliverability, and
other factors, as appropriate.
SEC. 28. COVER OVER BURIED PIPELINE.

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

§ 60141. Cover over buried pipeline

“Not later than 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall complete an evaluation to determine whether or not current regulations regarding cover over buried pipeline at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark are sufficient to prevent a release of hazardous liquid.”.

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

“60141. Cover over buried pipeline.”.

SEC. 29. ONSHORE GATHERING LINES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a review of all onshore gas and hazardous liquid gathering lines not regulated under title 49, United States Code, and submit a report based on such review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce containing the Secretary’s recommendations with respect to—
(1) the sufficiency of existing laws and regulations to ensure pipeline safety;

(2) the economical and technical practicability of applying existing regulations to currently unregulated onshore gathering lines; and

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

SEC. 30. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—

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

“(A) For fiscal year 2011, $92,206,000, of which $9,200,000 is for carrying out such section 12 and $36,958,000 is for making grants.

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

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

“(D) For fiscal year 2014, $102,807,000, of which $10,200,000 is for carrying out such section 12 and $42,356,000 is for making grants.”.
Section 60125(a)(2) is amended by striking subparagraphs (A) through (D) and inserting the following:

“(A) For fiscal year 2011, $18,905,000, of which $7,562,000 is for carrying out such section 12 and $7,864,000 is for making grants.

“(B) For fiscal year 2012, $19,661,000, of which $7,864,000 is for carrying out such section 12 and $7,864,000 is for making grants.

“(C) For fiscal year 2013, $20,000,000, of which $8,000,000 is for carrying out such section 12 and $8,000,000 is for making grants.

“(D) For fiscal year 2014, $20,000,000, of which $8,000,000 is for carrying out such section 12 and $8,000,000 is for making grants.”.

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

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

(1) by striking “2007 through 2010.” in subsection (a) and inserting “2011 through 2014.”;

(2) by striking “2007 through 2010.” in subsection (b) and inserting “2011 through 2014.”; and

(3) by striking subsection (c).
(d) State Damage Prevention Programs.—Section 60134 is amended by adding at the end the following:

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

(e) Community Pipeline Safety Information Grants.—Section 60130 is amended—

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

(2) by inserting “, for direct advocacy for or against a pipeline,” after “for lobbying” in subsection (b); and

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

(f) Pipeline Transportation Research and Development.—Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note) is amended—

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

and

(2) by striking “2003 through 2006.” in subsection (f) and inserting “2011 through 2014.”.