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112TH CONGRESS
1ST SESSION

H. R. 2845

[Report No. 112-297, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2011

Mr. SHUSTER (for himself and Mr. MICA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 1, 2011

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 1, 2011

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on September 7, 2011]

A BILL

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

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

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

6 (a) *SHORT TITLE.*—*This Act may be cited as the*
 7 *“Pipeline Safety, Regulatory Certainty, and Job Creation*
 8 *Act of 2011”.*

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

15 (c) *DEFINITIONS.*—*Any term used in this Act that is*
 16 *defined in chapter 601 of title 49, United States Code, shall*
 17 *have the meaning given that term in that chapter.*

18 (d) *TABLE OF CONTENTS.*—*The table of contents for*
 19 *this Act is as follows:*

Sec. 1. Short title; amendment of title 49, United States Code; definitions; table of contents.

Sec. 2. Civil penalties.

Sec. 3. Pipeline damage prevention.

Sec. 4. Automatic and remote-controlled shut-off valves.

Sec. 5. Integrity management.

Sec. 6. Public education and awareness.

Sec. 7. Cast iron gas pipelines.

Sec. 8. Leak detection.

Sec. 9. Accident and incident notification.

Sec. 10. Transportation-related onshore facility response plan compliance.

Sec. 11. Transportation-related oil flow lines.

Sec. 12. Cost recovery for design reviews.

Sec. 13. Biofuel pipelines.

Sec. 14. Carbon dioxide pipelines.

Sec. 15. Study of transportation of diluted bitumen.

Sec. 16. Study of non-petroleum hazardous liquids transported by pipeline.

Sec. 17. Clarifications.

Sec. 18. Maintenance of effort.

Sec. 19. Administrative enforcement process.

Sec. 20. Gas and hazardous liquid gathering lines.

Sec. 21. Authorization of appropriations.

1 SEC. 2. CIVIL PENALTIES.

2 (a) GENERAL PENALTIES; PENALTY CONSIDER-
3 ATIONS.—Section 60122 is amended—

4 (1) in subsection (a)(1)—

5 (A) in the first sentence by striking
6 “\$100,000” and inserting “\$175,000”; and

7 (B) in the last sentence by striking
8 “\$1,000,000” and inserting “\$1,750,000”; and

9 (2) in subsection (b)(1)(B) by striking “the abil-
10 ity to pay,”.

11 (b) OPERATOR ASSISTANCE IN INVESTIGATIONS.—Sec-
12 tion 60118(e) is amended to read as follows:

13 “(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—

14 “(1) ASSISTANCE AND ACCESS.—If the Secretary
15 or the National Transportation Safety Board inves-
16 tigate an accident involving a pipeline facility, the
17 operator of the facility shall—

18 “(A) make available to the Secretary or the
19 Board all records and information that in any
20 way pertain to the accident (including integrity
21 management plans and test results); and

1 “(B) afford all reasonable assistance in the
2 investigation of the accident.

3 “(2) OPERATOR ASSISTANCE IN INVESTIGA-
4 TIONS.—

5 “(A) IN GENERAL.—The Secretary may im-
6 pose a civil penalty under section 60122 on a
7 person who obstructs or prevents the Secretary
8 from carrying out inspections or investigations
9 under this chapter.

10 “(B) DEFINITIONS.—In this paragraph, the
11 following definitions apply:

12 “(i) OBSTRUCTS.—The term ‘obstructs’
13 includes actions that were known, or rea-
14 sonably should have been known, to prevent,
15 hinder, or impede an investigation without
16 good cause.

17 “(ii) GOOD CAUSE.—The term ‘good
18 cause’ includes, at a minimum, restricting
19 access to facilities that are not secure or safe
20 for non-pipeline personnel or visitors.”.

21 “(c) ADMINISTRATIVE PENALTY CAPS INAPPLICABLE.—
22 Section 60120(a)(1) is amended by adding at the end the
23 following: “The maximum amount of civil penalties for ad-
24 ministrative enforcement actions under section 60122 shall
25 not apply to enforcement actions under this section.”.

1 (d) *JUDICIAL REVIEW OF ADMINISTRATIVE ENFORCE-*
 2 *MENT ORDERS.*—Section 60119(a) is amended—

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

6 (2) *by striking “about an application for a*
 7 *waiver under section 60118(c) or (d) of this title” and*
 8 *inserting “under this chapter”.*

9 **SEC. 3. PIPELINE DAMAGE PREVENTION.**

10 (a) *MINIMUM STANDARDS FOR STATE ONE-CALL NO-*
 11 *TIFICATION PROGRAMS.*—Section 6103(a) is amended to
 12 *read as follows:*

13 “(a) *MINIMUM STANDARDS.*—

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

17 “(A) *appropriate participation by all un-*
 18 *derground facility operators, including all gov-*
 19 *ernment operators;*

20 “(B) *appropriate participation by all exca-*
 21 *vators, including all government and contract*
 22 *excavators; and*

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

1 “(2) *EXEMPTIONS PROHIBITED.*—*In order to*
2 *qualify for a grant under section 6106, a State one-*
3 *call notification program may not exempt municipi-*
4 *palities, State agencies, or their contractors from its*
5 *one-call notification system requirements.*”.

6 (b) *STATE DAMAGE PREVENTION PROGRAMS.*—*Sec-*
7 *tion 60134(a) is amended—*

8 (1) *in paragraph (1) by striking “and” after the*
9 *semicolon;*

10 (2) *in paragraph (2)(B) by striking “(b).” and*
11 *inserting “(b); and”; and*

12 (3) *by adding at the end the following:*

13 “(3) *does not provide any exemptions to municipi-*
14 *palities, State agencies, or their contractors from its*
15 *one-call notification system requirements.*”.

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

19 (d) *THIRD PARTY DAMAGE.*—

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

23 (2) *CONTENTS.*—*The study shall include—*

1 (A) an analysis of the frequency and sever-
2 ity of different types of third party damage inci-
3 dents;

4 (B) an analysis of exemptions to the one-
5 call notification system requirements in each
6 State;

7 (C) a comparison of exemptions to the one-
8 call notification system requirements in each
9 State to the types of third party damage inci-
10 dents in that State; and

11 (D) an analysis of the potential safety bene-
12 fits and adverse consequences of eliminating all
13 exemptions for mechanized excavation from State
14 one-call notification systems.

15 (3) *REPORT.*—Not later than 2 years after the
16 date of enactment of this Act, the Secretary shall sub-
17 mit to the House of Representatives Committee on
18 Transportation and Infrastructure and Committee on
19 Energy and Commerce and the Senate Committee on
20 Commerce, Science, and Transportation a report on
21 the results of the study.

22 **SEC. 4. AUTOMATIC AND REMOTE-CONTROLLED SHUT-OFF**
23 **VALVES.**

24 Section 60102 is amended—

25 (1) by striking subsection (j)(3); and

1 (2) *by adding at the end the following:*

2 “(n) *AUTOMATIC AND REMOTE-CONTROLLED SHUT-*
3 *OFF VALVES FOR NEW TRANSMISSION PIPELINES.—*

4 “(1) *IN GENERAL.—The Secretary may require*
5 *by regulation, if determined appropriate by the Sec-*
6 *retary, the use of automatic or remote-controlled shut-*
7 *off valves, or equivalent technology, where economi-*
8 *cally, technically, and operationally feasible on trans-*
9 *mission pipeline facilities constructed or entirely re-*
10 *placed after the date on which the Secretary issues the*
11 *final rule containing such requirement.*

12 “(2) *FACTORS FOR CONSIDERATION.—In deter-*
13 *mining whether to proceed with a rulemaking under*
14 *paragraph (1), the Secretary shall consider the factors*
15 *specified in subsection (b)(2).”.*

16 **SEC. 5. INTEGRITY MANAGEMENT.**

17 (a) *EVALUATION.—Not later than 2 years after the*
18 *date of enactment of this Act, the Secretary of Transpor-*
19 *tation shall evaluate—*

20 (1) *whether integrity management system re-*
21 *quirements, or elements thereof, should be expanded*
22 *beyond high consequence areas; and*

23 (2) *with respect to gas transmission pipeline fa-*
24 *cilities, whether applying integrity management pro-*
25 *gram requirements, or elements thereof, to additional*

1 *areas would mitigate the need for class location re-*
2 *quirements.*

3 *(b) REPAIR CRITERIA.—In conducting the evaluation*
4 *under subsection (a), the Secretary shall consider applying*
5 *repair criteria, such as pressure reductions and special re-*
6 *quirements for scheduling remediation, to areas that are not*
7 *high consequence areas.*

8 *(c) REPORT.—Based on the evaluation to be conducted*
9 *under subsection (a), the Secretary shall submit to the*
10 *House of Representatives Committee on Transportation and*
11 *Infrastructure and Committee on Energy and Commerce*
12 *and the Senate Committee on Commerce, Science, and*
13 *Transportation a report containing the Secretary’s analysis*
14 *and findings regarding—*

15 *(1) expansion of integrity management require-*
16 *ments, or elements thereof, beyond high consequence*
17 *areas; and*

18 *(2) with respect to gas transmission pipeline fa-*
19 *cilities, whether applying the integrity management*
20 *program requirements, or elements thereof, to addi-*
21 *tional areas would mitigate the need for class location*
22 *requirements.*

23 *(d) DATA REPORTING.—The Secretary shall collect*
24 *any relevant data necessary to complete the evaluation re-*
25 *quired by subsection (a).*

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

3 “(B) *Subject to paragraph (5), periodic re-*
4 *assessments of the facility, at a minimum of once*
5 *every 7 calendar years, using methods described*
6 *in subparagraph (A). Such deadline shall be ex-*
7 *tended for an additional 6 months if the oper-*
8 *ator submits written notice to the Secretary that*
9 *includes an explanation of the need for the exten-*
10 *sion.”.*

11 (f) *RULEMAKING REQUIREMENTS.—*

12 (1) *REVIEW PERIOD DEFINED.—In this sub-*
13 *section, the term “review period” means the period*
14 *beginning on the date of enactment of this Act and*
15 *ending on the earlier of—*

16 (A) *the date that is 1 year after the date of*
17 *completion of the report under subsection (c); or*

18 (B) *the date that is 3 years after the date*
19 *of enactment of this Act.*

20 (2) *CONGRESSIONAL AUTHORITY.—In order to*
21 *provide Congress the necessary time to review the re-*
22 *sults of the report required by subsection (c) and im-*
23 *plement appropriate recommendations, the Secretary*
24 *shall not, during the review period, proceed with a*

1 *rulemaking to prescribe regulations described in para-*
2 *graph (3).*

3 (3) *STANDARDS.—Following the review period,*
4 *the Secretary may, as appropriate, prescribe regula-*
5 *tions that—*

6 (A) *expand integrity management system*
7 *requirements, or elements thereof, beyond high*
8 *consequence areas; and*

9 (B) *remove redundant class location re-*
10 *quirements for gas transmission pipeline facili-*
11 *ties that are regulated under an integrity man-*
12 *agement program adopted and implemented*
13 *under section 60109(c)(2) of title 49, United*
14 *States Code.*

15 (4) *SAVINGS CLAUSE.—*

16 (A) *IN GENERAL.—Notwithstanding any*
17 *other provision of this subsection, the Secretary,*
18 *during the review period, may proceed to a rule-*
19 *making to prescribe regulations described in*
20 *paragraph (3), and may prescribe the regula-*
21 *tions, if the Secretary determines that a condi-*
22 *tion that poses a risk to public safety, property,*
23 *or the environment is present or an imminent*
24 *hazard exists and that the rulemaking will ad-*
25 *dress the risk or hazard.*

1 (B) *IMMINENT HAZARD DEFINED.*—*In sub-*
2 *paragraph (A), the term “imminent hazard”*
3 *means the existence of a condition related to*
4 *pipelines or pipeline operations that presents a*
5 *substantial likelihood that death, serious illness,*
6 *severe personal injury, or substantial*
7 *endangerment to health, property, or the envi-*
8 *ronment may occur.*

9 (g) *REPORT TO CONGRESS ON RISK-BASED PIPELINE*
10 *REASSESSMENT INTERVALS.*—*Not later than 2 years after*
11 *the date of enactment of this Act, the Comptroller General*
12 *of the United States shall evaluate—*

13 (1) *whether risk-based reassessment intervals are*
14 *a more effective alternative for managing risks to*
15 *pipelines in high-consequence areas once baseline as-*
16 *sessments are complete when compared to a 7-year re-*
17 *assessment interval;*

18 (2) *the number of anomalies found in baseline*
19 *assessments required under section 60109(c)(3)(A) of*
20 *title 49, United States Code, as compared to the num-*
21 *ber of anomalies found in reassessments required*
22 *under section 60109(c)(3)(B) of such title; and*

23 (3) *the progress made in incorporating the rec-*
24 *ommendations in GAO Report 06–945 and the cur-*

1 *rent relevance of recommendations not incorporated to*
2 *date.*

3 *(h) HIGH CONSEQUENCE AREA DEFINED.—In this*
4 *section, the term “high consequence area” means an area*
5 *described in section 60109(a) of title 49, United States*
6 *Code.*

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

8 *(a) NATIONAL PIPELINE MAPPING SYSTEM.—*

9 *(1) MAP OF HIGH CONSEQUENCE AREAS.—The*
10 *Secretary of Transportation shall—*

11 *(A) maintain, as part of the National Pipe-*
12 *line Mapping System, a map of all designated*
13 *high consequence areas (as described in section*
14 *60109(a) of title 49, United States Code) in*
15 *which pipelines are required to meet integrity*
16 *management safety regulations, excluding any*
17 *proprietary or sensitive security information;*
18 *and*

19 *(B) update the map biennially.*

20 *(2) PROGRAM TO PROMOTE AWARENESS OF NA-*
21 *TIONAL PIPELINE MAPPING SYSTEM.—Not later than*
22 *1 year after the date of enactment of this Act, the Sec-*
23 *retary shall develop and implement a program pro-*
24 *moting greater awareness of the existence of the Na-*
25 *tional Pipeline Mapping System to State and local*

1 *emergency responders and other interested parties.*
2 *The program shall include guidance on how to use the*
3 *National Pipeline Mapping System to locate pipelines*
4 *in communities and local jurisdictions.*

5 *(b) INFORMATION TO EMERGENCY RESPONSE AGEN-*
6 *CIES.—*

7 *(1) GUIDANCE.—Not later than 18 months after*
8 *the date of enactment of this Act, the Secretary shall*
9 *issue guidance to owners and operators of pipeline fa-*
10 *ilities on the importance of providing system-specific*
11 *information about their pipeline facilities to emer-*
12 *gency response agencies of the communities and juris-*
13 *dictions in which those facilities are located.*

14 *(2) CONSULTATION.—Before issuing guidance*
15 *under paragraph (1), the Secretary shall consult with*
16 *owners and operators of pipeline facilities to deter-*
17 *mine the extent to which the owners and operators are*
18 *already providing system-specific information about*
19 *their pipeline facilities to emergency response agen-*
20 *cies.*

21 **SEC. 7. CAST IRON GAS PIPELINES.**

22 *(a) FOLLOW-UP SURVEYS.—Section 60108(d) is*
23 *amended by adding at the end the following:*

24 *“(4) Not later than December 31, 2012, and every 2*
25 *years thereafter, the Secretary shall conduct a follow-up*

1 *survey to measure the progress that owners and operators*
2 *of pipeline facilities have made in implementing their plans*
3 *for the safe management and replacement of cast iron gas*
4 *pipelines.”.*

5 (b) *STATUS REPORT.*—*Not later than December 31,*
6 *2013, the Secretary of Transportation shall transmit to the*
7 *House of Representatives Committee on Transportation and*
8 *Infrastructure and Committee on Energy and Commerce*
9 *and the Senate Committee on Commerce, Science, and*
10 *Transportation a report that—*

11 (1) *identifies the total mileage of cast iron gas*
12 *pipelines in the United States; and*

13 (2) *evaluates the progress that owners and opera-*
14 *tors of pipeline facilities have made in implementing*
15 *their plans for the safe management and replacement*
16 *of cast iron gas pipelines.*

17 **SEC. 8. LEAK DETECTION.**

18 (a) *LEAK DETECTION REPORT.*—

19 (1) *IN GENERAL.*—*Not later than 1 year after*
20 *the date of enactment of this Act, the Secretary of*
21 *Transportation shall submit to the Senate Committee*
22 *on Commerce, Science, and Transportation and the*
23 *House of Representatives Committee on Transpor-*
24 *tation and Infrastructure and Committee on Energy*
25 *and Commerce a report on leak detection systems uti-*

1 *lized by operators of hazardous liquid pipeline facili-*
2 *ties and transportation-related flow lines.*

3 (2) *CONTENTS.—The report shall include—*

4 (A) *an analysis of the technical limitations*
5 *of current leak detection systems, including the*
6 *systems’ ability to detect ruptures and small*
7 *leaks that are ongoing or intermittent, and what*
8 *can be done to foster development of better tech-*
9 *nologies; and*

10 (B) *an analysis of the feasibility of estab-*
11 *lishing technically, operationally, and economi-*
12 *cally feasible standards for the capability of such*
13 *systems to detect leaks, and the safety benefits*
14 *and adverse consequences of requiring operators*
15 *to use leak detection systems.*

16 (b) *RULEMAKING REQUIREMENTS.—*

17 (1) *REVIEW PERIOD DEFINED.—In this sub-*
18 *section, the term “review period” means the period*
19 *beginning on the date of enactment of this Act and*
20 *ending on the earlier of—*

21 (A) *the date that is 1 year after the date of*
22 *completion of the report under subsection (a); or*

23 (B) *the date that is 2 years after the date*
24 *of enactment of this Act.*

1 (2) *CONGRESSIONAL AUTHORITY.*—*In order to*
2 *provide Congress the necessary time to review the re-*
3 *sults of the report required by subsection (a) and im-*
4 *plement appropriate recommendations, the Secretary*
5 *shall not, during the review period, proceed with a*
6 *rulemaking to prescribe regulations described in para-*
7 *graph (3).*

8 (3) *STANDARDS.*—*Following the review period,*
9 *the Secretary may, as appropriate, prescribe regula-*
10 *tions that—*

11 (A) *require operators of hazardous liquid*
12 *pipeline facilities to use leak detection systems;*
13 *and*

14 (B) *establish technically, operationally, and*
15 *economically feasible standards for the capability*
16 *of such systems to detect leaks.*

17 (4) *SAVINGS CLAUSE.*—

18 (A) *IN GENERAL.*—*Notwithstanding any*
19 *other provision of this subsection, the Secretary,*
20 *during the review period, may proceed to a rule-*
21 *making to prescribe regulations described in*
22 *paragraph (3), and may prescribe the regula-*
23 *tions, if the Secretary determines that a condi-*
24 *tion that poses a risk to public safety, property,*
25 *or the environment is present or an imminent*

1 *hazard exists and that the rulemaking will ad-*
2 *dress the risk or hazard.*

3 *(B) IMMINENT HAZARD DEFINED.—In sub-*
4 *paragraph (A), the term “imminent hazard”*
5 *means the existence of a condition related to*
6 *pipelines or pipeline operations that presents a*
7 *substantial likelihood that death, serious illness,*
8 *severe personal injury, or substantial*
9 *endangerment to health, property, or the envi-*
10 *ronment may occur.*

11 **SEC. 9. ACCIDENT AND INCIDENT NOTIFICATION.**

12 *(a) REVISION OF REGULATIONS.—Not later than 18*
13 *months after the date of enactment of this Act, the Secretary*
14 *of Transportation shall revise regulations issued under sec-*
15 *tions 191.5 and 195.52 of title 49, Code of Federal Regula-*
16 *tions, to establish specific time limits for telephonic or elec-*
17 *tronic notice of accidents and incidents involving pipeline*
18 *facilities to the Secretary and the National Response Cen-*
19 *ter.*

20 *(b) MINIMUM REQUIREMENTS.—In revising the regu-*
21 *lations, the Secretary, at a minimum, shall—*

22 *(1) establish time limits for telephonic or elec-*
23 *tronic notification of an accident or incident to re-*
24 *quire such notification not less than 1 hour and not*

1 *more than 2 hours after discovery of the accident or*
2 *incident;*

3 (2) *review procedures for owners and operators*
4 *of pipeline facilities and the National Response Cen-*
5 *ter to provide thorough and coordinated notification*
6 *to all relevant State and local emergency response of-*
7 *icials, including 911 emergency call centers, for the*
8 *jurisdictions in which those pipeline facilities are lo-*
9 *cated in the event of an accident or incident, and re-*
10 *visе such procedures as appropriate; and*

11 (3) *require such owners and operators to revise*
12 *their initial telephonic or electronic notice to the Sec-*
13 *retary and the National Response Center with an es-*
14 *timated amount of the product released, an estimated*
15 *number of fatalities and injuries, if any, and any*
16 *other information determined appropriate by the Sec-*
17 *retary within 24 to 48 hours of the accident or inci-*
18 *dent, to the extent practicable.*

19 (c) *UPDATING OF REPORTS.—After receiving revisions*
20 *described in subsection (b)(3), the National Response Center*
21 *shall update the initial report on an accident or incident*
22 *instead of generating a new report.*

1 **SEC. 10. TRANSPORTATION-RELATED ONSHORE FACILITY**
2 **RESPONSE PLAN COMPLIANCE.**

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

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

12 **SEC. 11. TRANSPORTATION-RELATED OIL FLOW LINES.**

13 Section 60102, as amended by this Act, is further
14 amended by adding at the end the following:

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

16 “(1) *DATA COLLECTION.*—The Secretary may
17 collect geospatial or technical data on transportation-
18 related oil flow lines, including unregulated transpor-
19 tation-related oil flow lines.

20 “(2) *TRANSPORTATION-RELATED OIL FLOW LINE*
21 *DEFINED.*—In this subsection, the term ‘transpor-
22 tation-related oil flow line’ means a pipeline trans-
23 porting oil off of the grounds of the well where it
24 originated across areas not owned by the producer, re-
25 gardless of the extent to which the oil has been proc-
26 essed, if at all.

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

6 **SEC. 12. COST RECOVERY FOR DESIGN REVIEWS.**

7 *(a) IN GENERAL.*—Section 60117(n) is amended to
8 *read as follows:*

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

10 “(1) *IN GENERAL.*—

11 “(A) *REVIEW COSTS.*—For any project de-
12 *scribed in subparagraph (B), if the Secretary*
13 *conducts facility design safety reviews in connec-*
14 *tion with a proposal to construct, expand, or op-*
15 *erate a new gas or hazardous liquid pipeline fa-*
16 *ility or liquefied natural gas pipeline facility,*
17 *the Secretary may require the person proposing*
18 *the project to pay the costs incurred by the Sec-*
19 *retary relating to such reviews. If the Secretary*
20 *exercises the cost recovery authority described in*
21 *this subsection, the Secretary shall prescribe a fee*
22 *structure and assessment methodology that is*
23 *based on the costs of providing these reviews and*
24 *shall prescribe procedures to collect fees under*
25 *this subsection. The Secretary shall not collect*

1 *design safety review fees under this chapter and*
2 *section 60301 for the same design safety review.*

3 “(B) *PROJECTS TO WHICH APPLICABLE.—*

4 *Subparagraph (A) applies to any project that—*

5 “(i) *has design and construction costs*
6 *totaling at least \$3,400,000,000, as adjusted*
7 *for inflation, based on a good faith estimate*
8 *developed by the person proposing the*
9 *project; or*

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

12 “(2) *NOTIFICATION.—For any new pipeline fa-*
13 *cility construction project for which the Secretary will*
14 *conduct design reviews, the person proposing the*
15 *project shall notify the Secretary and provide the de-*
16 *sign specifications, construction plans and proce-*
17 *dures, and related materials at least 120 days prior*
18 *to the commencement of construction. If the Secretary*
19 *determines that the proposed design of the project is*
20 *inconsistent with pipeline safety, the Secretary shall*
21 *provide written comments, feedback, and guidance on*
22 *the project on or before the 60th day following the*
23 *date of receipt of the design specifications, construc-*
24 *tion plans and procedures, and related materials for*
25 *the project.*

1 “(3) *PIPELINE SAFETY DESIGN REVIEW FUND.*—

2 “(A) *ESTABLISHMENT.*—*There is estab-*
3 *lished a Pipeline Safety Design Review Fund in*
4 *the Treasury of the United States.*

5 “(B) *DEPOSITS.*—*The Secretary shall de-*
6 *posit funds paid under this subsection into the*
7 *Fund.*

8 “(C) *USE.*—*Amounts in the Fund shall be*
9 *available to the Secretary, in amounts specified*
10 *in appropriations Acts, to offset the costs of con-*
11 *ducting facility design safety reviews under this*
12 *subsection.*

13 “(4) *NO ADDITIONAL PERMITTING AUTHORITY.*—
14 *Nothing in this subsection shall be construed as au-*
15 *thorizing the Secretary to require a person to obtain*
16 *a permit before beginning design and construction in*
17 *connection with a project described in paragraph*
18 *(1)(B).”.*

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

1 **SEC. 13. BIOFUEL PIPELINES.**

2 *Section 60101(a)(4) is amended—*

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

5 *(2) by redesignating subparagraph (B) as sub-*
6 *paragraph (C); and*

7 *(3) by inserting after subparagraph (A) the fol-*
8 *lowing:*

9 *“(B) non-petroleum fuels, including*
10 *biofuels, that are flammable, toxic, or corrosive*
11 *or would be harmful to the environment if re-*
12 *leased in significant quantities; and”.*

13 **SEC. 14. CARBON DIOXIDE PIPELINES.**

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

15 *“(i) PIPELINES TRANSPORTING CARBON DIOXIDE.—*

16 *“(1) MINIMUM SAFETY STANDARDS.—The Sec-*
17 *retary shall prescribe minimum safety standards for*
18 *the transportation of carbon dioxide by pipeline in a*
19 *gaseous state.*

20 *“(2) STANDARDS APPLICABLE TO CERTAIN PIPE-*
21 *LINES.—For pipelines that transport carbon dioxide*
22 *in both a liquid and gaseous state, the Secretary shall*
23 *apply standards, in effect on the date of enactment of*
24 *the Pipeline Safety, Regulatory Certainty, and Job*
25 *Creation Act of 2011, for the transportation of carbon*
26 *dioxide by pipeline in a liquid state to the transpor-*

1 *tation of carbon dioxide by pipeline in a gaseous*
 2 *state.”.*

3 **SEC. 15. STUDY OF TRANSPORTATION OF DILUTED BITU-**
 4 **MEN.**

5 *Not later than 18 months after the date of enactment*
 6 *of this Act, the Secretary of Transportation shall complete*
 7 *a comprehensive review of hazardous liquid pipeline facility*
 8 *regulations to determine whether these regulations are suffi-*
 9 *cient to regulate pipeline facilities used for the transpor-*
 10 *tation of diluted bitumen. In conducting this review, the*
 11 *Secretary shall conduct an analysis of whether any increase*
 12 *in risk of release exists for pipeline facilities transporting*
 13 *diluted bitumen. The Secretary shall report the results of*
 14 *this review to the Senate Committee on Commerce, Science,*
 15 *and Transportation and the House of Representatives Com-*
 16 *mittee on Transportation and Infrastructure and Com-*
 17 *mittee on Energy and Commerce.*

18 **SEC. 16. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS**
 19 **TRANSPORTED BY PIPELINE.**

20 *The Secretary of Transportation may conduct an*
 21 *analysis of the transportation of non-petroleum hazardous*
 22 *liquids by pipeline facility for the purpose of identifying*
 23 *the extent to which pipeline facilities are currently being*
 24 *used to transport non-petroleum hazardous liquids, such as*
 25 *chlorine, from chemical production facilities across land*

1 areas not owned by the producer that are accessible to the
2 public. The analysis should identify the extent to which the
3 safety of the pipeline facilities is unregulated by the States
4 and evaluate whether the transportation of such chemicals
5 by pipeline facility across areas accessible to the public
6 would present significant risks to public safety, property,
7 or the environment in the absence of regulation. The results
8 of the analysis shall be made available to the Senate Com-
9 mittee on Commerce, Science, and Transportation and the
10 House of Representatives Committee on Transportation and
11 Infrastructure and Committee on Energy and Commerce.

12 **SEC. 17. CLARIFICATIONS.**

13 (a) *AMENDMENT OF PROCEDURES CLARIFICATION.*—
14 Section 60108(a)(1) is amended by striking “an intrastate”
15 and inserting “a”.

16 (b) *OWNER AND OPERATOR CLARIFICATION.*—Section
17 60102(a)(2)(A) is amended by striking “owners and opera-
18 tors” and inserting “any or all of the owners or operators”.

19 **SEC. 18. MAINTENANCE OF EFFORT.**

20 Section 60107(b) is amended by adding at the end the
21 following: “For each of fiscal years 2012 and 2013, the Sec-
22 retary shall grant such a wavier to a State if the State
23 can demonstrate an inability to maintain or increase the
24 required funding share of its pipeline safety program at or
25 above the level required by this subsection due to economic

1 *hardship in that State. For fiscal year 2014 and each fiscal*
2 *year thereafter, the Secretary may grant such a waiver to*
3 *a State if the State can make the demonstration described*
4 *in the preceding sentence.”.*

5 **SEC. 19. ADMINISTRATIVE ENFORCEMENT PROCESS.**

6 *(a) ISSUANCE OF REGULATIONS.—*

7 *(1) IN GENERAL.—Not later than 2 years after*
8 *the date of enactment of this Act, the Secretary shall*
9 *prescribe regulations—*

10 *(A) requiring hearings under sections*
11 *60112, 60117, 60118, and 60122 to be convened*
12 *before a presiding official;*

13 *(B) providing the opportunity for any per-*
14 *son requesting a hearing under section 60112,*
15 *60117, 60118, or 60122 to arrange for a tran-*
16 *script of that hearing, at the expense of the re-*
17 *questing person;*

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

20 *(D) implementing a separation of functions*
21 *between personnel involved with investigative*
22 *and prosecutorial activities and advising the*
23 *Secretary on findings and determinations; and*

1 (E) *prohibiting ex-parte communication*
2 *relevant to the question to be decided in the case*
3 *by parties to an investigation or hearing.*

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

6 (A) *define the term “presiding official” to*
7 *mean the person who conducts any hearing relat-*
8 *ing to civil penalty assessments, compliance or-*
9 *ders, safety orders, or corrective action orders;*
10 *and*

11 (B) *require that the presiding official must*
12 *be an attorney on the staff of the Deputy Chief*
13 *Counsel that is not engaged in investigative or*
14 *prosecutorial functions, including the prepara-*
15 *tion of notices of probable violations, notices re-*
16 *lating to civil penalty assessments, notices relat-*
17 *ing to compliance, or notices of proposed correc-*
18 *tive actions.*

19 (3) *EXPEDITED REVIEW.*—*The regulations pre-*
20 *scribed under this subsection shall define the term*
21 *“expedited review” for the purposes of paragraph*
22 *(1)(C).*

23 (b) *STANDARDS OF JUDICIAL REVIEW.*—*Section*
24 *60119(a) is amended by adding at the end the following*
25 *new paragraph:*

1 “(3) *A judicial review of agency action under this sec-*
2 *tion shall apply the standards of review established in sec-*
3 *tion 706 of title 5.”.*

4 **SEC. 20. GAS AND HAZARDOUS LIQUID GATHERING LINES.**

5 (a) *REVIEW.*—*The Secretary of Transportation shall*
6 *complete a review of existing Federal and State regulations*
7 *for gas and hazardous liquid gathering lines located onshore*
8 *and offshore in the United States, including within the in-*
9 *lets of the Gulf of Mexico.*

10 (b) *REPORT TO CONGRESS.*—

11 (1) *IN GENERAL.*—*Not later than 2 years after*
12 *the date of enactment of this Act, the Secretary shall*
13 *submit to the House of Representatives Committee on*
14 *Transportation and Infrastructure and Committee on*
15 *Energy and Commerce and the Senate Committee on*
16 *Commerce, Science, and Transportation a report on*
17 *the results of the review.*

18 (2) *RECOMMENDATIONS.*—*The report shall in-*
19 *clude the Secretary’s recommendations with respect*
20 *to—*

21 (A) *the sufficiency of existing Federal and*
22 *State laws and regulations to ensure the safety*
23 *of gas and hazardous liquid gathering lines;*

24 (B) *quantifying the economical and tech-*
25 *nical practicability and challenges of applying*

1 *existing Federal regulations to gathering lines*
2 *that are currently not subject to Federal regula-*
3 *tion when compared to the public safety benefits;*
4 *and*

5 *(C) subject to a risk-based assessment, the*
6 *need to modify or revoke existing exemptions*
7 *from Federal regulation for gas and hazardous*
8 *liquid gathering lines.*

9 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

10 *(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a)*
11 *is amended to read as follows:*

12 “*(a) GAS AND HAZARDOUS LIQUID.—*

13 “*(1) IN GENERAL.—To carry out the provisions*
14 *of this chapter related to gas and hazardous liquid*
15 *and section 12 of the Pipeline Safety Improvement*
16 *Act of 2002 (49 U.S.C. 60101 note; Public Law 107–*
17 *355), there is authorized to be appropriated to the De-*
18 *partment of Transportation for each of fiscal years*
19 *2012 through 2015, from fees collected under section*
20 *60301, \$88,014,000, of which \$4,686,000 is for car-*
21 *rying out such section 12 and \$34,461,000 is for mak-*
22 *ing grants.*

23 “*(2) TRUST FUND AMOUNTS.—In addition to the*
24 *amounts authorized to be appropriated by paragraph*
25 *(1), there is authorized to be appropriated for each of*

1 *fiscal years 2012 through 2015 from the Oil Spill Li-*
2 *ability Trust Fund to carry out the provisions of this*
3 *chapter related to hazardous liquid and section 12 of*
4 *the Pipeline Safety Improvement Act of 2002 (49*
5 *U.S.C. 60101 note; Public Law 107–355),*
6 *\$18,905,000, of which \$2,185,000 is for carrying out*
7 *such section 12 and \$4,985,000 is for making*
8 *grants.”.*

9 **(b) EMERGENCY RESPONSE GRANTS.**—Section
10 60125(b)(2) is amended by striking “2007 through 2010”
11 and inserting “2012 through 2015”.

12 **(c) ONE-CALL NOTIFICATION PROGRAMS.**—Section
13 6107 is amended—

14 (1) in subsection (a) by striking “2007 through
15 2010.” and inserting “2012 through 2015.”;

16 (2) in subsection (b) by striking “2007 through
17 2010.” and inserting “2012 through 2015.”; and

18 (3) by striking subsection (c).

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

21 “(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is
22 authorized to be appropriated to the Secretary to provide
23 grants under this section \$1,500,000 for each of fiscal years
24 2012 through 2015. Such funds shall remain available until
25 expended.”.

1 (e) *COMMUNITY PIPELINE SAFETY INFORMATION*

2 *GRANTS.*—*Section 60130 is amended—*

3 (1) *in subsection (b)—*

4 (A) *by inserting “to grant recipients and*
5 *their contractors” after “this section”; and*

6 (B) *by inserting “, for any type of advocacy*
7 *activity for or against a pipeline construction or*
8 *expansion project,” after “for lobbying”; and*

9 (2) *in subsection (d) by striking “2010” and in-*
10 *serting “2015”.*

11 (f) *PIPELINE TRANSPORTATION RESEARCH AND DE-*

12 *VELOPMENT.*—*Section 12 of the Pipeline Safety Improve-*
13 *ment Act of 2002 (49 U.S.C. 60101 note) is amended—*

14 (1) *in subsection (d) by adding at the end the*
15 *following:*

16 “(3) *ONGOING PIPELINE TRANSPORTATION RE-*
17 *SEARCH AND DEVELOPMENT.*—

18 “(A) *IN GENERAL.*—*After the initial 5-year*
19 *program plan has been carried out by the par-*
20 *ticipating agencies, the Secretary of Transpor-*
21 *tation shall prepare a research and development*
22 *program plan every 5 years thereafter and shall*
23 *transmit a report to Congress on the status and*
24 *results-to-date of implementation of the program*
25 *every 2 years.*

1 “(B) *CONSULTATION.*—*The Secretary of*
2 *Transportation shall comply with the consulta-*
3 *tion requirements of subsection (d)(2) when pre-*
4 *paring the program plan and in the selection*
5 *and prioritization of research and development*
6 *projects.*

7 “(C) *FUNDING FROM NON-FEDERAL*
8 *SOURCES.*—*When carrying out research and de-*
9 *velopment activities, the Secretary, to the great-*
10 *est extent practicable, shall obtain funding for*
11 *research and development projects from non-Fed-*
12 *eral sources.”; and*

13 *(2) in subsection (f) by striking “2003 through*
14 *2006.” and inserting “2012 through 2015.”.*

Union Calendar No. 197

112TH CONGRESS
1ST Session

H. R. 2845

[Report No. 112-297, Part I]

A BILL

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

DECEMBER 1, 2011

Reported from the Committee on Transportation and
Infrastructure with an amendment

DECEMBER 1, 2011

The Committee on Energy and Commerce discharged,
committed to the Committee of the Whole House on
the State of the Union and ordered to be printed