

Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2019
Section-by-Section Analysis
Legislative Proposal

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

This section provides that the Act may be cited as the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2019,” references Title 49, United States Code, and provides a table of contents.

SECTION 2. AUTHORIZATION OF APPROPRIATIONS.

The pipeline safety program is currently authorized through the end of fiscal year 2019. This section reauthorizes the pipeline safety program for four fiscal years, from 2020 through 2023. It includes extension of the state pipeline safety program grants, research and development awards, “one call” state damage prevention grants, emergency response grants, pipeline safety information grants to communities, and underground natural gas storage grants over that period. The cost for the pipeline safety program continues to be funded through user fees assessed to operators of pipelines, LNG facilities, and underground gas storage facilities, as well as a contribution from the Oil Spill Liability Trust Fund and reimbursement for design reviews.

SECTION 3. SAFETY INCENTIVES PROGRAM.

While setting minimum safety standards is a key part of ensuring pipeline safety, experience has shown the importance of each operator fostering a safety culture that embraces best practices that can exceed the minimum requirements. This section authorizes PHMSA to evaluate and implement potential programs that enhance pipeline safety performance by providing recognition or other non-financial incentives for pipeline operators who voluntarily exceed the minimum federal pipeline safety regulations to ensure operating safety and reliability. PHMSA may also consider incentives programs for state authorities certified under section 60105 of title 49 for intrastate pipeline safety oversight.

SECTION 4. PIPELINE CONSTRUCTION PROJECT DATA COLLECTION.

PHMSA often receives inquiries from stakeholders, including lawmakers and the public, concerning the progress of pipeline construction projects. This section would enhance PHMSA’s situational awareness and response to these inquiries by authorizing the collection of information on pipeline construction projects, including by requiring operators to report any construction shut downs, and thereby allowing PHMSA to take timely action regarding safety matters as appropriate.

SECTION 5. VOLUNTARY INFORMATION SHARING SYSTEM.

The sharing of information and lessons learned from risk assessments among operators is a key part of advancing pipeline safety and promoting a systems approach to safety. Section 10 of the PIPES Act of 2016 established a working group to consider the development of a voluntary information sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing, with the purpose of improving natural gas transmission and hazardous liquid pipeline safety. The system would include pipeline integrity risk analysis information and may include other information relating to reducing pipeline incidents such as lessons learned from accidents and near misses, process improvements, technology deployments, and other voluntary information sharing systems. As a follow-on from the recommendations of the working group, this section authorizes PHMSA to establish a voluntary information sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing, with the purpose of improving natural gas transmission and hazardous liquid pipeline integrity risk analysis. To encourage participation, the provision ensures that operators can provide the information in a confidential manner, without exposure to punitive measures.

SECTION 6. PIPELINE SAFETY PILOT PROGRAMS.

This section grants the Secretary the authority to conduct pilot programs to promote the efficient, safe, and secure transportation of gas or hazardous liquids by pipeline. PHMSA operates in a dynamic and challenging environment. The new authority to conduct pilot programs will allow PHMSA the flexibility to accomplish its safety mission and goals by limiting risk when evaluating the feasibility and effectiveness of new technologies or processes that may become available to address the safety risks inherent in the transportation of energy products. To the extent that a pilot program involves an exemption from a regulation that would apply to a state-regulated pipeline, enforcement of that provision by a state authority against the person covered by the exemption or participating in the pilot program is preempted.

SECTION 7. STATE PIPELINE SAFETY PROGRAM GRANTS.

The Secretary awards annual pipeline safety program grants to states not to exceed 80 percent of the cost of the personnel, equipment, and activities the state reasonably requires to carry out its pipeline safety program. This section provides that the Secretary may consider, as part of those costs of personnel, equipment, and activities, expenses incurred by a state rendering aid to another state with pipeline inspection or program assistance in the aftermath of a natural disaster or major pipeline incident.

SECTION 8. PROPERTY DAMAGE THRESHOLD.

This provision will update the property damage threshold for operator incident reporting and account for inflation changes within 18 months of passage of the bill. This amount is currently at \$50,000 and has not been updated in many years. Under these provisions, the

new threshold would be \$100,000 and would be updated biennially to account for changes in inflation. The new incident reporting threshold would apply to both gas and hazardous liquid pipeline facilities and would be applicable to both telephonic and written incident reports.

SECTION 9. INACTIVE PIPELINES.

In order to provide more flexibility to pipeline operators and ensure the safety of inactive pipelines, this section requires the Secretary to publish regulations setting forth the applicability of the pipeline safety requirements to each of four operating status categories: pre-commissioned, active/in service, inactive/out of service, and abandoned. The applicability of the regulations will be based on the commensurate risk that the pipeline status poses to the public, property, and the environment, and may include requirements to move from one operational status category to another if appropriate.

SECTION 10. PUBLIC AWARENESS AND COOPERATIVE ACTIVITIES.

While PHMSA does not issue any permits needed to construct a pipeline or liquefied natural gas facility, many federal, state, and local agencies that are responsible for doing so lack expertise in pipeline systems, which can lead to construction permitting delays. This section enhances PHMSA's role in participating in public meetings, and other proceedings conducted by state and federal permitting authorities having responsibility for energy infrastructure project approvals, to better educate the public on how safety oversight will be conducted on the pipeline once operation begins. It also authorizes PHMSA to engage in other activities to liaise with state and local officials on pipeline projects and consult on the applicable standards that will advance the safe and efficient transportation of energy and other products by pipeline and advance the reliability and resilience of the Nation's pipeline infrastructure. In addition, this amendment will clarify the agency's authority to use non-regulatory methods such as public service announcements for encouraging safe practices and general awareness of the need for pipeline safety.

SECTION 11. LIQUEFIED NATURAL GAS FACILITY PROJECT REVIEWS.

In order to promote better coordination between PHMSA and others, including FERC, other federal agencies, and states, on LNG project reviews, this section clarifies how the LNG facility design standards in C.F.R. Part 193 are used by permitting agencies such as FERC, which may seek opinions from PHMSA on whether a given project plan would meet the standards, while maintaining that FERC or the other permitting agency remains responsible for formal project approvals and permits. Under Title 49, and the August 31, 2018 MOU with FERC, DOT has exclusive authority to determine whether the design, construction and operation of LNG and related pipeline facilities are compliant with federal safety standards. In the context of FERC NGA Section 3 approvals, FERC makes the final decision regarding whether a permit should issue. Accordingly, DOT's letter of determination is conditional, and not a final determination as to whether a permit will be

issued, potentially with added conditions related to the siting and location of the facility. Therefore, these letters of determination are not final agency actions.

SECTION 12. COST RECOVERY AND FEES FOR FACILITY REVIEWS.

At the request of the Federal Energy Regulatory Commission (FERC) or other agency responsible for issuing permits needed to construct or expand a pipeline or LNG facility, PHMSA incurs substantial resource burdens in performing technical reviews to determine whether the project would conform with applicable design, materials, and construction safety standards. While PHMSA was provided with authority to collect fees from project applicants to offset these costs, under current law the threshold for using this authority is \$2.5 billion, which leaves out all but the largest projects. This section changes the threshold for PHMSA to recover costs it incurs in conducting project design reviews to \$250 million. It also makes a technical amendment to ensure collected funds can be used to offset costs associated with design review activities in a fiscal year other than the year of collection without further appropriation.

The proposal also allows PHMSA to collect in advance, from the applicant, a fee for the cost to conduct a review to determine compliance with part 193, Subpart B, of title 49, Code of Federal Regulations, of an application to FERC for a liquefied natural gas facility. The Secretary of Transportation will prescribe how the fee is assessed and collected. Upon collection, the fee will be deposited into a Liquefied Natural Gas Siting Account within the Pipeline Safety fund to assure the applicant that its advance is applied to the cost of the review.

The Statutory Pay-As-You-Go Act of 2010 provides that revenue and direct spending legislation cannot, in the aggregate, increase the on-budget deficit. If such legislation increases the on-budget deficit and that increase is not offset by the end of the Congressional session, a sequestration must be ordered. This proposal would affect direct spending and revenues, but the effects of this proposal would net to zero; therefore, it is in compliance with the Statutory PAYGO Act. (A table describing the effect of this bill on the deficit is included with this proposal.)

SECTION 13. PERMITS FOR PIPELINES ISSUED BY OTHER AGENCIES.

This section confirms that the Secretary has the exclusive authority under Chapter 601 to prescribe Federal requirements for pipeline safety, including through pipeline safety conditions contained in permits issued by other Federal agencies. In addition, the provision states that other Federal agencies, with the exception of the Federal Energy Regulatory Commission, may not impose requirements that vary from the Federal Pipeline Safety regulations on any pipeline with respect to permitting. Specifically, this section is not intended to supersede EPA or State Implementation Plan authority over emissions criteria or related CWA/CAA compliance determinations. This provision does not intend to affect determinations of other agencies concerning permits or authorizations, including NEPA compliance. This section confirms that any variance from DOT standards governing design, construction and operation of pipeline facilities

must be sanctioned by the Secretary. As a cooperating agency in most permitting matters involving pipelines, any necessary conditions relating to pipeline safety can be raised with the Secretary (and approved, if necessary).

SECTION 14. OVERPRESSURE PROTECTION.

Overpressure events, including those that may occur in connection with pipe repair and replacement projects, are a serious threat to pipeline safety and can adversely impact pipeline integrity. This section requires operators of gas distribution pipeline facilities to provide a secondary or back-up means of overpressure protection for regulator stations serving low pressure distribution systems and that employ the primary and monitor regulator design. The back-up protection must be capable of either shutting the flow of gas or providing a device fully capable of relieving gas to atmosphere to fully protect the distribution system from over-pressurization events.

SECTION 15. MANAGEMENT OF CHANGE.

Pipeline repair, replacement, and construction projects often involve a tie-in to an existing pressurized pipeline. Inadequate procedures for monitoring and controlling the energy products being transported can increase the risk of serious accidents. This section directs PHMSA, consistent with authority already granted under existing law, to issue regulations requiring all pipeline operators to prepare and implement a detailed set of energy control procedures to use when performing pipeline tie-in operations. The procedures must, at a minimum, address management of change for varying field conditions, and provide a means to actively monitor pressures and safely control gas and hazardous liquid sources at all times before, during and after such operations.

SECTION 16. OPERATOR QUALIFICATION.

Under existing regulations, operator qualification requirements apply to operations and maintenance tasks, but not to construction tasks. Experience has shown the importance of ensuring that individuals performing pipeline construction tasks are appropriately qualified. This section directs PHMSA to issue regulations extending operator qualification regulations to new construction for gas and hazardous liquids pipelines. At the same time, burdensome and obsolete reporting requirements need to be eliminated to ensure efficiency. Unlike other types of written maintenance and operating procedures, there is an obsolete requirement in current law to submit each change in operator qualification procedures to PHMSA. This section repeals this unnecessary statutory reporting burden. Reporting to PHMSA is not needed, since PHMSA is able to review all changes to all types of written procedures during inspections and audits in accordance with the applicable regulations.

SECTION 17. TIMELY INCORPORATION BY REFERENCE.

This section requires PHMSA to periodically review and update its regulations to incorporate the industry standards that have been adopted, in whole or in part, in the gas

and hazardous liquid pipeline safety regulations as necessary and appropriate. In addition, the bill would require PHMSA to review any new industry standards relating to pipeline safety proposed to be incorporated by reference through a petition for rulemaking.

SECTION 18. CRIMINAL PENALTIES.

This provision would strengthen the existing criminal penalty measures for damaging or destroying a pipeline facility. It would specify that vandalism, tampering with, or impeding, disrupting, or inhibiting the operation of a pipeline facility are punishable by criminal fines and imprisonment. It would also specify that pipeline facilities under construction are included within the scope of the damage prohibitions in addition to operational pipeline facilities.

SECTION 19. JOINT INSPECTION AND OVERSIGHT.

PHMSA is responsible for ensuring that when a state takes responsibility for oversight of the intrastate pipelines in that state, such oversight is performed effectively and in accordance with the terms of the federal grants that fund the state programs. This section confirms that a state authority will provide records of any inspection or investigation it conducts under the federal-state pipeline safety programs overseen by PHMSA. A state authority conducting an inspection or investigation of an intrastate pipeline facility must also allow PHMSA to participate in the inspection or investigation upon request.

SECTION 20. UNDERGROUND NATURAL GAS STORAGE USER FEES.

Section 12(c) of the PIPES Act of 2016 (49 U.S.C. 60302) authorized the collection and use of user fees from operators of underground natural gas storage facility operators. This section makes a technical change that allows the collection of an additional 5 percent of the underground natural gas storage appropriation, to conform to pipeline safety user fee collection as established in 49 U.S.C. 60301. Each year, PHMSA would adjust the amount billed to account for the actual fees collected so that this 5 percent does not accumulate.

A BILL

To provide for enhanced safety and reliability in the transportation of the Nation’s energy products by pipeline, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) SHORT TITLE.—This Act may be cited as the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2019” or "PIPES Act of 2019".

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

(c) TABLE OF CONTENTS.—

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Sec. 16. Operator Qualification.

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Sec. 18. Criminal Penalties.

Sec. 19. Joint Inspection and Oversight.

Sec. 20. Underground Natural Gas Storage Facility User Fees.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking subparagraphs (A)–(D) and inserting, in their place, the following:

“(A) for fiscal year 2020, \$119,000,000, of which \$9,000,000 shall be expended for carrying out such section 12 and \$41,274,000 shall be expended for making grants; and

“(B) for fiscal years 2021 through 2023, such sums as may be necessary.”;

(2) in paragraph (2) by striking subparagraphs (A)–(D) and inserting in their place the following:

“(A) for fiscal year 2020, \$22,000,000 of which \$3,000,000 shall be expended for carrying out such section 12 and \$8,067,000 shall be expended for making grants; and

“(B) for fiscal years 2021 through 2023, such sums as may be necessary.”;

(3) in paragraph (3) by striking “\$8,000,000 for each of fiscal years 2017 through 2019” and inserting, in its place, “\$8,000,000 for fiscal year 2020 and such sums as may be necessary for fiscal years 2021 through 2023.”.

(b) OPERATIONAL EXPENSES.—There are authorized to be appropriated to the Secretary for the necessary operational expenses of the Pipeline and Hazardous Materials Safety Administration the following amounts:

(1) \$24,215,000 for fiscal year 2020; and

(2) such sums as may be necessary for fiscal years 2021 through 2023.

(c) EMERGENCY RESPONSE GRANTS.—Section 60125(b)(2) is amended by striking “10,000,000 for each of fiscal years 2012 through 2015” and inserting, in its place,

“\$10,000,000 for fiscal year 2020 and such sums as may be necessary for fiscal years 2021 through 2023”.

(d) ONE-CALL NOTIFICATION PROGRAMS.—Section 6107 is amended by striking “\$1,058,000 for each of fiscal years 2016 through 2019” and inserting, in its place, “\$1,058,000 for fiscal year 2020 and such sums as may be necessary for fiscal years 2021 through 2023”.

(e) DAMAGE PREVENTION PROGRAMS.—Section 60134(i) is amended by striking “\$1,500,000 for each of fiscal years 2012 through 2015” and inserting, in its place, “\$1,500,000 for fiscal year 2020 and such sums as may be necessary for fiscal years 2021 through 2023”.

(f) PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.—Section 60130(c) is amended by striking “made available under section 2(b) of the PIPES Act of 2016, the Secretary shall expend \$1,500,000 for each of fiscal years 2016 through 2019” and inserting, in its place, “made available under section 2(b) of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2019, \$1,500,000 is authorized to be appropriated for fiscal year 2020 and such sums as may be necessary for fiscal years 2021 through 2023”.

(g) PIPELINE INTEGRITY PROGRAM.—Section 12 of the Pipeline Safety Improvement Act of 2002 is amended in paragraph (f) by striking “fiscal years 2016 through 2019” and inserting, in its place “fiscal years 2020 through 2023”.

SEC. 3. SAFETY INCENTIVES PROGRAM.

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

“(p) SAFETY INCENTIVES PROGRAM.—The Secretary is authorized to evaluate and implement potential programs that enhance pipeline safety performance by providing recognition or other non-financial incentives for pipeline operators who voluntarily exceed the minimum federal pipeline safety regulations to ensure operating safety and reliability. These incentive programs may also be extended by state authorities certified under section 60105 of this title to operators of intrastate pipeline facilities subject to state oversight.”.

SEC. 4. PIPELINE CONSTRUCTION PROJECT DATA COLLECTION.

Section 60108 is amended by adding at the end the following:

“(f) PIPELINE CONSTRUCTION PROJECT DATA COLLECTION.—If the Secretary determines that it would advance the purposes of chapter 601 of this title, the Secretary may require pipeline owners or operators to provide relevant information on—

- (1) pipeline construction projects; and
- (2) the shut-down of pipeline construction projects.”.

SEC. 5. VOLUNTARY INFORMATION SHARING SYSTEM.

(a) IN GENERAL.—Chapter 601 is amended by inserting the following after Section 60141:

“§ 60142. Voluntary information sharing system

“(a) IN GENERAL.—Subject to the availability of funds, the Secretary may establish a confidential and non-punitive voluntary information sharing system to encourage collaborative efforts to improve inspection information feedback and information sharing, with the purpose of improving natural gas transmission and hazardous liquid pipeline safety. The system shall include pipeline integrity risk analysis information and may include other information relating to reducing pipeline incidents such as lessons learned from accidents and near misses, process improvements, technology deployments, and other voluntary information sharing systems. The system shall protect proprietary information while encouraging the exchange of data, including in-line inspection and dig verification data, among operators, tool vendors, and the Secretary’s representatives to facilitate the development of advanced pipeline inspection technologies and enhanced risk analysis. The Secretary may involve other public and private stakeholders in establishing and maintaining the system as appropriate.

“(b) DATA MANAGER.—In carrying out this section, the Secretary may engage a partner agency or non-governmental entity to receive, store, manage and provide for use of the program data and information submitted to the program.

“(c) LIMITATION ON DISCLOSURE.—Except as necessary for the Secretary or another federal authority to enforce or carry out any provision of federal law, any part of any record (including, but not limited to, a pipeline operator's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) provided to the Secretary and retained in the system is exempt from the

requirements of section 552 of title 5, and specifically exempt under section 552(b)(3) of that title, if the record is—

“(1) supplied to the Secretary for purposes of the voluntary information sharing system; or

“(2) made available for inspection and copying by an officer, employee, or agent of the Secretary for purposes of the voluntary information sharing system.

“(d) EXCEPTION.—Notwithstanding subsection (b), the Secretary may disclose de-identified material or any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the Secretary determines that disclosure would be consistent with the confidentiality needed for the voluntary information sharing system.

“(e) VOLUNTARY PARTICIPATION.—No person may be compelled to participate in or submit data or information to the program.”.

-(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60141, the following:

“60142. Voluntary information sharing system.”.

SEC. 6. PIPELINE SAFETY PILOT PROGRAMS.

(a) IN GENERAL.—Chapter 601 is amended by inserting the following after Section 60142:

“§ 60143. Pipeline safety pilot programs

“(a) PILOT PROGRAM DEFINED.—In this section, the term ‘pilot program’ means any program initiative, project, innovation, or other activity not specifically authorized under chapter 601 of this title.

“(b) IN GENERAL.—The Secretary may authorize and conduct pilot programs to evaluate innovative technologies or approaches for the safe operation of interstate gas or hazardous liquid pipeline facilities. Such pilot programs may include, for a time period not longer than 7 years, exemptions from a regulation prescribed under this chapter if the pilot program meets the requirements of subsection (c).

“(c) EQUIVALENT LEVEL OF SAFETY.—In authorizing or conducting a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall ensure, as a condition of approval of the program, that the safety measures in the

program are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter as determined by the Secretary. The Secretary's determination may be informed by standards or practices developed under a program accredited by the American National Standards Institute.

“(d) **AUTHORITY TO REVOKE PARTICIPATION.**—The Secretary shall immediately revoke participation in a pilot program for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter.

“(e) **AUTHORITY TO TERMINATE PROGRAM.**—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter.

“(f) **PREEMPTION OF STATE RULES.**— No State shall enforce any law or regulation that conflicts with or is inconsistent with an exemption or pilot program in effect under this section, with respect to the person operating under the exemption or participating in the pilot program.

“(g) **PUBLIC NOTICE.**—The Secretary shall publish in the Federal Register a notice of each pilot program, including the exemptions to be considered, and provide an opportunity for public comment before the effective date of the program. Following the conclusion of the comment period, the Secretary shall make a determination on the proposed pilot program within 120 days.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 601 is amended by inserting after the item relating to section 60142, the following:

“60143. Pipeline safety pilot programs.”.

SEC. 7. STATE PIPELINE SAFETY PROGRAM GRANTS.

Section 60107(d) is amended by adding the following at the end:

“(3) In the aftermath of a natural disaster or major pipeline incident, the Secretary may consider the costs of a state rendering aid to another state with pipeline inspection or program assistance to be eligible for payment under subsection (a).”.

SEC. 8. PROPERTY DAMAGE THRESHOLD.

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

“(q) PROPERTY DAMAGE THRESHOLD.—

“(a) DEFINITIONS – In this section:

“(1) INITIAL INFLATION ADJUSTMENT. – The term "initial inflation adjustment", with respect to a property damage threshold, means the amount of \$118,000.

“(2) PROPERTY DAMAGE THRESHOLD.—The term “property damage threshold” means the amount of monetary damages described in each of sections 191.3(1)(ii), 195.50(e), and 195.52(a)(3) of title 49, Code of Federal Regulations (or successor regulations).

“(3) SUBSEQUENT INFLATION ADJUSTMENT.—The term “subsequent inflation adjustment”, with respect to a property damage threshold, means the amount, expressed as a percentage by which—

“(A) the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent month of October; differs from

“(B) the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the month of October of the year of the previous adjustment.

“(b) UPDATES REQUIRED.—Not less frequently than biennially, the Secretary shall update notice and reporting requirements with respect to the property damage threshold under sections 191.3, 195.50, and 195.52 of title 49, Code of Federal Regulations (or successor regulations), to ensure that the property damage threshold is adjusted to account for inflation.

“(c) ADJUSTMENT PROCEDURE.—

“(1) INITIAL INFLATION ADJUSTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue a direct final rule that, with respect to the property damage threshold—

“(A) makes an initial inflation adjustment to \$100,000 that shall take effect not later than the first January 15 following the date of enactment of this Act; and

“(B) describes procedures under which—

“(i) each subsequent inflation adjustment is made publicly available on the website of the Pipeline and Hazardous Materials Safety Administration; and

“(ii) the Secretary shall adjust the property damage threshold—

“(I) not less frequently than biennially; and

“(II) in accordance with this Act.

“(2) SUBSEQUENT INFLATION ADJUSTMENTS.—The Secretary shall make each subsequent inflation adjustment with respect to the property damage threshold—

“(A) in accordance with the procedures established by the Secretary under paragraph (1)(B)(ii); and

“(B) not later than January 15, beginning two years after the year in which the Secretary makes the prior inflation adjustment.”.

SEC. 9. INACTIVE PIPELINES.

(a) IN GENERAL.—Chapter 601 of title 49, United States Code, is amended by inserting the following after Section 60143:

“Sec. 60144. Inactive pipelines

“(a) DEFINITIONS.—For purposes of this section—

“(1) “Pre-Commissioned” means a pipeline that has been constructed but has not yet commenced normal operations, is isolated from active assets, and does not contain hazardous liquid or natural or other gas.

“(2) “Active/In-Service” means a pipeline that is engaged in or available for normal operations and is connected and open to sources of hazardous liquid or natural or other gas or contains these products.

“(3) “Inactive/Out-of-service” means a pipeline that has ceased normal operations, has been purged of combustibles, has been isolated from all sources of hazardous liquid or natural or other gas or other energy sources, and maintains a blanket of monitored inert, non-flammable gas at low pressure.

“(4) “Abandoned” means a pipeline that has ceased all operations, has been purged of combustibles, has been isolated from all sources of hazardous liquid or natural or other gas or other energy sources, is disconnected from all sources of hazardous liquid or natural or other gas by being capped or blinded and sealed, and the pipeline has been permanently removed from service.

“(b) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall publish regulations setting forth the applicability of the pipeline safety requirements to each of the four operating status categories set forth in subsection (a). The applicability of the regulations shall be based on the commensurate risk that the pipeline status poses to the public, property, and the environment, and may include requirements to move from one operational status category to another if appropriate.

“(2) USE OF INDUSTRY CONSENSUS STANDARDS.—The Secretary should consider the use of available industry consensus standards or portions thereof when developing the regulations required by paragraph (1).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60143, the following:

“60144. Inactive pipelines.”.

SEC. 10. PUBLIC AWARENESS AND COOPERATIVE ACTIVITIES.

Section 60117(h) is amended—

(1) in paragraph (2) by striking “; and” and inserting a semicolon;

(2) in paragraph (3) by striking the period at the end and inserting “ and”;

and

(3) by adding at the end the following:

“(4) participate in public meetings, and other proceedings conducted by state and federal permitting authorities having responsibility for energy and other pipeline infrastructure project approvals;

“(5) conduct, through any combination of grants, contracts, cooperative agreements, or other activities, internal and external outreach and education programs to educate state and local officials and the public on pipeline projects and applicable standards that will advance the safe and efficient transportation of energy and other products by pipeline and advance the reliability and resilience of the Nation’s pipeline infrastructure; and

“(6) develop, publish, and distribute public service announcements to educate and inform the public about pipeline safety.”.

SEC. 11. LIQUEFIED NATURAL GAS FACILITY PROJECT REVIEWS.

Section 60103 is amended—

(1) by re-designating subsections (c)–(g) as subsections (d)–(h) respectively; and

(2) by adding a new subsection (c) to read as follows:

“(c) USE OF LOCATION STANDARDS.— If a Federal or State authority having responsibility for liquefied natural gas project permits or approvals is using the location standards as part of deciding on the location of a new facility and requests the Secretary of Transportation’s determination of whether the standards would be met by a given project proposal, the Secretary may provide such determination. Nothing in subsections (a) and (b) of this section shall be construed to affect in any way the Natural Gas Act provisions codified at 15 U.S.C. §717b or the Federal Energy Regulatory Commission’s authority to carry out those provisions (or other similar authority possessed by other federal or state agencies), or to require the Secretary to formally approve any project proposal or otherwise perform any facility siting functions.”.

SEC. 12. COST RECOVERY AND FEES FOR FACILITY REVIEWS.

(a) PROJECT THRESHOLD AMOUNT.—Section 60117(n) is amended—

(1) by striking the number “\$2,500,000,000” in paragraph (1)(B)(i) and inserting, in its place, the number “\$250,000,000”; and

(2) by revising paragraph (3)(C) to read as follows:

“(C) USE.—Fees shall be collected in advance and used as offsetting collections for the necessary expenses of conducting facility design safety reviews, are made available without further appropriation, and shall remain available until expended.”

(b) FEES FOR COMPLIANCE REVIEWS OF LIQUEFIED NATURAL GAS FACILITIES.—

(1) IN GENERAL.—Chapter 603 is amended by inserting after section 60302 the following:

“§ 60303. Fees for compliance reviews of liquefied natural gas facilities

“(a) IN GENERAL.—If the Secretary conducts a review to determine compliance with part 193, subpart B, of title 49, Code of Federal Regulations, in connection with an application to the Federal Energy Regulatory Commission for a liquefied natural gas facility, a fee for the necessary expenses of the review shall be imposed on the person who filed the application. The Secretary may not impose fees under this paragraph and section 60301(b) or 60117(n) of this title for the same compliance review.

“(b) MEANS OF COLLECTION.—The Secretary of Transportation shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a state or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

“(c) ACCOUNT.—There is established a Liquefied Natural Gas Siting Account in the Pipeline Safety Fund established in the Treasury of the United States under section 60301 of this title.

“(d) USE OF FEES.—Fees collected under this section--

“(1) may be used only for an activity related to determining compliance with part 193, subpart B, of title 49, Code of Federal Regulations; and

“(2) shall be collected in advance and used as offsetting collections for the necessary expenses of conducting compliance reviews, are made available without further appropriation, and shall remain available until expended.”

(c) CLERICAL AMENDMENT.—The table of sections for chapter 603 is amended by inserting after the item relating to section 60302, the following:

“60303. Fees for compliance reviews of liquefied natural gas facilities.”.

SEC. 13. PERMITS FOR PIPELINES ISSUED BY OTHER AGENCIES.

(a) IN GENERAL.—Chapter 601 is amended by inserting the following after Section 60144:

“§ 60145. Permits for pipelines issued by other agencies.

“(a) IN GENERAL.—The authority of this chapter to prescribe Federal requirements for the safety of pipeline transportation and pipeline facilities, including the imposition of pipeline safety conditions in permits issued by a Federal agency authorizing the design, construction, operation, or maintenance, is exclusively reserved to the Secretary or designee.

“(b) APPLICABILITY OF OTHER FEDERAL REQUIREMENTS.—A Federal agency other than the Department of Transportation, with the exception of the Federal Energy Regulatory Commission under 15 U.S.C. §§ 717, *et. seq.*, may not impose a pipeline safety requirement, including a term or condition of permission granted by the agency, that varies from the standards issued under this chapter on any pipeline facility with respect to permitting.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60144, the following:

“60145. Permits for pipelines issued by other agencies.”.

SEC. 14. OVERPRESSURE PROTECTION.

(a) IN GENERAL.—Chapter 601 is amended by inserting the following after Section 60145:

“§ 60146. Overpressure protection.—Not later than one year following the date of enactment of this Act, operators of gas distribution pipeline facilities must provide a secondary or back-up means of overpressure protection for regulator stations serving low pressure distribution systems and that employ the primary and monitor regulator design. The back-up protection must be capable of either shutting the flow of gas or providing a device fully capable of relieving gas to atmosphere to fully protect the distribution system from over-pressurization events.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60145, the following:

“60146. Overpressure protection.”.

SEC. 15. MANAGEMENT OF CHANGE.

(a) IN GENERAL.—Chapter 601 is amended by inserting the following after Section 60146:

“§ 60147. Management of change.—The Secretary shall, if appropriate, amend the pipeline safety regulations to require all pipeline operators to prepare and implement a detailed set of energy control procedures to use when performing pipeline tie-in operations. The procedures must, at a minimum—

“(1) address management of change for varying field conditions; and

“(2) provide a means to actively monitor pressures and safely control gas and hazardous liquid sources at all times before, during and after such operations.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 601 is amended by inserting after the item relating to section 60146, the following:

“60147. Management of change.”.

SEC. 16. OPERATOR QUALIFICATION.

Section 60131 is amended by adding at the end the following:

“(i) PIPELINE FACILITY CONSTRUCTION QUALIFICATION.—

“(a) IN GENERAL.—The Secretary shall, if appropriate, amend the pipeline safety regulations to extend the operator qualification regulations issued under this section to persons constructing new gas and hazardous liquid pipelines with the exception of unregulated gathering lines.

“(b) REPORTING REQUIREMENTS.—Section 60131(e) is amended—

“(1) by striking paragraph (4); and

“(2) by re-designating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.”.

SEC. 17. TIMELY INCORPORATION BY REFERENCE.

Section 60102 of title 49, United States Code, is amended by striking subsection (l) and inserting the following:

“(l) UPDATING STANDARDS.—

“(1) IN GENERAL.—Not less frequently than every two years, the Secretary shall—

“(A) review the incorporated industry standards that have been adopted, either partially or in full, as part of the Federal pipeline safety regulatory program under this chapter that are modified and published by a standards development organization (as defined in section 2(a) of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301(a))) and update them as necessary and appropriate; and

“(B) review new industry standards relating to pipeline safety that are—

“(i) developed and published by a standards development organization referred to in subparagraph (A); and

“(ii) proposed to be incorporated by reference through a petition for rulemaking in accordance with section 553(e) of title 5.

“(2) JUSTIFICATIONS. —If the Secretary does not incorporate or partially incorporates a standard described in paragraph (1), the Secretary shall issue and make available to the public a statement that explains why the Secretary did not incorporate or partially incorporate the standard.”.

SEC. 18. CRIMINAL PENALTIES.

Section 60123(b) of title 49, United States Code, is amended—

(1) by striking “damaging or destroying” and inserting “damaging, destroying, vandalizing, tampering with, impeding the operation of, disrupting the operation of, or inhibiting the operation of”; and

(2) by inserting “including a facility already in operation and a facility under construction and intended to be operated as such a facility on completion of the construction,” before “or attempting”.

SEC. 19. JOINT INSPECTION AND OVERSIGHT.

Section 60105 is amended by adding at the end the following:

“(g) INSPECTIONS AND INVESTIGATIONS.—At the request of the Secretary, a state authority shall provide records of any inspection or investigation conducted by the state authority under this chapter. A state authority conducting an inspection or investigation of an intrastate pipeline facility pursuant to a certification under this section shall allow the Secretary to participate in the inspection or investigation upon request, except that the

Secretary may not enforce the safety standards against that facility unless United States Government jurisdiction is asserted and becomes final in accordance with the process set forth in subsection (f).”.

SEC. 20. UNDERGROUND NATURAL GAS STORAGE USER FEES.

Section 60302 is amended—

(1) in subsection (c)(2)(B) by striking the period at the end and inserting “; and”;

(2) in subsection (c)(2) by adding the following at the end:

“(C) may only be used to the extent provided in advance in an appropriations Act.”;

(3) in subsection (c) by striking paragraph (3); and

(4) by adding the following at the end:

“(d) LIMITATIONS.— Fees prescribed under subsection (a) shall be sufficient to pay for the costs of activities described in subsection (c) . However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.”.