

109TH CONGRESS  
2D SESSION

# S. 3961

To provide for enhanced safety in pipeline transportation, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2006

Mr. STEVENS (for himself, Mr. INOUE, Mr. LOTT, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide for enhanced safety in pipeline transportation,  
and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Pipeline Inspection, Protection, Enforcement, and Safety  
6 Act of 2006”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of title 49.
- Sec. 3. Low-stress pipelines.
- Sec. 4. Pipeline safety and damage prevention.

- Sec. 5. Damage prevention technology development.
- Sec. 6. Safety orders.
- Sec. 7. Integrity program enforcement.
- Sec. 8. Technical assistance grants.
- Sec. 9. Enforcement transparency.
- Sec. 10. Direct line sales.
- Sec. 11. Gas distribution integrity management program rulemaking deadline.
- Sec. 12. Standards to implement NTSB recommendations.
- Sec. 13. Coordination in the construction and expansion of hazardous liquid pipelines.
- Sec. 14. Cost recovery for design reviews.
- Sec. 15. Human factors risk management rulemaking.
- Sec. 16. Emergency preparedness.
- Sec. 17. Public education and awareness.
- Sec. 18. Safety technology and corrosion research and development.
- Sec. 19. Cost recovery for extraordinary events.
- Sec. 20. Senior executive signature of integrity management program performance reports.
- Sec. 21. Leak detection technology study.
- Sec. 22. Study of pipeline regulatory adequacy.
- Sec. 23. Pipeline security inspections and enforcement.
- Sec. 24. Pipeline security and incident recovery plan.
- Sec. 25. Technical assistance program.
- Sec. 26. Authorization of appropriations.

1 **SEC. 2. AMENDMENT OF TITLE 49.**

2       Except as otherwise expressly provided, whenever in  
 3 this Act an amendment or repeal is expressed in terms  
 4 of an amendment to, or a repeal of, a section or other  
 5 provision, the reference shall be considered to be made to  
 6 a section or other provision of title 49, United States  
 7 Code.

8 **SEC. 3. LOW-STRESS PIPELINES.**

9       Section 60102(k) is amended to read as follows:

10       “(k) **LOW-STRESS HAZARDOUS LIQUID PIPE-**  
 11 **LINES.—**

12               “(1) **MINIMUM STANDARDS.—**Not later than 12  
 13 months after the date of enactment of the Pipeline  
 14 Inspection, Protection, Enforcement, and Safety Act

1 of 2006, the Secretary shall issue regulations sub-  
2 jecting low-stress hazardous liquid pipelines to the  
3 same standards and regulations as other hazardous  
4 liquid pipelines, except as provided in paragraph (3).  
5 The implementation of the applicable standards and  
6 regulatory requirements may be phased-in. The reg-  
7 ulations issued under this paragraph shall not apply  
8 to gathering lines.

9 “(2) GENERAL PROHIBITION AGAINST LOW IN-  
10 TERNAL STRESS EXCEPTION.—Except as provided in  
11 paragraph (3), the Secretary may not provide an ex-  
12 ception to the requirements of this chapter for a  
13 hazardous liquid pipeline because the pipeline oper-  
14 ates at low internal stress.

15 “(3) LIMITED EXCEPTIONS.—The Secretary  
16 shall provide or continue in force exceptions from  
17 regulations, other than regulations pertaining to in-  
18 cident reports and the national pipeline mapping  
19 system, to this subsection for low-stress hazardous  
20 liquid pipelines that—

21 “(A) are subject to safety regulations of  
22 the United States Coast Guard; or

23 “(B) serve refining, manufacturing, or  
24 truck, rail, or vessel terminal facilities, if the  
25 pipeline is less than 1 mile long (measured out-

1           side the facility grounds) and does not cross an  
2           offshore area or a waterway currently used for  
3           commercial navigation,  
4           until regulations issued under paragraph (1) take ef-  
5           fect, after which the Secretary may retain or remove  
6           those exceptions as appropriate.

7           “(4) RELATIONSHIP TO OTHER LAWS.—Noth-  
8           ing in this subsection shall be construed to prohibit  
9           or otherwise affect the applicability of any other  
10          statutory or regulatory exemption to any hazardous  
11          liquid pipeline.

12          “(5) DEFINITION.—For purposes of this sub-  
13          section, the term ‘low-stress hazardous liquid pipe-  
14          line’ means a hazardous liquid pipeline that is oper-  
15          ated in its entirety at a stress level of 20 percent or  
16          less of the specified minimum yield strength of the  
17          line pipe.

18          “(6) EFFECTIVE DATE.—The requirements of  
19          this subsection shall not take effect as to low-stress  
20          hazardous liquid pipeline operators before the effec-  
21          tive date of the rules promulgated by the Secretary  
22          under this subsection.”.

23 **SEC. 4. PIPELINE SAFETY AND DAMAGE PREVENTION.**

24          (a) ONE-CALL CIVIL ENFORCEMENT.—

1           (1) IN GENERAL.—Section 60114 is amended  
2           by adding at the end the following:

3           “(d) PROHIBITIONS APPLICABLE TO EXCAVATION  
4           ACTIVITIES.—

5           “(1) EXCAVATORS.—A person who engages in  
6           excavation activity—

7                   “(A) may not engage in that activity in a  
8                   State that has adopted a one-call notification  
9                   system without first using that system to estab-  
10                  lish the location of underground facilities in the  
11                  excavation area;

12                  “(B) may not engage in that activity in  
13                  disregard of location information or markings  
14                  established by a pipeline facility operator pursu-  
15                  ant to subsection (b);

16                  “(C) may not fail to take reasonable steps  
17                  to ensure safe excavation to prevent damage to  
18                  a pipeline; and

19                  “(D) who damages, or becomes aware of  
20                  damage to, a pipeline facility and such damage  
21                  may endanger life or cause serious bodily harm  
22                  or damage to property, may not fail to promptly  
23                  report the damage to the owner or operator of  
24                  the facility and, if the damage results in the es-  
25                  cape of any flammable, toxic, or corrosive gas

1 or liquid, may not fail to promptly report to ap-  
 2 propriate emergency authorities.

3 “(2) OPERATORS.—An operator of a pipeline  
 4 facility that fails—

5 “(A) to respond to a location request in  
 6 order to prevent damage to the pipeline,

7 “(B) to take reasonable steps in response  
 8 to such a request, or

9 “(C) to ensure accurate marking of the lo-  
 10 cation of the pipeline in order to prevent dam-  
 11 age to the pipeline,

12 shall be subject to a civil action under section 60120  
 13 or assessment of a civil penalty under section  
 14 60122.”.

15 (2) EXCAVATION AND EXCAVATION AREA DE-  
 16 FINED.—Section 60101(a) is amended—

17 (A) by redesignating paragraphs (1)  
 18 through (25) as paragraphs (3) through (27);  
 19 and

20 (B) by inserting before paragraph (3), as  
 21 redesignated, the following:

22 “(1) ‘excavation activity’ means demolition, ex-  
 23 cavation, tunneling, or construction in an excavation  
 24 area;

1           “(2) ‘excavation area’ means an excavation ac-  
2           tivity area as defined by State law;”.

3           (3) CONFORMING AMENDMENT.—Section  
4           60122(a)(1) is amended by striking “60114(b)” and  
5           inserting “60114(b) or (d)”.

6           (b) STATE DAMAGE PREVENTION PROGRAMS.—

7           (1) Section 60105(b)(4) is amended to read as  
8           follows:

9           “(4) has agreed to promote and take actions to  
10          establish a program designed to prevent damage by  
11          excavation activity to the pipeline facilities to which  
12          the certification applies that—

13                 “(A) subjects persons who violate the ap-  
14                 plicable requirements of that program to civil  
15                 penalties and other enforcement actions that  
16                 are substantially the same as are provided  
17                 under this chapter; and

18                 “(B) addresses the elements in section  
19                 60134(b);”.

20          (2) REQUIREMENT.—Chapter 601 is amended  
21          by adding at the end the following new section:

22          **“§ 60134. State damage prevention programs**

23                 “(a) IN GENERAL.—The Secretary may make a grant  
24          to a State authority (including a municipality with respect  
25          to intrastate gas pipeline transportation) to assist in im-

1 proving the overall quality and effectiveness of a damage  
2 prevention program of the State authority under sub-  
3 section (e) if the State authority—

4 “(1)(A) has an annual certification in accord-  
5 ance with section 60105 for such fiscal year; or

6 “(B) has an agreement with the Secretary in  
7 accordance with section 60106; and

8 “(2) has an effective damage prevention pro-  
9 gram that meets the requirements of subsection (b).

10 “(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—

11 An effective damage prevention program includes the fol-  
12 lowing elements:

13 “(1) Participation by operators, excavators, and  
14 other stakeholders in the development and imple-  
15 mentation of methods for establishing and maintain-  
16 ing effective communications between stakeholders  
17 from receipt of an excavation notification until suc-  
18 cessful completion of the excavation, as appropriate.

19 “(2) A process for fostering and ensuring the  
20 support and partnership of stakeholders, including  
21 excavators, operators, locators, designers, and local  
22 government in all phases of the program.

23 “(3) A process for reviewing the adequacy of a  
24 pipeline operator’s internal performance measures

1 regarding persons performing locating services and  
2 quality assurance programs.

3 “(4) Participation by operators, excavators, and  
4 other stakeholders in the development and imple-  
5 mentation of effective employee training programs to  
6 ensure that operators, the one-call center, the en-  
7 forcing agency, and the excavators have partnered to  
8 design and implement training for the employees of  
9 operators, excavators, and locators.

10 “(5) A process for fostering and ensuring active  
11 participation by all stakeholders in public education  
12 for damage prevention activities.

13 “(6) A process for resolving disputes that de-  
14 fines the State authority’s role as a partner and  
15 facilitator to resolve issues.

16 “(7) Enforcement of State damage prevention  
17 laws and regulations for all aspects of the damage  
18 prevention process, including public education, and  
19 the use of civil penalties for violations assessable by  
20 the appropriate State authority.

21 “(8) A process for fostering and promoting the  
22 use, by all appropriate stakeholders, of improving  
23 technologies that may enhance communications, un-  
24 derground pipeline locating capability, and gathering

1 and analyzing information about the accuracy and  
2 effectiveness of locating programs.

3 “(9) A process for review and analysis of the ef-  
4 fectiveness of each program element, including a  
5 means for implementing improvements identified by  
6 such program reviews.

7 “(c) FACTORS TO CONSIDER.—In making grants  
8 under this section, the Secretary shall take into consider-  
9 ation the commitment of each State to ensuring the effec-  
10 tiveness of its damage prevention program, including legis-  
11 lative and regulatory actions taken by the State.

12 “(d) APPLICATION.—If a State authority files an ap-  
13 plication for a grant under this section not later than Sep-  
14 tember 30 of a calendar year and demonstrates that the  
15 Governor (or chief executive) of the State has designated  
16 it as the appropriate State authority to receive the grant,  
17 the Secretary shall review the State’s damage prevention  
18 program to determine its effectiveness.

19 “(e) GRANTS FOR EFFECTIVE PROGRAMS.—For a  
20 program of a State authority the Secretary determines to  
21 be effective, the Secretary may make a grant to the State  
22 authority for the cost of the personnel, equipment, and  
23 activities the State authority reasonably requires during  
24 the next calendar year to carry out its damage prevention  
25 program in accordance with subsection (b).

1       “(f) NONAPPLICABILITY OF LIMITATION.—A grant  
2 made under this section is not subject to the section  
3 60107(a) limitation on the maximum percentage of funds  
4 to be paid by the Secretary.

5       “(g) LIMITATION ON USE OF FUNDS.—Funds pro-  
6 vided under this section may not be used for lobbying or  
7 in direct support of litigation.”.

8           (3) CLERICAL AMENDMENT.—The chapter anal-  
9 ysis for chapter 601 is amended by adding at the  
10 end the following:

“60134. State damage prevention programs.”.

11       (c) STATE PIPELINE SAFETY GRANTS.—Section  
12 60107(a) is amended by striking “not more than 50 per-  
13 cent” and inserting “not more than 80 percent”.

14       (d) MAINTENANCE OF EFFORT.—Section 60107(b) is  
15 amended by striking “spent—” and all that follows and  
16 inserting “spent for gas and hazardous liquid safety pro-  
17 grams for the 3 fiscal years prior to the fiscal year in  
18 which the Secretary makes a payment, except when this  
19 requirement is waived by the Secretary.”.

20 **SEC. 5. DAMAGE PREVENTION TECHNOLOGY DEVELOP-**  
21 **MENT.**

22       Section 60114, as amended by section 4, is further  
23 amended by adding at the end the following:

24       “(e) TECHNOLOGY DEVELOPMENT GRANTS.—The  
25 Secretary may make grants to any organization or entity

1 (not including for-profit entities) for the development of  
2 technologies that will facilitate the prevention of pipeline  
3 damage caused by excavation activities, with emphasis on  
4 wireless and global positioning technologies having poten-  
5 tial for use in connection with notification systems and  
6 underground facility locating and marking services. Funds  
7 provided under this subsection may not be used for lob-  
8 bying or in direct support of litigation. The Secretary may  
9 also support such technology development through cooper-  
10 ative agreements with trade associations, academic institu-  
11 tions, and other organizations.”.

12 **SEC. 6. SAFETY ORDERS.**

13 Section 60117(l) is amended to read as follows:

14 “(1) SAFETY ORDERS.—

15 “(2) IN GENERAL.—After notice and oppor-  
16 tunity for a hearing, if the Secretary determines that  
17 a pipeline facility has any condition that poses a risk  
18 to public safety, property, or the environment, the  
19 Secretary may order the operator of the facility to  
20 take necessary corrective action, including physical  
21 inspection, testing, repair, replacement, or other ap-  
22 propriate actions to remedy that condition. The Sec-  
23 retary may waive the requirement of notice and op-  
24 portunity for a hearing in an emergency described in  
25 section 60112(e).

1           “(2) ADMINISTRATIVE PROCEDURE.—Before  
2           exercising authority under paragraph (1), the Sec-  
3           retary shall promulgate regulations specifying the  
4           administrative procedure applicable to the issuance  
5           of a safety order.

6           “(3) CONSIDERATIONS.—In making a deter-  
7           mination under paragraph (1), the Secretary shall,  
8           if relevant, consider—

9                   “(A) the considerations described in sec-  
10                  tion 60112(b);

11                   “(B) the likelihood that the condition will  
12                  impair the serviceability of a pipeline;

13                   “(C) the likelihood that the condition will  
14                  worsen over time;

15                   “(D) the likelihood that the condition is  
16                  present or could develop in other areas of the  
17                  pipeline; and

18                   “(E) other factors the Secretary considers  
19                  appropriate.”.

20 **SEC. 7. INTEGRITY PROGRAM ENFORCEMENT.**

21           Section 60109(c)(9)(A)(iii) is amended to read as fol-  
22           lows:

23                   “(iii) INADEQUATE PROGRAMS.—If the  
24                  Secretary determines that a risk analysis or in-  
25                  tegrity management program does not comply

1 with the requirements of this subsection or reg-  
2 ulations issued as described in paragraph (2),  
3 has not been adequately implemented, or is in-  
4 adequate for the safe operation of a pipeline fa-  
5 cility, the Secretary may conduct proceedings  
6 under section 60108(a), 60112, 60118(a) and  
7 (b), 60120, 60122, or any other section of this  
8 chapter.”.

9 **SEC. 8. TECHNICAL ASSISTANCE GRANTS.**

10 Section 60130 is amended—

11 (1) by striking “The Secretary shall establish  
12 competitive” in subsection (a)(1) and inserting “No  
13 grants may be awarded under section 60114(e) until  
14 the Secretary has established competitive”;

15 (2) by redesignating paragraph (2) of sub-  
16 section (a) as paragraph (4);

17 (3) by inserting after paragraph (1) of sub-  
18 section (a) the following:

19 “(2) DEMONSTRATION GRANTS.—At least the  
20 first 3 grants awarded under this section shall be  
21 demonstration grants for the purpose of evaluating  
22 the effectiveness of grants under this section. Any  
23 such demonstration grant may not exceed \$25,000.

24 “(3) DISSEMINATION OF TECHNICAL FIND-  
25 INGS.—Each recipient of a grant under this section

1 shall ensure that the technical findings made pos-  
2 sible by the grant are made available to the relevant  
3 operators, and that open communication between the  
4 grant recipient, local operators, local communities,  
5 and other interested parties is encouraged.”; and

6 (4) by striking “2006.” in subsection (d) and  
7 inserting “2010.”.

8 **SEC. 9. ENFORCEMENT TRANSPARENCY.**

9 (a) IN GENERAL.—Chapter 601, as amended by sec-  
10 tion 4(b)(2) of this Act, is further amended by adding at  
11 the end thereof the following:

12 **“§ 60135. Enforcement transparency**

13 “(a) IN GENERAL.—Beginning no later than October  
14 1, 2007, the Secretary shall provide a monthly summary  
15 to the public of all gas and hazardous liquid pipeline en-  
16 forcement actions taken by the Secretary or the Pipeline  
17 and Hazardous Materials Safety Administration. Each  
18 summary shall include information on the operator in-  
19 volved in the enforcement activity, the type of violation  
20 that necessitated the enforcement activity, the penalty or  
21 penalties proposed, the final assessment amount of each  
22 penalty, and the reasons for a reduction in the proposed  
23 penalty, if appropriate.

1       “(b) ELECTRONIC POSTING.—Each summary re-  
2       quired under subsection (a) shall be made available to the  
3       public via posting by electronic means.”.

4       (b) CONFORMING AMENDMENT.—The chapter anal-  
5       ysis for chapter 601 is amended by adding at the end the  
6       following:

      “60135. Enforcement transparency.”.

7       **SEC. 10. DIRECT LINE SALES.**

8       Section 60101(a) is amended—

9               (1) by striking paragraph (8), as redesignated  
10       by section 4(a)(2) of this Act, and inserting the fol-  
11       lowing:

12               “(8) ‘interstate gas pipeline facility’ means a  
13       gas pipeline facility—

14                       “(A) used to transport gas; and

15                       “(B) subject to the jurisdiction of the  
16       Commission under the Natural Gas Act (15  
17       U.S.C. 717 et seq.);”;

18               (2) by striking paragraph (11), as redesignated  
19       by section 4(a)(2) of this Act, and inserting the fol-  
20       lowing:

21               “(11) ‘intrastate gas pipeline facility’ means a  
22       gas pipeline facility and transportation of gas within  
23       a State not subject to the jurisdiction of the Com-  
24       mission under the Natural Gas Act (15 U.S.C. 717  
25       et seq.);”.

1 **SEC. 11. GAS DISTRIBUTION INTEGRITY MANAGEMENT**  
2 **PROGRAM RULEMAKING DEADLINE.**

3 Section 60109 is amended by adding at the end the  
4 following:

5 “(e) DISTRIBUTION INTEGRITY MANAGEMENT PRO-  
6 GRAMS.—

7 “(1) MINIMUM STANDARDS.—Not later than 1  
8 year after the date of enactment of the Pipeline In-  
9 spection, Protection, Enforcement, and Safety Act of  
10 2006, the Secretary shall prescribe minimum stand-  
11 ards for integrity management programs for dis-  
12 tribution pipelines.

13 “(2) ADDITIONAL AUTHORITY OF SEC-  
14 RETARY.—In carrying out this subsection, the Sec-  
15 retary may require operators of distribution pipe-  
16 lines to continually identify and assess risks on their  
17 distribution lines, to remediate conditions that  
18 present a potential threat to line integrity, and to  
19 monitor program effectiveness.

20 “(3) EXCESS FLOW VALVES.—The minimum  
21 standards shall include criteria for requiring opera-  
22 tors of natural gas distribution systems—

23 “(A) to install excess flow valves on single-  
24 family residential service lines that are installed  
25 or replaced after the date of enactment of the  
26 Pipeline Inspection, Protection, Enforcement,

1 and Safety Act of 2006 on the basis of feasi-  
2 bility and risk analysis; and

3 “(B) to report to the Secretary annually  
4 on the number of excess flow valves installed on  
5 their systems under subparagraph (A).

6 “(4) APPLICABILITY.—The Secretary shall de-  
7 termine which distribution pipelines will be subject  
8 to the minimum standards.

9 “(5) DEVELOPMENT AND IMPLEMENTATION.—  
10 Each operator of a distribution pipeline that Sec-  
11 retary determines is subject to the minimum stand-  
12 ards prescribed by the Secretary under this sub-  
13 section shall develop and implement an integrity  
14 management program in accordance with those  
15 standards.”.

16 **SEC. 12. STANDARDS TO IMPLEMENT NTSB RECOMMENDA-**  
17 **TIONS.**

18 Not later than 18 months after the date of enactment  
19 of this Act, the Secretary of Transportation shall issue  
20 standards that implement the following recommendations  
21 contained in the National Transportation Safety Board’s  
22 report entitled “Supervisory Control and Data Acquisition  
23 (SCADA) in Liquid Pipelines” and adopted November 29,  
24 2005:

1           (1) Implementation of the American Petroleum  
2           Institute’s Recommended Practice 165 for the use of  
3           graphics on the supervisory control and data acqui-  
4           sition screens.

5           (2) Implementation of a standard for pipeline  
6           companies to review and audit alarms on monitoring  
7           equipment.

8           (3) Implementation of standards for pipeline  
9           controller training that include simulator or non-  
10          computerized simulations for controller recognition  
11          of abnormal pipeline operating conditions, in par-  
12          ticular, leak events.

13 **SEC. 13. COORDINATION IN THE CONSTRUCTION AND EX-**  
14 **PANSION OF HAZARDOUS LIQUID PIPELINES.**

15          Section 60133 is amended—

16           (1) by striking subsection (e) and inserting the  
17          following:

18          “(e) OMBUDSMAN.—The Secretary shall designate an  
19          ombudsman to assist in resolving disagreements between  
20          Federal, State, or local agencies and pipeline operators  
21          arising during agency review of pipeline repairs and haz-  
22          ardous liquid pipeline construction projects in order to ex-  
23          pedite pipeline projects consistent with the protection of  
24          human health, public safety, and the environment.”;

1           (2) by striking “subject to any” in subsection  
2           (f) and inserting “and hazardous liquid pipeline con-  
3           struction projects to be consistent with”; and

4           (3) by adding at the end the following:

5           “(g) CONSTRUCTION AND EXPANSION OF PIPE-  
6           LINES.—Upon request by any person proposing to con-  
7           struct or expand a hazardous liquid pipeline, the Secretary  
8           may coordinate the environmental reviews and permitting  
9           processes of Federal agencies and State and local agencies  
10          with responsibility for issuing permits or otherwise author-  
11          izing pipeline construction projects, subject to the agen-  
12          cies’ approval, if the Secretary determines that coordi-  
13          nating the permitting processes to expedite the completion  
14          of the project would be in the national interest and con-  
15          sistent with protection of the environment.”.

16          **SEC. 14. COST RECOVERY FOR DESIGN REVIEWS.**

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

19          “(m) COST RECOVERY FOR DESIGN REVIEWS.—If  
20          the Secretary conducts facility design safety reviews, con-  
21          sulting, or field work in connection with a proposal to con-  
22          struct, expand, or operate a pipeline system or liquified  
23          natural gas pipeline facility, the Secretary may require the  
24          person requesting such review, consultation, or field work  
25          to pay the associated costs incurred by the Secretary. The

1 Secretary may assess such costs in a reasonable manner.  
2 Any amounts received by the Secretary under this sub-  
3 section shall be deposited into a pipeline safety fund and  
4 shall be available for the purposes described in section  
5 60301(d).”.

6 **SEC. 15. HUMAN FACTORS RISK MANAGEMENT RULE-**  
7 **MAKING.**

8 (a) STANDARDS.—Not later than 18 months after the  
9 date of enactment of this Act, the Secretary of Transpor-  
10 tation shall issue regulations requiring operators of gas  
11 and hazardous liquid pipelines to evaluate and take meas-  
12 ures to reduce risks associated with human factors, includ-  
13 ing fatigue, for pipeline controllers and other employees,  
14 as determined by the Secretary.

15 (b) RISK FACTORS.—In carrying out this section, the  
16 Secretary shall require operators of gas and hazardous liq-  
17 uid pipelines—

18 (1) to implement pipeline controller work sched-  
19 ules that reduce the likelihood of accidents attrib-  
20 utable to controller fatigue and other human factors;  
21 and

22 (2) to establish limits on controller hours of  
23 service and provide predictable work and rest sched-  
24 ules for pipeline controllers that are consistent with

1 scientific research related to human circadian  
2 rhythms and sleep and rest requirements.

3 (c) APPLICABILITY.—The Secretary shall determine  
4 which pipelines are subject to the standards issued under  
5 this section.

6 (d) RISK MANAGEMENT.—Each operator of a pipe-  
7 line that the Secretary determines is subject to the stand-  
8 ards established by the Secretary under this section shall  
9 manage the control of the pipeline in accordance with  
10 those standards.

11 **SEC. 16. EMERGENCY PREPAREDNESS.**

12 (a) WAIVERS.—Section 60118(c) is amended to read  
13 as follows:

14 “(c) WAIVERS BY SECRETARY.—

15 “(1) NON-EMERGENCY WAIVERS.—

16 “(A) IN GENERAL.—On application of a  
17 person owning or operating a pipeline facility,  
18 the Secretary by order may waive compliance  
19 with any part of a standard prescribed under  
20 this chapter on terms the Secretary considers  
21 appropriate, if the Secretary determines that—

22 “(i) it is in the public interest to  
23 grant the waiver; and

24 “(ii) the waiver is likely to achieve a  
25 level of safety that is equivalent to, or

1 greater than, the level of safety that would  
2 be obtained in the absence of the waiver.

3 “(B) PERIOD AND CONDITIONS.—A waiver  
4 under this paragraph may be granted for a pe-  
5 riod determined by the Secretary and may be  
6 renewed upon application to the Secretary. The  
7 Secretary may act on an application for a waiv-  
8 er under this paragraph only after notice and  
9 an opportunity for a hearing and, if the applica-  
10 tion is granted, shall state in the order the rea-  
11 sons for granting the requested waiver. The  
12 Secretary shall immediately revoke a waiver  
13 granted under this paragraph if—

14 “(i) the waiver has resulted in a lower  
15 level of safety than was maintained before  
16 it was granted; or

17 “(ii) continuation of the waiver would  
18 not be consistent with the goals and objec-  
19 tives of this chapter.

20 “(2) EMERGENCY WAIVERS.—

21 “(A) IN GENERAL.—The Secretary by  
22 order may waive compliance with any part of a  
23 standard prescribed under this chapter on  
24 terms the Secretary considers appropriate with-

1 out prior notice and an opportunity for a hear-  
2 ing if the Secretary determines that—

3 “(i) it is in the public interest to  
4 grant the waiver;

5 “(ii) the waiver is likely to achieve a  
6 level of safety that is not inconsistent with  
7 the level of safety that would be achieved  
8 in the absence of the waiver; and

9 “(iii) the waiver is necessary to ad-  
10 dress a major disaster or emergency de-  
11 clared by the President under the Robert  
12 T. Stafford Disaster Relief and Emergency  
13 Assistance Act (42 U.S.C. 5121 et seq.)  
14 affecting pipeline transportation or other  
15 emergency as determined by the Secretary.

16 “(B) PERIOD AND CONDITIONS.—A waiver  
17 under this paragraph may be issued for a pe-  
18 riod of not more than 60 days and may be re-  
19 newed upon application to the Secretary only  
20 after notice and an opportunity for a hearing  
21 on the waiver. The Secretary shall state in the  
22 order the reasons for issuing the waiver. The  
23 Secretary shall immediately revoke a waiver  
24 issued under this paragraph if—

1                   “(i) the waiver has resulted in a lower  
2                   level of safety than was maintained before  
3                   it was issued; or

4                   “(ii) continuation of the waiver would  
5                   not be consistent with the goals and objec-  
6                   tives of this chapter.”.

7           (b) RESTORATION OF OPERATIONS.—Section  
8 60301(d) is amended—

9                   (1) by striking “and” after the semicolon in  
10                  paragraph (1)(B);

11                  (2) by redesignating paragraph (2) as para-  
12                  graph (3); and

13                  (3) by inserting after paragraph (1) the fol-  
14                  lowing:

15                   “(2) may be used for activities involving the  
16                   restoration of energy pipelines that have been, or are  
17                   anticipated to become, disrupted by a manmade or  
18                   natural disaster, including aid to Federal agencies;  
19                   and”.

20 **SEC. 17. PUBLIC EDUCATION AND AWARENESS.**

21           (a) IN GENERAL.—Chapter 61 is amended by adding  
22 at the end the following:

23 **“§ 6109. Public education and awareness**

24           “The Secretary shall make a grant to an appropriate  
25 entity for promoting public education and awareness with

1 respect to the 811 national excavation damage prevention  
2 phone number.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-  
4 ysis for such chapter is amended by inserting after the  
5 item relating to section 6108 the following:

“6109. Public education and awareness.”.

6 **SEC. 18. SAFETY TECHNOLOGY AND CORROSION RE-**  
7 **SEARCH AND DEVELOPMENT.**

8 The Secretary of Transportation shall carry out a  
9 pipeline corrosion research program to improve methods,  
10 best practices, and technologies for identifying, detecting,  
11 preventing, and managing internal and external corrosion  
12 and other safety risks. The Secretary shall apply the re-  
13 search results to support development and improvement  
14 of national consensus standards.

15 **SEC. 19. COST RECOVERY FOR EXTRAORDINARY EVENTS.**

16 Section 60117, as amended by section 14, is further  
17 amended by adding at the end the following subsection:

18 “(n) EXTRAORDINARY EXPENSES OF INCIDENT IN-  
19 VESTIGATION.—The Secretary may, by regulation, estab-  
20 lish procedures to recover the Secretary’s costs incurred  
21 in investigating major pipeline safety incidents from the  
22 person or persons responsible for the incident. These costs  
23 may include travel costs and contract support for the in-  
24 vestigation and monitoring of the corrective measures. All  
25 sums collected shall be deposited into the pipeline safety

1 fund and shall be available to reimburse the Secretary for  
2 the costs of investigation and monitoring of the incidents.  
3 Such amounts are available until expended.”.

4 **SEC. 20. SENIOR EXECUTIVE SIGNATURE OF INTEGRITY**  
5 **MANAGEMENT PROGRAM PERFORMANCE RE-**  
6 **PORTS.**

7 Section 60109 is amended by adding at the end the  
8 following:

9 “(e) CERTIFICATION OF PIPELINE INTEGRITY MAN-  
10 AGEMENT PROGRAM PERFORMANCE.—The Secretary  
11 shall establish procedures requiring certification of annual  
12 and semi-annual pipeline integrity management program  
13 performance reports by a senior executive officer of the  
14 company operating the pipeline. The procedures shall re-  
15 quire a signed statement, which may be effected electroni-  
16 cally in accordance with the provisions of the Electronic  
17 Signatures in Global and National Commerce Act (15  
18 U.S.C. 7001 et seq.), certifying that—

19 “(1) the signing officer has reviewed the report;  
20 and

21 “(2) to the best of such officer’s knowledge and  
22 belief, the report is true and complete.”.

23 **SEC. 21. LEAK DETECTION TECHNOLOGY STUDY.**

24 Not later than 12 months after the date of enactment  
25 of this Act, the Secretary of Transportation shall submit

1 to Congress a report on leak detection systems utilized by  
2 operators of hazardous liquid pipelines. The report shall  
3 include a discussion of the inadequacies of current leak  
4 detection systems, including their ability to detect rup-  
5 tures and small leaks that are ongoing or intermittent,  
6 and what can be done to foster development of better tech-  
7 nologies as well as address existing technological inad-  
8 equacies.

9 **SEC. 22. STUDY OF PIPELINE REGULATORY ADEQUACY.**

10 (a) IN GENERAL.—The Secretary of Transportation  
11 may conduct analyses of the domestic transport of petro-  
12 leum products by pipeline. The analyses should identify  
13 areas of the United States where unplanned loss of indi-  
14 vidual pipelines may cause shortages of petroleum prod-  
15 ucts or price disruptions. Upon identifying such areas, the  
16 Secretary shall determine if the current level of safety reg-  
17 ulation is sufficient to minimize the potential for un-  
18 planned loses.

19 (b) CONSULTATION.—In preparing any such anal-  
20 yses, the Secretary may consult with other government  
21 agencies and public- and private-sector experts in pipeline  
22 and other forms of petroleum product transportation, en-  
23 ergy consumption, and capacity.

24 (c) DATA COLLECTION.—The Secretary may collect  
25 information relevant to the study from other Federal

1 agencies and may enter into an interagency agreement for  
2 this purpose.

3 **SEC. 23. PIPELINE SECURITY INSPECTIONS AND ENFORCE-**  
4 **MENT.**

5 (a) **IN GENERAL.**—Within 1 year after the date of  
6 enactment of this Act the Secretary of Homeland Security,  
7 in consultation with the Secretary of Transportation, shall  
8 establish a program for reviewing pipeline operator adop-  
9 tion of recommendations in the September, 5, 2002, De-  
10 partment of Transportation Research and Special Pro-  
11 grams Administration Pipeline Security Information Cir-  
12 cular, including the review of pipeline security plans and  
13 critical facility inspections.

14 (b) **REVIEW AND INSPECTION.**—Within 9 months  
15 after the date of enactment of this Act the Secretary of  
16 Homeland Security and Secretary of Transportation shall  
17 develop and implement a plan for reviewing the pipeline  
18 security plan and an inspection of the critical facilities of  
19 the 100 most critical pipeline operators covered by the  
20 September, 5, 2002, circular, where such facilities have  
21 not been inspected for security purposes since September  
22 5, 2002, by either the Department of Homeland Security  
23 or the Department of Transportation.

24 (c) **COMPLIANCE REVIEW METHODOLOGY**—In re-  
25 viewing pipeline operator compliance under subsections (a)

1 and (b), risk assessment methodologies shall be used to  
2 prioritize vulnerabilities and to target inspection and en-  
3 forcement actions to the most vulnerable and critical pipe-  
4 line assets.

5 (d) REGULATIONS.—Within 1 year after the date of  
6 enactment of this Act, the Secretary of Homeland Security  
7 and Secretary of Transportation shall develop and trans-  
8 mit to pipeline operators security recommendations for  
9 natural gas and hazardous liquid pipelines and pipeline  
10 facilities. If the Secretary of Homeland Security deter-  
11 mines that regulations are appropriate, the Secretary of  
12 Homeland Security shall consult with the Secretary of  
13 Transportation on the extent of risk and appropriate miti-  
14 gation measures, and the Secretary of Transportation or  
15 the Secretary of Homeland Security, consistent with the  
16 memorandum of understanding annex signed on August  
17 9, 2006, shall promulgate such regulations and carry out  
18 necessary inspection and enforcement actions. Any regula-  
19 tions should incorporate the guidance provided to pipeline  
20 operators by the September 5, 2002, Department of  
21 Transportation Research and Special Programs Adminis-  
22 tration’s Pipeline Security Information Circular and con-  
23 tain additional requirements as necessary based upon the  
24 results of the inspections performed under subsection (b).

1 The regulations shall include the imposition of civil pen-  
2 alties for non-compliance.

3 **SEC. 24. PIPELINE SECURITY AND INCIDENT RECOVERY**

4 **PLAN.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-  
6 rity, in consultation with the Secretary of Transportation  
7 and the Pipeline and Hazardous Materials Safety Admin-  
8 istration, and in accordance with the Memorandum of Un-  
9 derstanding Annex executed on August 9, 2006, shall de-  
10 velop a Pipeline Security and Incident Recovery Protocols  
11 Plan. The plan shall include—

12 (1) a plan for the Federal Government to pro-  
13 vide increased security support to the most critical  
14 interstate and intrastate natural gas and hazardous  
15 liquid transmission pipeline infrastructure and oper-  
16 ations as determined under section 23—

17 (A) at high or severe security threat levels  
18 of alert; and

19 (B) when specific security threat informa-  
20 tion relating to such pipeline infrastructure or  
21 operations exists; and

22 (2) an incident recovery protocol plan, devel-  
23 oped in conjunction with interstate and intrastate  
24 transmission and distribution pipeline operators and  
25 terminals and facilities operators connected to pipe-

1 lines, to develop protocols to ensure the continued  
2 transportation of natural gas and hazardous liquids  
3 to essential markets and for essential public health  
4 or national defense uses in the event of an incident  
5 affecting the interstate and intrastate natural gas  
6 and hazardous liquid transmission and distribution  
7 pipeline system, which shall include protocols for  
8 granting access to pipeline operators for pipeline in-  
9 frastructure repair, replacement or bypass following  
10 an incident.

11 (b) EXISTING PRIVATE AND PUBLIC SECTOR EF-  
12 FORTS.—The plan shall take into account actions taken  
13 or planned by both private and public entities to address  
14 identified pipeline security issues and assess the effective  
15 integration of such actions.

16 (c) CONSULTATION.—In developing the plan under  
17 subsection (a), the Secretary of Homeland Security shall  
18 consult with the Secretary of Transportation, interstate  
19 and intrastate transmission and distribution pipeline oper-  
20 ators, pipeline labor, first responders, shippers of haz-  
21 ardous materials, State Departments of Transportation,  
22 public safety officials, and other relevant parties.

23 (d) REPORT.—

24 (1) CONTENTS.—Not later than 1 year after  
25 the date of enactment of this Act, the Secretary of

1 Homeland Security shall transmit to the Committee  
2 on Commerce, Science, and Transportation of the  
3 Senate, the Committee on Homeland Security of the  
4 House of Representatives, and the Committee on  
5 Transportation and Infrastructure of the House of  
6 Representatives a report containing the plan re-  
7 quired by subsection (a), along with an estimate of  
8 the private and public sector costs to implement any  
9 recommendations.

10 (2) **FORMAT.**—The Secretary may submit the  
11 report in both classified and redacted formats if the  
12 Secretary determines that such action is appropriate  
13 or necessary.

14 **SEC. 25. TECHNICAL ASSISTANCE PROGRAM.**

15 (a) **IN GENERAL.**—Out of amounts made available to  
16 Secretary under this Act, the Secretary may award,  
17 through a competitive process, grants to Universities with  
18 expertise in pipeline safety and security research to estab-  
19 lish jointly a collaborative program to conduct pipeline  
20 safety and security technical assistance.

21 (b) **DUTIES.**—

22 (1) **IN GENERAL.**—In cooperation with the  
23 Pipeline and Hazardous Materials Safety Adminis-  
24 tration and representatives from States and boards  
25 of public utilities, the collaborative program estab-

1 lished under subsection (a) shall develop workforce  
2 training and technology transfer programs through  
3 statewide and regional partnerships that—

4 (A) communicate national, State, and local  
5 safety information to pipeline operators;

6 (B) distribute technical resources and  
7 training to support current and future Federal  
8 mandates; and

9 (C) evaluates program outcomes.

10 (2) TRAINING AND EDUCATIONAL PROGRAM.—

11 The training and educational programs developed  
12 under paragraph (1) may include courses in recent  
13 developments, techniques, and procedures related  
14 to—

15 (A) safety and security of pipeline systems;

16 (B) incident and risk management for such  
17 systems;

18 (C) integrity management for such sys-  
19 tems;

20 (D) consequence modeling;

21 (E) detection of encroachments and moni-  
22 toring of rights-of-way; and

23 (F) vulnerability assessment at both  
24 project and national levels.

1 **SEC. 26. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) Section 60125(a) is amended to read as follows:

3 “(a) GAS AND HAZARDOUS LIQUID.—

4 “(1) IN GENERAL.—To carry out the provisions  
5 of this chapter related to gas and hazardous liquid,  
6 the following amounts are authorized to be appro-  
7 priated to the Department of Transportation from  
8 fees collected under section 60301 in each respective  
9 year:

10 “(A) For fiscal year 2007, \$60,175,000 of  
11 which \$7,386,000 is for research, \$16,535,000  
12 is for State Grants and \$1,021,000 is for one  
13 call grants.

14 “(B) For fiscal year 2008, \$67,043,000 of  
15 which \$7,586,000 is for research, \$17,496,000  
16 is for State Grants, \$1,043,000 is for one call  
17 grants, \$1,500,000 is for damage prevention  
18 grants, and \$500,000 is for technology grants.

19 “(C) For fiscal year 2009, \$72,045,000 of  
20 which \$7,586,000 is for research, \$18,187,000  
21 is for State Grants, \$1,065,000 is for one call  
22 grants, \$1,750,000 is for damage prevention  
23 grants, and \$511,000 is for technology grants.

24 “(D) For fiscal year 2010, \$76,580,000 of  
25 which \$7,586,000 is for research, \$18,643,000  
26 is for State Grants, \$1,088,000 is for one call

1 grants, \$2,000,000 is for damage prevention  
2 grants, and \$521,000 is for technology grants.

3 “(2) TRUST FUND AMOUNTS.—In addition to  
4 the amounts authorized to be appropriated by para-  
5 graph (1) the following amounts are authorized from  
6 the Oil Spill Liability Trust Fund to carry out the  
7 provisions of this chapter related to gas and haz-  
8 ardous liquid:

9 “(A) For fiscal year 2007, \$18,810,000 of  
10 which \$4,207,000 is for research and  
11 \$2,682,000 is for State Grants.

12 “(B) For fiscal year 2008, \$19,000,000 of  
13 which \$4,207,000 is for research and  
14 \$2,682,000 is for State Grants.

15 “(C) For fiscal year 2009, \$19,500,000 of  
16 which \$4,207,000 is for research and  
17 \$3,103,000 is for State Grants.

18 “(D) For fiscal year 2010, \$20,000,000 of  
19 which \$4,207,000 is for research and  
20 \$3,603,000 is for State Grants.”.

21 (b) INSPECTOR STAFFING.—The Secretary shall en-  
22 sure that the number of positions for pipeline inspection  
23 and enforcement personnel at the Pipeline and Hazardous  
24 Materials Safety Administration not fall below 100 for fis-

1 cal year 2007, 111 for fiscal year 2008, 123 for fiscal year  
2 2009, and 135 for fiscal year 2010.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 60125 is amended—

5 (A) by striking subsection (e) and redesignig-  
6 nating subsections (d) and (e) as subsections  
7 (c) and (d), respectively; and

8 (B) by striking “2003 through 2006” in  
9 paragraph (2) of subsection (c), as redesignig-  
10 nated, and inserting “2007 through 2010”.

11 (2) Section 6107 is amended—

12 (A) by striking “2003 through 2006.” in  
13 subsection (a) and inserting “2007 through  
14 2010.”; and

15 (B) by striking “2003 through 2006.” in  
16 subsection (b) and inserting “2007 through  
17 2010.”.

18 (3) Section 5128 is amended—

19 (A) by adding at the end of subsection (a)  
20 the following:

21 “(5) For fiscal year 2009, such sums as may be  
22 necessary.

23 “(6) For fiscal year 2010, such sums as may be  
24 necessary.”;

1                   (B) by striking “through 2008” in sub-  
2                   section (b) and inserting “through 2010”; and

3                   (C) by striking “through 2008.” in sub-  
4                   section (c) and inserting “through 2010.”.

○