

“(1) relevant available—
 “(A) gas pipeline safety information; or
 “(B) hazardous liquid pipeline information;
 “(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;
 “(3) the reasonableness of the standard; and
 “(4) the extent to which the standard will contribute to public safety and the protection of the environment.”

Subsec. (c)(4). Pub. L. 104-304, §4(g), added par. (4).

Subsec. (d). Pub. L. 104-304, §4(c), inserted “as required by the standards prescribed under this chapter” after “operating the facility”, substituted “to make the information available” for “to provide the information”, and inserted “as determined by the Secretary” after “to the Secretary and an appropriate State official”.

Subsec. (e). Pub. L. 104-304, §4(d)(2), substituted “transportation” for “transmission” in introductory provisions.

Pub. L. 104-304, §4(d)(1), in introductory provisions, directed striking out “and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title),” after “subject to this chapter”, which was executed by striking out text which read in part “regulated gathering line” instead of “regulated gather line”, to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 104-304, §4(e)(1), added heading and text of par. (1) and struck out former par. (1) which read as follows: “The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a ‘smart pig’). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.”

Subsec. (f)(2). Pub. L. 104-304, §§4(e)(2), 20(g), inserted heading, realigned margins, inserted “, if necessary, additional” after “the Secretary shall prescribe”, and substituted “standards” for “regulations” in two places.

Subsecs. (i), (j)(2). Pub. L. 104-304, §20(g), substituted “standards” for “regulations”.

Subsec. (j)(3). Pub. L. 104-304, §4(h), added par. (3).

Subsec. (l). Pub. L. 104-304, §4(f), added subsec. (l).

RULEMAKING TO EXPAND APPLICABILITY OF COMPREHENSIVE OIL SPILL RESPONSE PLANS

Pub. L. 114-113, div. L, title I, Dec. 18, 2015, 129 Stat. 2861, provided in part: “That no later than 90 days after the date of enactment of this Act [Dec. 18, 2015], the Secretary of Transportation shall initiate a rulemaking to expand the applicability of comprehensive oil spill response plans, and shall issue a final rule no later than one year after the date of enactment of this Act.”

STANDARDS TO IMPLEMENT NTSB RECOMMENDATIONS

Pub. L. 109-468, §19, Dec. 29, 2006, 120 Stat. 3498, as amended by Pub. L. 110-244, title III, §302(j), June 6, 2008, 122 Stat. 1618, provided that: “Not later than June 1, 2008, the Secretary of Transportation shall issue standards that implement the following recommendations contained in the National Transportation Safety Board’s report entitled ‘Supervisory Control and Data Acquisition (SCADA) in Liquid Pipelines’ and adopted November 29, 2005:

“(1) Implementation of the American Petroleum Institute’s Recommended Practice 1165 for the use of

graphics on the supervisory control and data acquisition screens.

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

“(3) Implementation of standards for pipeline controller training that include simulator or noncomputerized simulations for controller recognition of abnormal pipeline operating conditions, in particular, leak events.”

STATE PIPELINE SAFETY ADVISORY COMMITTEES

Pub. L. 107-355, §24, Dec. 17, 2002, 116 Stat. 3011, provided that: “Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary’s reasons for acting or not acting upon any of the recommendations.”

§ 60103. Standards for liquefied natural gas pipeline facilities

(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

- (1) kind and use of the facility;
- (2) existing and projected population and demographic characteristics of the location;
- (3) existing and proposed land use near the location;
- (4) natural physical aspects of the location;
- (5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and
- (6) need to encourage remote siting.

(b) DESIGN, INSTALLATION, CONSTRUCTION, INSPECTION, AND TESTING STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

- (1) the characteristics of material to be used in constructing the facility and of alternative material;
- (2) design factors;
- (3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and
- (4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) NONAPPLICATION.—(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

- (A) under this chapter; or
- (B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard

prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

- (i) does not make the component or part incompatible with other components or parts; or
- (ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) OPERATION AND MAINTENANCE STANDARDS.—The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

- (1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;
- (2) the fire prevention and containment equipment at the facility;
- (3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;
- (4) maintenance procedures and equipment;
- (5) the training of personnel in matters specified by this subsection; and
- (6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) EFFECTIVE DATES.—A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) CONTINGENCY PLANS.—A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) EFFECT ON OTHER STANDARDS.—This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1307.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60103(c)(1), (2).	49 App.:1674a(c)(1).	
60103(c)(3) ..	49 App.:1674a(c)(3).	
60103(d)	49 App.:1674a(b), (d)(3), (e).	
60103(e)	49 App.:1674a(f).	
60103(f)	49 App.:1674a(a)(3).	
60103(g)	49 App.:1674a(c)(2).	

In subsections (a), (b), and (d), the words “general safety” are omitted as surplus. The text of 49 App.:1674a(e) is omitted for consistency in the revised title and with other titles of the United States Code.

In subsections (a) and (b), before each clause (1), the words “Not later than 180 days after November 30, 1979” are omitted as executed. The word “prescribe” is substituted for “establish by regulation” for consistency in the revised title and with other titles of the Code.

In subsection (a), before clause (1), the words “with respect to standards relating to the location of any new LNG facility” are omitted because of the restatement. In clause (2), the word “involved” is omitted as surplus. In clause (4), the words “meteorological, geological, topographical, seismic, and other” are omitted as surplus. In clause (5), the word “existing” is omitted as surplus.

In subsection (b), before clause (1), the text of 49 App.:1674a(a)(2) (1st sentence) is omitted as executed. The text of 49 App.:1674a(a)(2) (last sentence) is omitted as surplus. The words “with respect to standards applicable to the design, installation, construction, initial inspection, and initial testing of any new LNG facility” are omitted because of the restatement. In clause (1), the words “thermal resistance and other” are omitted as surplus. In clause (2), the words “(such as multiple diking, insulated concrete, and vapor containment barriers)” are omitted as surplus. In clause (3), the words “(for example, whether it is to be in a liquid or semi-solid state)” are omitted as surplus. In clause (4), the words “under such a design” are omitted as surplus.

In subsection (c)(1) and (2), the word “prescribed” is substituted for “issued” for consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words “if the standard is to be applied” are added for clarity. The word “either” is omitted as surplus. In clause (B), the word “Federal” is omitted as surplus. The words “the authority is applied” are substituted for “such authority was exercised” for clarity.

In subsection (c)(2)(A), before clause (i), the words “design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978” are substituted for “Any such standard (other than one affecting location)” for clarity. In clause (i), the words “of the facility involved” are omitted as surplus. In clause (ii), the word “otherwise” is omitted as surplus.

In subsection (d), before clause (1), the words “Not later than 270 days after November 30, 1979” are omitted as executed. The words “with respect to standards for the operation and maintenance [sic] of any LNG facility” are omitted because of the restatement. In clause (3), the words “to be used with respect to the operation of such facility” and “sabotage or other” are omitted as surplus.

In subsection (e), the text of 49 App.:1674a(f) (related to 49 App.:1672(a)(1) (8th, last sentences), (c), and (d)) is omitted as surplus because those provisions apply to all standards prescribed under the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 82 Stat. 720).

In subsection (f), the words “Secretary of Energy” are substituted for “Department of Energy” because of 42:7131. The words “or local” are added for clarity. The words “in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act” are omitted as surplus.

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60103(a)	49 App.:1674a(a) (1)(A), (d)(1), (e).	Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §6; added Nov. 30, 1979, Pub. L. 96-129, §152(a), 93 Stat. 999.
60103(b)	49 App.:1674a(a) (1)(B), (2), (d)(2), (e).	

§ 60104. Requirements and limitations

(a) OPPORTUNITY TO PRESENT VIEWS.—The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) NONAPPLICATION.—A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.

(d) CONSULTATION.—(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) LOCATION AND ROUTING OF FACILITIES.—This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1308; Pub. L. 107–355, §3(a), Dec. 17, 2002, 116 Stat. 2986.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
60104(a)	49 App.:1672(c).	Aug. 12, 1968, Pub. L. 90–481, §3(c), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §§104(a)(2), (c), 109(c), 93 Stat. 992, 994, 996.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
60104(b)	49 App.:2002(g). 49 App.:1672(a)(1) (6th sentence).	Nov. 30, 1979, Pub. L. 96–129, §§202(4) (28th–last words), 203(c) (last sentence), (g), 93 Stat. 1003, 1004, 1005. Aug. 12, 1968, Pub. L. 90–481, §3(a)(1) (6th, 9th, last sentences), 82 Stat. 721; Oct. 11, 1976, Pub. L. 94–477, §4(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c), (e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102–508, §116, 106 Stat. 3298.
60104(c)	49 App.:2002(c) (last sentence). 49 App.:1672(a)(1) (9th, last sentences). 49 App.:2002(d).	Nov. 30, 1979, Pub. L. 96–129, §203(d), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102–508, §215, 106 Stat. 3305.
60104(d)	49 App.:1676(a).	Aug. 12, 1968, Pub. L. 90–481, §9(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§109(i), 152(a), (b)(3), 93 Stat. 997, 999, 1001; Oct. 30, 1988, Pub. L. 100–561, §105(1), 102 Stat. 2807.
60104(e)	49 App.:1671(4) (33d–last words). 49 App.:2001(4) (28th–last words).	Aug. 12, 1968, Pub. L. 90–481, §2(4) (33d–last words), 82 Stat. 720.

Subsection (a) is substituted for 49 App.:1672(c) (last sentence) and 2002(g) (last sentence) to eliminate unnecessary words. The text of 49 App.:1672(c) (1st sentence) and 2002(g) (1st sentence) is omitted as unnecessary because 5:ch. 5, subch. II applies unless otherwise stated.

In subsection (c), the words “prescribed under this chapter” are added for clarity. The words “after the Federal minimum standards become effective” in 49 App.:1672(a) (last sentence) are omitted as obsolete.

In subsection (d)(1), the words “waiving compliance” are substituted for “action upon application for waiver” and “acting on the waiver application” to eliminate unnecessary words. The words “the provisions of” are omitted as surplus. The word “authority” is substituted for “commission” for consistency in the revised title and with other titles of the Code.

In subsection (d)(2), the words “and conclusive” are omitted as being included in “binding”. The words “Secretary of Energy” are substituted for “Department of Energy” because of 42:7231.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–355 inserted at end “Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.”

§ 60105. State pipeline safety program certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.