AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2937
OFFERED BY MR. UPTON OF MICHIGAN AND MR.
DINGELL OF MICHIGAN

Strike all after the enacting clause and insert the following:

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

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

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

(c) DEFINITIONS.—Any term used in this Act that is defined in chapter 601 of title 49, United States Code, shall have the meaning given that term in that chapter.
(d) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

1. Sec. 1. Short title; amendment of title 49, United States Code; definitions; table of contents.
2. Sec. 2. Civil penalties.
3. Sec. 3. Pipeline damage prevention.
4. Sec. 4. Offshore gathering lines.
5. Sec. 5. Automatic and remote-controlled shut-off valves.
7. Sec. 7. Integrity management.
10. Sec. 10. Hazardous liquid pipeline leak detection.
11. Sec. 11. Incident notification.
15. Sec. 15. Transportation-related oil flow lines.
17. Sec. 17. Cost recovery for design reviews.
20. Sec. 20. Carbon dioxide pipelines.
22. Sec. 22. Study of non-petroleum hazardous liquids transported by pipeline.
25. Sec. 25. Maintenance of effort.
27. Sec. 27. Maximum allowable operating pressure.
28. Sec. 28. Cover over buried pipeline.
29. Sec. 29. Onshore gathering lines.
30. Sec. 30. Natural gas pipeline leak detection report.
31. Sec. 31. Report on minority or woman-owned or disadvantaged businesses.
32. Sec. 32. Authorization of appropriations.

3. **SEC. 2. CIVIL PENALTIES.**

4. (a) **PENALTY CONSIDERATIONS; MAJOR CONSEQUENCE VIOLATIONS.**—Section 60122 is amended—

5. (1) by striking “the ability to pay,” in subsection (b)(1)(B);

6. (2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and
by inserting after subsection (b) the following:

“(c) Penalties for Major Consequence Violations.—

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

“(2) Penalty Considerations.—In determining the amount of a civil penalty for a major consequence violation under this subsection, the Secretary shall consider the 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(e) 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 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 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.

(d) **Third Party Damage.**—

(1) **Study.**—The Secretary of Transportation shall conduct a study on the impact of third party damage on pipeline safety.

(2) **Contents.**—The study shall include—

(A) an analysis of the frequency and severity of different types of third party damage incidents;

(B) an analysis of exemptions to the one-call notification system requirements in each State;
(C) a comparison of exemptions to the one-call notification system requirements in each State to the types of third party damage incidents in that State; and

(D) an analysis of the potential safety benefits and adverse consequences of eliminating all exemptions for mechanized excavation from State one-call notification systems.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation a report on the results of the study.

SEC. 4. OFFSHORE GATHERING LINES.

Section 60108(c) is amended by adding at the end the following new paragraph:

“(8) 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 gathering lines. The exceptions described in section 60102(k)(3) shall apply to the requirements of this paragraph. 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 replaced distribution branch services, multifamily facilities, and small commercial facilities.”.

SEC. 7. INTEGRITY MANAGEMENT.

(a) In General.—Section 60109 is amended by adding at the end the following new subsection:

“(g) INTEGRITY MANAGEMENT.—

“(1) EVALUATION.—Within 1 year after the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011, the Secretary shall evaluate, with respect to gas transmission pipeline facilities—

“(A) whether integrity management requirements, or elements thereof, should be expanded beyond high consequence areas (as described in subsection (a)); and

“(B) whether applying integrity management requirements, or elements thereof, to ad-
ditional areas would mitigate the need for class location requirements.

“(2) FACTORS.—In conducting the evaluation under paragraph (1), the Secretary shall consider factors including the following:

“(A) The continuing priority to enhance protections for public safety.

“(B) The continuing importance of reducing risk in high consequence areas, as so defined at the time the Secretary conducts such evaluation.

“(C) The incremental costs of applying integrity management standards to pipelines outside of high consequence areas where operators are already conducting assessments beyond what is required under this chapter.

“(D) The need to undertake integrity management assessments and repairs in a manner which is achievable and sustainable, and which does not disrupt pipeline service.

“(E) The options for phasing in the extension of integrity management requirements beyond high consequence areas, as so defined at the time the Secretary conducts such evaluation, including the most effective and efficient
options for decreasing risks to an increasing number of people living or working in proximity to pipeline facilities.

“(3) REPORT.—Based on the evaluation described in paragraph (1), the Secretary shall submit a report 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 analysis and findings regarding expansion of integrity management requirements, or elements thereof, with respect to gas transmission pipeline facilities, beyond high consequence areas (as described in subsection (a)) and whether applying the integrity management requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

“(4) 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, with respect to gas transmission pipeline facilities, that—

“(A) expand integrity management requirements, or elements thereof, beyond high
consequence areas (as described in subsection (a)); and

“(B) remove redundant class location re-

quirements for gas transmission pipeline facili-

ties that are regulated under an integrity man-

agement program adopted and implemented

under subsection (e)(2).

“(5) DATA REPORTING.—The Secretary shall

collect any relevant data necessary to complete the
evaluation required by paragraph (1) and may col-

lect such additional data pursuant to regulations

promulgated under paragraph (3) as may be nec-

essary.”.

(b) TECHNICAL CORRECTION.—Section

60109(c)(3)(B) is amended to read as follows:

“(B) Subject to paragraph (5), periodic re-

assessments 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 Sec-

retary 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 Hazardous Materials Safety Administration’s public Web site.

“(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. HAZARDOUS LIQUID PIPELINE 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, that require an operator of a hazardous liquid pipeline facility to use leak detection systems, employing technically, operationally, and economically feasible standards established by the Secretary 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 emer-
gency response officials and revise such procedures as ap-
propriate.

(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 pipe-
line facility shall provide immediate telephonic notice of—

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

“(2) an incident, as defined in section 191.3 of

“(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 confirmed
discovery.

“(c) **ESTIMATES OF RELEASE VOLUMES.**—When
providing immediate telephonic notice under subsection
(a), the owner or operator of a pipeline facility shall esti-
mate 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.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that the Secretary prescribes regulations under subsection (c).

(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 au-
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. Such data shall include data relating to the depth of buried pipelines. 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 inter-
national efforts to share information about the risks
to the public and the environment from pipeline fa-
cilities and means of protecting against those risks.
Such cooperation may include the exchange of infor-
mation with domestic and appropriate international
organizations to facilitate efforts to develop and im-
prove safety standards and requirements for pipeline
transportation in or affecting interstate or foreign
commerce.

“(2) Consultation.—To the extent prac-
ticable, subject to guidance from the Secretary of
State, the Secretary may consult with interested au-
thorities in Canada, Mexico, and other interested au-
thorities, 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 re-
liable operation of cross-border pipeline facilities.

“(3) Differences in International Stan-
ards 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 transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

“(2) TRANSPORTATION-RELATED OIL FLOW LINE DEFINED.—In this subsection, the term ‘transportation-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 producer, regardless of the extent to which the oil has been processed, if at all.

“(3) LIMITATION.—Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of 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 described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection 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 oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. The Secretary shall not collect design safe-
ty 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 author-
ized 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 appropi-
tions 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 Sec-
ry 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 incon-
sistent 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 review and comment on the application. If a waiver is granted, the Secretary shall state in the order and associated analysis the reasons for granting it.

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

(b) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall publish a rule, after notice and an opportunity 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—

(1) by inserting “(1)” after “CARBON DIOXIDE REGULATION.—”;

and
(2) by adding at the end the following new paragraph:

“(2) The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state. In establishing the standards, the Secretary shall consider whether applying the minimum safety standards in part 195 of title 49 of the Code of Federal Regulations, as in effect on the date of enactment of the Pipeline Infrastructure and Community Protection Act of 2011 for the transportation of carbon dioxide in a liquid state, to the transportation of carbon dioxide in a gaseous state would ensure safety. Nothing in this subsection authorizes the Secretary to regulate piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treating of carbon dioxide or its preparation for transportation by pipeline at production, refining, or manufacturing facilities.”.

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 in-
crease in risk of release exists for pipeline facilities trans-
porting diluted bitumen. The Secretary shall report the 
results of this review to the Senate Committee on Com-
merce, Science, and Transportation, and the House of 
Representatives Committee on Transportation and Infra-
structure 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 Transpor-
tation 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 by adding at the end the following: “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 section 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 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 pipelines.

(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 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 pipelines.

(2) EXCEEDENCES OF MAXIMUM ALLOWABLE OPERATING PRESSURE.—All pipeline facility operators shall report any exceedence of the maximum 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 OPERATING PRESSURE.—

(1) IN GENERAL.—For any transmission line reported in subsection (b), the Secretary shall require the operator of the transmission line to reconfirm 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 operator to take to maintain safety until a maximum allowable operating pressure is confirmed. In determining what actions an operator should take, the Secretary shall take into account consequences to public safety and the environment, impacts on pipeline 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. If, based on the evaluation, the Secretary determines that such current regulations are insufficient to provide adequate protection against the risk of a release of a hazardous liquid to the extent provided for under section 60102, not later than 2 years after the completion of the evaluation, the Secretary shall by regulation, after notice and an opportunity for a hearing, ensure the adequacy of cover over buried pipelines at crossings of inland bodies of water with a width of at least 100 feet from high water mark to high water mark by addressing cover over such buried pipelines or requiring equivalent protection.”.

(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 Federal and State 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) subject to a risk-based assessment, the modification or revocation of existing statutory or regulatory exemptions.

SEC. 30. NATURAL GAS PIPELINE 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 the tech-
nologies available for detecting leaks from natural gas pipelines. The report shall include an analysis of the effectiveness, benefits, costs, and feasibility of adoption of available technologies, as well as the utility of the data generated by such available technologies for enhancing safety, and what can be done to foster development of additional technologies.

SEC. 31. REPORT ON MINORITY OR WOMAN-OWNED OR DISADVANTAGED BUSINESSES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall, based upon available information, 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—

(1) the number of minority-business enterprises, woman-business enterprises, and disadvantaged-business enterprises that have been granted permits to build or operate pipeline facilities; and

(2) the extent to which pipeline facility operators utilize the services of companies that are minority-business enterprises, woman-business enterprises, or disadvantaged-business enterprises.
SEC. 32. 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.”.

(2) 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.”.

c) 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 sub-
section (b); and

(3) by striking “$1,000,000 for each of the fis-
cal 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 DE-
VELOPMENT.—Section 12 of the Pipeline Safety Improve-
ment 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 RE-
SEARCH AND DEVELOPMENT.—After the initial 5-
year program plan has been carried out by the par-
ticipating 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 sub-
section (f) and inserting “2011 through 2014.”.