

1 cludes any trustee, receiver, assignee, or personal represent-
2 ative thereof;

3 (2) "Gas" means natural gas, flammable gas, or non-
4 flammable hazardous gas;

5 (3) "Transportation of gas" means the gathering, trans-
6 mission or distribution of gas by pipeline or its storage in or
7 affecting interstate or foreign commerce;

8 (4) "Pipeline facilities" includes, without limitation,
9 new and existing pipe, rights-of-way, and any equipment,
10 facility, or building used in the transportation of gas or the
11 treatment of gas, but "rights-of-way" as used in this Act does
12 not authorize the Secretary to prescribe the location or rout-
13 ing of any pipeline facility;

14 (5) "State" includes each of the several States, the Dis-
15 trict of Columbia, and the Commonwealth of Puerto Rico;

16 (6) "Municipality" means a city, county, or any other
17 political subdivision of a State;

18 (7) "National organization of the State commissions"
19 means the national organization of the State commissions
20 referred to in part II of the Interstate Commerce Act;

21 (8) "Adversely affected" includes exposure to personal
22 injury or property damage;

23 (9) "Interstate transmission facilities" means pipeline
24 facilities used in the transportation of gas which are subject

1 to the jurisdiction of the Federal Power Commission under
2 the Natural Gas Act; and

3 (10) "Secretary" means the Secretary of Trans-
4 portation.

5 STANDARDS ESTABLISHED

6 SEC. 3. (a) As soon as practicable but not later than
7 three months after the enactment of this Act, the Secretary
8 shall, by order, adopt as interim minimum Federal safety
9 standards for pipeline facilities and the transportation of
10 gas in each State the State standards regulating pipeline
11 facilities and the transportation of gas within such State on
12 the date of enactment of this Act. In any State in which no
13 such standards are in effect, the Secretary shall, by order,
14 establish interim Federal safety standards for pipeline fa-
15 cilities and the transportation of gas in such State which shall
16 be such standards as are common to a majority of States
17 having safety standards for the transportation of gas and
18 pipeline facilities on such date. Interim standards shall
19 remain in effect until amended or revoked pursuant to this
20 section. Any State may adopt such additional or more
21 stringent standards for pipeline facilities and the transporta-
22 tion of gas not subject to the jurisdiction of the Federal
23 Power Commission under the Natural Gas Act as are not
24 incompatible with the Federal minimum standards, but may

1 not adopt or continue in force after the interim standards
2 provided for above become effective any such standards ap-
3 plicable to interstate transmission facilities.

4 (b) Not later than twenty-four months after the enact-
5 ment of this Act, and from time to time thereafter, the Secre-
6 tary shall, by order, establish minimum Federal safety stand-
7 ards for the transportation of gas and pipeline facilities.
8 Such standards may apply to the design, installation, inspec-
9 tion, testing, construction, extension, operation, replacement,
10 and maintenance of pipeline facilities. Standards affecting the
11 design, installation, construction, initial inspection, and initial
12 testing shall not be applicable to pipeline facilities in existence
13 on the date such standards are adopted, unless the Secretary
14 finds that a potentially hazardous situation exists, in which
15 case he may by order require compliance with any such
16 standards. Such Federal safety standards shall be practicable
17 and designed to meet the need for pipeline safety. In
18 prescribing such standards, the Secretary shall consider—

- 19 (1) relevant available pipeline safety data;
- 20 (2) whether such standards are appropriate for
21 the particular type of pipeline transportation;
- 22 (3) the reasonableness of any proposed standards;
- 23 and
- 24 (4) the extent to which such standards will con-
25 tribute to public safety.

1 (c) Any standards prescribed under this section, and
2 amendments thereto, shall become effective thirty days after
3 the date of issuance of such standards unless the Secretary,
4 for good cause recited, determines an earlier or later effective
5 date is required as a result of the period reasonably necessary
6 for compliance.

7 (d) The provisions of subchapter II of chapter 5 of
8 title 5 of the United States Code shall apply to all orders
9 establishing, amending, revoking, or waiving compliance
10 with, any standard established under this Act. The Secretary
11 shall afford interested persons an opportunity to participate
12 fully in the establishment of such safety standards through
13 submission of written data, views, or arguments with
14 opportunity to present oral testimony and argument.

15 (e) Upon application by any person engaged in the
16 transportation of gas or the operation of pipeline facilities,
17 the Secretary may, after notice and opportunity for hearing
18 and under such terms and conditions and to such extent as he
19 deems appropriate, waive in whole or in part compliance
20 with any standard established under this Act, if he deter-
21 mines that a waiver of compliance with such standard is not
22 inconsistent with gas pipeline safety. The Secretary shall
23 state his reasons for any such waiver. A State agency, with
24 which an agreement is in effect pursuant to section 5 (a),
25 may waive compliance with a safety standard in the same

1 manner as the Secretary, provided such State agency gives
2 the Secretary written notice at least sixty days prior to the
3 effective date of the waiver. If, before the effective date of
4 a waiver to be granted by a State agency, the Secretary
5 objects in writing to the granting of the waiver, any State
6 action granting the waiver will be stayed. After notifying
7 such State agency of his objection, the Secretary shall afford
8 such agency a prompt opportunity to present its request for
9 waiver, with opportunity for hearing, and the Secretary
10 shall determine finally whether the requested waiver may be
11 granted.

12 TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

13 SEC. 4. (a) The Secretary shall establish a Technical
14 Pipeline Safety Standards Committee. The Committee shall
15 be appointed by the Secretary, after consultation with pub-
16 lic and private agencies concerned with the technical aspect
17 of the transportation of gas or the operation of pipeline facili-
18 ties, and shall be composed of fifteen members each of whom
19 shall be technically qualified by training and experience in
20 one or more fields of engineering applied in the transporta-
21 tion of gas or the operation of pipeline facilities to evaluate
22 gas pipeline safety standards, as follows:

23 (1) Five members shall be selected from govern-
24 mental agencies, including State and Federal Govern-
25 ments, one of whom, after consultation with representa-

1 tives of the national organization of State commissions,
2 shall be a State commissioner;

3 (2) Five members shall be selected from the natural
4 gas industry after consultation with industry representa-
5 tives, not less than three of whom shall be currently en-
6 gaged in the active operation of natural gas pipelines; and

7 (3) Five members shall be selected from the general
8 public.

9 (b) The Secretary shall submit to the Committee all
10 proposed standards and amendments to such standards and
11 afford such Committee a reasonable opportunity, not to exceed
12 ninety days, unless extended by the Secretary, to prepare a
13 report on the technical feasibility, reasonableness, and prac-
14 ticability of each such proposal. Each report by the Commit-
15 tee, including any minority views, shall be published by the
16 Secretary and form a part of the proceedings for the promul-
17 gation of standards. In the event that the Secretary rejects
18 the conclusions of the majority of the Committee, he shall
19 not be bound by such conclusions but shall publish his reasons
20 for rejection thereof. The Committee may propose safety
21 standards for pipeline facilities and the transportation of
22 gas to the Secretary for his consideration. All proceedings
23 of the Committee shall be recorded and the record of each
24 such proceeding shall be available for public inspection.

1 (c) Members of the Committee other than Federal em-
2 ployees may be compensated at a rate to be fixed by the
3 Secretary not to exceed \$100 per diem (including travel
4 time) when engaged in the actual duties of the Committee.
5 All members, while away from their homes or regular places
6 of business, may be allowed travel expenses, including per
7 diem in lieu of subsistence as authorized by section 5703 of
8 title 5, United States Code, for persons in the Government
9 service employed intermittently. Payments under this sec-
10 tion shall not render members of the Committee employees
11 or officials of the United States for any purpose.

12 AGREEMENTS WITH STATE AGENCIES

13 SEC. 5. (a) Subject to the provisions of this section, the
14 Secretary is authorized by written agreement with an appro-
15 priate State agency to exempt from the Federal safety stand-
16 ards pipeline facilities and the transportation of gas not sub-
17 ject to the jurisdiction of the Federal Power Commission
18 under the Natural Gas Act, under which agreement such
19 State agency—

20 (1) adopts each Federal safety standard applicable
21 to such transportation of gas and pipeline facilities and
22 any amendment to each such standard, established under
23 this Act;

24 (2) undertakes a program satisfactory to the Secre-
25 tary, designed to achieve adequate compliance with such

1 standards and with the plans of inspection and mainte-
2 nance required by section 11; and

3 (3) agrees to cooperate fully in a system of Federal
4 monitoring of such compliance program and reporting
5 under regulations prescribed by the Secretary.

6 No such agreement may be concluded with any State agency
7 which does not have the authority (i) to impose the sanctions
8 provided under sections 9 and 10, (ii) to require record
9 maintenance, reporting, and inspection responsibilities sub-
10 stantially the same as are provided under section 12, and
11 (iii) to require the filing for approval of plans of inspection
12 and maintenance described in section 11.

13 (b) With respect to any State agency with which the
14 Secretary determines that he cannot enter into an agreement
15 under subsection (a) of this section, the Secretary is author-
16 ized by agreement to authorize such agency to assume respon-
17 sibility for, and carry out on behalf of the Secretary as it
18 relates to pipeline facilities and the transportation of gas not
19 subject to the jurisdiction of the Federal Power Commission
20 under the Natural Gas Act the necessary actions to—

21 (1) establish an adequate program for record
22 maintenance, reporting, and inspection designed to assist
23 compliance with such standards;

24 (2) establish procedures for approval of plans of

1 inspection and maintenance substantially the same as are
2 required under section 11;

3 (3) to implement a compliance program acceptable
4 to the Secretary including provision for inspection of
5 pipeline facilities used in such transportation of gas; and

6 (4) to cooperate fully in a system of Federal moni-
7 toring of such compliance program and reporting under
8 regulations prescribed by the Secretary.

9 Any agreement executed pursuant to this subsection shall
10 require the State to promptly notify the Secretary of any
11 violation or probable violation of a Federal safety standard
12 which it discovers as a result of its program.

13 (c) (1) Upon an application submitted not later than
14 September 30 in any calendar year, the Secretary is author-
15 ized to pay out of funds appropriated pursuant to section
16 15 (a) up to 50 per centum of the cost of the personnel,
17 equipment, and activities of a State agency reasonably re-
18 quired to carry out such agreement during the following
19 calendar year. No such payment may be made unless the
20 State agency making application under this subsection gives
21 assurances satisfactory to the Secretary that the State agency
22 will provide the remaining cost of such an agreement.

23 (2) Upon application by the national organization of
24 State commissions, the Secretary is authorized to pay out of
25 the funds appropriated pursuant to section 15 (a) the sum of

1 \$20,000, plus such additional sums as he deems justified,
2 to such national organization to pay the reasonable cost of
3 coordinating the activities of the State commissions, to assist
4 them in the maintenance and improvement of gas pipeline
5 safety programs and to render technical assistance to such
6 commissions in other regulatory matters.

7 (3) Payments under this section may be made in install-
8 ments, in advance or by way of reimbursement, with neces-
9 sary adjustments on account of overpayments and under-
10 payments.

11 (4) The Secretary may, by regulation, provide for the
12 form and manner of filing of applications under this section,
13 and for such reporting and fiscal procedures as he deems nec-
14 essary to assure the proper accounting for Federal funds.

15 (d) Where an exemption from Federal standards for
16 pipeline facilities or the transportation of gas is in effect
17 under subsection (a) of this section the provisions of sections
18 8 (a) (1), 8 (a) (2), 9, and 10 of this Act, shall not apply.
19 Any such exemption shall remain in effect until a new or
20 amended Federal safety standard for pipeline facilities or
21 the transportation of gas not subject to the jurisdiction of the
22 Federal Power Commission under the Natural Gas Act is
23 established pursuant to this Act, and such exemption shall
24 not apply to any such new standard or amendment until the
25 State has adopted such new standard or amendment pursuant

1 to the provisions of subsection (a) of this section. The provi-
2 sions of this Act shall apply to such standard until such
3 adoption has become effective.

4 (e) Any agreement under this section may be termi-
5 nated by the Secretary if, after notice and opportunity for a
6 hearing, he finds that the State agency has failed to comply
7 with any provision of such agreement. Such finding and
8 termination shall be published in the Federal Register, and
9 shall become effective no sooner than fifteen days after the
10 date of publication.

11 JUDICIAL REVIEW ORDERS

12 SEC. 6. (a) Any person who is or will be adversely
13 affected or aggrieved by any order issued under this Act
14 may at any time prior to the sixtieth day after such order
15 is issued file a petition for a judicial review with the United
16 States Court of Appeals for the District of Columbia or for
17 the circuit wherein such petitioner is located or has his prin-
18 cipal place of business. A copy of the petition shall be forth-
19 with transmitted by the clerk of the court to the Secretary or
20 other officer designated by him for that purpose.

21 (b) Upon the filing of the petition referred to in sub-
22 section (a), the court shall have jurisdiction to review the
23 order in accordance with chapter 7 of title 5 of the United
24 States Code and to grant appropriate relief as provided in
25 such chapter.

1 establish, construct, operate, or extend a gas pipeline which is
2 or will be subject to Federal or other applicable safety stand-
3 ards, any applicant shall certify that it will design, install,
4 inspect, test, construct, operate, replace, and maintain the
5 pipeline facilities in accordance with Federal and other appli-
6 cable safety standards and plans for maintenance and inspec-
7 tion. Such certification shall be binding and conclusive upon
8 the Commission unless the relevant enforcement agency has
9 timely advised the Commission in writing that the applicant
10 has violated safety standards established pursuant to this Act.

11

COMPLIANCE

12 SEC. 8. (a) Any person engaged in the transportation
13 of gas shall—

14 (1) at all times after the date any applicable
15 safety standard established under this Act takes effect
16 comply with the requirements of such standard; and

17 (2) file and comply with a plan of inspection and
18 maintenance required by section 12; and

19 (3) permit access to or copying of records, and
20 make reports or provide information, and permit entry
21 or inspection, as required under section 13.

22 (b) Nothing in this Act shall affect the common law or
23 statutory tort liability of any person.

CIVIL PENALTY

1

2 SEC. 9. (a) Any person who violates any provision of
3 section 8 (a), or any regulation issued under this Act, shall
4 be subject to a civil penalty of not to exceed \$1,000 for each
5 such violation for each day that such violation persists, ex-
6 cept that the maximum civil penalty shall not exceed \$400,-
7 000 for any related series of violations.

8 (b) Any such civil penalty may be compromised by the
9 Secretary. In determining the amount of such penalty, or
10 the amount agreed upon in compromise, the appropriateness
11 of such penalty to the size of the business of the person
12 charged, the gravity of the violation, and the good faith of
13 the person charged in attempting to achieve compliance,
14 after notification of a violation, shall be considered. The
15 amount of such penalty, when finally determined, or the
16 amount agreed upon in compromise, may be deducted from
17 any sums owing by the United States to the person charged
18 or may be recovered in a civil action in the United States
19 district courts.

20

INJUNCTION AND JURISDICTION

21 SEC. 10. (a) The United States district courts shall have
22 jurisdiction, subject to the provisions of rule 65 (a) and (b)
23 of the Federal Rules of Civil Procedure, to restrain viola-

1 tions of this Act (including the restraint of transportation of
2 gas or the operation of a pipeline facility) or to enforce
3 standards established hereunder upon petition by the appro-
4 priate United States attorney or the Attorney General on
5 behalf of the United States. Whenever practicable, the Sec-
6 retary shall give notice to any person against whom an action
7 for injunctive relief is contemplated and afford him an oppor-
8 tunity to present his views, and, except in the case of a know-
9 ing and willful violation, shall afford him reasonable oppor-
10 tunity to achieve compliance. However, the failure to give
11 such notice and afford such opportunity shall not preclude
12 the granting of appropriate relief.

13 (b) In any proceeding for criminal contempt for viola-
14 tion of an injunction or restraining order issued under this
15 section, which violation also constitutes a violation of this Act,
16 trial shall be by the court or, upon demand of the accused, by
17 a jury. Such trial shall be conducted in accordance with
18 the practice and procedure applicable in the case of proceed-
19 ings subject to the provisions of rule 42 (b) of the Federal
20 Rules of Criminal Procedure.

21 (c) Actions under subsection (a) of this section and
22 section 9 may be brought in the district wherein any act or
23 transaction constituting the violation occurred, or in the dis-
24 trict wherein the defendant is found or is an inhabitant or
25 transacts business, and process in such cases may be served

1 in any other district of which the defendant is an inhabitant
2 or transacts business or wherever the defendant may be
3 found.

4 (d) In any action brought under subsection (a) of this
5 section and section 9, subpoenas for witnesses who are required
6 to attend a United States district court may run into any
7 other district.

8 INSPECTION AND MAINTENANCE PLANS

9 SEC. 11. Each person who owns or operates any pipe-
10 line facility used in the transportation of gas not subject
11 to the jurisdiction of the Federal Power Commission under
12 the Natural Gas Act shall file with the Secretary or, where
13 an agreement pursuant to section 5 is in effect, with the
14 State agency, a plan for inspection and maintenance of each
15 such pipeline facility owned or operated by such person, and
16 any changes in such plan, in accordance with regulations
17 prescribed by the Secretary or appropriate State agency.
18 The Secretary may, by regulation, also require persons who
19 own or operate pipeline facilities subject to the provisions of
20 this Act to file such plans for approval. If at any time the
21 agency with responsibility for enforcement of compliance
22 with the standards established under this Act finds that such
23 plan is inadequate to achieve safe operation, such agency
24 may, after notice and opportunity for a hearing, require
25 such plan to be revised. The plan required by the agency

1 shall be practicable and designed to meet the need for pipe-
2 line safety. In determining the adequacy of any such plan,
3 such agency shall consider—

- 4 (1) relevant available pipeline safety data;
- 5 (2) whether the plan is appropriate for the particu-
6 lar type of pipeline transportation;
- 7 (3) the reasonableness of the plan; and
- 8 (4) the extent to which such plan will contribute to
9 public safety.

10 RECORDS, REPORTS, AND INSPECTION FOR COMPLIANCE

11 SEC. 12. (a) Every person engaged in the transporta-
12 tion of gas or the operation of pipeline facilities shall estab-
13 lish and maintain such records, make such reports, and pro-
14 vide such information as the Secretary may reasonably
15 require to enable him to determine whether such person has
16 acted or is acting in compliance with this Act and the stand-
17 ards established under this Act. Each such person shall,
18 upon request of an officer, employee, or agent authorized by
19 the Secretary, permit such officer, employee, or agent to in-
20 spect books, papers, records, and documents relevant to deter-
21 mining whether such person has acted or is acting in compli-
22 ance with this Act and the standards established pursuant to
23 this Act.

24 (b) The Secretary is authorized to conduct such moni-
25 toring of State enforcement practices and such other inspec-

1 tion and investigation as may be necessary to aid in the
2 enforcement of the provisions of this Act and the standards
3 established pursuant to this Act. He shall furnish the Attor-
4 ney General any information obtained indicating noncom-
5 pliance with such standards for appropriate action. For pur-
6 poses of enforcement of this Act, officers, employees, or
7 agents authorized by the Secretary, upon presenting appro-
8 priate credentials to the individual in charge, are author-
9 ized (1) to enter upon, at reasonable times, pipeline facili-
10 ties, and (2) to inspect, at reasonable times and within
11 reasonable limits and in a reasonable manner, such facilities.
12 Each such inspection shall be commenced and completed
13 with reasonable promptness.

14 (c) Accident reports made by any officer, employee, or
15 agent of the Department of Transportation shall be available
16 for use in any civil, criminal, or other judicial proceeding
17 arising out of such accident. Any such officer, employee, or
18 agent may be required to testify in such proceedings as to the
19 facts developed in such investigations. Any such report shall
20 be made available to the public in a manner which need not
21 identify individuals. All reports on research projects, demon-
22 stration projects, and other related activities shall be public
23 information.

24 (d) All information reported to or otherwise obtained by
25 the Secretary or his representative pursuant to subsection

1 (a), (b), or (c) which information contains or relates to a
2 trade secret referred to in section 1905 of title 18 of the
3 United States Code shall be considered confidential for the
4 purpose of that section, except that such information may be
5 disclosed to other officers or employees concerned with carry-
6 ing out this Act or when relevant in any proceeding under
7 this Act. Nothing in this section shall authorize the withhold-
8 ing of information by the Secretary or any officer, employee,
9 or agent under his control, from the duly authorized com-
10 mittees of the Congress.

11 ADMINISTRATION

12 SEC. 13. (a) The Secretary shall conduct research,
13 testing, development, and training necessary to carry out
14 the provisions of this Act. The Secretary is authorized to
15 carry out the provisions of this section by contract, or by
16 grants to individuals, States, and nonprofit institutions.

17 (b) Upon request, the Secretary shall furnish to the
18 Federal Power Commission any information he has con-
19 cerning the safety of any materials, operations, devices, or
20 processes relating to the transportation of gas or the operation
21 of pipeline facilities.

22 (c) The Secretary is authorized to advise, assist, and
23 cooperate with other Federal departments and agencies and
24 State and other interested public and private agencies and

1 (b) To help defray the expenses of Federal inspection
2 and enforcement under this Act, the Secretary may require
3 the payment of a reasonable annual fee to him by all persons
4 engaged in the transportation of gas.

Passed the Senate November 9, 1967.

Attest:

FRANCIS R. VALEO,

Secretary.

90TH CONGRESS
1ST SESSION

S. 1166

AN ACT

To authorize the Secretary of Transportation to prescribe safety standards for the transportation of natural and other gas by pipeline, and for other purposes.

NOVEMBER 13, 1967

Referred to the Committee on Interstate and Foreign
Commerce