CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 23, 2002

H.R. 3609
Pipeline Infrastructure Protection to Enhance Security and Safety Act

As ordered reported by the House Committee on Energy and Commerce on June 13, 2002

SUMMARY

Under current law, the Research and Special Programs Administration (RSPA) within the Department of Transportation (DOT) oversees the safety of pipelines that carry either gas or hazardous liquids and provides grants to states for safety programs. For these activities, H.R. 3609 would authorize a gross appropriation of $282 million over the 2003-2006 period. Of this total, $226 million would be offset by the collection of fees paid by pipeline operators.

In addition, H.R. 3609 would authorize the appropriation of $80 million over the 2003-2006 period for a new research program to improve pipeline inspection techniques, risk assessments, and technology to detect leaks. The bill also would authorize the appropriation of almost $6 million over the 2003-2006 period for grants to state programs that help excavators coordinate their work with the operators of underground pipelines, and another $4 million over the 2003-2006 period for grants to local communities to improve pipeline safety.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3609 would have a net cost of $141 million over the 2003-2007 period. Enacting H.R. 3609 also would affect governmental receipts, so pay-as-you-go procedures would apply, but CBO estimates that such effects would not be significant.

H.R. 3609 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of those mandates would not exceed the annual thresholds established in UMRA ($58 million for intergovernmental mandates and $115 million for private-sector mandates in 2002, adjusted annually for inflation). The bill also would authorize grants to states to reimburse up to 50 percent of the cost of state pipeline safety programs.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3609 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [a]					
Estimated Net Authorization Level [b]	41	39	34	32	0
Estimated Net Outlays	18	35	31	30	27

a. H.R. 3609 also would increase revenues, but CBO estimates that those effects would not be significant.

b. The amounts shown are the differences between the bill's authorized funding and fee collections for each year.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3609 will be enacted near the end of fiscal year 2002 and that the authorized amounts will be appropriated for each year. Outlay estimates are based on the historical spending patterns of pipeline safety programs.

CBO estimates that implementing H.R. 3609 would cost $141 million over the 2003-2007 period. This estimate includes net spending of $56 million for RSPA's oversight activities and grants to state safety programs, reflecting the difference between gross authorized appropriations of $282 million and authorized collections of $226 million from pipeline user fees over the four-year authorization period. The gross authorization for those activities would average about $70 million a year; and the fees would average $56 million a year. By comparison, the gross appropriation for those RSPA activities was $58 million in 2002, and CBO estimates that fees for this year will total $51 million.

H.R. 3609 would increase the minimum and maximum civil penalties for violating certain pipeline safety requirements, and it would impose civil penalties for violating employee protections required by the bill. Collections of these penalties are recorded in the budget as governmental receipts. CBO estimates that implementing this legislation would increase such receipts by less than $500,000 a year.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 3609 would result in governmental receipts of less than $500,000 a year.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

By placing requirements on operators of natural gas and hazardous liquid pipelines, H.R. 3609 would impose both intergovernmental and private-sector mandates as defined by UMRA. Although most natural gas pipeline operators are private entities, some are public entities; hazardous liquid pipelines are privately owned.

Mandates

Mandates in the bill would include requirements to:

- Pay user fees;
- Implement an integrity management program;
- Adopt an employee qualification program certified by the Office of Pipeline Safety (OPS);
- Implement a terrorism security program;
- Provide information to OPS for the national pipeline mapping system; and
- Comply with a whistleblower protection program.

Based on the information provided by OPS and industry representatives CBO estimates that the cost of those mandates would not exceed the annual thresholds for intergovernmental and private-sector mandates established in UMRA ($58 million and $115 million in 2002 respectively, adjusted annually for inflation).

User Fees. Section 19 would authorize appropriations for DOT to carry out activities related to pipeline safety. The majority of each authorization would be derived from user fees, paid by operators of natural gas and hazardous liquid pipelines. By law, the fees are based upon the volume-miles, miles, and revenues of each pipeline operator. The authorization for such fees expired in 2000; however, pipeline operators have been required to pay such fees since that time through the annual DOT appropriations process and anticipate doing so in the absence of this legislation. Despite this, the reimposition of such fees would be a mandate as defined by UMRA.

For fiscal year 2003, the bill would authorize the appropriation of $66 million, of which $47 million would be derived from user fees. Appropriations would rise to $77 million in fiscal year 2006, of which $67 million would be derived from user fees. Effectively, the actual cost of this mandate would depend on the amount of future appropriations. According to industry sources most of these fees would be paid by private-sector entities, but about 1 percent would be paid by governmental entities such as publicly owned gas utilities.

Integrity Management for Gas Pipeline Operators. Section 11 would require operators of gas pipeline facilities to conduct a risk analysis for each facility located in an unusually sensitive area and to implement a written integrity management program in order to reduce the risk of accidents occurring at such a facility. As part of the integrity management program, operators would be required to periodically reinspect the facility at an accelerated rate relative to what would be required under current law. The first year pipeline operators would bear an additional cost because of the accelerated reinspection schedule—and thus, the first year that the mandate would be in affect—would be around 2015. Based upon information provided by OPS and industry sources, CBO estimates that the cost of shortening the deadline for reinspection would not exceed the annual thresholds for private-sector or intergovernmental mandates in any of the first five years that the mandate goes into effect.

Employee Qualification Program. Section 10 would require pipeline operators to adopt and implement a written qualification program for employees who perform certain tasks. According to OPS and the pipeline industry, this provision closely mirrors an OPS operator qualification rule that operators must meet by October 2002. However, under the bill, each program would require certification by the Secretary of DOT within three years of the bill's enactment to ensure compliance with standards to be established by the Secretary. Based on information provided by OPS, CBO estimates that participation in the certification process would impose minimal costs on pipeline operators.

Terrorism Security Program. Section 12 would require operators of pipeline facilities to develop and implement a terrorism security program detailing procedures to safeguard the pipeline facility and safely maintain operations in the event of a terrorist attack. Secretarial approval would be required for each program. According to both OPS and representatives of the pipeline industry, pipeline operators are already heavily involved in developing such plans in concert with a comprehensive security guidance crafted by the industry. Further, OPS anticipates incorporating the guidance into the agency's forthcoming regulations. Thus, CBO estimates that developing and implementing of terrorism security programs would impose little, if any, incremental costs on pipeline operators.

In addition, section 12 would require DOT to commence a rulemaking that would require specialized security measures at liquefied natural gas plants located on a waterfront within one mile of a densely populated area. Specifically, the bill would require that each waterfront facility located in a populated area be tested at least once every two years through the use of force-on-force exercises. According to OPS, only one facility would be affected by the rulemaking: Distrigas of Massachusetts Corporation. Based on information provided by OPS, and the nuclear power industry (where similar measures are conducted currently), CBO estimates that the cost of increasing security at the facility would be below $10 million.

National Pipeline Mapping System. Section 13 would require pipeline operators, except those operating distribution and gathering lines, to provide OPS with information for a national pipeline mapping system within six months of the bill's enactment. DOT is currently engaged in such an effort and thus far, participation by pipeline operators has been voluntary. According to OPS, 90 percent of the required information has been submitted by hazardous liquid pipeline operators, while 55 percent of the requisite information has been provided by the natural gas pipeline industry. Based on information provided by OPS and industry representatives, CBO estimates that the cost of the mandate would be less than $1 million annually.

Whistleblower Protection. Section 4 would protect employees of pipeline operators, contractors, or subcontractors that provide pipeline safety information to the U.S. Government. Under the bill, pipeline operators would be prohibited from discharging or discriminating against such employees with respect to compensation, terms, conditions, or privileges of employment. Employees may already possess some or all of such protections under several environmental statutes. Section 4 would ensure that whistleblower protections are applicable to any activity governed by pipeline safety law or regulation. Because compliance with the broader whistleblower protections would involve only incremental administrative costs, CBO estimates that pipeline operators, their contractors and subcontractors would incur only minimal costs from enactment of this section.

Other Impacts

Under current law, DOT is authorized to enter into agreements with states under which the states implement federal pipeline regulations applying to intrastate gas or hazardous liquid pipelines. Section 5 would expand DOT's authority to delegate the oversight of interstate pipelines to states. Section 10 would authorize states participating in regulatory agreements to review the risk analysis and integrity management program of certain pipeline operators, and to provide DOT with written assessments of those plans. Section 12 would require participating states to enforce new regulations related to employee qualification programs.

Carrying out additional reviews and oversight responsibilities would increase regulatory costs for the states, but the costs would be incurred voluntarily.

The bill also would authorize grants to states to reimburse up to 50 percent of the cost of state pipeline safety programs.

PREVIOUS CBO ESTIMATE

On April 5, 2002, CBO transmitted a cost estimate for H.R. 3929, the Energy Pipeline Research, Development, and Demonstration Act, as ordered reported by the House Committee on Science, on March 20, 2002. This bill would authorize a new research program similar to the program that would be authorized by H.R. 3609; however, H.R. 3609 would authorize the appropriation of $100 million for the program.

ESTIMATE PREPARED BY:

Federal Costs: Rachel Milberg
Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins
Impact on the Private Sector: Lauren Marks

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis