

# Hazardous Liquid Pipeline Safety Act of 1979

## 49 U.S.C. § 60101 : US Code - Section 60101: Definitions

(a) General. - In this chapter -

(1) "existing liquefied natural gas facility" -

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with -

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval;

(2) "gas" means natural gas, flammable gas, or toxic or corrosive gas;

(3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation;

(4) "hazardous liquid" means -

(A) petroleum or a petroleum product; and

(B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas);

(5) "hazardous liquid pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid;

(6) "interstate gas pipeline facility" -

(A) means a gas pipeline facility -

(i) used to transport gas; and

(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;

(7) "interstate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce;

(8) "interstate or foreign commerce" -

(A) related to gas, means commerce -

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause

(A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between -  
(i) a place in a State and a place outside that State; or  
(ii) places in the same State through a place outside the State;

(9) "intrastate gas pipeline facility" means -  
(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and  
(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;

(10) "intrastate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility;

(11) "liquefied natural gas" means natural gas in a liquid or semisolid state;

(12) "liquefied natural gas accident" means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment;

(13) "liquefied natural gas conversion" means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural gas;

(14) "liquefied natural gas pipeline facility" -  
(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but  
(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796));

(15) "municipality" means a political subdivision of a State;

(16) "new liquefied natural gas pipeline facility" means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility;

(17) "person", in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person;

(18) "pipeline facility" means a gas pipeline facility and a hazardous liquid pipeline facility;

(19) "pipeline transportation" means transporting gas and transporting hazardous liquid;

(20) "State" means a State of the United States, the District of Columbia, and Puerto Rico;

(21) "transporting gas" -  
(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but  
(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that

the term "transporting gas" includes the movement of gas through regulated gathering lines;

(22) "transporting hazardous liquid" -

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through -

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;

(23) "risk management" means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

(24) "risk management plan" means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

(25) "Secretary" means the Secretary of Transportation.

(b) Gathering Lines. - (1) (A) Not later than October 24, 1994, the Secretary shall prescribe standards defining the term "gathering line".

(B) In defining "gathering line" for gas, the Secretary -

(i) shall consider functional and operational characteristics of the lines to be included in the definition; and

(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2) (A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term "regulated gathering line". In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.

(B) (i) The Secretary also shall consider diameter when defining "regulated gathering line" for hazardous liquid.

(ii) The definition of "regulated gathering line" for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

## **49 U.S.C. § 60102 : US Code - Section 60102: Purpose and general authority**

(a) Purpose and Minimum Safety Standards. -

(1) Purpose. - The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the

regulatory and enforcement authority of the Secretary of Transportation.

(2) Minimum safety standards. - The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards -

(A) apply to owners and operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

(3) Qualifications of pipeline operators. - The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

(b) Practicability and Safety Needs Standards. -

(1) In general. - A standard prescribed under subsection (a) shall be -

(A) practicable; and

(B) designed to meet the need for -

(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) Factors for consideration. - When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider -

(A) relevant available -

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; and

(iii) environmental information;

(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(C) the reasonableness of the standard;

(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

(F) comments and information received from the public; and

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

(3) Risk assessment. - In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall -

(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

(B) identify the costs and benefits associated with the proposed standard;

(C) include -  
(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and  
(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and  
(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

(4) Review. -  
(A) In general. - The Secretary shall -  
(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and  
(ii) make that risk assessment information available to the general public.  
(B) Peer review panels. - The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes -  
(i) an evaluation of the merit of the data and methods used; and  
(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.  
(C) Review by secretary. - Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary -  
(i) shall review the report;  
(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and  
(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

(5) Secretarial decisionmaking. - Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter (!1) only upon a reasoned determination that the benefits of the intended standard justify its costs.

(6) Exceptions from application. - The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when -  
(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;  
(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or  
(C) the Secretary finds, pursuant to section 553(b) (3) (B) of

title 5, United States Code, that notice and public procedure are not required.

(7) Report. - Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that -

(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decisionmaking and pipeline safety; and

(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.

(c) Public Safety Program Requirements. - (1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that -

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(4) Promoting public awareness. -

(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, (!2) and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

(B) (i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

(ii) Not later than one year after the survey and assessment

are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.

(d) Facility Operation Information Standards. - The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain, to the extent practicable, information related to operating the facility as required by the standards prescribed under this chapter and, when requested, to make the information available to the Secretary and an appropriate State official as determined by the Secretary. The information shall include -

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of -

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of -

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including -

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) Pipe Inventory Standards. - The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transportation of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory -

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, but shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) Standards as Accommodating "Smart Pigs". -

(1) Minimum safety standards. - The Secretary shall prescribe minimum safety standards requiring that -

(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as "smart pigs"). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.

(2) Periodic inspections. - Not later than October 24, 1995, the Secretary shall prescribe, if necessary, additional standards requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The standards shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

(g) Effective Dates. - A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h) Safety Condition Reports. - (1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any -

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) Carbon Dioxide Regulation. - The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility.

The Secretary shall prescribe standards related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(j) Emergency Flow Restricting Devices. - (1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe standards on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility.

(3) Remotely controlled valves. - (A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.

(k) Prohibition Against Low Internal Stress Exception. - The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress.

(l) Updating Standards. - The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.

(m) Inspections by Direct Assessment. - Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.

## **49 U.S.C. § 60103 : US Code - Section 60103: Standards for liquefied natural gas pipeline facilities**

a) Location Standards. - The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the -

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;

(3) existing and proposed land use near the location;

(4) natural physical aspects of the location;

(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and

(6) need to encourage remote siting.

(b) Design, Installation, Construction, Inspection, and Testing Standards. - The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider -

(1) the characteristics of material to be used in constructing the facility and of alternative material;

(2) design factors;

(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and

(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) Nonapplication. - (1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given -

(A) under this chapter; or

(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard -

(i) does not make the component or part incompatible with other components or parts; or

(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) Operation and Maintenance Standards. - The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider -

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

- (4) maintenance procedures and equipment;
  - (5) the training of personnel in matters specified by this subsection; and
  - (6) other factors and conditions related to the safe handling of liquefied natural gas.
- (e) Effective Dates. - A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.
- (f) Contingency Plans. - A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.
- (g) Effect on Other Standards. - This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

## **49 U.S.C. § 60104 : US Code - Section 60104: Requirements and limitations**

- a) Opportunity To Present Views. - The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.
- (b) Nonapplication. - A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.
- (c) Preemption. - A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.
- (d) Consultation. - (1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the

standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) Location and Routing of Facilities. - This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

## **49 U.S.C. § 60105 : US Code - Section 60105: State pipeline safety program certifications**

a) General Requirements and Submission. - Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) Contents. - Each certification submitted under subsection (a) of this section shall state that the State authority -

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law

of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a) (1) and (b)-(f) of this title.

(c) Reports. - (1) Each certification submitted under subsection (a) of this section shall include a report that contains -  
(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) Application. - A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) Monitoring. - The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) Rejections of Certification. - If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

## **49 U.S.C. § 60106 : US Code - Section 60106: State pipeline safety agreements**

(a) Agreements Without Certification. - If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall -

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and  
(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) Agreements With Certification. -

(1) In general. - If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

(2) Determinations required. - The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that -

(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) Existing agreements. - If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if -

(A) the State authority fails to comply with the terms of the agreement;

(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

(c) Notification. -

(1) In general. - Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(2) Response by secretary. - If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall -

(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.

(d) Monitoring. - The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(e) Ending Agreements. -

(1) Permissive termination. - The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

(2) Mandatory termination of agreement. - The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that -

(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

(3) Procedural requirements. - The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.

## **49 U.S.C. § 60107 : US Code - Section 60107: State pipeline safety grants**

(a) General Authority. - If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year -

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

(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 -

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) Apportionment and Method of Payment. - The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) Additional Authority and Considerations. - (1) The Secretary may prescribe -

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may -

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

## **49 U.S.C. § 60108 : US Code - Section 60108: Inspection and maintenance**

(a) Plans. - (1) Each person owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider -

- (A) relevant available pipeline safety information;
- (B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;
- (C) the reasonableness of the plan; and
- (D) the extent to which the plan will contribute to public safety and the protection of the environment.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title.

(b) Inspection and Testing. - (1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

- (A) the location of the pipeline facility.
- (B) the type, size, age, manufacturer, method of construction, and condition of the pipeline facility.
- (C) the nature and volume of material transported through the pipeline facility.
- (D) the pressure at which that material is transported.
- (E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.
- (F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.
- (G) for a hazardous liquid pipeline facility, the proximity of

the area in which the facility is located to an area that is unusually sensitive to environmental damage.

(H) the frequency of leaks.

(I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) Pipeline Facilities Offshore and in Other Waters. - (1) In this subsection -

(A) "abandoned" means permanently removed from service.

(B) "pipeline facility" includes an underwater abandoned pipeline facility.

(C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(1)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of -

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.

(B) In prescribing standards to carry out subparagraph (A) of this paragraph -

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

(4)(A) The Secretary shall establish a standard that each pipeline facility described in paragraph (2) of this subsection

that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing standards for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(5) (A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6) (A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and severity of the collision. Chapter 35 of title 44 does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter an offshore hazardous liquid pipeline facility only because the pipeline

facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(d) Replacing Cast Iron Gas Pipelines. - (1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish -

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

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

(C) the progress that has been made.

(2) Chapter 35 of title 44 does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or standards for cast iron gas pipelines as the Secretary considers appropriate.

## **49 U.S.C. § 60109 : US Code - Section 60109: High-density population areas and environmentally sensitive areas**

(a) Identification Requirements. - Not later than October 24, 1994, the Secretary of Transportation shall prescribe standards that -

(1) establish criteria for identifying -

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines -

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

(b) Areas To Be Included as Unusually Sensitive. - When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including -

(1) locations near pipeline rights-of-way that are critical to

drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and (2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.

(c) Risk Analysis and Integrity Management Programs. -

(1) Requirement. - Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a) (1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

(2) Regulations. -

(A) In general. - Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

(B) Authority to issue regulations. - The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

(3) Minimum requirements of integrity management programs. - An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a) (1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

(C) Clearly defined criteria for evaluating the results of

assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

(4) Treatment of baseline integrity assessments. - In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

(5) Waivers and modifications. - In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

(6) Standards. - The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

(A) The minimum requirements described in paragraph (3).

(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

(C) The manner in which the inspections or testing are conducted.

(D) The criteria used in analyzing results of the inspections or testing.

(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the

applicable level of protection established by national consensus standards organizations.

(7) Additional optional standards. - The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection -

(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

(B) the use of emergency flow restricting devices.

(8) Lack of regulations. - In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

(9) Review of integrity management programs. -

(A) Review of programs. -

(i) In general. - The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

(ii) Context of review. - The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

(iii) Inadequate programs. - If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

(B) Amendments to programs. - In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

(C) Transmittal of programs to state authorities. - The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

(10) State review of integrity management plans. - A State

authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

(11) Application of standards. - Section 60104(b) shall not apply to this section.

(d) Evaluation of Integrity Management Regulations. - Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c) (2).

## **49 U.S.C. § 60110 : US Code - Section 60110: Excess flow valves**

(a) Application. - This section applies only to -

(1) a natural gas distribution system installed after the effective date of regulations prescribed under this section; and  
(2) any other natural gas distribution system when repair to the system requires replacing a part to accommodate installing excess flow valves.

(b) Installation Requirements and Considerations. - Not later than April 24, 1994, the Secretary of Transportation shall prescribe standards on the circumstances, if any, under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider -

(1) the system design pressure;  
(2) the system operating pressure;  
(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;  
(4) the technical feasibility and cost of installing, operating, and maintaining the valve;  
(5) the public safety benefits of installing the valve;  
(6) the location of customer meters; and  
(7) other factors the Secretary considers relevant.

(c) Notification of Availability. - (1) Not later than October 24, 1994, the Secretary shall prescribe standards requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of -

(A) the availability of excess flow valves for installation in the system;

(B) safety benefits to be derived from installation; and  
(C) costs associated with installation, maintenance, and replacement.

(2) The standards shall provide that, except when installation is required under subsection (b) of this section, excess flow valves shall be installed at the request of the customer if the customer will pay all costs associated with installation.

(d) Report. - If the Secretary decides under subsection (b) of this section that there are no circumstances under which an operator must install excess flow valves, the Secretary shall submit to Congress a report on the reasons for the decision not later than 30 days after the decision is made.

(e) Performance Standards. - Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence. The standards shall be incorporated into regulations the Secretary prescribes under this section. All excess flow valves shall be installed according to the standards.

## **49 U.S.C. § 60111 : US Code - Section 60111: Financial responsibility for liquefied natural gas facilities**

(a) Notice. - When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) Hearings. - An operator receiving a notice under subsection (a) of this section may have a hearing on the record not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) Orders. - After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

## **49 U.S.C. § 60112 : US Code - Section 60112: Pipeline facilities hazardous to life and property**

(a) General Authority. - After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that -

(1) operation of the facility is or would be hazardous to life, property, or the environment; or

(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated,

with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.

(b) Considerations. - In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant -

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are (!1) transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

(4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;

(5) the population density and population and growth patterns of the area in which the pipeline facility is located;

(6) any recommendation of the National Transportation Safety Board made under another law; and

(7) other factors the Secretary considers appropriate.

(c) Opportunity for State Comment. - The Secretary shall provide, to any appropriate official of a State in which a pipeline facility is located and about which a proceeding has begun under this section, notice and an opportunity to comment on an agreement the Secretary proposes to make to resolve the proceeding. State comment shall incorporate comments of affected local officials.

(d) Corrective Action Orders. -

(1) In general. - If the Secretary decides under subsection (a) of this section that a pipeline facility is or would be hazardous, the Secretary shall order the operator of the facility to take necessary corrective action, including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(2) Actions attributable to an employee. - If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which -

(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

(3) Effect of collective bargaining agreements. - An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

(e) Waiver of Notice and Hearing in Emergency. - The Secretary may waive the requirements for notice and an opportunity for a

hearing under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life, property, or the environment. An order under this subsection shall provide an opportunity for a hearing as soon as practicable after the order is issued.

## **49 U.S.C. § 60113 : US Code - Section 60113: Customer-owned natural gas service lines**

Not later than October 24, 1993, the Secretary of Transportation shall prescribe standards requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of -

- (1) the requirements for maintaining those lines;
- (2) any resources known to the operator that could assist customers in carrying out the maintenance;
- (3) information the operator has on operating and maintaining its lines that could assist customers; and
- (4) the potential hazards of not maintaining the lines.

## **49 U.S.C. § 60114 : US Code - Section 60114: One-call notification systems**

(a) Minimum Requirements. - The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

- (1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.
- (2) a requirement that a person, including a government employee or contractor, intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.
- (3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.
- (4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.
- (5) procedures for advertisement and notice of the availability of a system.
- (6) a requirement about the information to be provided by a

person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 60120 and 60122 of this title.

(b) Marking Facilities. - On notification by an operator of a damage prevention program or by a person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a pipeline facility, the operator of the facility shall mark accurately, in a reasonable and timely way, the location of the pipeline facilities in the vicinity of the demolition, excavation, tunneling, or construction.

(c) Relationship to Other Laws. - This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a) (2) of this section.

## **49 U.S.C. § 60115 : US Code - Section 60115: Technical safety standards committees**

(a) Organization. - The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.

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

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

qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

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

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

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

(C) 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals.

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

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

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

(c) Committee Reports on Proposed Standards. - (1) The Secretary shall give to -

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities including the risk assessment information and other analyses supporting each proposed standard; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities including the risk assessment information and other analyses supporting each proposed standard.

(2) Not later than 90 days after receiving the proposed standard and supporting analyses, the appropriate committee shall prepare and submit to the Secretary a report on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard and include in the report recommended actions. The Secretary shall publish each report, including any recommended actions and minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not

bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) Proposed Committee Standards and Policy Development Recommendations. - (1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) Meetings. - Each committee shall meet with the Secretary at least up to 4 times annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) Expenses. - A member of a committee under this section is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

## **49 U.S.C. § 60116 : US Code - Section 60116: Public education programs**

(a) In General. - Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

(b) Modification of Existing Programs. - Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

(c) Standards. - The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

## 49 U.S.C. § 60117 : US Code - Section 60117: Administrative

(a) General Authority. - To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities and promotional activities relating to prevention of damage to pipeline facilities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) Records, Reports, and Information. - To enable the Secretary to decide whether a person owning or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall -

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.

(c) Entry and Inspection. - An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) Confidentiality of Information. - Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e) Use of Accident Reports. - (1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) Testing Facilities Involved in Accidents. - The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after -

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) Providing Safety Information. - On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) Cooperation. - The Secretary may -

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) Promoting Coordination. - (1) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.

(j) Withholding Information From Congress. - This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(k) Authority for Cooperative Agreements. - To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

(l) Safety Orders. - If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.

## **49 U.S.C. § 60118 : US Code - Section 60118: Compliance and waivers**

(a) General Requirements. - A person owning or operating a pipeline facility shall -

- (1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;
- (2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title;
- (3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)-(d) of this title; and
- (4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).

(b) Compliance Orders. - The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) Waivers by Secretary. - On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.

(d) Waivers by State Authorities. - If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

(e) Operator Assistance in Investigations. - If the Secretary or the National Transportation Safety Board investigate (!) an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(f) Limitation on Statutory Construction. - Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.

## **49 U.S.C. § 60119 : US Code - Section 60119: Judicial review**

(a) Review of Regulations and Waiver Orders. - (1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order

issued about an application for a waiver under section 60118(c) or (d) of this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(b) Review of Financial Responsibility Orders. - (1) A person adversely affected by an order issued under section 60111 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

## **49 U.S.C. § 60120 : US Code - Section 60120: Enforcement**

(a) Civil Actions. -

(1) Civil actions to enforce this chapter. - At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

(2) Civil actions to require compliance with subpoenas or allow for inspections. - At the request of the Secretary, the Attorney General may bring a civil action in a district court of the United States to require a person to comply immediately with a subpoena or to allow an officer, employee, or agent authorized by the Secretary to enter the premises, and inspect the records and property, of the person to decide whether the person is complying with this chapter. The action may be brought in the judicial district in which the defendant resides, is found, or does business. The court may punish a failure to obey the order as a contempt of court.

(b) Jury Trial Demand. - In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) Effect on Tort Liability. - This chapter does not affect the

tort liability of any person.

## **49 U.S.C. § 60121 : US Code - Section 60121: Actions by private persons**

(a) General Authority. - (1) A person may bring a civil action in an appropriate district court of the United States for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person -

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 60105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) Costs and Fees. - The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee -

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) State Violations as Violations of This Chapter. - In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) Additional Remedies. - A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law.

## 49 U.S.C. § 60122 : US Code - Section 60122: Civil penalties

(a) General Penalties. - (1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b) 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 \$100,000 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 violations is \$1,000,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than \$1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

(b) Penalty Considerations. - In determining the amount of a civil penalty under this section -

(1) the Secretary shall consider -

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

(C) good faith in attempting to comply; and

(2) the Secretary may consider -

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.

(c) Collection and Compromise. - (1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) Setoff. - The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) Deposit in Treasury. - Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) Prohibition on Multiple Penalties for Same Act. - Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

## **49 U.S.C. § 60123 : US Code - Section 60123: Criminal penalties**

(a) General Penalty. - A person knowingly and willfully violating section 60114(b), 60118(a), or 60128 of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) Penalty for Damaging or Destroying Facility. - A person knowingly and willfully damaging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(c) Penalty for Damaging or Destroying Sign. - A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) Penalty for Not Using One-Call Notification System or Not Heeding Location Information or Markings. - A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person -

(1) knowingly and willfully engages in an excavation activity -

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages -

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than \$50,000;

(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or

(C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.

## **49 U.S.C. § 60124 : US Code - Section 60124: Biennial reports**

(a) Submission and Contents. - Not later than August 15, 1997,

and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

- (1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.
  - (2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.
  - (3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.
  - (4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.
  - (5) a summary of outstanding problems in carrying out this chapter, in order of priority.
  - (6) an analysis and evaluation of -
    - (A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and
    - (B) technological progress in safety achieved.
  - (7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.
  - (8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.
  - (9) a compilation of certifications filed under section 60105 of this title that were -
    - (A) in effect; or
    - (B) rejected in any part by the Secretary and a summary of the reasons for each rejection.
  - (10) a compilation of agreements made under section 60106 of this title that were -
    - (A) in effect; or
    - (B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.
  - (11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.
  - (12) recommendations for legislation the Secretary considers necessary -
    - (A) to promote cooperation among the States in improving -
      - (i) gas pipeline safety; or
      - (ii) hazardous liquid pipeline safety programs; and
    - (B) to strengthen the national gas pipeline safety program.
- (b) Submission of One Report. - The Secretary may submit one report to carry out subsection (a) of this section.

## **49 U.S.C. § 60125 : US Code - Section 60125: Authorization of appropriations**

(a) Gas and Hazardous Liquid. - To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

(1) \$45,800,000 for fiscal year 2003, of which \$31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

(2) \$46,800,000 for fiscal year 2004, of which \$35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

(3) \$47,100,000 for fiscal year 2005, of which \$41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

(4) \$50,000,000 for fiscal year 2006, of which \$45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.

(b) State Grants. - (1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

(A) \$19,800,000 for fiscal year 2003, of which \$14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

(B) \$21,700,000 for fiscal year 2004, of which \$16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

(C) \$24,600,000 for fiscal year 2005, of which \$19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

(D) \$26,500,000 for fiscal year 2006, of which \$21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 60107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 60107 of this title may be allocated to indirect expenses.

(c) Oil Spill Liability Trust Fund. - Of the amounts available in the Oil Spill Liability Trust Fund, \$8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

(d) Emergency Response Grants. -

(1) In general. - The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

(2) Authorization of appropriations. - There is authorized to be appropriated \$6,000,000 for each of fiscal years 2003 through

2006 to carry out this subsection.

(e) Crediting Appropriations for Expenditures for Training. - The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

## **49 U.S.C. § 60126 : US Code - Section 60126: Risk management**

(a) Risk Management Program Demonstration Projects. -

(1) In general. - The Secretary shall establish risk management demonstration projects -

(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

(B) to evaluate the safety and cost-effectiveness of the program.

(2) Exemptions. - In carrying out a demonstration project under this subsection, the Secretary, by order -

(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a "covered pipeline facility"), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

(b) Requirements. - In carrying out a demonstration project under this section, the Secretary shall -

(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(3) provide for -

(A) collaborative government and industry training;

(B) methods to measure the safety performance of risk management plans;

(C) the development and application of new technologies;

(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material

transported or stored by that pipeline facility;

(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

(G) the development of project elements that are necessary to ensure that -

(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to -

(i) changed circumstances; or

(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

(J) an opportunity for public comment in the approval process; and

(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

(c) Emergencies and Revocations. - Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

(d) Participation by State Authority. - In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

(e) Report. - Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes -

(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be

incorporated into the Federal pipeline safety program under this chapter on a permanent basis.

## **49 U.S.C. § 60127 : US Code - Section 60127: Population encroachment and rights-of-way**

(a) Study. - The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

(b) Purpose of Study. - The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources -

- (1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;
- (2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;
- (3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and
- (4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

(c) Considerations. - In conducting the study, the Secretary shall consider, at a minimum, the following:

- (1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.
- (2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.
- (3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

(d) Report. -

(1) In general. - Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

(2) Distribution of report. - The Secretary shall provide a copy of the report to -

- (A) Congress and appropriate Federal agencies; and
- (B) States for further distribution to appropriate local authorities.

(3) Adoption of practices, laws, and ordinances. - The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks

and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.

## **49 U.S.C. § 60128 : US Code - Section 60128: Dumping within pipeline rights-of-way**

(a) Prohibition. - No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

(b) Definition. - For purposes of this section, the term "solid waste" has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

## **49 U.S.C. § 60129 : US Code - Section 60129: Protection of employees providing pipeline safety information**

(a) Discrimination Against Employee. -

(1) In general. - No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) -

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

(2) Employer defined. - In this section, the term "employer" means -

(A) a person owning or operating a pipeline facility; or

(B) a contractor or subcontractor of such a person.

(b) Department of Labor Complaint Procedure. -

(1) Filing and notification. - A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

(2) Investigation; preliminary order. -

(A) In general. - Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) Requirements. -

(i) Required showing by complainant. - The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action

alleged in the complaint.

(ii) Showing by employer. - Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) Criteria for determination by Secretary. - The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) Prohibition. - Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) Final order. -

(A) Deadline for issuance; settlement agreements. - Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

(B) Remedy. - If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to -

(i) take affirmative action to abate the violation;  
(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.  
If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) Frivolous complaints. - If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

(4) Review. -

(A) Appeal to court of appeals. - Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of

Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) Limitation on collateral attack. - An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) Enforcement of order by secretary of labor. - Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

(6) Enforcement of order by parties. -

(A) Commencement of action. - A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) Attorney fees. - The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

(c) Mandamus. - Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) Nonapplicability To Deliberate Violations. - Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

## **49 U.S.C. § 60130 : US Code - Section 60130: Pipeline safety information grants to communities**

(a) Grant Authority. -

(1) In general. - The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other

than facilities regulated under Public Law 93-153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed \$50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

(2) Technical assistance defined. - In this subsection, the term "technical assistance" means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

(b) Prohibited Uses. - Funds provided under this section may not be used for lobbying or in direct support of litigation.

(c) Annual Report. -

(1) In general. - Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

(2) Contents. - The report shall include -

(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

(B) a description of the purpose for which each grant was made; and

(C) a description of how each grant was used by the recipient.

(d) Authorization of Appropriations. - There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected

## **under section 60301. 49 U.S.C. § 60131 : US Code - Section 60131: Verification of pipeline qualification programs**

(a) In General. - Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

(b) Standards and Criteria. -

(1) Development. - Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

(2) Contents. - The standards and criteria shall include the following:

(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in

subsection (a).

(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

(c) Development of Qualification Programs by Pipeline Operators. - The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

(d) Elements of Qualification Programs. - A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

(e) Review and Verification of Programs. -

(1) In general. - The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

(2) Deadline for completion. - Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

(3) Inadequate programs. - If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

(4) Program modifications. - If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such

modifications in accordance with paragraph (1).

(5) Waivers and modifications. - In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

(6) Inaction by the secretary. - Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b) (2) (B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

(f) Intrastate Pipeline Facilities. - In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

(g) Covered Task Defined. - In this section, the term "covered task" -

(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

(h) Report. - Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.

## **49 U.S.C. § 60132 : US Code - Section 60132: National pipeline mapping system**

(a) Information To Be Provided. - Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

(b) Updates. - A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

(c) Technical Assistance To Improve Local Response Capabilities. -

The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.

## **49 U.S.C. § 60133 : US Code - Section 60133: Coordination of environmental reviews**

(a) Interagency Committee. -

(1) Establishment and purpose. - Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

(2) Membership. - The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

(A) The Secretary of Transportation.

(B) The Administrator of the Environmental Protection Agency.

(C) The Director of the United States Fish and Wildlife Service.

(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(E) The Director of the Bureau of Land Management.

(F) The Director of the Minerals Management Service.

(G) The Assistant Secretary of the Army for Civil Works.

(H) The Chairman of the Federal Energy Regulatory Commission.

(3) Evaluation. - The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

(4) Memorandum of understanding. - Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly

employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

(5) State and local consultation. - In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

(b) Implementation. - Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

(c) Savings Provisions; No Preemption. - Nothing in this section shall be construed -

(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

(2) to preempt applicable Federal, State, or local environmental law.

(d) Interim Operational Alternatives. -

(1) In general. - Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

(2) Limitations. - The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph

(1) unless -

(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

(e) Ombudsman. - The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair

activity, consistent with protection of human health, public safety, and the environment.

(f) State and Local Permitting Processes. - The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.

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