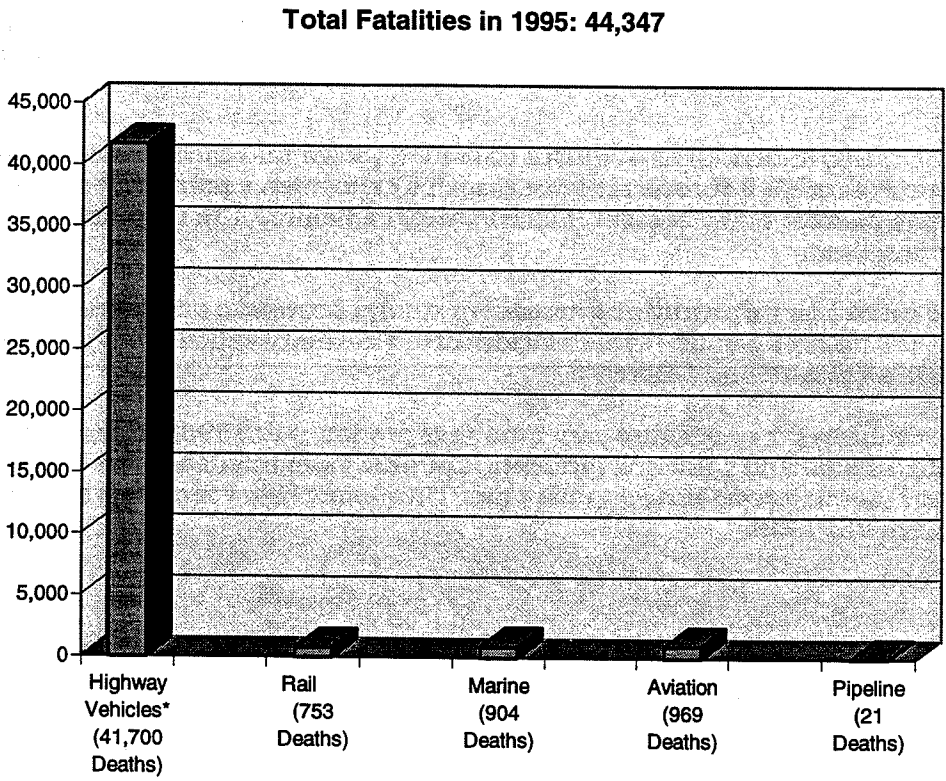


**Natural Gas Pipeline Safety
1994 to 1997
The Change to a New
Safety Paradigm**

I. Introduction

The safe and reliable transportation of the America's energy needs has long been a priority of the natural gas transmission industry. Year after year, National Transportation Safety Board (NTSB) statistics prove the industry to be the safest in the country. And while the safety record is enviable, pipeline companies conduct extensive and on-going safety programs, continuously seeking new ways to improve safety, reliability and efficiency.

Figure 1. 1995 Transportation-Related Fatalities



*Includes cars, trucks, vans, buses, motorcycles, and pedalcycles

In October 1996, President Clinton signed into law the Accountable Pipeline Safety and Partnership Act of 1996. The enactment of new pipeline safety legislation heralds in a new era in pipeline safety by adopting performance based standards that recognize the one-size fits all approach to regulation is not the best way to maintain the integrity and safety of America's pipeline network.

This paper provides an overview of the events and initiatives that led to the reauthorization of pipeline safety legislation in the 104th Congress and a shift in the safety paradigm toward a risk based standard of regulation.

Beginning with an overview of the U.S. pipeline industry and the regulatory environment prior to 1994, the report outlines the industry, regulatory and congressional initiatives introduced following the Edison, New Jersey incident. The paper also highlights the application of risk management principles to the operation and maintenance of natural gas pipelines. It concludes with a discussion of the synergies of the efforts of industry and government to develop new

pipeline safety management methods, and offers a look at what the future holds for the natural gas pipeline industry.

II. State of the U.S. Pipeline Industry Prior to 1994

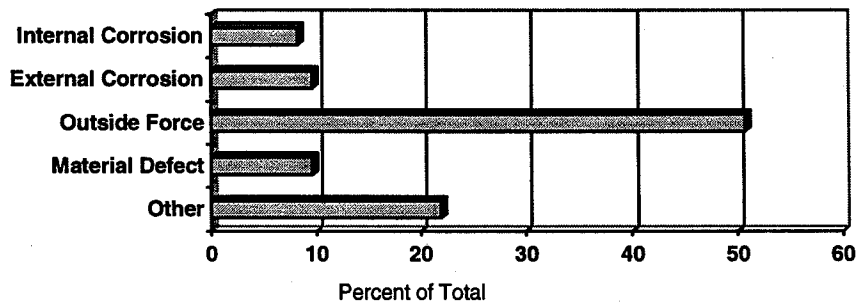
Interstate Natural Gas Infrastructure

The natural gas transmission system had its beginnings in the 1920's. This system expanded quickly in the following decades assisted by company and industry specifications and standards. During this time natural gas transmission lines have maintained an enviable record of public safety.

Department of Transportation (DOT) statistics have long shown that the single greatest cause of pipeline accidents is damage from outside force, such as excavation equipment or ship anchors. Third-party damage may not result immediately in a failure. The pipeline failure may occur months or years later.

Accidents are caused less frequently by internal or external corrosion, faulty construction or material defects. DOT places all other types of incidents in a category called "other," which includes such things as mechanical failures.

The precise percentages for each cause vary from year to year. For 1996, there was a total of 73 natural gas transmission and gathering incidents, of which more than half were caused by third-party damage (outside force damage) to the pipe. The chart below represents a breakdown of the accident causes in 1996.



Source: Office of Pipeline Safety, DOT

Existing Industry Practices

Safety is a fundamental part of business for the natural gas transmission industry. The codes, standards, and engineering practices that have been developed over time continue to provide programs that address the safety issues associated with the pipeline industry. In fact, through the codes, standards, and engineering practices developed by the pipeline industry, current practices of many pipeline operators exceed the safety levels mandated by existing

regulations. Safety is viewed as part of a company's competitive edge. Therefore, companies generally allocate additional resources for practices above and beyond the already significant expenses necessary to comply with minimum regulatory requirements (GRAQT, 1995). Pipeline companies are extremely safety conscious and work hard to combat all causes of pipeline failures. To help prevent damage from outside force, the major contributor to pipeline accidents, companies conduct pipeline information programs:

- Companies participate in "one-call systems" in the many areas where they are available, so that contractors, highway workers, farmers and anyone digging along a pipeline right-of-way can call a single number to be sure it is safe to proceed. Where one-call systems do not operate, pipeline companies devote great effort to informing the public that they must first notify the pipeline company before digging or operating heavy equipment along the pipeline route. "Call-before-you-dig" notices are also sent to property owners along the right-of-way;
- Public service announcements and written materials tell the public how to detect pipeline leaks;
- Safety messages are also included in company giveaways such as desk or wall calendars;
- In addition, pipeline routes are clearly marked, and the markers include telephone numbers to report suspected problems; and
- Companies meet regularly with local emergency personnel to discuss safety along the pipeline right-of-way.

Other potential causes of accidents are addressed in a variety of ways, as part of pipelines' normal inspection, operation and maintenance procedures. Some of these procedures include:

- Pipeline personnel regularly walk and fly over the pipeline routes looking along rights-of-way and adjacent areas for any signs of leaks, construction activity, or other factors that may effect safety. DOT regulations set out maximum intervals for these patrols. The more heavily populated the area, the more frequent the visual inspections;
- Pipelines are cathodically protected against corrosion. (Cathodic protection devices place a protective electric field around the pipe.) Companies carry out cathodic-protection surveys to spot any weaknesses, so they can be corrected promptly;
- Hydrostatic testing – which involves filling the pipeline with water under great pressure – is used to ensure pipelines can operate safely at levels well above their normal operating pressures. Hydrostatic testing is done before a new or replacement line is placed in service, and when necessary to reconfirm or upgrade the maximum allowable operating pressures; and
- In-line or internal inspections are done by using "smart pigs" – mechanical devices which travel inside the pipe checking for deformities, pipe-wall metal loss caused by corrosion, or other factors which could cause a failure.

Of course, when a potential problem is spotted by any of these methods, companies promptly repair or replace the affected pipe. If no problems are identified, a properly protected steel pipe carrying clean, dry gas can remain in service virtually forever.

As previously mentioned, the Office of Pipeline Safety at DOT regulates the safety aspects of pipeline construction and operation. Among the many items overseen by OPS are:

- The depth to which pipelines are buried;
- The design specifications which pipe used in construction must meet;
- The pressures at which pipelines may operate;
- The frequency with which pipelines are monitored and inspected; and
- Repair methods, which may be used.

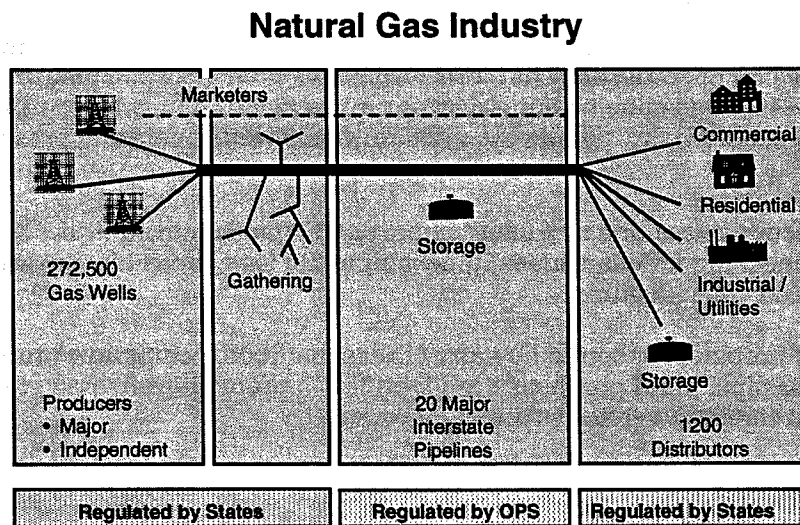
Population density along the right-of-way is a determining factor in many of these regulations. Regulations establish four "class locations," ranging from offshore and rural areas to densely populated areas. Pipeline companies are required to conduct "house counts" annually along their routes, and if the population density increases, they must bring their lines into conformity with the regulations for the higher class location. They may do this by permanently lowering operating pressure, by pressure-testing the line to insure that it meets the higher standard, or by replacing the line if necessary.

DOT also has inspectors who periodically inspect pipelines and company records to ensure compliance with the department's regulations. State inspectors assist in these efforts.

Existing National Pipeline Regulations

The DOT's Office of Pipeline Safety (OPS) regulates the transportation of natural gas and hazardous liquids by pipeline through Chapter 601 of Title 49, Code of Federal Regulations. This regulation specifies the minimum requirements for design, construction, testing, operations, and maintenance of natural gas and hazardous liquid pipelines. Part 192, the Minimum Federal Safety Standards for Gas Pipelines, which was originally promulgated in 1970 covers interstate natural gas transmission pipelines. Figure 2. depicts the regulatory authority of OPS. Even though OPS has authority for distribution it has been delegated to the states.

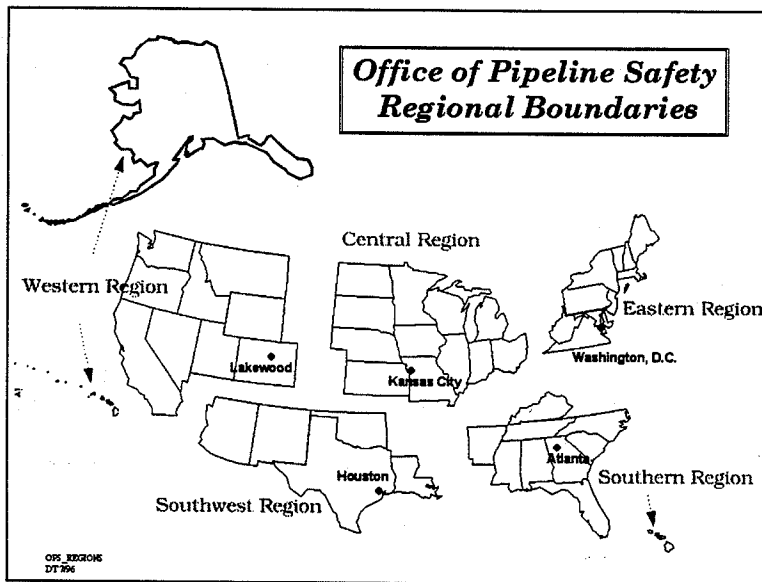
Figure 2. Authority of Federal Office of Pipeline Safety



This set of regulations was originally adapted from the industry standard ANSI B31.8 that was developed in 1952 by the natural gas transmission industry. The regulation is organized by the categories: materials of construction, design, welding, construction, corrosion, monitoring, operations, maintenance, and emergency response (HSB-IV, 1995, see Appendix I).

The development of pipeline safety regulations for 25 years has been the standard government administrative process of notification of intent to publish rule, development of proposals, receipt of comments and publication of the final rule. These regulations are implemented by the natural gas transmission companies. As shown in Figure 3. OPS field personnel audit the pipeline companies to determine if the pipeline companies are correctly implementing the regulations.

Figure 3. Regional Boundaries of OPS Authority



Although annual appropriation levels are established by Congress, the OPS is funded through pipeline user fees assessed upon natural gas and liquid transmission pipelines. For fiscal year 1997, OPS has been allocated a budget of \$31,448,000. OPS will draw upon the Oil Spill Liability Fund for \$2,698,000 of the funding, while approximately \$28,750,000 is funded directly from user fees assessed per mile of interstate pipeline. In 1997, 55% of user fee funding will come from the natural gas pipelines and will be set at \$69.00 per mile of pipe. The remaining 45% share of the pipeline will be funded by the petroleum pipeline industry.

State Regulations

OPS is responsible for regulating both interstate and intrastate gas pipeline operators but allows the states to voluntarily assume this responsibility for intrastate pipeline facilities (US GAO, 1984). Currently OPS reimburses up to 50% of a state's pipeline safety program through a grant program. State adoption and enforcement of federal pipeline safety regulations provides for an effective and uniform nationwide pipeline safety program.

Most states have established agencies, usually within their utility regulatory commissions, to administer pipeline safety programs. The states may impose additional standards for intrastate pipelines and facilities, as long as they are compatible with the minimum federal standards. For example, many states have established one-call systems for excavators and the general public to notify pipeline companies of their intent to engage in excavating activities. One-call systems

establish a central operation facility to receive calls from excavators prior to digging and to transmit information on excavation activities to the operators of underground utilities, such as natural gas pipelines. After receiving the call, operators participating in the one-call system determine if a pipeline is located in the vicinity of the excavation and arrange to identify and mark the pipelines.

III. Turning Point—Edison, New Jersey Incident

On March 23, 1994, an interstate natural gas pipeline located approximately 100 yards from a densely populated apartment community in Edison, New Jersey ruptured. The rupture destroyed about 75 feet of pipeline and released approximately 297 million standard cubic feet of natural gas. The resulting explosion and fire destroyed eight buildings and required the evacuation of approximately 1,500 residents. High-pressure natural gas continued to fuel the fire for over two hours as personnel attempted to isolate the pipeline segment. Total property damage was estimated to be of over \$25 million, and one woman with a history of heart problems, living one mile from the pipeline, suffered a heart attack and died shortly after the explosion.

The NTSB determined that the probable cause of the accident was third party damage resulting in mechanical damage to the pipeline exterior, leading to a 26% reduction in the pipeline wall thickness (NTSB, 1995). Over time, due to fluctuating stresses from pressure changes, any cracking associated with the gouge grew and ultimately resulted in the pipeline failure. The delay in activating isolation valves to stop the flow of gas to the damaged segment contributed to the severity of the accident.

In the final report on the incident, the NTSB outlined recommendations for safety improvements to: DOT's Research and Special Programs Administration; the pipeline company; the International City/County Management Association; the American Planning Association; and numerous industry organizations, American Public Works Association, Interstate Natural Gas Association of America, Association of Oil Pipe Lines, American Petroleum Institute, American Gas Association, and American Society of Civil Engineers.

Among the areas the NTSB thought industry and the OPS should address in efforts to maintain the integrity of America's pipeline network and prevent similar incidents in the future were:

- Steel pipeline toughness properties;
- Pipeline marking;
- Surveillance procedures;
- Damage prevention programs;
- Rapid detection and shutdown;
- Internal inspections; and
- Land use management.

Industry's Response

New Pipeline/Government Interface

After the Edison incident, the pipeline industry concluded the one-size-fits all approach to regulation was not allowing the pipeline industry to adequately address its safety needs. The industry, and regulators, needed to try a new approach. The overall goal of the industry was to move the U.S. pipeline safety program away from prescriptive regulations and toward a program based on risk assessment, risk management, and an industry-agency partnership. Although there is a natural adversarial relationship between the regulators and the regulated, OPS and the pipeline industry began working to improve their relationship. The industry believed that the synergy between OPS and the pipeline industry in their efforts to improve pipeline safety would be beneficial to all stakeholders.

INGAA Pipeline Safety Action Plan

In response to the Edison incident, the Interstate Natural Gas Association of America (INGAA) Board of Directors met, and in the course of reviewing the Edison accident, decided to take a proactive stance by appointing a Board-level pipeline safety task group. Chaired by John Riordan, president and chief executive officer of MidCon Corp., the task group, which included three other Board members, reviewed current industry practices and research efforts, and developed a seven point pipeline safety action plan (INGAA, 1994). The action plan identified the following issues for which legislative or regulatory action could be initiated to address perceived pipeline safety problems (Complete Action Plan can be found in Appendix II.):

- Damage prevention/one-call systems;
- Risk management/pipeline integrity determination;
- Nondestructive evaluation methods;
- Automatic and remote operated valves;
- Increased monitoring and patrolling;
- Public education and emergency preparedness; and
- Research needs and priorities.

Similarly, the Gas Research Institute (GRI) evaluated and developed programs that continue to provide safer and more reliable services for its industry members. GRI's pipeline safety program consists of research projects, procedures, and products focusing on three areas of pipeline safety: pipeline risk assessment/risk management; nondestructive evaluation; and pipeline corrosion. (Examples of programs resulting from INGAA's Pipeline Safety Action Plan and GRI's safety program are included in Appendix III.)

Congressional Response

Pipeline Safety Hearings

Less than a month after the Edison accident, at the request of former New Jersey Senator Bill Bradley, the Senate Committee on Energy and Natural Resources held a hearing to review the events of the rupture. It also initiated actions to address pipeline safety issues perceived to be related to the accident. The items addressed included:

- A national damage prevention program with state-wide mandatory one-call systems;
- A public education and emergency preparedness system, including improved information materials and methods of communicating information;
- Remote actuated or automatic isolation valves;
- Pipeline internal inspection tools (smart-pigs); and
- Patrolling and monitoring methods for detecting excavation activities.

Introduction of One-Call Legislation

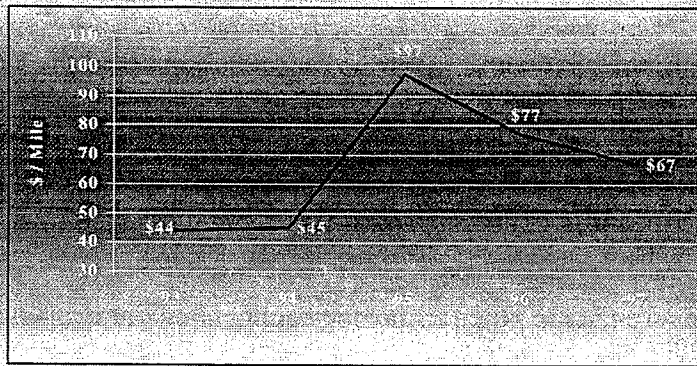
The Edison incident was traced back to damage caused by third party excavation. Third party damage is the root cause of close to 60% of all pipeline failures. For example, during 1993, more than 104,000 pipeline strikes and damages were caused by third parties, costing the pipeline industry more than \$86 million (NICOR, 1995).

Presently 48 states and the District of Columbia operate some type of one-call system. However, the level of participation, penalties, and notification requirements vary greatly. In an effort to provide more consistency, Congress, with the support of the pipeline industry, proposed the Comprehensive One-Call Notification Act of 1994. This act would have required all states to consider adopting mandatory and comprehensive one-call notification systems to protect all underground facilities from being damaged by excavation. The bill included provisions for establishing a nationwide toll-free telephone system and public education programs. Although the bill cleared the necessary committees in the both the House and Senate, and in fact was passed by the full House, it died before reaching the Senate floor for a full vote. A nationwide one-call program remains a top legislative priority for the pipeline industry.

OPS Budget Increase/Pipeline Safety User Fees

In addition to hearings on the Edison accident and national one-call legislation, a near doubling of the OPS's operating budget was achieved for fiscal year 1995, for the most part, at the request of New Jersey Senator Frank Lautenberg, chairman of the Senate Appropriations Transportation Subcommittee. After Edison, OPS increased gas pipeline fees from \$44/mile to \$97/mile to support a budget of \$37.6 million, a budget increase of nearly \$19 million from fiscal year 1994 as shown in Figure 4.

Pipeline Safety User Fees



Total User Fee Budget to decrease from \$28.4 to \$28 Million in 1998
Pipeline Safety Act projects 3% increase per year in 1999 and 2000

Figure 4. Pipeline Safety User Fees

Administration's Response

In addition to participating in hearings on budget appropriations, the Edison incident, as well as one-call legislation, the OPS initiated a number of joint industry-government working projects. On March 13, 1995, approximately one year after the Edison incident, the DOT transmitted a legislative proposal for reauthorization of the pipeline safety program that would establish a structure to evaluate pipeline risks and their consequences, develop solutions addressing these risks, and establish priorities for implementing recommended solutions. In addition, OPS has recently begun a variety of activities and programs in an effort to increase safety while allowing more flexibility in the operating methods used by individual companies. These activities, which include the Risk Assessment Prioritization (RAP) program and Risk Assessment Quality Teams (RAQTs), define the current direction of the national pipeline safety program and establish a foundation for regulatory reform.

Risk Assessment Prioritization (RAP) Program

OPS initiated the RAP program in 1994 to determine how best to apply federal resources to pipeline safety issues using a cost/benefit approach based on weighing the expected reduction in risk against the expected costs of achieving the reduction. The basic steps of the RAP process are:

- Identification of safety and environmental issues;
- Identification of proposed solutions;
- Evaluation and ranking of proposed solutions;
- Identification and allocation of available OPS resources; and
- Production of an OPS action plan (HSB II, 1995).

The first generation of RAP resulted in extensive government, industry, and public input on topics such as: the continued support for federally legislated one-call systems, continued rulemaking for the installation of check valves in high risk liquid pipelines, and periodic smart pigging (an internal pipeline inspection technique) of high risk transmission segments (Caldwell, 1996). OPS will continue to identify ways of providing more flexibility within its regulations, and

reduce or remove costly requirements with little or no risk-reduction benefits. The RAP identified the following areas for increased attention:

- Incorporate industry standards within regulations;
- Strengthen inspection procedures to better evaluate cathodic protection design, installation, and monitoring; and
- Review regulations to ensure plastic pipe technology applications are consistent with current practices (Caldwell, 1996).

OPS plans to continue to develop and refine the RAP process and make data available to state pipeline regulatory offices and other stakeholders.

Risk Assessment Quality Teams (RAQTs)

Given the common interest of OPS and the pipeline industry in improving pipeline safety, representatives from OPS, industry and the public formed two RAQTs. The first was formed in 1994 by the American Petroleum Institute (API) and OPS to explore the use of risk management programs in the liquid pipeline industry. This group focused on oil and petroleum transmission applications. The second was formed in 1995 by INGAA and GRI to examine risk management applications for natural gas transmission. Recognizing common goals, the two teams joined in 1996 to form the Joint Risk Assessment Quality Team (JRAQT), representing both natural gas and oil pipelines. The purpose of the JRAQT was to study the applicability and benefits of formal risk management programs, develop guidelines for managing risks in the pipeline industry, and define concepts by which industry risk management processes can be effectively integrated in the government pipeline safety program.

Focusing on how risk management practices have been applied in other industries and internationally, the JRAQT determined that to integrate risk management into the oversight of pipeline transportation, certain assumptions are fundamental:

- Each pipeline system is unique (i.e., one size does not fit all);
- Each risk does not pose the same probability of occurrence and consequence; and
- Given the appropriate analytical tools, technical discretion, and financial capability, pipeline operators can make better decisions about how to manage the safety of their system.

The JRAQT concluded that the total elimination of risk is not possible. However, properly managed and technically defensible risk management programs have improved safety in other industries. For example, risk management techniques applied at a paper mill reduced occupational accidents by 56% (Harms-Ringdahl, 1987). Risk management for pipelines offers potential benefits for all stakeholders, including: improved safety; improved efficiency and reliability of operation; and prioritization of operational and maintenance activities. The application of risk management techniques also provides a mechanism for identifying potential design and operational weaknesses and opportunities for improvement, which in turn can be used to demonstrate to a broad range of stakeholders that all significant risks are being systematically identified, analyzed and managed (Matheson, 1995). Recommendations for future actions offered by the Gas and Liquid JRAQT include:

- Structuring a formal risk management program similar to industry standards prepared by API or ANSI;

- Developing a baseline of performance to measure the success of risk management at the national level;
- Developing a multi-year plan for the implementation of risk management; and
- Identifying approaches to advancing research and development of risk management tools and methodologies.

IV. A New Paradigm for the Industry

Federal Pipeline Safety Reauthorization

In 1996, the Congress reauthorized the Pipeline Safety Act. On Saturday October 12, President Clinton signed into law the Accountable Pipeline Safety and Partnership Act of 1996 (Appendix III), embarking on what the pipeline industry views as a new era of enhanced pipeline safety and regulatory partnership. The legislation offers the industry a new approach to regulatory rule-making that allows for the most efficient use of resources because it welcomes private-sector input and provides the gas pipeline industry with increased flexibility in managing pipeline safety measures (Kalisch, 1995).

The key components of the pipeline safety bill are the requirements for an analysis of benefits and costs associated with new regulations, the creation of a risk management project which includes a demonstration program and methods to measure the safety performance of risk management plans. These elements are discussed further in section VI. In addition to the concepts of risk management and risk assessment the Act contains sections dealing with:

- Assessment of the effectiveness and feasibility of remotely operated valves to shut-off the flow of natural gas in the event of a pipeline rupture;
- Determination of the effectiveness and applicability of public education programs and one-call notification systems for informing residents of the location of pipelines and the procedures to be followed in the event of a pipeline accident; and
- Regulations prohibiting unauthorized disposal within the right-of-way of an interstate pipeline facility and criminal penalties for persons who damage a pipeline facility and do not promptly report the damage to the owner or operator of the facility (Petri, 1995 and Lott, 1996).

Cost/Benefit Analysis

Weighing risk reduction versus cost is key to a risk management approach to safety. The pipeline safety regulatory framework contains provisions for performing cost-benefit analyses. Specifically, the Accountable Pipeline Safety and Partnership Act requires the Secretary of Transportation to identify and assess risk reduction benefits and costs for all new significant standards and regulatory requirements issued by the Secretary. This approach is directly modeled after the risk assessment provisions in the House of Representatives bill H.R. 1022, which required federal agencies to conduct unbiased analyses of the costs and benefits of major rules. The cost/benefit analysis would require:

- An analysis based on objective data;

- Incremental risk reductions with respect to public safety and environmental protection that justify the incremental costs incurred; and
- Identification of the various regulatory and non-regulatory options that were considered but determined to be either less cost-effective or provided less flexibility in achieving the objective.

Risk Management

Over the past year, the pipeline industry, regulatory agencies, and public representatives have been exploring what risk management means to the pipeline industry. Risk management is defined as the systematic application of management policies, procedures, finite resources, and practices to the tasks of analyzing, assessing, and controlling risk in order to protect employees, the general public, the environment, and company assets (HSB-IV, 1995). Two factors comprise risk: the likelihood or frequency of an event and the severity of consequences. A formal risk management program addresses not only those events that may occur frequently but may not cause significant damage (high frequency/low consequence events), but also those events that are not likely to occur but have devastating consequences (low probability/high consequence events).

Risk management encompasses the entire life cycle of the system, from design through decommissioning. In addition, risk management addresses all elements of business. For a pipeline these might include: location, product, process, equipment, components, procedures, supervision, management, records and human resources (DOT, 1995). The extent to which risk management is applied varies widely, commensurate with the inherent risks, but the basic methods are founded on fundamental business practices and sound engineering principles.

The conceptualized risk management process approach for the pipeline industry consists of three broad steps:

- Risk assessment—The purpose of this step is to identify the hazards, determine the failure modes that can lead to a hazardous event, and estimate the likelihood and consequences of the hazards such that the risks of different events can be compared;
- Risk control and decision making—In this step the options for controlling the identified risks are examined and decisions are made concerning which specific activities to perform to control the risks; and
- Performance monitoring—This step establishes the performance measures and tracks progress to ensure that the intended effects of actions are achieved.

Figure 4. Risk Management Process

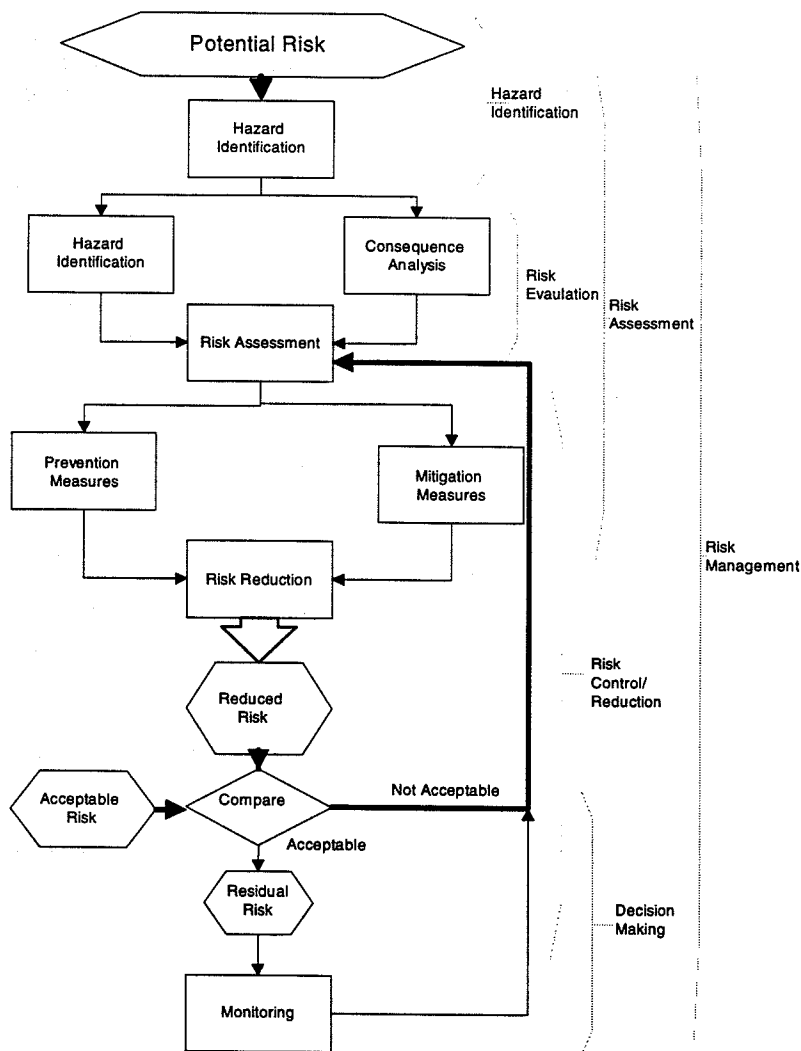


Figure 4. illustrates this process in a simple, conceptual diagram. Following these steps results in assessing threats from specific problems or sources, ranking their relative importance, determining which have the greatest reduction potential, allocating resources, and monitoring the effectiveness of prevention and mitigation measures over time (CFR, 1995). Performance is assessed and the process is refined until the desired objectives are achieved.

Many pipeline companies currently use risk management techniques in their pipeline safety programs. For example, written procedures, incident investigation, training, management of change, and risk assessment techniques are common practices in the pipeline industry that are recognized as elements of a risk management program (HSB-III, 1995). Some companies are also exploring the application of risk management principles to other operational areas, in an effort to improve their pipeline system beyond safety (Tenneco, 1995). Using the experience gained from developing and implementing a risk management program for pipeline safety, the same principles are being applied to other areas of risk, such as gas supply reliability and environmental impacts.

Recent developments in the movement of the natural gas industry toward a risk-based approach to safety are based on the belief risk management principles, as applied to natural gas pipeline safety activities can optimize both industry's operational costs and OPS's regulatory

costs while increasing system efficiency and safety. On this basis, OPS and the natural gas pipeline industry have taken an active role in promoting the development of an industry-wide risk management program. Risk management is expected to improve safety by ensuring that resources are allocated based on the level risk. Some key features of the risk management program in the U.S. are cost/benefit analyses, the demonstration program and performance measures.

Risk Management Demonstration Program

To evaluate the effectiveness of risk management in maintaining or improving pipeline safety, the pipeline safety regulatory framework outlines provisions for a risk management demonstration program. The demonstration program establishes a four-year voluntary program within OPS, whereby a participant may submit a risk management safety plan for approval that would achieve an equal or greater level of safety than following existing prescriptive regulations. The objectives of the demonstration project are to:

- Determine whether risk management provides equal or greater safety than a compliance-based approach;
- Help each operator assess threats to integrity, whatever the scope of the project, or whatever aspect of the system is involved;
- Demonstrate how appropriately the draft risk management standards address risk and can be applied effectively;
- Determine how operators consider low-probability-high consequence incidents in addition to accident history;
- Determine how operators evaluate smaller precursor events that could lead to large failures;
- Demonstrate how an integrated review of safety operations can expedite prompt response to situations that could lead to failures;
- Systematically correlate data, rank planned actions, and follow through on these plans; and
- Promote technological innovation (DOT, 1995).

Figure 5. Depiction of the Risk Management Building Blocks

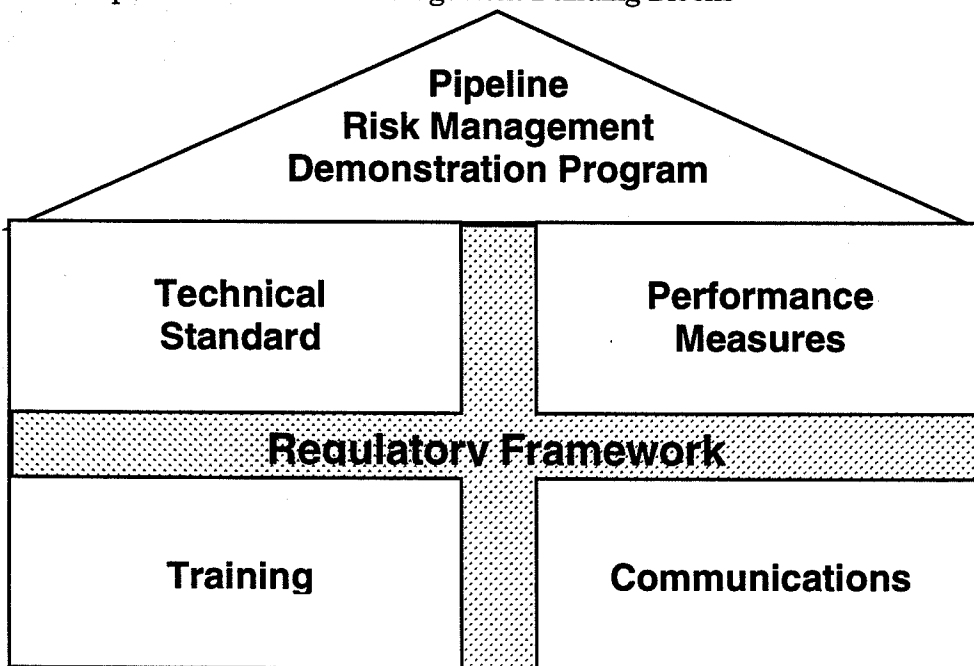


Figure 5. depicts the components of the Risk Management Demonstration Program. A limited number of qualified interstate transmission operators would have the opportunity to participate in the demonstration program. During the program, participants would not be subject to pertinent existing or new standards or regulations (Petri, 1995). The demonstration project would incorporate training, testing, model development, new technologies, and community awareness, in addition to demonstrating the application of risk assessment and risk management methodologies into safety oversight activities (Lott, 1996).

Allowing both the industry and government an opportunity to gain experience before extending the program is a vital step in transitioning from prescriptive regulations to a risk management approach. At the conclusion of the demonstration program, OPS will submit a report to Congress on the results and recommendations of the program. A successful evaluation would determine that risk management can be a cost-effective way to maintain pipeline safety and would demonstrate that, given flexibility, pipeline operators can manage risk more effectively than with prescriptive regulations. The report would address lessons learned from the demonstration program, including whether safety was maintained or improved, and how OPS and industry can continue to work together to address safety issues.

Program Standard

The Risk Management Program Standard, developed by the joint government/industry Risk Management Program Standard Team, describes the necessary basic elements and characteristics of a pipeline company risk management program. The program standard is to be used by:

- Individual pipeline companies that are developing risk management programs for internal use;
- Individual pipeline companies that are developing specific proposals to submit for consideration in the Risk Management Demonstration Program; and
- OPS as a basis for developing the processes it will use to review risk management demonstration projects and approve specific risk management demonstration project proposals submitted by individual companies.

The program standard is intended to serve as a common rational basis upon which the pipeline industry and its regulators can interactively develop and refine effective risk management programs and proposals. It is not intended to provide a detailed instruction manual that can be followed by rote by pipeline companies to develop a program or proposal, or a check list for OPS to review company risk management proposals.

This program standard defines the program and process elements of a comprehensive risk management program that all risk management demonstration project proposals shall contain. The program however, allows flexibility to each company to customize its risk management program to fit its particular needs and corporate practices, provided the program supports the scope and goals of the demonstration project proposal. This program standard also includes a program evaluation and improvement element that enables companies' programs to evolve as experience is gained.

Performance Measures

A unique feature of the proposed pipeline safety program legislation is the requirement of performance measures to evaluate the success of the risk management program. Other risk management programs, such as the Occupational Safety and Health Administration's Process Safety Management program or EPA's Risk Management Program, are founded on the basis that if the elements for a risk management program are in place, then safety will improve.

Establishing meaningful measures of performance is critical to the success of risk management for the pipeline industry, because the performance measures define the objectives that will impact the success of the program and therefore direct the focus of participants on achieving those objectives. Currently, several issues have been identified that complicate the selection of performance measures for the pipeline industry:

- Determining the effectiveness of a risk management program requires a measurement of performance prior to the implementation of risk management to establish a baseline;
- Does the baseline establish the level of safety attributed to compliance with current regulations or to compliance with existing regulations plus the additional discretionary safety measures established by an individual company; and
- The measure of performance must provide a statistically significant comparison to the baseline over a short period in time (i.e., the four-year demonstration period).

A subcommittee of the JRAQT is currently addressing these issues and is expected to make recommendations later this year.

Communications

Communication to the public is an important aspect of implementing the risk management program. The communication plan describes how OPS and the industry will communicate with those that may be affected by a demonstration program. The purpose is to help the public understand the Demonstration Program's goals, processes, safety issues, safety actions and anticipated outcomes for each of the demonstration projects.

Training

In order to implement risk management the participants must be familiar with the process. This will be accomplished with government/industry cooperative training. The risk management orientation courses will:

- Prepare members of the Project Review Team (PRT) to perform their role in the demonstration program;
- Prepare individuals who will provide input to and support the PRT; and
- Prepare pipeline companies who want to participate in the demonstration program.

Regulatory Framework

The Regulatory Framework is the regulatory authority to implement the risk management demonstration program. It sets the administrative process to accept applications, approve projects, and monitor and adjust projects during the demonstration period.

Status of Risk Management Demonstration Program

The JRAQT has finalized a program standard to describe the necessary basic elements and characteristics of a pipeline company's risk management program (JRMTT, 1996). The program standard is intended to provide a common basis upon which the pipeline industry and regulators can interactively develop and refine effective risk management programs. The standard provides an overview of a risk management program consisting of program elements and process elements. Program elements encompass the corporate infrastructure to ensure that risk management is an integral part of the business, while process elements make up the technical and analytical portions of the risk management program. The guiding principles of the program standard are (JRMTT, 1996):

- Risk management is a comprehensive management decision-support process, implemented as a program and integrated through defined roles and responsibilities into day-to-day operations, maintenance, engineering, management and regulatory decisions;
- Risk cannot be totally eliminated, it can only be controlled through cost-effective application of finite resources;
- Risk management increases, integrates and enhances the value of information concerning pipeline safety; and
- Risk management programs are structured but flexible, allowing customized approaches to be developed for specific issues and situations, encouraging innovation and supporting continuous improvement.

The performance measures report has been finalized and the communication plan is in the process of being finalized. The training curriculum has been developed and is in the process of being pilot tested. The Framework notice has been published in the Federal Register on March 27, 1997 (Appendix V), and several companies are in the process of submitting applications.

Additional information about the program is available at the Internet Web Site of the Office of Pipeline Safety at <http://199.103.189.216/riskmgmt.htm>. Currently many of the documents mentioned above are available for downloading. In the future, information about the individual demonstration projects will be available at this site as well.

The introduction of a risk management demonstration program should result in an equal or greater level of safety and environmental protection than that which existed prior to implementation of the program.

V. International Pipeline Safety Initiatives

The United States is not alone its efforts to improve pipeline safety. International activity for pipeline safety, with emphasis on risk management, basically parallels that of the United States. Both Canada and Europe have developed extensive databases on pipeline failures and are using

that information to structure safety programs addressing the main causes of failures. Currently, the United Kingdom (U.K.) is addressing pipeline safety through new regulations and Canada's approach is to incorporate new pipeline safety issues into industry standards.

United Kingdom

Starting in April 1996, the domestic gas market in the United Kingdom has gradually been opened to competition. To maintain or improve the existing level of safety, the Health and Safety Executive (a statutory body whose overall purpose is to ensure that health and safety risks that arise as a result of work activities are properly controlled) proposed a risk-based approach to pipeline regulations. The Pipeline Safety Regulations 1996 (PSR), which were adopted in April 1996, replace the previous prescriptive regulations with an integrated goal setting document based on a risk management approach to pipeline integrity.

The current regulations are based on two important principles: self-regulation and reasonable practicability (Addison, 1996). The self-regulation aspect emphasizes that those who create the risks are responsible for controlling them. "Reasonably practicable" means that the safety controls should be commensurate with the risk and that cost must be considered.

The new pipeline regulations define the objectives to be achieved, but do not specify the means that are to be used to achieve them. The regulations are written in very general, less complex terms and qualifications, such that the pipeline companies have some flexibility in how they manage and control their operations. These general terms and qualifications constitute a risk-based approach by implying that pipeline companies will rely on risk management to operate their pipelines since the companies will ultimately be responsible for justifying their decisions. This justification will require weighing the probability and consequences of an event against the difficulty and cost of prevention or mitigation measures. This will result in an increase in the responsibilities of the pipeline companies in exchange for a significant decrease in the regulatory burden. Industry guidelines for complying with the new regulations were published in June 1996.

The Gas Safety (Management) Regulations 1996 were also adopted in April to safely manage the flow of gas in Britain's pipeline network. This regulation requires each gas transporter to submit a "safety case" to the Health and Safety Executive outlining the daily management of the pipeline network and the arrangements for investigating incidents and responding to reported leaks. This regulation also establishes a national emergency contact point for reporting gas leaks and outlines provisions for an effective emergency response service.

Canada

In 1994, Canada's National Energy Board and the Canadian Energy Pipeline Association formed the Pipeline Risk Assessment Steering Committee (PRASC) to act as a steering mechanism to ensure pipeline risk assessment and risk management are introduced into the Canadian pipeline industry (Shires, 1996). PRASC is working with the Canadian Standards Association (CSA) to develop a risk management program for the Canadian pipeline industry.

Currently, Canada has a standard that addresses risk management for general applications, Risk Management: Guideline for Decision Makers (CSA Q850). This document provides a framework for a comprehensive risk management process, which was developed from common elements of existing risk models. It includes the traditional terms (i.e., risk analysis, risk evaluation, risk assessment, and risk control), in addition to the more innovative considerations of risk financing, cost/benefit analysis, risk communication, and stakeholder involvement.

Oil and gas pipeline systems in Canada are currently designed, constructed, operated, and maintained according to standard CSA Z662 (Oil and Gas Pipeline Systems). Using the existing

CSA Q850 as a foundation, CSA Z662 was updated early this year to include definitions of pipeline risk analysis terms in a non-binding appendix. The 1997 update will expand the appendix to include a risk management structure outlined in CSA Q850, but modified to be specific to pipelines. This standard will continue to be updated to include more specific risk management guidelines, with the goal of implementing risk management in stages and having an industry accepted standard soon after the turn of the century

VI. Conclusion

The natural gas transmission industry is the safest mode of transportation in the country. Enactment of the *Accountable Pipeline Safety and Partnership Act of 1996* provides the industry and the government with the opportunity to improve upon this record by moving away from the cookie cutter approach to safety regulation.

Based upon a foundation of risk management and cost benefit analysis, the industry and government are forging a new safety partnership. This partnership provides both parties with the necessary flexibility to better manage the nation's pipeline infrastructure by recognizing the uniqueness of each pipeline system.

The transition to a risk management/cost-benefit system is a fundamental shift in the way pipelines are regulated. However, as we embark on this new era of pipeline safety the goal of each stakeholder: government, public and industry is to not only maintain but exceed existing levels of pipeline safety.

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Appendix I
Existing National Pipeline Safety Regulations

Appendix I

Existing National Pipeline Safety Regulations

The U.S. Department of Transportation's (DOT) Office of Pipeline Safety (OPS) regulates the transportation of natural gas and hazardous liquids by pipeline through Chapter 601 of Title 49, *Code of Federal Regulations*. This regulation specifies the minimum requirements for design, construction, testing, operations, and maintenance of natural gas and hazardous liquids pipelines. Part 192, the Minimum Federal Safety Standards for Gas Pipelines, is most directly related to the safety of natural gas pipelines. Some of the safety components of the regulation include: materials of construction, design, welding, construction, corrosion, monitoring, operations, maintenance, and emergency response (HSB-IV, 1995). These are outlined below.

Pipeline material and design specifications—Design specifications are described in detail for various pipeline materials. These design specifications include criteria for design factor, yield strength, wall thickness, joint factor, and other material characteristics. The design criteria specified are taken from standards of the American Petroleum Institute (API), American National Standards Institute (ANSI), American Society of Mechanical Engineers (ASME), American Society for Testing and Materials (ASTM), and others.

Class location—Class location is defined by the area, which extends 220 yards on either side of any continuous 1-mile length of pipeline. Four class locations (Class 1 through Class 4) are specified and classification depends on the number of buildings and persons in the class location area. Design criteria are dependent on class location.

Component design and installation criteria—Design and installation criteria are specified for pipeline components such as valves, flanges, and fittings. Criteria are also included for compressor stations, such as requirements for an emergency shutdown system, pressure relief devices, alarms on compressors, and ventilation to prevent the accumulation of gas.

Specification for valves and pressure control—Specifications are defined for block valve spacing for transmission and distribution lines, (depending on a class location); design, accessibility, and drainage of vaults; and requirements for pressure control regulators and pressure relief valves.

Welding specifications—Welding specifications include qualification of welding procedures, qualification of welders, as per API or ASME standards, and the inspection and testing of welds.

Construction, visual inspection, and repair requirements—Details are provided for the construction, visual inspection, and repair requirements for transmission lines and mains. This includes requirements for the installation, protection from damage, and location of customer meters, service regulators, and service lines. Specifications for casings, underground clearance and pipeline cover are also included.

Corrosion protection—OPS prescribes performance requirements for the protection of pipelines from corrosion. These corrosion requirements include external protective coating and a cathodic protection system (an electrochemical method of corrosion control), unless the operator can demonstrate that a corrosive environment does not exist. Minimum pipeline monitoring frequencies are specified and guidelines are included for the replacement and repair of corroded pipelines.

Monitoring—Patrolling of the pipeline rights-of-way is required periodically to assess encroachment activity and areas of construction, which could potentially result in striking a pipeline. Other monitoring specifications include adequate overpressure protection and proper operation of valves.

Leak and Strength Testing—OPS prescribes minimum leak-test and strength-test requirements for new and relocated pipelines and record keeping requirements for these tests.

Written operating and maintenance plan—Pipeline operators are required to maintain a written operating and maintenance (O&M) plan which includes procedures for normal operations, repairs, employee training, and specific procedures relating to facilities presenting the greatest hazard to public safety either in an emergency or because of unusual construction or maintenance requirements. O&M items include class location surveys, evaluating maximum allowable operating pressures, damage prevention programs, emergency plans, odorization of gas, patrolling for abnormal situations, leak surveys, making timely repairs, inspecting pressure and overpressure control equipment, maintaining valves, etc.

Emergency response plans—OPS requires operators to have written emergency procedures and to indoctrinate employees with these procedures. Operators are also required to establish liaisons with local fire and police with respect to emergency procedures, educate the public on recognizing and reporting gas emergencies, and establish procedures for analyzing accidents to determine their causes.

Appendix II
INGAA and GRI's Pipeline Safety Programs

Appendix II

INGAA and GRI's Pipeline Safety Program

National One-Call System—Damage caused by excavation equipment accounted for 25% of the pipeline accidents reported to DOT in 1993 (NICOR, 1995). To address this issue, GRI sponsored a program to identify process improvements and technological options for reducing third-party damage to underground facilities. Based on project research that showed more than half of all pipeline hits to local distribution companies occurred when the one-call system was used, the program recommended improvements in the areas of increased public awareness, standardized one-call systems, and excavator training and penalties. In addition, the program reviewed current and developing technologies with the potential for reducing pipeline damage, including the use of pipeline locators, sensors, computer-based information systems, and "intelligent" excavating and monitoring equipment (NICOR, 1995).

Nondestructive Evaluation—Internal inspection devices or "smart pigs" are valuable tools for monitoring pipeline integrity. The industry seeks to improve this technology and further the ability to detect changes in pipeline wall thickness. GRI and Battelle constructed and operate a pipeline simulation facility to conduct research on pipeline inspection, operations, maintenance, and rehabilitation practices. This facility offers a nondestructive laboratory for analytical modeling and controlled experiments on metal loss defects and mechanical damage defects; a series of open pipeline runs with removable defect sections and generic test platforms to evaluate and improve in-line inspection tools (i.e., smart pigs); and a 4,700 feet pipeline loop to study pipeline components and safety equipment in a realistic environment (Steinbauer, 1995).

Pipeline Corrosion—GRI is examining environmentally benign chemical and physical approaches to mitigate microbiologically-influenced corrosion (MIC). In addition, GRI is studying the effectiveness of techniques to detect MIC in gas pipelines and examining the influences of pipe material and construction on the occurrence and growth of MIC.

Automatic and Remotely Operated Valves—Automatic main line valves are used to mitigate the effects of a pipeline rupture by stopping the flow of gas to a damaged section of pipe when a specified change in operation is detected. GRI initiated a program to assess the state of the art in remote and automatic valve technology for gas transmission systems. The program concluded that the valves are effective if properly maintained and powered. However, improvements could be made in the detection systems and control logic used to trigger the valve closure, and in distinguishing between a pipeline rupture and other transient conditions (Southwest Research Institute, 1995).

Pipeline Risk Assessment/Risk Management—GRI is providing support to INGAA's Pipeline Safety Initiatives Project Team, which to date has published a series of four reports on natural gas pipeline risk management. The objectives of these reports are to establish a common language for the discussion of risk management, to provide an understanding of risk management techniques used in related industries, and to explore how these approaches could be applied to the natural gas industry. A video on the basics of risk management was prepared to supplement the reports. Additional examples of GRI's work in the area of risk management include evaluating systems to monitor pipeline integrity and developing computer software to support pipeline inspection and maintenance programs.

Other tools available to the pipeline industry include pipeline segment ranking tools and computer software programs to evaluate pipeline segments and prioritize maintenance, rehabilitation, and repair activities. Some of the tools available include: checklist, safety review, what-if analysis, hazard and operability study (HAZOP), fault modes and effects analysis (FMEA), fault tree analysis (FTA), cause consequence analysis (CCA), event tree analysis (ETA), and

human factors analysis (HSB-II, 1995). The computer based programs can be classified into two categories: scoring models and failure rate data models. Scoring models use algebraic equations based on physical operations and conditional parameters to establish relative numeric scores for probability and consequences of certain events (HSB-IV, 1995). Some examples of commercially available scoring models include the PIMAR (Pipeline Maintenance and Rehabilitation) model developed by the American Gas Association and Battelle, and Gulf Publishing Company's Pipeline Risk Controller model. Failure rate models are based on actual failure modes and failure rate data, resulting in rankings for different risk factors (HSB-IV, 1995). PIMOS (Pipeline Maintenance Optimization System), developed by Gas Research Institute and Woodward-Clyde, is a type of failure rate model.

A number of pipeline companies have adapted pipeline ranking software tools to their specific needs and have integrated the use of these tools into their daily operations (Dusek, 1994). The use of pipeline ranking tools enables companies to collect better data, supporting better scientific decision making, and thus eliminating the guesswork from project prioritization. For many companies, the software tools are used to identify the highest risk areas and then inspection and maintenance activities (beyond the requirements of current regulations) are scheduled for these segments (HSB-II, 1995). For example, a company may decide to increase the monitoring frequency, increase hydro test frequency, or use smart pigging devices for specific pipeline segments based on the results of the ranking tools.

Results of the demonstration projects will be presented to Congress in 2001, hopefully proving the benefits of risk management with respect to system reliability, environmental protection, and safety.

Appendix III
The Accountable Pipeline Safety and Partnership Act of
1996

Calendar No. 540104TH CONGRESS
2^D SESSION**S. 1505****[Report No. 104-334]**

To reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 22, 1995

Mr. LOTT (for himself, Mr. BREAUX, Mrs. HUTCHISON, Mr. EXON, Mr. BURNS, Mr. SHELBY, Mr. INOUE, Mr. FORD, Mr. COCHRAN, Mr. FRIST, Mr. INHOFE, Mr. PRESSLER, Mr. STEVENS, Mr. HEFLIN, and Mr. JOHNSTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JULY 26, 1996

Reported by Mr. PRESSLER, with an amendment in the nature of a substitute

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Accountable Pipeline
3 Safety and Partnership Act of 1995”.

4 **SEC. 2. REFERENCES.**

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

10 **SEC. 3. DEFINITIONS.**

11 (a) **IN GENERAL.**—Section 60101(a) is amended—

12 (1) in each of paragraphs (1) through (22), by
13 striking the period at the end and inserting a semi-
14 colon;

15 (2) in paragraph (21), by striking subpara-
16 graph (B) and inserting the following:

17 “(B) does not include the gathering of gas,
18 other than gathering through regulated gather-
19 ing lines, in those rural locations that are lo-
20 cated outside the limits of any incorporated or
21 unincorporated city, town, or village, or any
22 other designated residential or commercial area
23 (including a subdivision, business, shopping
24 center, or community development) or any simi-
25 lar populated area that the Secretary of Trans-
26 portation determines to be a nonrural area, ex-

1 cept that the term 'transporting gas' includes
2 the movement of gas through regulated gather-
3 ing lines;"; and

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

5 “(23) 'benefits' means the reasonably identifi-
6 able or estimated safety, environmental, and eco-
7 nomic benefits that are reasonably expected to result
8 directly or indirectly from the implementation of a
9 standard, regulatory requirement, or option;

10 “(24) 'costs' means, with respect to the imple-
11 mentation of, or compliance with, a standard, regu-
12 latory requirement, or option, the estimated or ac-
13 tual direct and indirect costs of that implementation
14 or compliance;

15 “(25) 'incremental benefit' or 'incremental cost'
16 means the additional estimated benefit or cost
17 that—

18 “(A) would be caused by a particular ac-
19 tion (whether regulatory or nonregulatory) in
20 comparison with other options that may be
21 taken in lieu of that action; and

22 “(B) is based on quantifiable or qualifiable
23 assessments that use generally available and
24 reasonably obtainable scientific or economic
25 data;

1 “(26) ‘risk management’ means the systematic
 2 application, by the owner or operator of a pipeline
 3 facility, of management policies, procedures, finite
 4 resources, and practices to the tasks of analyzing,
 5 assessing, and minimizing risk in order to protect
 6 employees, the general public, the environment, and
 7 pipeline facilities;

8 “(27) ‘risk management plan’ means a manage-
 9 ment plan utilized by a gas or hazardous liquid pipe-
 10 line facility owner or operator that encompasses risk
 11 management; and

12 “(28) ‘Secretary’ means—

13 “(A) the Secretary of Transportation; or

14 “(B) if applicable, any person to whom the
 15 Secretary of Transportation delegates authority
 16 with respect to a matter concerned.”.

17 (b) **GATHERING LINES.**—Section 60101(b)(2) is
 18 amended by inserting “, if appropriate,” after “Secretary”
 19 the first place it appears.

20 **SEC. 4. GENERAL AUTHORITY.**

21 (a) **MINIMUM SAFETY STANDARDS.**—Section
 22 60102(a) is amended—

23 (1) in paragraph (1), by striking subparagraph

24 (C) and inserting the following:

1 ~~“(C) shall include a requirement that all indi-~~
2 ~~viduals who operate and maintain pipeline facilities~~
3 ~~shall be qualified to operate and maintain the pipe-~~
4 ~~line facilities.”; and~~

5 ~~(2) by striking paragraph (2) and inserting the~~
6 ~~following:~~

7 ~~“(2) The qualifications applicable to an individual~~
8 ~~who operates and maintains a pipeline facility shall ad-~~
9 ~~dress the ability to recognize and react appropriately to~~
10 ~~abnormal operating conditions that may indicate a dan-~~
11 ~~gerous situation or a condition exceeding design limits.~~
12 ~~The operator of a pipeline facility shall ensure that em-~~
13 ~~ployees who operate and maintain the facility are qualified~~
14 ~~to operate and maintain the pipeline facilities.”.~~

15 ~~(b) PRACTICABILITY AND SAFETY NEEDS STAND-~~
16 ~~ARDS.—Section 60102(b) is amended to read as follows:~~

17 ~~“(b) PRACTICABILITY AND SAFETY NEEDS.—~~

18 ~~“(1) IN GENERAL.—A standard prescribed~~
19 ~~under subsection (a) shall be—~~

20 ~~“(A) practicable; and~~

21 ~~“(B) designed to meet the need for—~~

22 ~~“(i) gas pipeline safety;~~

23 ~~“(ii) safely transporting hazardous~~
24 ~~liquids; and~~

25 ~~“(iii) protecting the environment.~~

1 “(2) FACTORS FOR CONSIDERATION.—Except
2 as provided in section 60112, when prescribing a
3 standard under this section or section 60101(b),
4 60103, 60108, 60109, 60110, or 60113, the Sec-
5 retary shall consider—

6 “(A) relevant available—

7 “(i) gas pipeline safety information; or

8 “(ii) hazardous liquid pipeline safety
9 and environmental protection information;

10 “(B) the appropriateness of the standard
11 for the particular type of pipeline transpor-
12 tation or facility;

13 “(C) the reasonableness of the standard;

14 “(D) based on a risk assessment, the ex-
15 tent to which the standard will benefit public
16 safety and the protection of the environment;

17 “(E) the costs of compliance with the
18 standard;

19 “(F) comments and information received
20 from the public; and

21 “(G) the comments and recommendations
22 of the Technical Pipeline Safety Standards
23 Committee described in section 60115 and the
24 Liquid Pipeline Safety Standards Committee
25 described in section 60115.

1 “(3) RISK ASSESSMENT DOCUMENT.—In pre-
2 scribing a standard referred to in paragraph (2), the
3 Secretary shall prepare a risk assessment document
4 that—

5 “(A) identifies the regulatory and non-
6 regulatory options that the Secretary considered
7 in prescribing a proposed standard;

8 “(B) identifies the incremental costs and
9 incremental benefits with respect to public safe-
10 ty and the protection of the environment that
11 are associated with the proposed standard;

12 “(C) includes—

13 “(i) an explanation of the reasons for
14 the selection of the proposed standard in
15 lieu of the other options identified; and

16 “(ii) with respect to each of those
17 other options, a brief explanation of the
18 reasons that the Secretary found that op-
19 tion to be less cost-effective or flexible than
20 the proposed standard; and

21 “(D) provides any technical data or other
22 information upon which the risk assessment
23 document and proposed standard is based.

24 “(4) REVIEW.—

25 “(A) IN GENERAL.—The Secretary shall—

1 “(i) submit each risk assessment doc-
2 ument prepared under this section to the
3 Technical Pipeline Safety Standards Com-
4 mittee described in section 60115 or the
5 Hazardous Liquid Pipeline Safety Stand-
6 ards Committee described in section
7 60115, or both, as appropriate; and

8 “(ii) make that document available to
9 the general public.

10 “(B) PEER REVIEW PANELS.—The com-
11 mittees referred to in subparagraph (A) shall
12 serve as peer review panels to review risk as-
13 sessment documents prepared under this sec-
14 tion. Not later than 90 days after receiving a
15 risk assessment document for review pursuant
16 to subparagraph (A), each committee that re-
17 ceives that document shall prepare and submit
18 to the Secretary a report that includes—

19 “(i) an evaluation of the merit of the
20 data and methods used in that document;
21 and

22 “(ii) any recommended options relat-
23 ing to that document and the associated
24 standard or regulatory requirement that

1 the committee determines to be appro-
2 priate.

3 “(C) REVIEW BY SECRETARY.—Not later
4 than 90 days after receiving a report submitted
5 by a committee under subparagraph (B), the
6 Secretary—

7 “(i) shall review the report;

8 “(ii) shall provide a written response
9 to the committee that is the author of the
10 report concerning all significant peer re-
11 view comments and recommended alter-
12 natives contained in the report; and

13 “(iii) may revise the risk assessment
14 and the proposed standard or regulatory
15 requirement before promulgating the final
16 standard or requirement.

17 “(5) INCREMENTAL BENEFITS AND COSTS.—

18 Before issuing a final standard that is subject to the
19 requirements contained in paragraphs (1) and (2),
20 the Secretary shall certify that the incremental bene-
21 fits of the final standard will likely justify, and be
22 reasonably related to, the incremental costs incurred
23 by the Federal Government and State, local, and
24 tribal governments and any other public entity, and
25 the private sector.

1 “(6) EMERGENCIES.—In the case of an emer-
2 gency that meets the criteria described in section
3 60112(e), the Secretary may suspend the application
4 of this section for the duration of the emergency.

5 “(7) REPORT.—Not later than March 31, 1999,
6 the Secretary shall transmit to the Congress a re-
7 port that—

8 “(A) describes the implementation of the
9 risk assessment requirements of this section, in-
10 cluding the extent to which those requirements
11 have improved regulatory decision making; and

12 “(B) includes any recommendations that
13 the Secretary determines would make the risk
14 assessments conducted pursuant to the require-
15 ments under this chapter a more effective
16 means of assessing the benefits and costs asso-
17 ciated with alternative regulatory and non-
18 regulatory options in prescribing standards
19 under the Federal pipeline safety regulatory
20 program under this chapter.”.

21 (e) FACILITY OPERATION INFORMATION STAND-
22 ARDS.—The first sentence of section 60102(d) is amend-
23 ed—

1 (1) by inserting “as required by the standards
2 prescribed under this chapter” after “operating the
3 facility”;

4 (2) by striking “to provide the information”
5 and inserting “to make the information available”;
6 and

7 (3) by inserting “as determined by the Sec-
8 retary” after “to the Secretary and an appropriate
9 State official”.

10 (d) PIPE INVENTORY STANDARDS.—The first sen-
11 tence of section 60102(e) is amended—

12 (1) by striking “and, to the extent the Sec-
13 retary considers necessary, an operator of a gather-
14 ing line that is not a regulated gathering line (as de-
15 fined under section 60101(b)(2) of this title),”; and

16 (2) by striking “transmission” and inserting
17 “transportation”.

18 (e) SMART PIGS.—

19 (1) MINIMUM SAFETY STANDARDS.—Section
20 60102(f) is amended by striking paragraph (1) and
21 inserting the following:

22 “(1) MINIMUM SAFETY STANDARDS.—The Sec-
23 retary shall prescribe minimum safety standards re-
24 quiring that the design and construction of a new
25 gas or hazardous liquid pipeline transmission facility

1 be carried out, to the extent practicable, in a way
2 that accommodates the passage through the facility
3 of an instrumented internal inspection device (com-
4 monly referred to as a 'smart pig'). The Secretary
5 shall also prescribe minimum safety standards that
6 require that when a segment of an existing gas or
7 hazardous liquid pipeline transmission facility is re-
8 placed, to the extent practicable, the replacement
9 segment can accommodate the passage of an instru-
10 mented internal inspection device. The Secretary
11 may apply the standards to an existing gas or haz-
12 ardous liquid facility and require that the facility be
13 changed to allow the facility to be inspected with an
14 instrumented internal inspection device if the basic
15 construction of the facility will accommodate the de-
16 vice."

17 (2) PERIODIC INSPECTIONS.—Section
18 60102(f)(2) is amended—

19 (A) by striking "(2) Not later than" and
20 inserting the following:

21 "(2) PERIODIC INSPECTIONS.—Not later than";
22 and

23 (B) by inserting ", if necessary, addi-
24 tional" after "the Secretary shall prescribe".

1 (f) UPDATING STANDARDS.—Section 60102 is
 2 amended by adding at the end the following new sub-
 3 section:

4 “(1) UPDATING STANDARDS.—The Secretary shall, to
 5 the extent appropriate and practicable, update incor-
 6 porated industry standards that have been adopted as part
 7 of the Federal pipeline safety regulatory program under
 8 this chapter.”

9 **SEC. 5. RISK MANAGEMENT.**

10 (a) IN GENERAL.—Chapter 601 is amended by add-
 11 ing at the end the following new section:

12 **“§ 60126. Risk management**

13 **“(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—**
 14 **“(1) IN GENERAL.—**The Secretary shall estab-

15 **lish risk management demonstration projects—**

17 **“(A) to demonstrate, through the vol-**
 18 **untary participation by owners and operators of**
 19 **gas pipeline facilities and hazardous liquid pipe-**
 20 **line facilities, the applications of risk manage-**
 21 **ment, and**

22 **“(B) to evaluate the safety and cost-effec-**
 23 **tiveness of the applications referred to in sub-**
 24 **paragraph (A).**

1 “(2) WAIVERS.—In carrying out a demonstra-
2 tion project under this subsection, the Secretary—

3 “(A) may waive, with respect to the owner
4 or operator of any pipeline facility covered
5 under the project (referred to in this subsection
6 as a ‘covered pipeline facility’); the applicability
7 of all or a portion of the requirements under
8 this chapter that would otherwise apply to that
9 owner or operator with respect to the pipeline
10 facility; and

11 “(B) shall waive, for the period of the
12 project, with respect to the owner or operator
13 that participates in the project, the applicability
14 of any new standard or regulatory requirement
15 that the Secretary promulgates under this chap-
16 ter during the period of that participation; if
17 the Secretary determines that the risk manage-
18 ment plan applicable to the demonstration
19 project provides an overall level of safety that
20 is equivalent to or greater than the level of
21 safety provided by requiring the application of
22 that standard or regulatory requirement.

23 “(b) REQUIREMENTS.—In carrying out a demonstra-
24 tion project under this section, the Secretary shall—

1 “(1) invite owners and operators of pipeline fa-
2 cilities to submit risk management plans for timely
3 approval by the Secretary;

4 “(2) require, as a condition of approval, that a
5 risk management plan submitted under this sub-
6 section contain measures that are designed to
7 achieve an equivalent or greater overall level of safe-
8 ty than would otherwise be achieved through compli-
9 ance with the standards and regulatory requirements
10 contained in this chapter or promulgated by the Sec-
11 retary under this chapter;

12 “(3) provide for—

13 “(A) collaborative government and indus-
14 try training;

15 “(B) methods to measure the safety per-
16 formance of risk management plans;

17 “(C) the development and application of
18 new technologies;

19 “(D) the promotion of community aware-
20 ness concerning how the overall level of safety
21 will be enhanced by the demonstration project;

22 “(E) the development of a model that cat-
23 egorizes the risks inherent to each covered pipe-
24 line facility, taking into consideration the loca-

1 tion, volume, pressure, and material transported
2 or stored by that pipeline facility;

3 “(F) the application of risk assessment
4 and risk management methodologies that are
5 suitable to the inherent risks that are deter-
6 mined to exist through the use of the model de-
7 veloped under subparagraph (E);

8 “(G) the development of project elements
9 that are necessary to ensure that—

10 “(i) the owners and operators that
11 participate in the demonstration project
12 demonstrate that they are effectively man-
13 aging the risks referred to in subparagraph
14 (E); and

15 “(ii) the risk management plans ear-
16 ried out under the demonstration project
17 under this subsection can be audited;

18 “(H) a process whereby an owner or opera-
19 tor of a pipeline facility is able to amend, mod-
20 ify, or otherwise adjust a risk management plan
21 referred to in paragraph (1) that has been ap-
22 proved by the Secretary pursuant to that para-
23 graph to respond to—

24 “(i) changed circumstances; or

1 “(ii) a determination by the Secretary
2 that the owner or operator is not achieving
3 an overall level of safety that is at least
4 equivalent to the level that would otherwise
5 be achieved through compliance with the
6 standards and regulatory requirements
7 contained in this chapter or promulgated
8 by the Secretary under this chapter; and

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

14 “(4) in selecting participants for the dem-
15 onstration project, take into consideration the past
16 safety and regulatory performance of each applicant
17 who submits a risk management plan pursuant to
18 paragraph (1).

19 “(e) EMERGENCIES.—In the case of an emergency
20 that meets the criteria described in section 60112(e), the
21 Secretary may suspend or revoke the participation of an
22 owner or operator in the demonstration project under this
23 section.

24 “(d) PARTICIPATION BY STATE AUTHORITY.—Not-
25 withstanding any other provision of this chapter, in carry-

1 ing out the demonstration project under this section, the
2 Secretary may provide for the participation in the dem-
3 onstration project by a State that has in effect a certifi-
4 cation that has been approved by the Secretary under sec-
5 tion 60105.

6 “(c) REPORT.—Not later than March 31, 1999, the
7 Secretary shall transmit to the Congress a report on the
8 results of the demonstration projects carried out under
9 this section that includes—

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

14 “(2) recommendations concerning whether the
15 applications of risk management demonstrated
16 under the demonstration project should be incor-
17 porated into the Federal pipeline safety program
18 under this chapter on a permanent basis.”

19 (b) CONFORMING AMENDMENT.—The analysis for
20 chapter 601 is amended by adding at the end the follow-
21 ing:

“60126. Risk management.”

22 **SEC. 6. INSPECTION AND MAINTENANCE.**

23 Section 60108 is amended—

1 (1) in subsection (a)(1), by striking “transport-
2 ing gas or hazardous liquid or” each place it ap-
3 pears;

4 (2) in subsection (b)(2), by striking the second
5 sentence;

6 (3) in the heading to subsection (c), by striking
7 “NAVIGABLE WATERS” and inserting “OTHER WA-
8 TERS”; and

9 (4) by striking clause (ii) of subsection
10 (e)(2)(A) and inserting the following:

11 “(ii) any other pipeline facility crossing under,
12 over, or through waters where a substantial likeli-
13 hood of commercial navigation exists, if the Sec-
14 retary decides that the location of the facility in
15 those waters could pose a hazard to navigation or
16 public safety.”.

17 **SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRON-**
18 **MENTALLY SENSITIVE AREAS.**

19 (a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is
20 amended by striking “a navigable waterway (as the Sec-
21 retary defines by regulation)” and inserting “waters where
22 a substantial likelihood of commercial navigation exists”.

23 (b) UNUSUALLY SENSITIVE AREAS.—Section
24 60109(b) is amended to read as follows:

1 “(b) AREAS TO BE INCLUDED AS UNUSUALLY SEN-
2 SITIVE.—When describing areas that are unusually sen-
3 sitive to environmental damage if there is a hazardous liq-
4 uid pipeline accident, the Secretary shall consider areas
5 where a pipeline rupture would likely cause permanent or
6 long-term environmental damage, including—

7 “(1) locations near pipeline rights-of-way that
8 are critical to drinking water, including intake loca-
9 tions for community water systems and critical sole
10 source aquifer protection areas; and

11 “(2) locations near pipeline rights-of-way that
12 have been identified as critical wetlands, riverine or
13 estuarine systems, national parks, wilderness areas,
14 wildlife preservation areas or refuges, wild and sce-
15 nic rivers, or critical habitat areas for threatened
16 and endangered species.”.

17 **SEC. 8. EXCESS FLOW VALUES.**

18 Section 60110 is amended—

19 (1) in subsection (b)—

20 (A) in the first sentence, by inserting “, if
21 any,” after “circumstances”; and

22 (B) in paragraph (4), by inserting “, oper-
23 ating, and maintaining” after “cost of install-
24 ing”;

1 (2) in subsection (e)(1)(C), by inserting “;
2 maintenance, and replacement” after “installation”;
3 and

4 (3) in subsection (e), by inserting after the first
5 sentence the following: “The Secretary may adopt
6 industry accepted performance standards in order to
7 comply with the requirement under the preceding
8 sentence.”.

9 **SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.**

10 Section 60113 is amended—

11 (1) by striking “(a) MAINTENANCE INFORMA-
12 TION.—”; and

13 (2) by striking subsection (b).

14 **SEC. 10. UNDERGROUND FACILITY DAMAGE PREVENTION**
15 **PROGRAMS.**

16 (a) APPLICATION.—Section 60114(a) is amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “one-call notification system” and inserting
19 “underground facility damage prevention program
20 (hereafter in this subsection referred to as a ‘pro-
21 gram’)”;

22 (2) in paragraph (1)—

23 (A) by striking “the system apply to”; and

24 (B) by inserting before the period the fol-
25 lowing: “be covered by the program”;

1 (3) in each of paragraphs (2), (4), (5), (6), and
2 (8), by striking “system” each place it appears and
3 inserting “program”;

4 (4) in paragraph (3), by striking “appropriate
5 one-call notification system” and inserting “appro-
6 priate program”;

7 (5) in paragraph (4), by striking “qualifica-
8 tions” and inserting “Qualifications”;

9 (6) in paragraph (5), by striking “procedures”
10 and inserting “Procedures”; and

11 (7) in each of paragraphs (1), (2), (3), (6), (7),
12 (8), and (9), by striking “a” the first place it ap-
13 pears and inserting “A”.

14 (b) SANCTIONS.—Section 60114(a)(9), as amended
15 by subsection (a)(7), is further amended by striking
16 “60120, 60122, and 60123” and inserting “60120 and
17 60122”.

18 (c) GRANTS.—Section 60114(b) is amended by strik-
19 ing “one-call notification system” and inserting “under-
20 ground facility damage prevention program”.

21 (d) APPORTIONMENT.—Section 60114(d) is amended
22 by striking “one-call notification system” each place it ap-
23 pears and inserting “underground facility damage preven-
24 tion program”.

25 (e) CONFORMING AMENDMENTS.—

1 (1) SECTION HEADING.—The heading to section
2 60114 is amended to read as follows:

3 **“§ 60114. Underground facility damage prevention**
4 **programs”.**

5 (2) CHAPTER ANALYSIS.—The analysis for
6 chapter 601 is amended by striking the item relating
7 to section 60114 and inserting the following item:

“60114. Underground facility damage prevention programs.”.

8 **SEC. 11. TECHNICAL SAFETY STANDARDS COMMITTEES.**

9 (a) PEER REVIEW.—Section 60115(a) is amended by
10 adding at the end the following: “The committees referred
11 to in the preceding sentence shall serve as peer review
12 committees for carrying out this chapter. Peer reviews
13 conducted by the committees shall be treated for purposes
14 of all Federal laws relating to risk assessment and peer
15 review (including laws that take effect after the date of
16 the enactment of the Pipeline Safety Act of 1995) as meet-
17 ing any peer review requirements of such laws.”.

18 (b) COMPOSITION AND APPOINTMENT.—Section
19 60115(b) is amended—

20 (1) in paragraph (1), by inserting “or risk man-
21 agement” before the period at the end of the last
22 sentence;

23 (2) in paragraph (2), by inserting “or risk man-
24 agement” before the period at the end of the last
25 sentence;

1 (3) in paragraph (3)—

2 (A) in subparagraph (B), by striking “4”
3 and inserting “5”; and

4 (B) in subparagraph (C), by striking “6”
5 and inserting “5”; and

6 (4) in paragraph (4)—

7 (A) in subparagraph (A), by adding at the
8 end the following: “At least 1 of the individuals
9 selected for each committee under paragraph
10 (3)(A) shall have relevant scientific education,
11 background, or experience.”;

12 (B) in subparagraph (B), by adding at the
13 end the following: “At least 1 of the individuals
14 selected for each committee under paragraph
15 (3)(B) shall have education, background, or ex-
16 perience in risk assessment and cost-benefit
17 analysis. The Secretary shall consult with the
18 national organizations representing the owners
19 and operators of pipeline facilities before select-
20 ing individuals under paragraph (3)(B).”; and

21 (C) in subparagraph (C), by inserting after
22 the first sentence the following: “At least 1 of
23 the individuals selected for each committee
24 under paragraph (3)(C) shall have education,

1 background, or experience in risk assessment
2 and cost-benefit analysis.”.

3 (e) COMMITTEE REPORTS.—Section 60115(e) is
4 amended—

5 (1) by inserting “or regulatory requirement”
6 after “standard” each place it appears in para-
7 graphs (1), (2), and (3);

8 (2) in paragraph (1)—

9 (A) in subparagraph (A), by inserting “,
10 including the risk assessment document and
11 other analyses supporting each proposed stand-
12 ard or regulatory requirement” before the semi-
13 colon; and

14 (B) in subparagraph (B), by inserting “,
15 including the risk assessment document and
16 other analyses supporting each proposed stand-
17 ard or regulatory requirement” before the pe-
18 riod; and

19 (3) in paragraph (2)—

20 (A) in the first sentence—

21 (i) by inserting “and supporting anal-
22 yses” before the first comma;

23 (ii) by inserting “and submit to the
24 Secretary” after “prepare”;

1 (iii) by inserting “cost-effectiveness,”
2 after “reasonableness,”; and

3 (iv) by inserting “and include in the
4 report recommended actions” before the
5 period at the end; and

6 (B) in the second sentence, by inserting
7 “any recommended actions and” after “includ-
8 ing”.

9 (d) **PROPOSED COMMITTEE STANDARDS AND REGU-**
10 **LATORY REQUIREMENTS.**—Section 60115(d)(1) is amend-
11 ed by inserting “or regulatory requirement” after “stand-
12 ard” each place it appears.

13 (e) **MEETINGS.**—Section 60115(e) is amended by
14 striking “twice” and inserting “4 times”.

15 (f) **EXPENSES.**—Section 60115(f) is amended—

16 (1) in the subsection heading by striking “PAY
17 AND”;

18 (2) by striking the first 2 sentences; and

19 (3) by inserting “of a committee under this see-
20 tion” after “A member”.

21 **SEC. 12. PUBLIC EDUCATION PROGRAMS.**

22 Section 60116 is amended—

23 (1) by striking “person transporting gas” and
24 inserting “owner or operator of a gas pipeline facil-
25 ity”;

1 (2) by inserting “the use of an underground fa-
 2 cility damage prevention program prior to exca-
 3 vation,” after “educate the public on”; and

4 (3) by inserting a comma after “gas leaks”.

5 **SEC. 13. ADMINISTRATIVE.**

6 Section 60117 is amended by adding at the end the
 7 following new subsection:

8 “(k) **AUTHORITY FOR COOPERATIVE AGREE-**
 9 **MENTS.**—To carry out this chapter, the Secretary may
 10 enter into grants, cooperative agreements, and other
 11 transactions with any person, agency, or instrumentality
 12 of the United States, any unit of State or local govern-
 13 ment, any educational institution, or any other entity to
 14 further the objectives of this chapter. The objectives of
 15 this chapter include the development, improvement, and
 16 promotion of one-call damage prevention programs, re-
 17 search, risk assessment, and mapping.”

18 **SEC. 14. COMPLIANCE AND WAIVERS.**

19 Section 60118 is amended by adding at the end the
 20 following new subsection:

21 “(e) **COMPLIANCE WITH RISK MANAGEMENT**
 22 **PLANS.**—The owners and operators of pipeline facilities
 23 that participate in the demonstration project under section
 24 60126 shall, during the applicable period of participation
 25 in the program, be considered to be in compliance with

1 any prescribed safety standard or regulatory requirement
 2 that is covered by a plan that is approved by the Secretary
 3 under section 60126.”.

4 **SEC. 15. DAMAGE REPORTING.**

5 Section 60123(d)(2) is amended—

6 (1) by striking “or” at the end of subparagraph
 7 (A);

8 (2) by redesignating subparagraph (B) as sub-
 9 paragraph (C); and

10 (3) by inserting after subparagraph (A) the fol-
 11 lowing:

12 “(B) a pipeline facility and does not report
 13 the damage promptly to the operator of the
 14 pipeline facility and to other appropriate au-
 15 thorities; or”.

16 **SEC. 16. BIENNIAL REPORTS.**

17 (a) **BIENNIAL REPORTS.**—

18 (1) **SECTION HEADING.**—The section heading of
 19 section 60124 is amended to read as follows:

20 “§ 60124. **Biennial reports**”.

21 (2) **REPORTS.**—Section 60124(a) is amended
 22 by striking the first sentence and inserting the fol-
 23 lowing:

24 “(a) **SUBMISSION AND COMMENTS.**—Not later than
 25 August 15, 1997, and every 2 years thereafter, the Sec-

1 retary of Transportation shall submit to Congress a report
 2 on carrying out this chapter for the 2 immediately preced-
 3 ing calendar years for gas and a report on carrying out
 4 this chapter for such period for hazardous liquid.”.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 chapter 601 is amended by striking the item relating to
 7 section 60124 and inserting the following:

“60124. Biannual reports.”.

8 **SEC. 17. POPULATION ENCROACHMENT.**

9 (a) IN GENERAL.—Chapter 601, as amended by see-
 10 tion 5, is further amended by adding at the end the follow-
 11 ing new section:

12 **“§ 60127. Population encroachment**

13 “(a) LAND USE RECOMMENDATIONS.—The Sec-
 14 retary of Transportation shall make available to an appro-
 15 priate official of each State, as determined by the Sec-
 16 retary, the land use recommendations of the special report
 17 numbered 219 of the Transportation Research Board, en-
 18 titled ‘Pipelines and Public Safety’.

19 “(b) EVALUATION.—The Secretary shall—

20 “(1) evaluate the recommendations in the re-
 21 port referred to in subsection (a);

22 “(2) determine to what extent the recommenda-
 23 tions are being implemented;

24 “(3) consider ways to improve the implementa-
 25 tion of the recommendations; and

1 “(4) consider other initiatives to further im-
2 prove awareness of local planning and zoning enti-
3 ties regarding issues involved with population en-
4 croachment in proximity to the rights-of-way of any
5 interstate gas pipeline facility or interstate hazard-
6 ous liquid pipeline facility.”

7 (b) CONFORMING AMENDMENT.—The analysis for
8 chapter 601 is amended by inserting after the item relat-
9 ing to section 60126 the following:

 “60127. Population encroachment.”

10 **SEC. 18. USER FEES.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, the Secretary of Transportation shall
13 transmit to the Congress a report analyzing the assess-
14 ment of pipeline safety user fees solely on the basis of
15 mileage to determine whether—

16 (1) that measure of the resources of the De-
17 partment of Transportation is the most appropriate
18 measure of the resources used by the Department of
19 Transportation in the regulation of pipeline trans-
20 portation; or

21 (2) another basis of assessment would be a
22 more appropriate measure of those resources.

1 **SEC. 19. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.**

2 (a) **AMENDMENT.**—Chapter 601, as amended by sec-
3 tion 17, is further amended by adding at the end the fol-
4 lowing new section:

5 **“§ 60128. Dumping within pipeline rights-of-way**

6 “(a) **PROHIBITION.**—No person shall excavate for the
7 purpose of unauthorized disposal within the right-of-way
8 of an interstate gas pipeline facility or interstate hazard-
9 ous liquid pipeline facility, or any other limited area in
10 the vicinity of any such interstate pipeline facility estab-
11 lished by the Secretary of Transportation, and dispose
12 solid waste therein.

13 “(b) **DEFINITION.**—For purposes of this section, the
14 term ‘solid waste’ has the meaning given that term in sec-
15 tion 1004(27) of the Solid Waste Disposal Act (42 U.S.C.
16 6903(27)).”

17 (b) **CONFORMING AMENDMENTS.**—

18 (1) **CROSS-REFERENCE.**—Sections 60122 and
19 60123 are each amended by striking “or 60118(a)”
20 and inserting “, 60118(a), or 60128”.

21 (2) **CHAPTER ANALYSIS.**—The analysis for
22 chapter 601 is amended by adding at the end the
23 following new item:

“60128. Dumping within pipeline rights-of-way.”

1 **SEC. 20. PREVENTION OF DAMAGE TO PIPELINE FACILI-**
 2 **TIES.**

3 Section 60117(a) is amended by inserting after “and
 4 training activities” the following: “and promotional activi-
 5 ties relating to prevention of damage to pipeline facilities”.

6 **SEC. 21. TECHNICAL CORRECTIONS.**

7 (a) SECTION 60105.—The heading to section 60105
 8 is amended by inserting “**pipeline safety program**”
 9 after “**State**”.

10 (b) SECTION 60106.—The heading to section 60106
 11 is amended by inserting “**pipeline safety**” after
 12 “**State**”.

13 (c) SECTION 60107.—The heading to section 60107
 14 is amended by inserting “**pipeline safety**” after
 15 “**State**”.

16 (d) CHAPTER ANALYSIS.—The analysis for chapter
 17 601 is amended—

18 (1) in the item relating to section 60105, by in-
 19 serting “**pipeline safety program**” after “**State**”;

20 (2) in the item relating to section 60106, by in-
 21 serting “**pipeline safety**” after “**State**”; and

22 (3) in the item relating to section 60107, by in-
 23 serting “**pipeline safety**” after “**State**”.

24 **SEC. 22. AUTHORIZATION OF APPROPRIATIONS.**

25 (a) GAS AND HAZARDOUS LIQUID.—Section 60125
 26 is amended—

1 (1) by striking subsection (a) and inserting the
2 following new subsection:

3 ~~“(a) GAS AND HAZARDOUS LIQUID.—To carry out~~
4 ~~this chapter (except for sections 60107 and 60114(b)) re-~~
5 ~~lated to gas and hazardous liquid, there are authorized~~
6 ~~to be appropriated to the Department of Transportation—~~

7 ~~“(1) \$9,936,000 for fiscal year 1996;~~

8 ~~“(2) \$10,512,000 for fiscal year 1997;~~

9 ~~“(3) \$11,088,000 for fiscal year 1998; and~~

10 ~~“(4) \$11,664,000 for fiscal year 1999.”; and~~

11 (2) by striking subsection (b).

12 (b) STATE GRANTS.—Section 60125(c)(1) is amend-
13 ed by adding at the end the following:

14 ~~“(D) \$10,764,000 for fiscal year 1996.~~

15 ~~“(E) \$11,388,000 for fiscal year 1997.~~

16 ~~“(F) \$12,012,000 for fiscal year 1998.~~

17 ~~“(G) \$12,636,000 for fiscal year 1999.”.~~

18 **SECTION 1. SHORT TITLE.**

19 *This Act may be cited as the “Accountable Pipeline*
20 *Safety and Partnership Act of 1996”.*

21 **SEC. 2. REFERENCES.**

22 *Except as otherwise expressly provided, whenever in*
23 *this Act an amendment or repeal is expressed in terms of*
24 *an amendment to, or repeal of, a section or other provision,*

1 *the reference shall be considered to be made to a section or*
2 *other provision of title 49, United States Code.*

3 **SEC. 3. DEFINITIONS.**

4 (a) *IN GENERAL.*—Section 60101(a) is amended—

5 (1) *by striking the periods at the end of para-*
6 *graphs (1) through (22) and inserting semicolons;*

7 (2) *by striking paragraph (21)(B) and inserting*
8 *the following:*

9 “(B) *does not include the gathering of gas,*
10 *other than gathering through regulated gathering*
11 *lines, in those rural locations that are located*
12 *outside the limits of any incorporated or unin-*
13 *corporated city, town, or village, or any other*
14 *designated residential or commercial area (in-*
15 *cluding a subdivision, business, shopping center,*
16 *or community development) or any similar pop-*
17 *ulated area that the Secretary of Transportation*
18 *determines to be a nonrural area, except that the*
19 *term ‘transporting gas’ includes the movement of*
20 *gas through regulated gathering lines;”*; and

21 (3) *by adding at the end the following:*

22 “(23) *‘risk management’ means the systematic*
23 *application, by the owner or operator of a pipeline*
24 *facility, of management policies, procedures, finite re-*
25 *sources, and practices to the tasks of identifying, ana-*

1 *lyzing, assessing, reducing, and controlling risk in*
 2 *order to protect employees, the general public, the en-*
 3 *vironment, and pipeline facilities;*

4 “(24) ‘risk management plan’ means a manage-
 5 *ment plan utilized by a gas or hazardous liquid pipe-*
 6 *line facility owner or operator that encompasses risk*
 7 *management; and*

8 “(25) ‘Secretary’ means the Secretary of Trans-
 9 *portation.”.*

10 (b) *GATHERING LINES.*—Section 60101(b)(2) is
 11 *amended by inserting “, if appropriate,” after “Secretary”*
 12 *the first place it appears.*

13 **SEC. 4. GENERAL AUTHORITY.**

14 (a) *MINIMUM SAFETY STANDARDS.*—Section 60102(a)
 15 *is amended—*

16 (1) *by striking “transporters of gas and hazard-*
 17 *ous liquid and to” in paragraph (1)(A);*

18 (2) *by striking paragraph (1)(C) and inserting*
 19 *the following:*

20 “(C) *shall include a requirement that all in-*
 21 *dividuals who operate and maintain pipeline fa-*
 22 *ilities shall be qualified to operate and main-*
 23 *tain the pipeline facilities.”; and*

24 (3) *by striking paragraph (2) and inserting the*
 25 *following:*

1 “(2) *The qualifications applicable to an individ-*
 2 *ual who operates and maintains a pipeline facility*
 3 *shall address the ability to recognize and react appro-*
 4 *priately to abnormal operating conditions that may*
 5 *indicate a dangerous situation or a condition exceed-*
 6 *ing design limits. The operator of a pipeline facility*
 7 *shall ensure that employees who operate and main-*
 8 *tain the facility are qualified to operate and main-*
 9 *tain the pipeline facilities.”.*

10 (b) *PRACTICABILITY AND SAFETY NEEDS STAND-*
 11 *ARDS.—Section 60102(b) is amended to read as follows:*

12 “(b) *PRACTICABILITY AND SAFETY NEEDS STAND-*
 13 *ARDS.—*

14 “(1) *IN GENERAL.—A standard prescribed under*
 15 *subsection (a) shall be—*

16 “(A) *practicable; and*

17 “(B) *designed to meet the need for—*

18 “(i) *gas pipeline safety, or safely*
 19 *transporting hazardous liquids, as appro-*
 20 *priate; and*

21 “(ii) *protecting the environment.*

22 “(2) *FACTORS FOR CONSIDERATION.—When pre-*
 23 *scribing any standard under this section or section*
 24 *60101(b), 60103, 60108, 60109, 60110, or 60113, the*
 25 *Secretary shall consider—*

- 1 “(A) relevant available—
- 2 “(i) gas pipeline safety information;
- 3 “(ii) hazardous liquid pipeline safety
- 4 information; and
- 5 “(iii) environmental information;
- 6 “(B) the appropriateness of the standard for
- 7 the particular type of pipeline transportation or
- 8 facility;
- 9 “(C) the reasonableness of the standard;
- 10 “(D) based on a risk assessment, the reason-
- 11 ably identifiable or estimated benefits expected to
- 12 result from implementation or compliance with
- 13 the standard;
- 14 “(E) based on a risk assessment, the reason-
- 15 ably identifiable or estimated costs expected to
- 16 result from implementation or compliance with
- 17 the standard;
- 18 “(F) comments and information received
- 19 from the public; and
- 20 “(G) the comments and recommendations of
- 21 the Technical Pipeline Safety Standards Com-
- 22 mittee, the Technical Hazardous Liquid Pipeline
- 23 Safety Standards Committee, or both, as appro-
- 24 priate.

1 “(3) *RISK ASSESSMENT.*—*In prescribing a*
2 *standard referred to in paragraph (2), the Secretary*
3 *shall—*

4 “(A) *identify the regulatory and nonregula-*
5 *tory options that the Secretary considered in*
6 *prescribing a proposed standard;*

7 “(B) *identify the costs and benefits associ-*
8 *ated with the proposed standard;*

9 “(C) *include—*

10 “(i) *an explanation of the reasons for*
11 *the selection of the proposed standard in*
12 *lieu of the other options identified; and*

13 “(ii) *with respect to each of those other*
14 *options, a brief explanation of the reasons*
15 *that the Secretary did not select the option;*
16 *and*

17 “(D) *identify technical data or other infor-*
18 *mation upon which the risk assessment informa-*
19 *tion and proposed standard is based.*

20 “(4) *REVIEW.*—

21 “(A) *IN GENERAL.*—*The Secretary shall—*

22 “(i) *submit risk assessment informa-*
23 *tion prepared under paragraph (3) of this*
24 *subsection to the Technical Pipeline Safety*
25 *Standards Committee, the Technical Haz-*

1 ardous Liquid Pipeline Safety Standards
2 Committee, or both, as appropriate; and

3 “(ii) make that risk assessment infor-
4 mation available to the general public.

5 “(B) PEER REVIEW PANELS.—The commit-
6 tees referred to in subparagraph (A) shall serve
7 as peer review panels to review risk assessment
8 information prepared under this section. Not
9 later than 90 days after receiving risk assessment
10 information for review pursuant to subpara-
11 graph (A), each committee that receives that risk
12 assessment information shall prepare and submit
13 to the Secretary a report that includes—

14 “(i) an evaluation of the merit of the
15 data and methods used; and

16 “(ii) any recommended options relat-
17 ing to that risk assessment information and
18 the associated standard that the committee
19 determines to be appropriate.

20 “(C) REVIEW BY SECRETARY.—Not later
21 than 90 days after receiving a report submitted
22 by a committee under subparagraph (B), the
23 Secretary—

24 “(i) shall review the report;

1 “(ii) shall provide a written response
2 to the committee that is the author of the re-
3 port concerning all significant peer review
4 comments and recommended alternatives
5 contained in the report; and

6 “(iii) may revise the risk assessment
7 and the proposed standard before promul-
8 gating the final standard.

9 “(5) *SECRETARIAL DECISIONMAKING.*—*Except*
10 *where otherwise required by statute, the Secretary*
11 *shall propose or issue a standard under this Chapter*
12 *only upon a reasoned determination that the benefits*
13 *of the intended standard justify its costs.*

14 “(6) *EXCEPTIONS FROM APPLICATION.*—*The re-*
15 *quirements of this subsection do not apply when—*

16 “(A) *the standard is the product of a nego-*
17 *tiated rulemaking, or other rulemaking including*
18 *the adoption of industry standards that receives*
19 *no significant adverse comment within 60 days*
20 *of notice in the Federal Register;*

21 “(B) *based on a recommendation (in which*
22 *three-fourths of the members voting concur) by*
23 *the Technical Pipeline Safety Standards Com-*
24 *mittee, the Technical Hazardous Liquid Pipeline*

1 *Safety Standards Committee, or both, as appli-*
2 *icable, the Secretary waives the requirements; or*

3 *“(C) the Secretary finds, pursuant to sec-*
4 *tion 553(b)(3)(B) of title 5, United States Code,*
5 *that notice and public procedure are not re-*
6 *quired.*

7 *“(7) REPORT.—Not later than March 31, 2000,*
8 *the Secretary shall transmit to the Congress a report*
9 *that—*

10 *“(A) describes the implementation of the*
11 *risk assessment requirements of this section, in-*
12 *cluding the extent to which those requirements*
13 *have improved regulatory decision making; and*

14 *“(B) includes any recommendations that*
15 *the Secretary determines would make the risk as-*
16 *essment process conducted pursuant to the re-*
17 *quirements under this chapter a more effective*
18 *means of assessing the benefits and costs associ-*
19 *ated with alternative regulatory and nonregula-*
20 *tory options in prescribing standards under the*
21 *Federal pipeline safety regulatory program*
22 *under this chapter.”.*

23 *(c) FACILITY OPERATION INFORMATION STAND-*
24 *ARDS.—The first sentence of section 60102(d) is amended—*

1 (1) by inserting “as required by the standards
2 prescribed under this chapter” after “operating the
3 facility”;

4 (2) by striking “to provide the information” and
5 inserting “to make the information available”; and

6 (3) by inserting “as determined by the Sec-
7 retary” after “to the Secretary and an appropriate
8 State official”.

9 (d) *PIPE INVENTORY STANDARDS.*—The first sentence
10 of section 60102(e) is amended—

11 (1) by striking “and, to the extent the Secretary
12 considers necessary, an operator of a gathering line
13 that is not a regulated gather line (as defined under
14 section 60101(b)(2) of this title),”; and

15 (2) by striking “transmission” and inserting
16 “transportation”.

17 (e) *SMART PIGS.*—

18 (1) *MINIMUM SAFETY STANDARDS.*—Section
19 60102(f) is amended by striking paragraph (1) and
20 inserting the following:

21 “(1) *MINIMUM SAFETY STANDARDS.*—The Sec-
22 retary shall prescribe minimum safety standards re-
23 quiring that—

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

4 “(B) when the replacement of existing natu-
5 ral gas transmission pipeline or hazardous liq-
6 uid pipeline facilities or equipment is required,
7 the replacement of such existing facilities be car-
8 ried out, to the extent practicable, in a manner
9 so as to accommodate the passage through such
10 natural gas transmission pipeline or hazardous
11 liquid pipeline facilities of instrumented internal
12 inspection devices (commonly referred to as
13 ‘smart pigs’). The Secretary may extend such
14 standards to require existing natural gas trans-
15 mission pipeline or hazardous liquid pipeline fa-
16 cilities, whose basic construction would accom-
17 modate an instrumented internal inspection de-
18 vice to be modified to permit the inspection of
19 such facilities with instrumented internal inspec-
20 tion devices.”.

21 (2) *PERIODIC INSPECTIONS.*—Section
22 60102(f)(2) is amended—

23 (A) by striking “(2) Not later than” and in-
24 serting the following:

1 “(2) *PERIODIC INSPECTIONS*.—Not later than”;

2 *and*

3 *(B) by inserting “, if necessary, additional”*

4 *after “the Secretary shall prescribe”.*

5 *(f) UPDATING STANDARDS*.—Section 60102 is amend-
6 *ed by adding at the end the following:*

7 “(l) *UPDATING STANDARDS*.—The Secretary shall, to
8 *the extent appropriate and practicable, update incorporated*
9 *industry standards that have been adopted as part of the*
10 *Federal pipeline safety regulatory program under this*
11 *chapter.”.*

12 **SEC. 5. RISK MANAGEMENT.**

13 *(a) IN GENERAL*.—Chapter 601 is amended by adding
14 *at the end the following:*

15 **“§ 60126. Risk management**

16 “(a) *RISK MANAGEMENT PROGRAM DEMONSTRATION*
17 *PROJECTS*.—

18 “(1) *IN GENERAL*.—The Secretary shall establish
19 *risk management demonstration projects—*

20 “(A) *to demonstrate, through the voluntary*
21 *participation by owners and operators of gas*
22 *pipeline facilities and hazardous liquid pipeline*
23 *facilities, the application of risk management;*
24 *and*

1 “(B) to evaluate the application of risk
2 management referred to in subparagraph (A).

3 “(2) *EXEMPTIONS.*—In carrying out a dem-
4 onstration project under this subsection, the Sec-
5 retary, by order—

6 “(A) may exempt an owner or operator of
7 the pipeline facility covered under the project
8 (referred to in this subsection as a ‘covered pipe-
9 line facility’), from the applicability of all or a
10 portion of the requirements under this chapter
11 that would otherwise apply to the covered pipe-
12 line facility; and

13 “(B) shall exempt, for the period of the
14 project, an owner or operator of the covered pipe-
15 line facility, from the applicability of any new
16 standard that the Secretary promulgates under
17 this chapter during the period of that participa-
18 tion, with respect to the covered facility.

19 “(b) *REQUIREMENTS.*—In carrying out a demonstra-
20 tion project under this section, the Secretary shall—

21 “(1) invite owners and operators of pipeline fa-
22 cilities to submit risk management plans for timely
23 approval by the Secretary;

24 “(2) require, as a condition of approval, that a
25 risk management plan submitted under this sub-

1 *section contain measures that are designed to achieve*
2 *an equivalent or greater overall level of safety than*
3 *would otherwise be achieved through compliance with*
4 *the standards contained in this chapter or promul-*
5 *gated by the Secretary under this chapter;*

6 *“(3) provide for—*

7 *“(A) collaborative government and industry*
8 *training;*

9 *“(B) methods to measure the safety perform-*
10 *ance of risk management plans;*

11 *“(C) the development and application of*
12 *new technologies;*

13 *“(D) the promotion of community aware-*
14 *ness concerning how the overall level of safety*
15 *will be maintained or enhanced by the dem-*
16 *onstration project;*

17 *“(E) the development of models that cat-*
18 *egorize the risks inherent to each covered pipeline*
19 *facility, taking into consideration the location,*
20 *volume, pressure, and material transported or*
21 *stored by that pipeline facility;*

22 *“(F) the application of risk assessment and*
23 *risk management methodologies that are suitable*
24 *to the inherent risks that are determined to exist*

1 through the use of models developed under sub-
2 paragraph (E);

3 “(G) the development of project elements
4 that are necessary to ensure that—

5 “(i) the owners and operators that par-
6 ticipate in the demonstration project dem-
7 onstrate that they are effectively managing
8 the risks referred to in subparagraph (E);
9 and

10 “(ii) the risk management plans car-
11 ried out under the demonstration project
12 under this subsection can be audited;

13 “(H) a process whereby an owner or opera-
14 tor of a pipeline facility is able to terminate a
15 risk management plan or, with the approval of
16 the Secretary, to amend, modify, or otherwise
17 adjust a risk management plan referred to in
18 paragraph (1) that has been approved by the
19 Secretary pursuant to that paragraph to respond
20 to—

21 “(i) changed circumstances; or

22 “(ii) a determination by the Secretary
23 that the owner or operator is not achieving
24 an overall level of safety that is at least
25 equivalent to the level that would otherwise

1 *be achieved through compliance with the*
2 *standards contained in this chapter or pro-*
3 *mulgated by the Secretary under this chap-*
4 *ter; and*

5 “(I) *such other elements as the Secretary,*
6 *with the agreement of the owners and operators*
7 *that participate in the demonstration project*
8 *under this section, determines to further the pur-*
9 *poses of this section; and*

10 “(4) *in selecting participants for the demonstra-*
11 *tion project, take into consideration the past safety*
12 *and regulatory performance of each applicant who*
13 *submits a risk management plan pursuant to para-*
14 *graph (1).*

15 “(c) *EMERGENCIES AND REVOCATIONS.—Nothing in*
16 *this section diminishes or modifies the Secretary’s authority*
17 *under this title to act in case of an emergency. The Sec-*
18 *retary may revoke any exemption granted under this sec-*
19 *tion for substantial noncompliance with the terms and con-*
20 *ditions of an approved risk management plan.*

21 “(d) *PARTICIPATION BY STATE AUTHORITY.—In car-*
22 *rying out this section, the Secretary may provide for con-*
23 *sultation by a State that has in effect a certification under*
24 *section 60105. To the extent that a demonstration project*
25 *comprises an intrastate natural gas pipeline or an intra-*

1 *state hazardous liquid pipeline facility, the Secretary may*
 2 *make an agreement with the State agency to carry out the*
 3 *duties of the Secretary for approval and administration of*
 4 *the project.*

5 “(e) *REPORT.—Not later than March 31, 2000, the*
 6 *Secretary shall transmit to the Congress a report on the*
 7 *results of the demonstration projects carried out under this*
 8 *section that includes—*

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

13 “(2) *recommendations concerning whether the*
 14 *applications of risk management demonstrated under*
 15 *the demonstration project should be incorporated into*
 16 *the Federal pipeline safety program under this chap-*
 17 *ter on a permanent basis.”.*

18 (f) *CONFORMING AMENDMENT.—The analysis for*
 19 *chapter 601 is amended by adding at the end the following:*

“60126. Risk management.”.

20 **SEC. 6. INSPECTION AND MAINTENANCE.**

21 *Section 60108 is amended—*

22 (1) *by striking “transporting gas or hazardous*
 23 *liquid or” in subsection (a)(1) each place it appears;*

24 (2) *by striking the second sentence in subsection*
 25 *(b)(2);*

1 (3) by striking “NAVIGABLE WATERS” in the
2 heading for subsection (c) and inserting “OTHER WA-
3 TERS”; and

4 (4) by striking clause (ii) of subsection (c)(2)(A)
5 and inserting the following:

6 “(ii) any other pipeline facility cross-
7 ing under, over, or through waters where a
8 substantial likelihood of commercial naviga-
9 tion exists, if the Secretary decides that the
10 location of the facility in those waters could
11 pose a hazard to navigation or public safe-
12 ty.”.

13 **SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRON-**
14 **MENTALLY SENSITIVE AREAS.**

15 (a) *IDENTIFICATION*.—Section 60109(a)(1)(B)(i) is
16 amended by striking “a navigable waterway (as the Sec-
17 retary defines by regulation)” and inserting “waters where
18 a substantial likelihood of commercial navigation exists”.

19 (b) *UNUSUALLY SENSITIVE AREAS*.—Section 60109(b)
20 is amended to read as follows:

21 “(b) *AREAS TO BE INCLUDED AS UNUSUALLY SEN-*
22 *SITIVE*.—When describing areas that are unusually sen-
23 sitive to environmental damage if there is a hazardous liq-
24 uid pipeline accident, the Secretary shall consider areas

1 where a pipeline rupture would likely cause permanent or
2 long-term environmental damage, including—

3 “(1) locations near pipeline rights-of-way that
4 are critical to drinking water, including intake loca-
5 tions for community water systems and critical sole
6 source aquifer protection areas; and

7 “(2) locations near pipeline rights-of-way that
8 have been identified as critical wetlands, riverine or
9 estuarine systems, national parks, wilderness areas,
10 wildlife preservation areas or refuges, wild and scenic
11 rivers, or critical habitat areas for threatened and en-
12 dangered species.”.

13 **SEC. 8. EXCESS FLOW VALVES.**

14 Section 60110 is amended—

15 (1) by inserting “, if any,” in the first sentence
16 of subsection (b)(1) after “circumstances”;

17 (2) by inserting “, operating, and maintaining”
18 in subsection (b)(4) after “cost of installing”;

19 (3) by inserting “, maintenance, and replace-
20 ment” in subsection (c)(1)(C) after “installation”;
21 and

22 (4) by inserting after the first sentence in sub-
23 section (e) the following: “The Secretary may adopt
24 industry accepted performance standards in order to

1 *comply with the requirement under the preceding sen-*
2 *tence.”.*

3 **SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.**

4 *Section 60113 is amended—*

5 (1) *by striking the caption of subsection (a); and*

6 (2) *by striking subsection (b).*

7 **SEC. 10. TECHNICAL SAFETY STANDARDS COMMITTEES.**

8 (i) *PEER REVIEW.—Section 60115(a) is amended by*
9 *adding at the end the following: “The committees referred*
10 *to in the preceding sentence shall serve as peer review com-*
11 *mittees for carrying out this chapter. Peer reviews con-*
12 *ducted by the committees shall be treated for purposes of*
13 *all Federal laws relating to risk assessment and peer review*
14 *(including laws that take effect after the date of the enact-*
15 *ment of the Accountable Pipeline Safety and Partnership*
16 *Act of 1996) as meeting any peer review requirements of*
17 *such laws.”.*

18 (ii) *COMPOSITION AND APPOINTMENT.—Section*
19 *60115(b) is amended—*

20 (1) *by inserting “or risk management prin-*
21 *ciples” in paragraph (1) before the period at the end;*

22 (2) *by inserting “or risk management prin-*
23 *ciples” in paragraph (2) before the period at the end;*

24 (3) *by striking “4” in paragraph (3)(B) and in-*
25 *serting “5”;*

1 (4) by striking “6” in paragraph (3)(C) and in-
2 serting “5”;

3 (5) by adding at the end of paragraph (4)(B) the
4 following: “At least 1 of the individuals selected for
5 each committee under paragraph (3)(B) shall have
6 education, background, or experience in risk assess-
7 ment and cost-benefit analysis. The Secretary shall
8 consult with the national organizations representing
9 the owners and operators of pipeline facilities before
10 selecting individuals under paragraph (3)(B).”; and

11 (6) by inserting after the first sentence of para-
12 graph (4)(C) the following: “At least 1 of the individ-
13 uals selected for each committee under paragraph
14 (3)(C) shall have education, background, or experience
15 in risk assessment and cost-benefit analysis.”.

16 (c) COMMITTEE REPORTS.—Section 60115(c) is
17 amended—

18 (1) by inserting “including the risk assessment
19 information and other analyses supporting each pro-
20 posed standard” before the semicolon in paragraph
21 (1)(A);

22 (2) by inserting “including the risk assessment
23 information and other analyses supporting each pro-
24 posed standard” before the period in paragraph
25 (1)(B);

1 (3) by inserting “and supporting analyses” be-
2 fore the first comma in the first sentence of paragraph
3 (2);

4 (4) by inserting “and submit to the Secretary”
5 in the first sentence of paragraph (2) after “prepare”;

6 (5) by inserting “cost-effectiveness,” in the first
7 sentence of paragraph (2) after “reasonableness,”; and

8 (6) by inserting “and include in the report rec-
9 ommended actions” before the period at the end of the
10 first sentence of paragraph (2); and

11 (7) by inserting “any recommended actions and”
12 in the second sentence of paragraph (2) after “includ-
13 ing”.

14 (d) **MEETINGS.**—Section 60115(e) is amended by strik-
15 ing “twice” and inserting “up to 4 times”.

16 (e) **EXPENSES.**—Section 60115(f) is amended—

17 (1) by striking “PAY AND” in the subsection
18 heading;

19 (2) by striking the first 2 sentences; and

20 (3) by inserting “of a committee under this sec-
21 tion” after “A member”.

22 **SEC. 11. PUBLIC EDUCATION PROGRAMS.**

23 Section 60116 is amended—

1 (1) by striking “person transporting gas” and
2 inserting “owner or operator of a gas pipeline facil-
3 ity”;

4 (2) by inserting “the use of a one-call notifica-
5 tion system prior to excavation,” after “educate the
6 public on”; and

7 (3) by inserting a comma after “gas leaks”.

8 **SEC. 12. ADMINISTRATIVE.**

9 Section 60117 is amended—

10 (1) by adding at the end of subsection (b) the fol-
11 lowing: “The Secretary may require owners and oper-
12 ators of gathering lines to provide the Secretary infor-
13 mation pertinent to the Secretary’s ability to make a
14 determination as to whether and to what extent to
15 regulate gathering lines.”;

16 (2) by adding at the end thereof the following:

17 “(k) **AUTHORITY FOR COOPERATIVE AGREEMENTS.**—
18 To carry out this chapter, the Secretary may enter into
19 grants, cooperative agreements, and other transactions with
20 any person, agency, or instrumentality of the United
21 States, any unit of State or local government, any edu-
22 cational institution, or any other entity to further the objec-
23 tives of this chapter. The objectives of this chapter include
24 the development, improvement, and promotion of one-call

1 *damage prevention programs, research, risk assessment,*
2 *and mapping.”; and*

3 (3) *by striking “transporting gas or hazardous*
4 *liquid” in subsection (b) and inserting “owning”.*

5 **SEC. 13. COMPLIANCE.**

6 (a) *Section 60118 (a) is amended—*

7 (1) *by striking “transporting gas or hazardous*
8 *liquid or” in subsection (a); and*

9 (2) *by striking paragraph (1) and inserting the*
10 *following:*

11 “(1) *comply with applicable safety standards*
12 *prescribed under this chapter, except as provided in*
13 *this section or in section 60126;”.*

14 (b) *Section 60118 (b) is amended to read as follows:*

15 “(b) **COMPLIANCE ORDERS.**—*The Secretary of Trans-*
16 *portation may issue orders directing compliance with this*
17 *chapter, an order under section 60126, or a regulation pre-*
18 *scribed under this chapter. An order shall state clearly the*
19 *action a person must take to comply.”.*

20 (c) *Section 60118(c) is amended by striking “trans-*
21 *porting gas or hazardous liquid” and inserting “owning”.*

22 **SEC. 14. DAMAGE REPORTING.**

23 Section 60123(d)(2) *is amended—*

24 (1) *by striking “or” at the end of subparagraph*

25 (A);

1 (2) by redesignating subparagraph (B) as sub-
2 paragraph (C); and

3 (3) by inserting after subparagraph (A) the fol-
4 lowing:

5 “(B) a pipeline facility that does not report
6 the damage promptly to the operator of the pipe-
7 line facility and to other appropriate authorities;
8 or”.

9 **SEC. 15. BIENNIAL REPORTS.**

10 (a) **BIENNIAL REPORTS.**—

11 (1) **SECTION HEADING.**—The section heading of
12 section 60124 is amended to read as follows:

13 **“§ 60124. Biennial reports”.**

14 (2) **REPORTS.**—Section 60124(a) is amended by
15 striking the first sentence and inserting the following:

16 “Not later than August 15, 1997, and every 2 years
17 thereafter, the Secretary of Transportation shall sub-
18 mit to Congress a report on carrying out this chapter
19 for the 2 immediately preceding calendar years for
20 gas and a report on carrying out this chapter for
21 such period for hazardous liquid.”.

22 (c) **CONFORMING AMENDMENT.**—The analysis for
23 chapter 601 is amended by striking the item relating to sec-
24 tion 60124 and inserting the following:

 “60124. Biennial reports.”.

1 **SEC. 16. POPULATION ENCROACHMENT.**

2 (a) *IN GENERAL.*—Chapter 601, as amended by sec-
3 tion 5, is further amended by adding at the end the follow-
4 ing new section:

5 **“§60127. Population encroachment**

6 “(a) *LAND USE RECOMMENDATIONS.*—The Secretary
7 of Transportation shall make available to an appropriate
8 official of each State, as determined by the Secretary, the
9 land use recommendations of the special report numbered
10 219 of the Transportation Research Board, entitled ‘Pipe-
11 lines and Public Safety’.

12 “(b) *EVALUATION.*—The Secretary shall—

13 “(1) *evaluate the recommendations in the report*
14 *referred to in subsection (a);*

15 “(2) *determine to what extent the recommenda-*
16 *tions are being implemented;*

17 “(3) *consider ways to improve the implementa-*
18 *tion of the recommendations; and*

19 “(4) *consider other initiatives to further improve*
20 *awareness of local planning and zoning entities re-*
21 *garding issues involved with population encroachment*
22 *in proximity to the rights-of-way of any interstate*
23 *gas pipeline facility or interstate hazardous liquid*
24 *pipeline facility.”.*

1 (b) *CONFORMING AMENDMENT.*—The analysis for
2 chapter 601 is amended by inserting after the item relating
3 to section 60126 the following:

“60127. Population encroachment.”.

4 **SEC. 17. USER FEES.**

5 (a) *IN GENERAL.*—Not later than 1 year after the date
6 of the enactment of this Act, the Secretary of Transpor-
7 tation shall transmit to the Congress a report analyzing
8 the present assessment of pipeline safety user fees solely on
9 the basis of mileage to determine whether—

10 (1) that measure of the resources of the Depart-
11 ment of Transportation is the most appropriate meas-
12 ure of the resources used by the Department of Trans-
13 portation in the regulation of pipeline transportation;
14 or

15 (2) another basis of assessment would be a more
16 appropriate measure of those resources.

17 (b) *CONSIDERATIONS.*—In making the report, the Sec-
18 retary shall consider a wide range of assessment factors and
19 suggestions and comments from the public.

20 **SEC. 18. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.**

21 (a) *AMENDMENT.*—Chapter 601, as amended by sec-
22 tion 16, is further amended by adding at the end the follow-
23 ing new section:

1 **“§ 60128. Dumping within pipeline rights-of-way**

2 “(a) *PROHIBITION.*—No person shall excavate for the
3 purpose of unauthorized disposal within the right-of-way
4 of an interstate gas pipeline facility or interstate hazardous
5 liquid pipeline facility, or any other limited area in the
6 vicinity of any such interstate pipeline facility established
7 by the Secretary of Transportation, and dispose solid waste
8 therein.

9 “(b) *DEFINITION.*—For purposes of this section, the
10 term ‘solid waste’ has the meaning given that term in sec-
11 tion 1004(27) of the Solid Waste Disposal Act (42 U.S.C.
12 6903(27)).”.

13 (b) *CONFORMING AMENDMENTS.*—

14 (1) *CROSS-REFERENCE.*—Section 60123(a) is
15 amended by striking “or 60118(a)” and inserting “,
16 60118(a), or 60128”.

17 (2) *CHAPTER ANALYSIS.*—The analysis for chap-
18 ter 601 is amended by adding at the end the following
19 new item:

“60128. *Dumping within pipeline rights-of-way.*”.

20 **SEC. 19. PREVENTION OF DAMAGE TO PIPELINE FACILI-**
21 **TIES.**

22 Section 60117(a) is amended by inserting after “and
23 training activities” the following: “and promotional activi-
24 ties relating to prevention of damage to pipeline facilities”.

1 **SEC. 20. TECHNICAL CORRECTIONS.**

2 (a) SECTION 60105.—*The heading for section 60105*
3 *is amended by inserting “**pipeline safety program**”*
4 *after “**State**”.*

5 (b) SECTION 60106.—*The heading for section 60106*
6 *is amended by inserting “**pipeline safety**” after*
7 *“**State**”.*

8 (c) SECTION 60107.—*The heading for section 60107 is*
9 *amended by inserting “**pipeline safety**” after “**State**”.*

10 (d) SECTION 60114.—*Section 60114 is amended—*

11 (1) *by striking “60120, 60122, and 60123” in*
12 *subsection (a)(9) and inserting “60120 and 60122”;*

13 (2) *by striking subsections (b) and (d); and*

14 (3) *by redesignating subsections (c) and (e) as*
15 *subsections (b) and (d), respectively.*

16 (e) CHAPTER ANALYSIS.—*The analysis for chapter 601*
17 *is amended—*

18 (1) *by inserting “pipeline safety program” in*
19 *the item relating to section 60105 after “State”;*

20 (2) *by inserting “pipeline safety” in the item re-*
21 *lating to section 60106 after “State”; and*

22 (3) *by inserting “pipeline safety” in the item re-*
23 *lating to section 60107 after “State”.*

24 (f) SECTION 60101.—*Section 60101(b) is amended by*
25 *striking “define by regulation” each place it appears and*
26 *inserting “prescribe standards defining”.*

1 (g) SECTION 60102.—Section 60102 is amended by
 2 striking “regulations” each place it appears in subsections
 3 (f)(2), (i), and (j)(2) and inserting “standards”.

4 (h) SECTION 60108.—Section 60108 is amended—

5 (1) by striking “regulations” in subsections
 6 (c)(2)(B), (c)(4)(B), and (d)(3) and inserting “stand-
 7 ards”; and

8 (2) by striking “require by regulation” in sub-
 9 section (c)(4)(A) and inserting “establish a stand-
 10 ard”.

11 (i) SECTION 60109.—Section 60109(a) is amended by
 12 striking “regulations” and inserting “standards”.

13 (j) SECTION 60110.—Section 60110 is amended by
 14 striking “regulations” in subsections (b), (c)(1), and (c)(2)
 15 and inserting “standards”.

16 (k) SECTION 60113.—Section 60113(a) is amended by
 17 striking “regulations” and inserting “standards”.

18 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) GAS AND HAZARDOUS LIQUID.—Section 60125 is
 20 amended—

21 (1) by striking subsection (a) and inserting the
 22 following new subsection:

23 “(a) GAS AND HAZARDOUS LIQUID.—To carry out
 24 this chapter (except for sections 60107 and 60114(b)) relat-

1 *ed to gas and hazardous liquid, there are authorized to be*
2 *appropriated to the Department of Transportation—*

3 *“(1) \$19,448,000 for fiscal year 1996;*

4 *“(2) \$20,028,000 for fiscal year 1997, of which*
5 *\$14,600,000 is to be derived from user fees for fiscal*
6 *year 1997 collected under section 60301 of this title;*

7 *“(3) \$20,729,000 for fiscal year 1998, of which*
8 *\$15,100,000 is to be derived from user fees for fiscal*
9 *year 1998 collected under section 60301 of this title;*

10 *“(4) \$21,442,000 for fiscal year 1999, of which*
11 *\$15,700,000 is to be derived from user fees for fiscal*
12 *year 1999 collected under section 60301 of this title”;*

13 *and*

14 *“(5) \$22,194,000 for fiscal year 2000, of which*
15 *\$16,300,000 is to be derived from user fees for fiscal*
16 *year 2000 collected under section 60301 of this title.”.*

17 *(b) STATE GRANTS.—Section 60125(c)(1) is amended*
18 *by adding at the end the following:*

19 *“(D) \$12,000,000 for fiscal year 1996.*

20 *“(E) \$14,000,000 for fiscal year 1997, of which*
21 *\$12,500,000 is to be derived from user fees for fiscal*
22 *year 1997 collected under section 60301 of this title.*

23 *“(F) \$14,490,000 for fiscal year 1998, of which*
24 *\$12,900,000 is to be derived from user fees for fiscal*
25 *year 1998 collected under section 60301 of this title.*

1 “(G) \$15,000,000 for fiscal year 1999, of which
2 \$13,300,000 is to be derived from user fees for fiscal
3 year 1999 collected under section 60301 of this title.

4 “(H) \$15,524,000 for fiscal year 2000, of which
5 \$13,700,000 is to be derived from user fees for fiscal
6 year 2000 collected under section 60301 of this title.”.

Appendix IV
Regulatory Framework

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR-120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 24, 1997.

Joel C. Richard,

Secretary.

[FR Doc. 97-7826 Filed 3-26-97; 8:45 am]

BILLING CODE 4910-81-P

Research and Special Programs Administration

[Docket No. PS-142; Notice 5]

Requests for Applications for the Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice of request for letters of intent.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) invites eligible pipeline operators to submit Letters of Intent expressing interest in participating in its Pipeline Risk Management Demonstration Program. This notice begins the solicitation process by specifying a deadline and address for Letters of Intent, by directing interested operators to supplementary guidance documents, and by providing updated guidance for operators interested in participating.

DATES: Letters of Intent will be accepted no later than July 25, 1997.

ADDRESSES: Letters of Intent should be sent to Richard B. Felder, Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Room 2335, 400 7th St., SW, Washington, DC, 20590.

SUPPLEMENTAL DOCUMENTS:

(1) Program Framework for Risk Management Demonstrations (61 FR 58605): Describes the processes by which OPS will receive, review, approve, monitor, modify, and terminate company risk management demonstration projects, and provides a description of the information a

company should include in its Letter of Intent. The guidance in the Program Framework is current except where noted in Section II of this notice. The significant information in the Program Framework is contained in Appendix A of this document or available on the Internet at OPS address <http://ops.dot.gov>.

(2) Interim Risk Management Program Standard: Describes the essential elements and characteristics of a company's risk management program. A Letter of Intent should include evidence that the company will address all considerations raised in the Program Standard. It is available by contacting Eben Wyman at (202)366-0918 or on Internet at OPS address <http://ops.dot.gov>.

(3) Guidance on Performance Measures: Provides the basis for participating companies and OPS to assess, through the demonstration projects, whether risk management is an effective alternative to the current regulatory environment; and to determine whether superior public safety and environmental protection is being achieved. OPS considers the performance measures proposed in the consultation process to be critical to approving a demonstration project. Companies may include proposed performance measures, if available, in their Letters of Intent. The March 1997 guidance is available by contacting Eben Wyman at (202)366-0918 or on Internet at <http://opspm.volpe60.dot.gov>.

(4) Risk Management Communications Plan: Outlines the processes to enable all stakeholders (including OPS, companies, States, and local officials) to exchange information about the goals, objectives, and status of the Demonstration Program and individual projects. The Communications Plan describes the information OPS intends to share with stakeholders via local prospectuses once candidate companies are selected for consultations. Companies may consult the Plan to ensure their Letters of Intent contain sufficient information for the prospectuses, and for guidance on local level communications the company should conduct. OPS will continue to develop communications with the public during the Demonstration Program. The Plan is available by contacting Eben Wyman at (202)366-0918 or on Internet at OPS address <http://ops.dot.gov>.

(5) Risk Management Training Curricula: Describes the content of the risk management training that will be provided to industry and regulator participants in the Demonstration Program. Companies who submit Letters

of Intent and who OPS identifies as candidates for selection will be invited to participate in the training. The company may request an orientation with the OPS personnel who will be assigned to evaluate and monitor its demonstration project. An outline of the curricula is available by contacting Eben Wyman at (202)366-0918 or on Internet at OPS address <http://ops.dot.gov>.

(6) Proceedings from January 28, 1997 Public Meeting held at the Hilton Riverside Hotel, New Orleans, LA: Record of OPS response to public comment on elements of the Demonstration Program. Available by contacting Eben Wyman at (202)366-0918, or on Internet at OPS address <http://ops.dot.gov>. A summary of OPS comments at the public meeting is contained in Appendix B of this notice.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366-0918, or by E-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this document. Persons wishing to review previously submitted comments may contact the RSPA Dockets Clerk, (202) 366-5046, U.S. Department of Transportation, room 8421, 400 Seventh Street, SW, Washington, DC 20590. Inquiries should identify the docket number (PS-142). The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

SUPPLEMENTARY INFORMATION:

I. Overview

The Program Framework for Risk Management Demonstrations (Program Framework)(61 FR 58605), published on November 15, 1996, describes the Pipeline Risk Management Demonstration Program and its objectives and statutory basis, and provides guidance for pipeline operators who may wish to participate. The Demonstration Program will enable participating pipeline operators to substitute compliance with the provisions of an OPS-approved demonstration project for compliance with existing pipeline safety standards. The objective of the Demonstration Program is to test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve public safety, environmental protection, and reliability of service. It will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative.

Guidance for participation by companies, regulators, and the public in the Demonstration Program is contained in the documents referenced at the front of this notice. OPS expects documents (1) through (5) will be refined and improved as more is learned during the course of the Program. OPS will report at least annually on the Program's progress, via **Federal Register** notices, nationally broadcast two-way video teleconferences, mailed updates on the individual project prospectuses, and other means. By March 31, 2000, OPS will submit a Report to Congress on the Demonstration Program status. A final report will be issued in four years evaluating how effectively safety, environmental protection, and reliability of service have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

II. Modifications and Clarifications to Program Framework

The following modifications and clarifications to the Program Framework for Risk Management Demonstrations are in response to public comment to the docket, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through "joint risk management quality teams" (JRAQT).

1. Window for submission of Letters of Intent

Companies considering participating in a demonstration project must submit a Letter of Intent to OPS no later than July 25, 1997. This provides operators a 120-day window, rather than the previously published 60-day window.

2. Phased Selection of Demonstration Projects

OPS will likely select a few candidates for consultations before the 120-day window for submission of Letters of Intent has closed. This phased approach would allow OPS to better manage workload. OPS would base these selections on evidence in the Letter of Intent that the proposed demonstration project has a high likelihood of being approved per the criteria described in the Program Framework.

3. Screening Criteria

As part of the screening criteria, previously described in the Program

Framework, OPS will favor companies with a demonstrated commitment to risk management and a demonstrated ability to communicate with OPS by, for example, being forthcoming with relevant data. OPS will favor proposed projects that:

- Are comprehensive, indicating a more systematic and thorough assessment of risk and risk control options so that superior protection can be achieved;
- Provide a good opportunity to evaluate risk management as a regulatory alternative; and
- Contain distinguishing features, such as support from or a pre-established relationship with local or stakeholders.

4. Informational Meetings with OPS

OPS is continuing its informational meetings at company sites to discuss demonstration project concepts, to explore the potential for more comprehensive project proposals, and to provide companies a better understanding of Program objectives, opportunities, and the administrative process and approach to application evaluation. In addition to assisting companies with questions about risk management, these meetings could position OPS to better plan the evaluation phase of the Demonstration Program.

5. Local Distribution Companies (LDC) are Not Eligible to Participate in the Current Demonstration Program

As stated in the Program Framework, eligibility for the current Demonstration Program is limited to interstate natural gas transmission and hazardous liquid pipeline companies. However, on February 26, 1997, the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas passed a Resolution supporting an LDC Risk Assessment Quality Action Team to conduct a feasibility study of risk management as a regulatory alternative.

6. Role of States in the Demonstration Program

In keeping with the statutory provision (49 US USC 60126(d)) that allows the Department to provide for State consultation in the Demonstration Program, OPS will contact State pipeline safety agencies that may be affected by a proposed demonstration project to discuss the extent of the State's involvement in the project. This could entail the State providing input on geographic, socioeconomic, and other local factors that the Project Review Team (PRT) should consider

during its consultation with an operator. It could also entail the State pipeline safety agency acting as a conduit for other State agencies wishing to provide input to the PRT. The State could serve, along with OPS and the company, as a point-of-contact for members of the public providing comments and raising questions. Should the State pipeline safety agency choose not to participate in the Demonstration Program, OPS will find alternative means of ensuring that the PRT considers input from other State agencies and the public.

7. Meaning of "Clear & Established Safety Record" in Presidential Directive

A Presidential directive to the Secretary of Transportation directs the Secretary to limit risk management demonstration projects to those pipeline operators that have clear and established records of compliance with respect to safety and environmental protection. OPS will review its records to determine if candidate companies have historically met requirements of applicable State pipeline safety regulations. Operators should have addressed all safety and environmental protection actions prescribed by existing regulations and orders, including consent orders and commitments for corrective action made to OPS. OPS will consult with other agencies about their knowledge of the company's safety and environmental compliance record. A company may include in its Letter of Intent a statement identifying the relationship of any ongoing prescribed actions to the proposed demonstration project.

8. Role of Other Agencies

At the annual National Response Team (NRT) Regional Response Team (RRT) Co-chairs' meeting in February, 1997, OPS invited the 15 State NRT agencies to participate in the Demonstration Program. Once OPS announces the candidate demonstration sites, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via periodic program briefings, project prospectuses, and updates. At the State level, State pipeline safety agencies participating in the Demonstration Program may act as

points-of-contact for other State agencies (including State environmental agencies).

10. Clarification of Term "Stakeholder"

OPS uses the term stakeholder in reference to parties at the National, State, and local levels that have interest in the Pipeline Risk Management Demonstration Program.

11. Error in Citing Part 192 as Source of Reporting Requirements for Gas Operators

OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 191 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations. The Program Framework erroneously cited Part 192 as the source for reporting requirements for gas operators.

12. Clarify Role of Local Public Officials

The Program Framework was unclear about why OPS asks that participating companies establish a dialogue with local officials in proximity to their demonstration projects. The expected benefits of local public involvement include:

- Providing information about specific local conditions that may not be known at the Federal or State level;
- Ensuring that government agencies have considered all relevant factors in making decisions to approve projects; and
- Providing local feedback as to whether the Program is accomplishing the goals for which it was designed.

To broaden opportunities for public involvement, other planned outreach opportunities include an Internet homepage with each project's status and national two-way video teleconferences available via Internet.

OPS is seeking a diverse set of demonstration projects, and encourages all interested interstate natural gas transmission and hazardous liquid pipeline operators to submit Letters of Intent for consideration.

Issued in Washington, DC on March 24, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix A—Excerpt from the Program Framework for Risk Management Demonstrations (61 FR 58606)

SUPPLEMENTAL INFORMATION:

I. Overview

Section 5 of the Accountable Pipeline Safety and Partnership Act of 1996

(Pub.L.No.104-304, Oct. 12, 1996) requires OPS to establish the Pipeline Risk Management Demonstration Program and sets forth requirements for carrying out risk management projects. In a memorandum issued when the statute was enacted, the President directed the Secretary of Transportation to use his discretion to administer the Demonstration Program with certain safeguards in place. The safeguards identified in the President's memorandum to the Secretary include making provisions for:

- Accepting projects that can achieve superior public safety and environmental protection.
- Enabling full and meaningful participation by affected communities and constituencies in risk management project approval.
- Using orders ensuring that the requirements of risk management projects are subject to full enforcement authority.
- Limiting the number of demonstration projects to ten (10).
- Limiting participation to operators with clear and established records of compliance with respect to safety and environmental protection.

The statutory requirements, the President's memorandum to the Secretary, comments on previous framework concepts (published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995), and other stakeholder input were used to develop the present framework, which provides guidance to operators who may decide to participate in the demonstration projects that are expected to begin in 1997.

Risk management can provide pipeline owners and operators greater flexibility in their choice of safety-related activities than is possible within OPS's present universally applicable regulatory program. Risk management enables a company to customize its safety program to address its pipeline's particular risks. Furthermore, risk management is a dynamic process, with built-in features for evaluating and improving safety activities as experience is gained.

The demonstration projects will test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve safety, environmental protection, and reliability. They will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative. The new standards, technologies, and communication processes developed by

operators and OPS for the risk management demonstration projects will be adapted to support the range of risk-based regulatory, compliance, and research and development activities OPS presently has under development.

OPS expects that risk management methods and the formalized process of interactions and negotiation between regulators and company personnel will result in superior public safety and environmental protection than could otherwise be attained through existing regulatory requirements. Risk management is, by OPS definition, a more systematic and thorough assessment of risk and risk control options, with the intended result of superior decision making. As a result of improved assessment, OPS believes there is a potential to identify more risk than may have been found using existing practices.

OPS plans to select companies for demonstration projects with a demonstrated commitment (1) to work in partnership to evaluate merits of risk management processes and technologies and (2) to develop risk management as an integral part of company day-to-day business practices, at least related to the demonstration project. The selection criteria favors projects showing potential for more comprehensive risk management applications. All participants will be focused on improving safety and environmental results, prioritizing resources more effectively, and enhancing the ability of government and industry to effect positive outcomes. OPS will have clear profiles of its assessment of pipeline integrity before and after the demonstration program. At the program conclusion, OPS fully expects to have a better understanding of individual pipeline risks and to be in a better position to evaluate risk control options.

Finally, OPS expects risk management to be able to provide better accountability for safety and environmental protection, and a better basis to communicate with the public. To assure that safety and environmental protection improve, OPS will measure local, project-specific data such as current physical data, new test data, comparison with similar segments, outcomes from risk control actions, precursor or "anticipative" event measures, level of risk awareness, history of service interruptions and incident data. OPS also expects to measure improvements in communications, understanding, and resulting increased ability of government and industry to effect desired safety and environmental project outcomes. OPS and operators

participating in the Demonstration Program will report to the public periodically during the four year period.

OPS will be accepting into the Demonstration Program those projects, as proposed or ultimately negotiated, that are expected to achieve superior public safety and environmental protection than is currently being achieved through regulatory compliance. Because of the nature of the risk management process, OPS believes that operators choosing to participate will be able to propose projects demonstrating such protection.

Each demonstration project is expected to have a four-year duration. Participation in risk management demonstrations will be voluntary and subject to OPS approval based on criteria set forth later in this notice. Eligibility for the demonstration projects beginning in 1997 is limited to interstate natural gas transmission and hazardous liquid pipeline companies. RSPA may later broaden eligibility to include distribution and other intrastate operators.

II. Activities Presently Underway and Next Steps

The December 20, 1995, **Federal Register** notice gave the background for OPS's consideration of company-specific risk management projects as an alternative to the existing regulations. The notice described many of the safety, environmental, legislative, technical, public perception, and economic factors driving government, corporate, and public interest in risk management.

Since December 1995, OPS has been working with "joint risk management quality teams" (JRAQT) composed of representatives of State pipeline regulatory agencies, the oil and gas industries, and local public safety and environmental representatives to develop the five primary components of the Pipeline Risk Management Demonstration Program. These components include the Interim Risk Management Program Standard, the guidance for assessing risk management as a regulatory alternative using general industry data, the training protocols for instructing government and corporate participants about their new roles under risk management, a plan for productive communication between all participants and the public, and the regulatory framework presented in this notice. The standard and the regulatory framework are now ready for public comment. The guidance for assessing risk management as a regulatory alternative will be ready for public comment in November.

The Interim Risk Management Program Standard will serve as a

common ground upon which the pipeline industry can develop and refine effective risk management demonstration projects that regulators can approve and monitor. It defines certain elements that all programs should contain, but allows flexibility to each company to customize its project to fit its particular needs and corporate practices, and allows projects to evolve as experience is gained. The standard will also provide companies guidance for selecting performance measures to ensure that safety and environmental protection are safeguarded in demonstration projects. Directions for obtaining and commenting on the standard are at the front of this notice.

The regulatory framework component presented in this notice guides pipeline companies in how they can gain OPS approval of their risk management projects and describes how OPS would monitor the plans. The framework presented here will guide the demonstration projects that begin in 1997. The experience gained from the demonstration projects will help OPS to later develop a permanent procedure for approving risk management projects, if risk management proves to be a viable regulatory alternative. Directions for public comment on the regulatory framework are also at the front of this notice.

To help ensure that the Demonstration Program components provide the flexibility to fairly and consistently evaluate and support actual risk management projects, OPS has been conducting a series of meetings with individual operators since August 1996. The topics of discussion include risk management projects the operator has in place or under consideration and criteria OPS might use to evaluate them. During the meetings, operators also learn about and comment on the Demonstration Program components under development.

OPS has held two public meetings on risk management demonstration projects and will hold a third on Tuesday, January 28, 1997, in New Orleans, Louisiana. At that meeting, OPS and the JRAQT will present the Interim Risk Management Program Standard that operators will use during the demonstration projects. OPS will also present prototype risk management projects to illustrate the documentation needed and the types of issues to be addressed during project review, approval and monitoring. After the meeting, OPS will publish a **Federal Register** notice to begin the project approval process described in Section IV of this notice. Between now and the January meeting, OPS will continue to

refine the Demonstration Program components based on public comment on this notice, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through the JRAQT teams.

III. Risk Management Demonstration Project Objectives and Policies

The objectives of the Pipeline Risk Management Demonstration Program, which stem from the statutory requirements and the Presidential directive, are to accomplish the following:

- To show that more effective allocation of resources can result in improved safety and environmental protection over what is presently achieved through regulatory compliance.
- To address risks not addressed by regulations by capitalizing on features inherent to the risk management process, such as improved quality and integration of safety data and, as a result, more comprehensive assessment of threats.
- To systematically test risk management as a regulatory alternative through objective evaluation under a broad range of conditions.
- To establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process.
- To develop and apply new risk assessment models, processes and technologies.

OPS believes that the following elements need to be structured into the Demonstration Program:

(1) Operators participating in the Pipeline Risk Management Demonstration Program will need to provide sufficient data and background information to enable OPS to determine whether risk management is an effective regulatory alternative that provides superior safety and environmental protection.

Implicit in a company's participation in the Demonstration Program should be the commitment to work in partnership with OPS to determine whether and how risk management might become a permanent feature of the Federal pipeline safety program. OPS will ask for evidence that risk management, as it relates to the proposed demonstration project, is or will be developed and implemented as an integral part of the day-to-day business practices of the company. OPS will also periodically ask

companies for suggested refinements to the primary program components.

In keeping with the Interim Risk Management Program Standard, the operator must identify project-specific performance measures that demonstrate the effectiveness of the risk-control decisions being made. During the project approval process, OPS will determine whether these local project-specific performance measures appear appropriate and adequate. Throughout a demonstration project, the operator will evaluate local and broader program measures and ensure that the performance measures are appropriate and adequate. The operator would periodically report on these project-specific performance measurements to OPS.

OPS is developing guidance for additional more general measures operators would report during the four-year demonstration period to enable OPS to determine the effectiveness of risk management as a regulatory alternative. These measures will help OPS answer the following questions:

- Does risk management result in a greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?
- Are resources being better prioritized and more effectively applied under risk management?
- Has agency and industry involvement in the discussion of risks and risk control options, and the agency and industry's ability to impact desired outcomes, increased under risk management?

(2) *Operators will be allowed to reallocate resources geographically, as long as safety is adequately safeguarded at each location along a demonstration site*

OPS will allow operators the flexibility in a risk management demonstration project to reallocate safety resources across several pipeline segments. An operator may substitute one or more activities for others, or do away with redundant activities altogether, as long as the basic safety and environmental protection along the pipeline is safeguarded at each point. However, it is still expected that the overall demonstration project performance will result in superior safety and environmental protection.

(3) *OPS will consider approving demonstration projects of various scopes and complexities*

The scope of a risk management demonstration project may be an entire pipeline system and all safety activities,

or may be focused on parts of a system and specific activities.

Since operators have different levels of experience with, and confidence in, risk management, OPS expects some proposals to begin with approaches that are limited in scope. Therefore, an operator may propose a phased entry into a demonstration project, broadening the scope of the project as experience is gained. During the project approval process, OPS will favor projects showing a potential for expansion and more comprehensive application of risk management. OPS expects to work with companies to develop a profile which compares the demonstration site to the rest of the pipeline.

OPS recognizes that significant benefits can accrue from even the less sophisticated applications of risk management. Because no single risk management approach will be universally appropriate for every situation, OPS is looking for those that match the level of risk management with the complexity of the risks being managed. However, any operator who participates in the Demonstration Program must have in place the program elements defined in the Interim Risk Management Program Standard. The program elements provide the structure for the limited scope proposal.

When an operator proposes risk control alternatives to implement during a demonstration project, the operator should demonstrate a knowledge and understanding of the range of risks along the demonstration site and show that it has considered significant failure modes. An operator may draw on corporate experience, skills, and available documentation to support the proposed alternatives.

(4) *OPS considers an operator's compliance with the provisions of an OPS-approved risk management project to be an equivalent and acceptable alternative to compliance with the regulations*

OPS considers the provisions of an approved risk management project to be a regulatory commitment. The terms and conditions of the project will be incorporated into an order that is subject to enforcement authority. By this order, an operator conducting risk management activities in an approved project will be exempt from regulations corresponding to the stated scope of the project, but will be required to comply with the provisions of the project. An operator not complying with the provisions of its OPS-approved project will be subject to the same civil

penalties administered under existing regulations.

OPS has the authority to exempt, by order, an owner or operator participating in a risk management demonstration project from all or a portion of the regulatory requirements, and from any new regulations, applying to the covered pipeline facility. OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 192 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations.

When the project concludes at the end of four years, or if it is terminated earlier, consideration will be given to installations or facility modifications made during the demonstration project that conflict with existing or future regulatory actions. Actions taken by the operator in good faith in an approved risk management project could be "grandfathered" and exempt from future regulatory compliance, provided safety and environmental protection are not compromised.

(5) *The operator is responsible for active communication with State and local officials regarding risk management. OPS will ensure that such communication is part of the operator's demonstration project plan and that the communication is carried out.*

OPS sees potential for risk management to provide better accountability to the public for safety and environmental programs. OPS is beginning to explore appropriate strategies for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. Similarly, OPS realizes the importance of training and other information exchange in supporting the institutional change that would occur under risk management.

Companies must establish appropriate dialogue with State and local public safety and environment officials. At a minimum, these public officials should be aware that a risk management demonstration project is underway on the pipeline, that OPS is monitoring the project, and who functions as a point-of-contact. Such a dialogue would enable local officials to reassure the public that an appropriate regulatory presence is in place and how the overall safety and environmental protection are enhanced by risk management. OPS will discuss external communications with the operator during a consultation prior to formal application.

IV. Process for Selecting Projects

OPS is providing the following as guidance for operators to seek approval of their risk management demonstration projects. OPS plans to formally solicit operators to voluntarily participate in the risk management demonstration projects via a **Federal Register** Notice in first quarter 1997. That notice will give target dates for the various steps described below.

(1) *Letter of Intent*

Operators would notify OPS of interest in participating in a demonstration project, and OPS would screen operators to ensure that only companies whose demonstration project concepts have a reasonable likelihood of being approved expend the resources to develop formal applications. OPS will screen Letters of Intent to identify no more than ten projects as candidates for selection in the Demonstration Program. Ten is the maximum number OPS can reasonably expect to evaluate and, if selected, to monitor. OPS would accept Letters of Intent during a 60-day window in early 1997. A Letter of Intent is an expression of a company's interest, but does not obligate a company to participate in a demonstration.

OPS would require that a demonstration project cover any part or all of a pipeline system that is covered by either 49 CFR Part 192 or 195, is under State oversight or oversight by a participating interstate agent, and is currently in operation or under conversion to service. Operators should commit to a project duration of at least four years, and provide evidence that they will address all considerations raised in the Interim Risk Management Program Standard. This includes providing a description of the means by which the company would communicate with local officials regarding its demonstration project.

OPS would like to choose operators who provide evidence of consistent corporate commitment to risk management. This could be demonstrated by a corporate officer, who controls the resource allocation for the demonstration project and competing operations, signing the Letter of Intent.

The Letter of Intent would include a general discussion of risk management principles as part of a company's operating philosophy. To provide OPS adequate data to choose a diverse set of demonstration projects, the Letter would provide a brief system profile of the pipeline, including product(s) transported, pipeline age and operating history, types of population distributions and geographic conditions

in proximity of the pipeline, and any other features the operator thinks are notable. The Letter would also describe the scope of the project as defined per the Interim Risk Management Program Standard and any new technologies and processes to be developed or deployed during the demonstration phase.

In making its choice, OPS would consider those operators who have clear records of safety and environmental compliance, based on OPS records and consultation with other interested agencies. OPS will also limit selection to projects which would achieve superior safety and environmental protection. Operators should have completed any OPS-initiated corrective actions.

OPS will publish for public comment a **Federal Register** notice describing proposals of selected companies and the demonstration sites under consideration. OPS will also follow through with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed.

(2) *Consultation*

OPS would invite each operator submitting a promising Letter of Intent to a consultation within 60 days of receipt of the Letter of Intent. The purpose of the consultation would be to familiarize OPS and affected States with specific aspects of an operator's risk management project concept, to provide guidance to the operator on what refinements (if any) are needed for OPS to approve the concept as a demonstration project, to enable regulators to plan the expected level of monitoring based on the company's own audit process, and to enable regulators and the operator to agree on the roles and responsibilities of each throughout the project duration. OPS intends that the consultation begin a negotiation process that results in a demonstration project that OPS could approve.

OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them in the consultation process.

OPS would constitute a Project Review Team (PRT) to consult with the operator, keep abreast of any subsequent discussions, and provide technical input on whether a demonstration project could be approved. OPS would customize the make-up of each PRT to the company and project. The PRT members' roles would be defined in OPS-developed protocols, designed to ensure rigorous yet fair and consistent treatment of all operators throughout

'plan negotiation, approval, and monitoring. The mix of States and OPS regional personnel on the PRTs, as well as any outside technical expertise consulted, would vary from project to project depending on the demonstration's technical focus and geographic location.

Some of the same OPS headquarters staff would be on all PRTs to ensure consistent application of policy throughout the project and to follow all issues raised during the consultations to their resolution.

The consultation would focus on the design, operations, and maintenance practices that would replace practices required by 49 CFR Part 192 or 195, and that would achieve superior overall safety and environmental protection. The operator would provide the rationale for these risk control alternatives by generally describing the specific risk management models, processes, and sources of data supporting their selection.

Other consultation discussion topics would include the program goals, the project scope defined per the Interim Risk Management Program Standard, the project-specific performance measures, the operator's auditing plan, a plan for OPS audits, proprietary issues, provisions for public communication, and the outline for a work plan including benchmarks, risk assessment processes, new technologies applied, points-of-disclosure, and mechanisms for monitoring and refinement.

(3) *Formal Application and Approval*

An operator would submit an application formally indicating its intent to enter into a risk management demonstration project. Consistent with the program standard's intent for an efficient information flow among appropriate stakeholders, a summary of this formal application would be published in the **Federal Register**, and the application itself would be made available for review and comment in the docket. OPS will again communicate with national public, environmental and other interested organizations about the sites in which we intend to approve demonstration projects so that local officials can be notified and informed.

The formal application, including a detailed work plan, would document operator/PRT resolution of issues raised during the consultation and any subsequent discussions. It would also provide assurance of a corporate commitment to implement the project in accordance with the operator's risk management application. Other issues may be included at the operator's

discretion, such as how to return to compliance with the regulations should a demonstration be terminated.

OPS would review the application and comments, and decide whether to approve the project. If OPS decides to approve the project, OPS would issue the operator a written order. The order, in addition to exempting an operator from the applicability of specified pipeline safety regulatory requirements for the period of the demonstration, would set forth the terms and conditions for the operator's participation in the demonstration project. The order would be enforceable.

(4) Implementation

A risk management project would start as soon as OPS approves the formal application and work plan, issues the order, and notifies the public through the **Federal Register** that the order is in effect. Regulators and operators would monitor risk management demonstration projects for compliance with the order. OPS would provide each participating operator with a plan describing the regulators' expected level of effort in monitoring the demonstration, including the type of audits, their frequency, the participants, the audit scope, and the operator's means of addressing those aspects of the demonstration site remaining in compliance with the regulations, but this plan would not limit OPS's statutory authority to inspect a pipeline facility during the period of the demonstration. Planned OPS audits would coincide with the operator's data taking at key decision points, such as when the operator evaluates the effectiveness of safety activities or considers modifying safety activities.

An operator would notify OPS of any intent to make substantive modifications to the risk management project once a demonstration is underway. The PRT may reconvene to renegotiate project approval or to resolve other significant issues. Provisions will be made for public review and comment on renegotiated projects.

OPS could, through appropriate administrative action, address any unsafe conditions that arise during the demonstration period to ensure that such conditions are quickly addressed. OPS would also administer civil penalties within the provisions of the existing regulations for operators not complying with the order.

(5) Termination

OPS intends that, where a risk management demonstration project is determined to have been successful, the

operator could, in lieu of switching to compliance with the regulations, continue to exercise risk management on that part of the system that was covered by the demonstration. However, this determination could not be made until the end of the demonstration period. Upon conclusion of the project, or if it is terminated earlier, consideration would be given to installations or facility modifications made during the demonstration project that conflict with future regulatory actions.

OPS may consider terminating a demonstration project if:

- (i) The operator requests termination due to changed circumstances;
- (ii) The operator does not comply with the terms and conditions of the approved risk management project;
- (iii) Safety has been compromised; or
- (iv) OPS and the operator fail to agree on a substantive modification to a risk management project.

V. Summary of Means of Achieving Meaningful Public and Community Involvement

OPS is providing numerous opportunities for public participation in the design and implementation of the Pipeline Risk Management Demonstration Program. One of OPS's objectives for the demonstrations is to establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. OPS believes meaningful public input is essential if the demonstrations are to be successful.

The public was invited to comment on early regulatory framework concepts via **Federal Register** notices published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995. OPS is soliciting public comment on the latest framework concepts via this notice. In addition to the notices, OPS has held two public meetings in preparation for the demonstrations and has scheduled a third for January 28, 1997, in New Orleans, LA. The previous public meetings were held on November 7, 1995, in McLean, Virginia, and on April 14-15, 1996, in Houston, TX. At the third meeting, OPS plans to present the final framework and supporting documents, and to demonstrate the review and approval process using prototype risk management projects.

This notice directs interested members of the public to the docket, to the American Petroleum Institute (API), or to a website to obtain and comment on the latest draft of the Interim Risk Management Program Standard. The standard describes the elements that

OPS, its State partners, and industry agree must be common to all demonstration projects. One requirement is an external communications element, in which regulator and other stakeholder interests and concerns are understood, and program goals and results are communicated to and discussed with the public, as well as Federal, State, and local regulators, and other stakeholders as appropriate. The docket associated with this notice will have available for review any comments received on the standard and on the regulatory framework.

This notice also describes the numerous opportunities OPS is offering the public for comment during the demonstration review and approval process. Before formal applications are due, OPS will publish for public comment a **Federal Register** notice describing the demonstration projects under consideration and each company's concept for communicating with local safety officials should OPS approve its demonstration project. The public will be noticed again once the formal application is received and approval is imminent. At this time, a summary of the formal application will be published in the **Federal Register**, and the application itself will be made available for review and comment through the docket. At each opportunity for notice in the **Federal Register**, OPS will communicate with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed about planned program activities.

Affected States will be a part of the Project Review Team (PRT) recommending whether or not OPS should approve a demonstration project. OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with State pipeline safety officials who can raise them with the PRT.

OPS and industry's communications effort focusing on public and environmental officials and other interested organization representatives is intended to provide these officials with adequate information to reassure the public that an appropriate regulatory presence is in place during the demonstrations, and to describe how safety and environmental protection will be enhanced by risk management. OPS would appreciate comments on whether these mechanisms are adequate to ensure public and community involvement, and if not, what OPS and operators choosing to participate in the

demonstration projects can do to achieve such involvement.

VI. Report to Congress

By March 31, 2000, OPS will submit a Report to Congress on the results of the demonstration projects, evaluating how effectively safety, environmental protection, and reliability have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

Appendix B—The Pipeline Risk Management Demonstration Program Public Meeting, January 28, 1997, New Orleans, Louisiana

Note: The complete transcript of this Public Meeting is available on the Internet at: <http://ops.dot.gov>

1. Background and Objectives

Moving into Implementation

Over the last few years, the Office of Pipeline Safety (OPS) has been investigating the use of risk management as a regulatory alternative that would produce superior performance in more cost-effective ways. Over this time, OPS has worked in partnership with the pipeline industry and State regulators through a series of Risk Assessment Quality Teams (RAQTs) and has discussed progress and concerns at a series of meetings and conferences, including a Pipeline Safety Summit in 1994, and Risk Management Conferences in 1995 and 1996.

The initial RAQTs, which investigated the feasibility of using risk management within the pipeline industry, concluded that risk management had the potential to provide significant benefits by improving safety, environmental protection, reliability, and cost-effective operation. However, these Teams noted a variety of technical and regulatory issues that still needed to be resolved, and recommended that a demonstration program be planned and implemented to test the viability of risk management as a regulatory alternative.

The first Risk Management Conference, held in McLean, Virginia, in November 1995, identified the most important of these issues. A major conclusion from this first Risk Management Conference was that a set of "building blocks" needed to be developed to provide an adequate foundation upon which a viable and responsible Risk Management Demonstration Program could be

constructed. After this conference, partnerships representing OPS, States, localities, industry and the public were formed to design and construct the following building blocks:

- The Risk Management Program Framework that defines how OPS receives, reviews, approves, and monitors operators risk management demonstration projects;
- The Risk Management Program Standard that defines the essential elements and characteristics of an operator's risk management program;
- Guidance on Performance Measures that supports the ability of operators and OPS to monitor performance, ensure that superior performance is being achieved, and evaluate the results of the Risk Management Demonstration Program;
- A Communications Plan that describes how information about the demonstration projects will be provided to local safety officials and other interested parties, and how information from these parties will be input to the demonstration process;
- A Training Plan that defines how OPS, States, and industry will be trained in the risk management building blocks.

Work commenced on these building blocks in early 1996. A second Risk Management Conference was held in Houston, Texas in April, 1996 to review progress and to hear input, concerns, and suggestions about the building blocks.

A draft version of the Program Framework was developed by OPS and published in the **Federal Register** on November 15, 1996, followed by a 60-day public comment period.

A draft Program Standard was developed by the Program Standard Quality Team and referenced in the **Federal Register** notice. Comments were received, and incorporated into an Interim Program Standard in early January, 1997.

A draft Performance Measures Guidance was produced by the Performance Measures Working Group, and distributed for comment in December, 1996.

A draft Communications Plan was produced by OPS and the JRAQT Coordination Team and distributed for comment in early January, 1997.

A draft Training Plan was produced by OPS and distributed for comment in early January, 1997.

The Accountable Pipeline Safety and Partnership Act of 1996 was passed by Congress and signed into law by President Clinton on October 12, 1996. This Act required the Secretary of Transportation to "establish risk

management demonstration projects— A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management, and B) to evaluate the safety and cost-effectiveness of the program." President Clinton provided additional direction to the Secretary through a Memorandum that directed the Secretary to implement administrative safeguards for carrying out the law that will enhance accountability and protection of public safety and the environment.

Meeting Purpose

This Public Meeting was designed to allow OPS to: 1) Present to the public the basic risk management demonstration program building blocks, 2) Describe and illustrate, with simple examples, how the review and approval process is envisioned to work, and 3) Obtain input from all interested parties concerning the building blocks or any other aspect of the Risk Management Demonstration Program.

Each of the draft building block documents, the Act of 1996, the President's Directive, and other relevant documents were provided as handout to each person attending the meeting and distributed to all State pipeline safety agencies.

[OPS received input from this Meeting, revised the draft building blocks as necessary, and published a final Program Framework in the **Federal Register** in March 1997, inviting companies to submit Letters of Intent for risk management demonstration projects.]

2. Conference Synopsis

This section provides a brief summary of each of the major sessions on the Meeting agenda.

Welcome and Introduction

Richard Felder—Associate Administrator for Pipeline Safety

Mr. Felder opened the conference by welcoming everyone. He noted that OPS and its State and industry partners started out over two years ago with the realization that there may be a better way of approaching pipeline safety regulation, an approach that is not event-driven and that does not result in specification-based regulation. OPS is looking for a better approach that will give superior safety through customization, flexibility, collaboration, and innovation.

Mr. Felder read a letter from Mr. Bruce Ellsworth, a Public Service Commissioner in New Hampshire and

Chairman of the National Association of Regulatory Utility Commissioners, to illustrate changes in perception from the first risk management meetings until now. Mr. Ellsworth noted that he was originally skeptical about replacing the existing safety regulations with risk management. He believes that the Natural Gas Pipeline Safety Act of 1968 has led to an outstanding safety record, and was reluctant to fix something that was not broken. However, as a result of his participation on the Joint Risk Assessment Policy Steering Team, he has seen that there may be an opportunity to make the system work better, cheaper, and more effectively. Mr. Ellsworth's letter stated that he believed OPS has been right in exploring the viability of risk management as a regulatory alternative, and communicated his support for the pilot demonstration program.

Mr. Felder then delineated the basic building blocks of the Demonstration Program and emphasized the new awareness and resolve on the part of OPS to address the issues of public involvement.

RSPA Perspectives

Kelley Coyner, Research and Special Programs Administration

Ms. Coyner's discussion focused on the two twins of "opportunity" and "responsibility" that risk management presents. Risk management provides a tremendous opportunity, but only if we take the responsibility to do it right very seriously. She said that the pipeline risk management initiative was consistent and supportive of President Clinton's vision of a government that is humble enough not to solve all of our problems, but strong enough to give us the tools to solve our problems ourselves.

Ms. Coyner described the opportunities that risk management provides to comprehensively analyze risks, prioritize resources, and track performance; to be smarter and more accountable. She spoke of the responsibilities of continuing the partnerships that got us to this point, to continuously improve as we move forward, and to set clear and ambitious performance goals.

A major theme of Ms. Coyner's talk was the need for communication and public involvement. Improving public involvement has been a program goal from the beginning. She asked members of the audience to take seriously the challenge to make sure that OPS and its partners are off to a good start and going in the right direction by providing their comments in this public meeting.

Risk Management Building Blocks Panel Program Framework

Stacey Gerard, Office of Pipeline Safety
Program Standard

Denise Hamsher, Lakehead Pipe Line
Performance Measures Guidance

Ivan Huntoon, Office of Pipeline Safety,
Don Sturmsma, Iowa Commerce
Department

Communications Plan

Stacey Gerard, Office of Pipeline Safety
Training Outline

Richard Sanders, Transportation Safety
Institute

Program Framework

Ms. Gerard discussed the Program Framework, which describes the processes by which OPS will receive, review, approve, audit, and communicate information about operator risk management demonstration projects. She described the contents of the draft Program Framework (published in the **Federal Register**) and the comments received on this draft. Ms. Gerard also discussed the Accountable Pipeline Safety and Partnership Act of 1996 and the President's Directive that accompanied the law. She noted that the President's Directive requires that risk management demonstration projects produce superior safety and environmental protection, and directed OPS to place more emphasis on meaningful public and community involvement.

Ms. Gerard outlined the basic steps in the regulatory process, including:

- The Letter of Intent (LOI), in which the company communicates its intention to develop and propose a risk management demonstration project;
- The Screening Process, in which OPS screens the LOI to select a set of potential projects that have the best chance of supporting the Demonstration Program goals;
- Pre-consultations, in which OPS staff meets with the selected operators to discuss their proposed project, clarify information in the LOI, and prepare the Project Review Team (PRT) for an efficient consultation with the operator;
- The Consultation Process, in which an PRT meets with the company, and through a series of discussions, information exchange, and interactions come to agreement on the scope and characteristics of an acceptable risk management demonstration project, leading to the submittal of an application by the operator;

- The Review and Approval Process, in which OPS reviews the operator's application, approves it if appropriate, and reflects the commitments and terms and conditions of the program in a DOT Order;

- The Audit Plan, developed by OPS, which will coincide with the company's Work Plan milestones and decision points, and which describes the specific processes and areas of OPS audits of the risk management demonstration project;
- The Implementation Phase, in which OPS and the operator monitor progress, and modify or terminate the project as necessary.

She noted that, based on comments to the FR Notice, the window of time for submitting LOIs will be extended to 90 or 120 days. She strongly encouraged capable companies to submit LOIs.

Ms. Gerard discussed the issue of the "clear and established" safety record required by the President in his Directive of all demonstration program participants. She noted that OPS wanted companies with a clear record of compliance to start the project, and OPS will work with companies to be sure there is a clear record.

Ms. Gerard also discussed the issue of "superior performance". The President's Directive states that: "The Secretary [of Transportation] shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply." Ms. Gerard noted that, consistent with other aspects of the President's Directive, superior performance would be achieved through a combination of:

(a) Improved analytical and decision-making processes. Risk management programs consistent with the Program Standard would be expected to include a comprehensive examination of risks, improved allocation of resources, enhanced communications within the company, better interactions with the regulators, meaningful public involvement, and other features that would lead to superior performance.

(b) Selection of an integrated set of risk control activities that is expected to reduce risks to the public, workers, and the environment.

(c) Full accountability. Operators will be expected to identify project-specific performance measures and submit project work plans that explicitly define operator commitments. These commitments are reflected in Orders that delineate the terms and conditions under which the operator's risk management program is authorized, and which are subject to the full

enforcement authority of the United States.

She clarified the role of the States, stating that OPS is inviting the States to participate in the PRT process, but not mandating participation of the States.

Program Standard

Ms. Hamsher, Co-Chair of the Joint Risk Assessment Program Standard Team, described the basic objectives of the Program Standard, how it was developed, and its basic elements. She stated that the Program Standard describes the basic elements and characteristics of an operator's risk management program. The Program Standard describes the basic program and process elements, and the functional requirements of a risk management program, but does not specify exactly how these elements or functions should be performed, allowing operators to customize their specific programs and technical tools to their situation and needs. It is not an instruction manual, a substitute for training, or a tool box. The Program Standard can provide the starting point for the OPS review of proposed demonstration projects, but it is not intended as a checklist for review and approval of demonstration projects.

Ms. Hamsher discussed some of the risk management guiding principles that were developed by the JRAQT. One of the key guiding principles is that risk management is a management decision support process. It is not just a set of technical models, but a comprehensive program that is integrated with the overall operation of the company to produce better decisions leading to superior performance. Risk management supports responsible, prudent, and experienced managers, it does not replace them. She also noted a guiding principle that risk can be controlled and often reduced, but it cannot be totally eliminated. We all need to reinforce, and communicate this realization so that expectations for zero risk are not established. Another guiding principle that went into the development of the Standard was that risk management produces integrated information about safety and environmental protection. Risk management increases information and information flow, between the company, its regulators, and the public.

She noted that the JRAQT recognized that the technical models, tools, and processes associated with a risk management program necessarily include some subjective judgements, uncertain assumptions, and limited data. Accordingly, the Program Standard includes a Performance Monitoring element that includes the

definition and monitoring of performance measures that are directly tied to validating the specific assumptions and input data of the operator's risk assessment model and process.

Ms. Hamsher concluded by discussing the future of the Program Standard. Progress on the demonstration projects will be monitored, and the Program Standard will be refined and improved over the next four years. However, because of the way the Program Standard was developed, laying out the basic elements without prescribing details, it is not expected that major modifications will be necessary over the demonstration period. It is expected that this Program Standard will eventually be transformed into an industry consensus standard.

Performance Measures Guidance

Mr. Huntoon, Regional Director for the OPS Central Region, and Don Stursma, from the Iowa Commerce Department, discussed the work of the Performance Measures Workgroup and the issues the group addressed in producing the draft Guidance on Performance Measures. The Performance Measures Workgroup was formed after a number of issues related to performance measures were identified by the JRAQT Program Standard Team.

The Workgroup concluded that there were two key areas where performance measures were important:

(1) In monitoring the specific results produced by individual company demonstration projects to ensure that the underlying assumptions and input data of the risk assessment and risk control models are valid, and that the approved projects are indeed resulting in superior performance as predicted.

(2) In assessing the overall success of the Risk Management Demonstration Program, providing input to the required OPS report to Congress, and other progress reports.

Key issues that the Workgroup addressed were the availability of data to support meaningful performance monitoring and the cost and sensitivity of data reporting.

The report produced by the Workgroup is intended to provide guidance for operators who are planning to participate in the risk management demonstration program. The guidance should assist operators in developing a performance monitoring process as described in the Program Standard, and provide OPS the information it needs to assess the overall effectiveness of risk management as a regulatory alternative.

The project-specific performance measures will be included as part of the operator's demonstration project application, and will depend upon the expected outcomes of the demonstration project, and the selected risk control activities. Mr. Huntoon delineated some of the criteria developed by the Workgroup for these project-specific performance measures.

In order to assess the overall benefit of risk management as a regulatory alternative, the Workgroup felt that program-wide performance measures were needed to allow individual companies and OPS to address the following questions:

(1) Safety and Reliability. Does risk management result in greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?

(2) Resource Effectiveness. Are resources being better prioritized and more effectively applied under risk management?

(3) Communication and Partnership. Have agency and industry involvement in the discussion of risks and risk control options, and the agency's and industry's ability to impact desired outcomes increased under risk management?

Mr. Stursma discussed each of these major areas in turn, describing the issues that the Workgroup discussed in the process of producing the Guidance on Performance Measures. He also gave a variety of practical, everyday examples of the different types of performance measures to illustrate the concepts.

He noted that the information gained from these program-wide performance measures will be used by OPS to prepare a report to Congress on the results of the Risk Management Demonstration Program. The report will address each individual project and provide an overall recommendation on the application of risk management as a regulatory alternative. It was recommended that a successor group to the Performance Measures Workgroup be formed, which would prepare annual, interim progress reports. It is expected that OPS, the successor group to the Performance Measures Workgroup, and operators participating in the demonstration program will jointly prepare the interim annual progress reports.

Communication Plan

Ms. Gerard described the evolution of the Communications Plan and its basic elements. She reiterated the importance of meaningful public involvement to the

success of the risk management program, and summarized the numerous mechanisms planned for communication and involvement. In response to concerns expressed by some that the public would only be informed too late in the game to have any meaningful impact, Ms. Gerard pointed out that OPS will, right at the beginning of the review and approval process, summarize the Letters of Intent from companies selected to provide risk management project applications. In addition to publication in the **Federal Register**, project summaries will be distributed to local safety officials, and feedback loops will be established to obtain input from interested parties, at the very beginning of the consultation process. Information that comes in will feed into the pre-consultation and consultation process.

Each project summary, referred to as a prospectus, will describe to local officials the objectives of each project, the safety alternatives being discussed, and the company's approach to communications with the public. The prospectus will define at least three points of contact for anyone wishing to provide information or comment. One point of contact will be from OPS Headquarters, one will be at the State level (if the State agrees), and one from the operating company. As new or additional information is developed during the consultation process, the prospectus will be updated to keep people posted on events throughout the process.

At the time of the formal application from the company, the company's application will be made available in the docket, and a summary will be published in the **Federal Register**. When the application is approved and an Order is issued, OPS will issue another **Federal Register** Notice.

Ms. Gerard stated that the aggressive OPS communications effort under risk management is a much larger commitment that they have ever made before because they understand how important meaningful public involvement is to the success of the program.

Training Outline

Mr. Sanders, from the Transportation Safety Institute, summarized the training program that OPS is developing to support the risk management demonstration program. OPS is committed to joint government/industry training to ensure that all parties have a mutual understanding of the program, and speak the same language (or can at least accurately interpret each other's language) to facilitate the consultation

process, and ensure high quality, comprehensive risk management programs result that produce superior performance.

Mr. Sanders outlined the currently envisioned training program, which is designed to support the Project Review Team, OPS, and the company during the project review and approval process.

The program includes:

- An Overview of the Risk Management Demonstration Program.
- The Demonstration Process and Building Blocks.
- The Risk Management Program and Process Elements.
- OPS Auditing of an Approved Risk Management Demonstration Project.
- Prototypical Examples to Illustrate the Demonstration Process.

The training program will be developed in a modular format, so that orientations and training courses can be customized to the specific audience, its level of experience, and its specific training needs. The first two blocks of the training listed above, and selected portions of the other blocks, can be provided as an orientation or "headstart" program to those that have not been actively involved in the program development phase, or who wish to establish a common starting point.

The Risk Management Program and Process Elements portion of the training is based on the Program Standard building block produced by the JRAQT, and will provide overview descriptions of various types of risk assessment and prioritization models and processes.

Mr. Sanders asked for review of the training material, and input about training needs, including the usefulness of video, computer-based training, or Internet interactive training.

Prototypes

Moderator: Mike Neuhard, Fairfax County Fire Department

Panelists: Bruce Hansen, Office of Pipeline Safety, Andy Drake, PanEnergy Corporation, Beth Callsen, Office of Pipeline Safety, Gary Zimmerman, Shell Pipeline

Two examples of possible regulatory alternatives, one from the natural gas industry and one from the hazardous liquid industry were discussed to illustrate the demonstration process described in the Program Framework and discussed in the Building Blocks Panel. The examples were simplified versions of what would be expected in a real demonstration project, designed to illustrate the interactive process between OPS and the company, and were not presented as practical

examples of comprehensive risk management programs or to illustrate the critical public involvement aspects of the process.

The topics addressed by each of the prototypes included:

- The information expected in the Letter of Intent.
- The characteristics of the proposed demonstration project that OPS would look for in screening Letters of Intent.
- The topics that would be discussed at pre-consultation sessions between OPS staff and the operator.
- The discussions between the PRT and the company concerning the risk-based justification for the proposed safety alternatives.
- The performance measures necessary to validate assumptions of the risk models and to confirm that superior performance was being produced.

Audience Questions and Comments

Questions and comments from the audience were received by speakers and panelists at a few different points in the meeting. Some of the major areas of questions and comments are summarized below. A full, verbatim set of all questions, comments, and OPS responses is available in the meeting transcript.

- *The liability of companies under risk management demonstration projects for compliance with the existing Federal or State regulations.*

Mr. Felder stated that a company that implements an OPS-approved demonstration project is committed to abiding under the terms of their approved application, as reflected in the associated OPS Order. Participation in a demonstration project is not an exemption from the minimum Federal pipeline safety standards as a whole. The underlying regulations that would otherwise apply would not apply to the segment of the pipeline within the demonstration project; the approved project and corresponding Order would apply. There should be no problem from the public's perspective if the company is in compliance with the provisions of its demonstration project as opposed to being in compliance with the underlying regulations; compliance with provisions of the project is equivalent to compliance with the pipeline safety regulations. The up-front review and approval process assures at the outset that the demonstration project will result in a superior level of safety compared to what you would have under the minimum State standards.

- *The quality of the data to support risk management.*

Mr. Felder noted that some of the audience comments reflected the

situation at OPS in years past, but did not reflect the many efforts over the past few years that OPS has taken in increasing partnership with industry, States, and the public to identify new regulatory pathways, to get the type of information needed to regulate effectively. He also noted that considerable work has gone into ensuring that the risk management process will significantly improve the amount and quality of data that will be available to OPS. The past is not a good indicator of where OPS is going in the future as far as risk information and data is concerned.

- *The level and type of communication with the public, and OPS's role in this process.*

Mr. Felder and Ms. Gerard reiterated the importance placed on communication by OPS, and the need to engage in an unprecedented outreach effort from OPS, but also noted the joint responsibility for communication among OPS, industry, local safety officials, and the public. Government cannot, and should not, do everything. Mr. Felder said that it was important to understand that the people who run the companies are also citizens of the country. They have a great stake in the outcome of the work they do, and a great stake in the communities that they affect. That is why OPS is enlisting their resources as part of the public outreach process. He further noted that OPS is working with national organizations because they have people and resources in every community in America, and this can leverage OPS efforts in getting down to the local community level. He stated that we need a communication partnership among Federal regulators, the States, national organizations, local officials, and the public.

Mr. Felder also pointed out that the situation with a risk management demonstration project is not analogous to the siting of new pipeline, where a company may be introducing a new risk into a community that did not exist before. Risk management demonstration projects will only be allowed by OPS where the company can demonstrate that superior performance can be achieved. The communications and due-process needs and mechanisms are accordingly different than that associated with a new right-of-way or zoning change hearing where new and additional risks are being introduced.

Ms. Hamsher pointed out that, in addition to the OPS Communication Plan, the Program Standard contained explicit requirements for the company to develop a two-way communications effort, ensuring that public information

will be input to the risk assessment and risk control processes.

- *Public access to the Letters of Intent.*

Mr. Felder stated that the Letters of Intent, as well as the formal company application will be available in the docket for public examination.

- *The interactive nature of the screening process.*

Mr. Felder and Ms. Gerard stated that the screening process may require information meetings and interactions with the companies to clarify points in the Letters of Intent or to gather additional information needed by OPS. However, any interactions, consultations, or discussions with the company or States does not change the ultimate responsibility for public safety, which sits in the hands of the OPS regulators.

- *The relationship between the OPS program and other regulators such as EPA.*

Mr. Felder noted that OPS has had close collaboration with Mineral Management Service and works closely with the Coast Guard, a part of DOT. OPS is interested in putting together a larger network of agencies to share experiences about risk management and other alternative approaches to regulation. OPS has already performed a study that looked at over a dozen other State agency programs in risk management, defining and incorporating lessons learned from these programs into the pipeline risk management program. OPS has begun meeting with EPA and will continue to consult with the EPA on issues of mutual interest.

[Subsequent to the public meeting, OPS briefed the 15 State National Response Team (NRT) agencies and invited them to participate in the Demonstration Program. As part of the screening and selection process, OPS will contact NRT officials whose regions may be affected by a proposed demonstration project to identify an appropriate role for the officials' participation in the Demonstration Program. This could entail the NRT official identifying any issues and concerns he or she may have with a candidate demonstration project, including the company's safety and environmental compliance record. OPS will keep these officials abreast of the Demonstration Program and individual projects in their regions via annual program briefings, project prospectuses, and updates.]

- *Limitations on the number of demonstration projects.*

Mr. Felder stated that OPS is restricted by Presidential directive to

ten demonstration projects, involving interstate pipelines. No demonstration projects are planned for the local distribution companies at this time. In addition, OPS will be undertaking a variety of other initiatives related to regulatory reform and risk-based regulation beyond the demonstration projects themselves. OPS is committed to ensuring a high quality demonstration program that protects and improves safety and the environment, understands the significant resources required to support this program, and will not take on any more projects than it can responsibly and prudently handle.

Summary and Closing

John Riordan, Interstate Natural Gas Association of America (INGAA) Pipeline Safety Task Force, Joe Martinelli, API General Committee on Pipelines, Rich Felder, Office of Pipeline Safety

Mr. Riordan, from MidCon and the spokesman for INGAA, discussed how the Board of INGAA, which is represented by the Chief Executive Officers of the major pipelines in the United States, Mexico, and Canada became interested in risk management as a means to improve safety. He noted that society and the marketplace are demanding increased accountability from industry and the people that regulate the industry, and INGAA believes that the risk management demonstration program is very important in this regard. He emphasized the importance of communications, and the need to continuously improve in a changing world.

Mr. Martinelli, past President of Chevron Pipeline and Chairman of the General Committee on Pipeline for API, recounted the history of how industry, OPS, and other interested parties got to this point on risk management. He applauded the tremendous amount of work done by a large number of people in government and industry and the public. He noted that a key recognition four years ago was "one size fits all" regulation was not in the best interests of anybody, and a fundamental change was needed. Mr. Martinelli discussed the difficulty of change, whether in a person, a company, or an entire industry, and challenged all parties to not be fearful of change. He warned people not to get caught up in the "30-year" syndrome or the "not invented here" syndrome that resists change. He also talked about the recognition that government and industry had to be more collaborative than adversarial. Mr. Martinelli also noted that we were not

at the end of a journey with the development of the risk management building blocks, but just at the beginning of the journey, and the journey will be a long and hard one that requires significant continued effort from all parties. A key message was: "Get comfortable with change" and he provided a rule of thumb called the Rule of Three Positives. "When somebody suggests a change to you, don't say: 'No, that won't work. That's not the way I do it.' When somebody suggests something new, stop and think and make three positive comments about the new idea before you make one negative comment." He challenged the companies to be innovative, creative, and provide OPS with so many quality demonstration proposals that their selection process will be difficult.

Mr. Felder closed the conference by expressing appreciation to all those that attended and to all of his staff that made the public meeting possible. He and Stacey Gerard then handed out DOT certificates of appreciation to individuals outside the government, in industry, the public, and contractors, that have worked with the various Risk Assessment Quality Teams.

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DEPARTMENT OF THE TREASURY

Customs Service

Announcement of National Customs Automation Program Test of Account-Based Declaration Prototype

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs' plan to conduct an account-based declaration prototype (NCAP/P) under the National Customs Automation Program (NCAP), and invites eligible importers to participate. The NCAP/P will be initially applicable to merchandise imported by truck through the ports of Laredo, Texas (Colombia Bridge only), and Detroit and Port Huron, Michigan. This notice provides a description of the test, outlines the development and evaluation methodology to be used in the test, sets forth the eligibility requirements for participation in the test and invites public comment on any aspect of the planned test.

DATES: The account-based declaration prototype (NCAP/P) will commence no earlier than August, 1997 and will run for approximately eighteen months,

with evaluations of the prototype occurring periodically. All applications to participate in the test must be received on or before April 25, 1997. Public comments on any aspect of the planned test must be received on or before April 25, 1997.

ADDRESSES: Applications should be addressed to Ms. Margaret Fearon at U.S. Customs Service, 1301 Constitution Avenue, NW, Room 4139, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding eligibility of specific importers: Margaret Fearon, Process Analysis and Requirements Team, at (202)927-1413. For questions on reconciliation: Shari McCann, Process Analysis and Requirements Team, at (202)927-1106. For questions on other aspects of the Account-Based Declaration Prototype: Daniel Buchanan, Process Analysis and Requirements Team, at (617)565-6236.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103-182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (the Mod Act). Subtitle B of title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411-1414), which define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for remote location filing (section 414). Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), concerns the testing of NCAP components. See, T.D. 95-21 (60 FR 14211, March 16, 1995).

A key element of Customs efforts to re-engineer its Trade Compliance process is a shift in emphasis from the traditional transaction-based approach of ensuring compliance with import laws and regulations to an account-based approach, which addresses an importer's overall compliance through account management, process reviews, and audits. One feature of this approach is a new account-based declaration process. Customs is also developing a new commercial processing system, the Automated Commercial Environment (ACE), which will be designed to support the new Trade Compliance

processes. An account-based declaration prototype (NCAP/P) is being developed to provide the first operational demonstration of ACE capabilities for processing imports, integrating the new account-based import declaration process with other aspects of the Trade Compliance process and with selected features of NCAP elements of the Mod Act.

I. Development Methodology

NCAP/P will be monitored by a Joint Prototype Team consisting of trade participants, the Customs Offices of Field Operations and Strategic Trade, the ACE Development Team, and other interested government agencies. This team will meet regularly throughout the prototype period in Detroit, Laredo and Washington, DC, to set development milestones, monitor progress, resolve issues and evaluate program effectiveness. The development effort will be coordinated with other on-going NCAP prototype programs such as Remote Location Filing and Reconciliation, and will be as consistent as possible with the overall direction of ACE development.

Potential participants should recognize that this is a prototype test of new processes. Data definitions and values and formats for electronic transmission of manifest, entry and commercial data will differ from those currently used in the Automated Commercial System (ACS). It is also important to note that development efforts undertaken for NCAP/P may not meet the eventual requirements for programs as they are finally implemented in ACE.

The public is invited to comment on any aspect of the NCAP/P test as described by this notice.

II. Eligibility Requirements

In order to be eligible for participation in the NCAP/P, an importer must:

1. Be designated as one of the top 350 U.S. importers in terms of entered value, while importing no less than 50% of their merchandise specified as Customs' Primary Focus Industries, which are as follows:

- (a) Advanced Displays
- (b) Agriculture
- (c) Auto/Truck Parts
- (d) Automobiles
- (e) Bearings
- (f) Circuit Boards
- (g) Fasteners
- (h) Footwear
- (i) Manufacturing Equipment
- (j) Steel Products
- (k) Telecommunications
- (l) Textiles and Flatgoods
- (m) Wearing Apparel

