

Resolution Calling for Congressional Action on Pipeline Safety Reauthorization Act

WHEREAS, Robust pipeline safety laws are essential to protect the citizens of this country and maintain the integrity of the United States' natural gas transmission and distribution networks; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) has a long history of supporting strong pipeline safety laws both at the State and national level; *and*

WHEREAS, The proliferation of new pipelines due to increased gas and oil exploration and production, and the need to replace aging, at-risk distribution infrastructure requires an increased emphasis on pipeline safety; *and*

WHEREAS, Reauthorization of the Pipeline Safety Act is currently being debated by Congress; *and*

WHEREAS, On July 14, 2015, NARUC Gas Committee Chairman Stan Wise presented testimony to the U.S. House Energy & Commerce Committee, available online at: <http://energycommerce.house.gov/hearing/oversight-pipeline-safety-regulatory-certainty-and-job-creation-act-2011-and-related-issues>, calling for new pipeline safety amendments that are supported by NARUC member States and the National Association of Pipeline Safety Representatives; *and*

WHEREAS, NARUC has worked with the Department of Transportation's Pipeline and Hazardous Materials Safety Administration and industry stakeholders to aggressively advocate for accelerated at-risk pipeline replacement programs through benchmarking and distribution improvement funding mechanisms; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 127th Annual Meeting in Austin, Texas, encourages Congress to include the previously approved NARUC gas safety amendments appended to Commissioner Wise's July 14, 2015, testimony, in any pipeline safety reauthorization legislation that is considered.

Sponsored by the Committee on Gas

Recommended by the NARUC Board of Directors November 10, 2015

Adopted by the NARUC Committee of the Whole November 11, 2015

Maintenance of Effort Language

Proposed Amendment:

60107 (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 shall ~~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 for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement. For each of fiscal years 2012 and 2013, the-]~~ The Secretary shall grant [such] a waiver to a State if the State can demonstrate an inability to maintain or increase the remaining costs of a safety program the required funding share of its safety program at or above the level required by this subsection due to economic hardship in that State. [For fiscal year 2014, and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.]

Indirect Cost Limitation Elimination

Proposed Amendment:

60107(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 80 percent of the cost of the personnel, equipment, ~~and~~ activities, and indirect costs at the rate negotiated by the State authority with the cognizant agency, that 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.

PSR Invitational Travel

Proposed Amendment:

§60107(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.

(1) The Secretary may apportion up to one percent of the total amount appropriated for invitational travel for State programs to carry out the purpose of §60102 of this Act.

NAPSR Administrative Manager Grant Considerations

Proposed Amendment:

(3) The Secretary of Transportation authorized under 60117(k) shall pay the cost of the personnel, equipment, and activities for an organization that is comprised solely of State Authorities from a pipeline safety program grant under section 60107 of this title.

Increasing One-Call Grant Amounts

Proposed Amendment:

§ 6107(a) For grants to States.--There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$5,000,000 [\$1,000,000] for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

Amend Exemption Requirement for One-Call Grant

Proposed Amendment:

§ 6102. Definitions

In this chapter, the following definitions apply:

(1) One-call notification system.--The term "one-call notification system" means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

(2) State one-call notification program.--The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of State law or policies pertaining to the use [in effect in a State that establish the requirements for the operation] of one-call notification systems in such State.

(3) State.--The term "State" means a State, the District of Columbia, and Puerto Rico.

(4) Secretary.--The term "Secretary" means the Secretary of Transportation.

Gathering Line Regulation

Proposed Amendment to Regulate Gathering Lines:

§60101. Definitions

(a) General.--In this chapter--

(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 does not include the movement of gas upstream of the boundary of a well site; [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;~~

§60101. Definitions

(b) Gathering lines.--~~(1)(A)~~ Not later than ~~January 1, 2017~~ ~~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.~~

§60102. Purpose and General Authority

(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.~~

§60102. Purpose and General Authority

(k) Low-stress hazardous liquid pipelines.—

(1) Minimum standards.—Not later than December 31, 2007, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and

regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. ~~The regulations issued under this paragraph shall not apply to gathering lines.~~

(2) General prohibition against low internal stress exception.—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

(3) Limited exceptions.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

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

(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation, until regulations issued under paragraph (1) become effective. After such regulations become effective, the Secretary may retain or remove those exceptions as appropriate.

(4) Relationship to other laws.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

(5) Definition.—For purposes of this subsection, the term ‘low-stress hazardous liquid pipeline’ means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

(6) Effective date.—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.

§60108. Inspection and Maintenance

(c)(8) If, after reviewing existing Federal and State regulations for hazardous liquid gathering lines located offshore in the United States, including within the inlets of the Gulf of Mexico, the Secretary determines it is appropriate, the Secretary shall issue regulations, after notice and an opportunity for a hearing, subjecting offshore hazardous liquid gathering lines and hazardous liquid gathering lines located within the inlets of the Gulf of Mexico to the same standards and regulations as other hazardous liquid gathering lines. The regulations issued under this paragraph shall not apply to production pipelines or flow lines.

§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.

§60117. Administrative

(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.~~

§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.

(4) Any other geospatial or technical data, including design and material specifications, that the Secretary determines are necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.

Design Review Requirement when requested by State

Proposed Amendment:

§ 60117. Administrative

(n) Cost Recovery for Design Reviews.—

(1) In general.—

(A) Review costs.—For any project described in subparagraph (B), if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this paragraph, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this paragraph. The Secretary may not collect design safety review fees under this paragraph and section 60301 for the same design safety review.

(B) Projects to which applicable.—Subparagraph (A) applies to any project that—
(i) has design and construction costs totaling at least \$2,500,000,000, as periodically adjusted by the Secretary to take into account increases in the Consumer Price Index for all urban consumers published by the Department of Labor, based on—

(I) the cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

(II) a good faith estimate developed by the person proposing a hazardous liquid pipeline facility and submitted to the Secretary; or

(ii) uses new or novel technologies or design, as determined by the Secretary; or

(iii) a State authority that has submitted a current certification under section 60105(a) of this title has requested a design safety review.

(2) Notification.—For any new pipeline facility construction project in which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and the State pipeline safety authority and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. To the maximum extent practicable, not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, the Secretary shall provide written comments, feedback, and guidance on the project.

Transportation of Unodorized Gas in Gathering and Transmission Lines

Proposed Amendment:

SEC. ____. ODORIZATION OF GAS IN TRANSPORTATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall establish a requirement that all combustible gas in transportation shall be odorized.

Interstate Agent Agreements New and Existing

Proposed Amendment:

(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 shall may make an agreement with a State authority within 60 days authorizing it to participate in the oversight of interstate pipeline transportation unless the Secretary after giving notice and an opportunity for a public hearing to a State authority demonstrates

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

(B) implementation of the interstate 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 an adverse impact on pipeline safety.

Each such interstate 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.

(3) Existing agreements.--If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after the date of the State authority's original certification 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, public 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.