

113TH CONGRESS
1ST SESSION

S. 1767

To amend title 49, United States Code, to require gas pipeline facilities to accelerate the repair, rehabilitation, and replacement of high-risk pipelines used in commerce, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2013

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

A BILL

To amend title 49, United States Code, to require gas pipeline facilities to accelerate the repair, rehabilitation, and replacement of high-risk pipelines used in commerce, 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.**

4 This Act may be cited as the “Pipeline Modernization
5 and Consumer Protection Act”.

6 **SEC. 2. REPLACEMENT PROGRAMS FOR HIGH-RISK NAT-**
7 **URAL GAS PIPELINES.**

8 (a) FINDINGS.—Congress finds that—

1 (1) Federal requirements related to repairing
2 pipeline leaks are limited to “hazardous” leaks,
3 which are leaks that represent an existing or prob-
4 able hazard to persons or property and require im-
5 mediate repair;

6 (2) there are no Federal requirements to ad-
7 dress slower or less hazardous leaks, which can allow
8 the leaks to persist unrepaired indefinitely;

9 (3) in States without a standard definition and
10 methodology for calculating unaccounted-for gas (the
11 difference between the amount of gas purchased by
12 a utility and the amount used or sold to customers),
13 data inconsistencies may be pervasive and these in-
14 consistencies hinder the ability of regulators to mon-
15 itor gas system and utility performance;

16 (4) the cost of leaked or otherwise unaccounted-
17 for natural gas in the distribution system is typically
18 passed on to ratepayers without limitation as an ac-
19 cepted cost of service, which removes financial incen-
20 tive for utilities to minimize the leaks;

21 (5) methane, the primary constituent of natural
22 gas, is a greenhouse gas at least 20 times more po-
23 tent than carbon dioxide;

24 (6) according to the Pipeline and Hazardous
25 Materials Safety Administration, the United States

1 natural gas distribution system still includes 61,000
2 miles of bare steel pipe without adequate corrosion
3 protection and 32,000 miles of cast iron pipe, which
4 was installed beginning in the 1830s and can be
5 prone to failure;

6 (7) major recent pipeline explosions that led to
7 human fatalities, including those in Austin, Texas,
8 Philadelphia, Pennsylvania, and Allentown, Pennsyl-
9 vania, have been traced to aging, leaking, and high-
10 risk pipeline infrastructure;

11 (8) natural gas distribution utilities may be dis-
12 couraged from making capital expenditures for the
13 replacement of leaking and failure-prone pipelines
14 because traditional ratemaking structures may not
15 allow for cost recovery on a timely basis; and

16 (9) according to the Pipeline and Hazardous
17 Materials Safety Administration, the natural gas
18 pipeline replacement programs established as part of
19 the ratemaking process in 27 States and the District
20 of Columbia have played a vital role in enhancing
21 public safety by better ensuring the prompt rehabili-
22 tation, repair, or replacement of high-risk natural
23 gas distribution infrastructure.

24 (b) NATURAL GAS DISTRIBUTION COMPANIES.—

1 (1) IN GENERAL.—Chapter 601 of title 49,
2 United States Code, is amended by inserting after
3 section 60112 the following:

4 **“§ 60112A. Replacement programs for high-risk nat-**
5 **ural gas pipelines**

6 “(a) DEFINITION OF GAS PIPELINE FACILITY.—In
7 this section, the term ‘gas pipeline facility’ includes—

8 “(1) a distribution facility; and

9 “(2) a gas utility.

10 “(b) IN GENERAL.—Each operator of a gas pipeline
11 facility shall, in accordance with an integrity management
12 program required under section 60109 of this title, if ap-
13 plicable, accelerate the repair, rehabilitation, and replace-
14 ment of gas piping or equipment that—

15 “(1) is leaking; or

16 “(2) may pose high risks of leaking, or may no
17 longer be fit for service, because of—

18 “(A) inferior materials;

19 “(B) poor construction practices;

20 “(C) lack of maintenance; or

21 “(D) age.

22 “(c) POLICY OPTIONS.—

23 “(1) IN GENERAL.—In complying with sub-
24 section (b), each State regulatory authority and each
25 nonregulated gas utility shall consider—

1 “(A) developing prioritized timelines to re-
2 pair all leaks based on the severity of the leak,
3 including non-hazardous leaks, or replace iden-
4 tified leaking or high-risk piping or equipment,
5 including leaks identified as part of an integrity
6 management plan developed under section
7 192.1007 of title 49, Code of Federal Regula-
8 tions, if applicable;

9 “(B) adopting a cost-recovery program
10 that includes—

11 “(i) replacement plans with targets
12 and benchmarks for leaking or high-risk
13 infrastructure replacement;

14 “(ii) consideration of the economic,
15 safety, and environmental benefits of re-
16 duced gas leakage, including consideration
17 of reduced operation and maintenance
18 costs and reduced costs attributable to lost
19 or unaccounted-for natural gas; and

20 “(iii) reporting on the reductions in
21 lost or unaccounted-for gas as a result of
22 pipeline replacements;

23 “(C) adopting a standard definition and
24 methodology for calculating and reporting unac-
25 counted-for gas to improve data quality;

1 “(D) adopting limits on cost recovery for
2 lost and unaccounted-for gas; and

3 “(E) requiring use of best available tech-
4 nology to detect gas leaks.”.

5 (2) TECHNICAL AND CONFORMING AMEND-
6 MENT.—The table of sections for chapter 601 of
7 title 49, United States Code, is amended by insert-
8 ing after the item relating to section 60112 the fol-
9 lowing:

“60112A. Replacement programs for high-risk natural gas pipelines.”.

10 (c) NON-BINDING GUIDELINES FOR IDENTIFYING
11 AND CLASSIFYING HIGH-RISK PIPELINE INFRASTRUC-
12 TURE.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Administrator
15 of the Pipeline and Hazardous Materials Safety Ad-
16 ministration shall, after consultation with State reg-
17 ulatory authorities, the Secretary of Energy, the Ad-
18 ministrator of the Environmental Protection Agency,
19 the Federal Energy Regulatory Commission, and
20 other appropriate Federal agencies, and after notice
21 and opportunity for comment, issue non-binding
22 guidelines identifying best practices under section
23 60112A of title 49, United States Code (as added by
24 subsection (b)).

1 (2) PRESERVING THE INTEGRITY OF ACTIONS
2 ALREADY TAKEN BY STATE REGULATORY AUTHORI-
3 TIES.—In formulating guidelines under paragraph
4 (1), the Administrator of the Pipeline and Haz-
5 ardous Materials Safety Administration shall, to the
6 extent practicable, preserve the integrity of, and be
7 guided by, actions already taken by State regulatory
8 authorities to ensure proper identification, classifica-
9 tion, and timely repair of high-risk pipeline infra-
10 structure and leaks, including actions taken after
11 consideration of the standard under section
12 303(b)(6) of the Public Utility Regulatory Policies
13 Act of 1978 (15 U.S.C. 3203(b)(6)).

14 (3) REVISION OF GUIDELINES.—Not less fre-
15 quently than once every 7 years, the Administrator
16 of the Pipeline and Hazardous Materials Safety Ad-
17 ministration shall review and, as appropriate, revise
18 the guidelines issued under paragraph (1) to reflect
19 changes in the composition and safety performance
20 of the pipeline infrastructure in the United States.

21 **SEC. 3. DATA STANDARDIZATION.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
23 sion of law, not later than 1 year after the date of enact-
24 ment of this Act, the Administrator of the Pipeline and
25 Hazardous Materials Safety Administration and the heads

1 of other applicable Federal agencies shall, in consultation
2 with State and local agencies under subsection (c), work
3 jointly to establish and publish forms that adopt a stand-
4 ard definition and methodology for calculating and report-
5 ing unaccounted-for gas, including, when possible, infor-
6 mation on the causes of unaccounted-for gas and the
7 quantities associated with each cause, for use by applicable
8 Federal agencies to standardize the data collected on un-
9 accounted-for gas.

10 (b) ADMINISTRATION.—In carrying out this section,
11 the Administrator of the Pipeline and Hazardous Mate-
12 rials Safety Administration and the heads of other applica-
13 ble Federal agencies may—

- 14 (1) establish an interagency working group; and
15 (2) enter into a memorandum of understanding.

16 (c) CONSULTATION WITH STATE AND LOCAL AGEN-
17 CIES.—The Administrator of the Pipeline and Hazardous
18 Materials Safety Administration and the heads of other
19 applicable Federal agencies shall offer to work with State
20 and local regulatory authorities to adopt a standard defini-
21 tion and methodology for calculating and reporting unac-
22 counted-for gas to standardize the data collected by Fed-
23 eral, State, and local governments.

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