

AMENDMENT TO H.R. _____
(PIPELINE SAFETY ACT OF 2016)
OFFERED BY MR. CRAMER OF NORTH DAKOTA

Strike section 15 and insert the following:

1 SEC. 15. EMERGENCY ORDER AUTHORITY.

2 Section 60117 of title 49, United States Code, is
3 amended by adding at the end the following:

4 “(o) EMERGENCY ORDER AUTHORITY.—

5 “(1) IN GENERAL.—If the Secretary determines
6 that an unsafe condition or practice, or a combina-
7 tion of unsafe conditions and practices, constitutes
8 or is causing an imminent hazard, the Secretary
9 may issue an emergency order described in para-
10 graph (3) imposing emergency restrictions, prohibi-
11 tions, and safety measures on owners and operators
12 of gas or hazardous liquid pipeline facilities without
13 prior notice or an opportunity for a hearing, but
14 only to the extent necessary to abate the imminent
15 hazard.

16 “(2) CONSIDERATIONS.—Before issuing an
17 emergency order under paragraph (1), the Secretary
18 shall consider, after consultation with appropriate
19 Federal agencies, State agencies, owners and opera-

1 tors of pipeline facilities, or other entities, the fol-
2 lowing, as appropriate:

3 “(A) The impact of the emergency order
4 on public health and safety.

5 “(B) The impact, if any, of the emergency
6 order on the national or regional economy or
7 national security.

8 “(C) The impact of the emergency order
9 on owners, operators, and customers of pipeline
10 facilities.

11 “(3) WRITTEN ORDER.—An emergency order
12 issued by the Secretary pursuant to paragraph (1)
13 with respect to an imminent hazard shall contain a
14 written description of—

15 “(A) the violation, condition, or practice
16 that constitutes or is causing the imminent haz-
17 ard;

18 “(B) the owners and operators of pipeline
19 facilities subject to the order;

20 “(C) the restrictions, prohibitions, or safe-
21 ty measures imposed;

22 “(D) the standards and procedures for ob-
23 taining relief from the order;

24 “(E) how the order is tailored to abate the
25 imminent hazard and the reasons the authori-

1 ties under section 60112 and 60117(1) are in-
2 sufficient to do so, including specific supporting
3 evidence; and

4 “(F) how the considerations were taken
5 into account pursuant to paragraph (2), includ-
6 ing the specific evidence considered pursuant to
7 such paragraph.

8 “(4) OPPORTUNITY FOR REVIEW.—Upon re-
9 ceipt of a petition for review from an owner or oper-
10 ator of a pipeline facility subject to an emergency
11 order issued under this subsection, the Secretary
12 shall provide an opportunity for a review of the
13 order under section 554 of title 5 to determine
14 whether the order should remain in effect, be modi-
15 fied, or be terminated.

16 “(5) EXPIRATION OF EFFECTIVENESS
17 ORDER.—If a petition for review of an emergency
18 order is filed under paragraph (4) and an agency de-
19 cision with respect to the petition is not issued on
20 or before the last day of the 30-day period beginning
21 on the date on which the petition is filed—

22 “(A) the order shall cease to be effective
23 on such day, unless the Secretary determines in
24 writing on or before the last day of such period
25 that the imminent hazard still exists, in which

1 case the emergency order shall remain in effect;
2 and

3 “(B) after such day, the Secretary may not
4 conduct any further review or issue an agency
5 decision under paragraph (4) or modify the
6 emergency order issued under paragraph (1),
7 which shall then be considered a final agency
8 action for purposes of judicial review under
9 paragraph (6).

10 “(6) JUDICIAL REVIEW OF ORDERS.—After
11 completion of the review process described in para-
12 graph (4), the issuance of a written determination
13 by the Secretary pursuant to paragraph (5), or the
14 expiration of the 30-day period described in para-
15 graph (5), an owner or operator of a pipeline facility
16 subject to an emergency order issued under this sub-
17 section may seek judicial review of the order in a
18 district court of the United States and shall be given
19 expedited consideration. In any case in which the
20 Secretary issues a written determination under para-
21 graph (5), judicial review shall be limited to the
22 record before the agency on or before the date on
23 which the Secretary issued the emergency order pur-
24 suant to paragraph (1) and the contents of the writ-
25 ten order issued pursuant to paragraph (3).

1 “(7) REGULATIONS.—

2 “(A) TEMPORARY REGULATIONS.—Not
3 later than 60 days after the date of enactment
4 of the Pipeline Safety Act of 2016, the Sec-
5 retary shall issue such temporary regulations as
6 are necessary to carry out this subsection. The
7 temporary regulations shall expire not later
8 than the earlier of 330 days after such date of
9 enactment or the date of issuance of the final
10 regulations required under subparagraph (B).

11 “(B) FINAL REGULATIONS.—Not later
12 than 270 days after such date of enactment,
13 the Secretary shall issue such regulations as are
14 necessary to carry out this subsection. Such
15 regulations shall ensure that the review process
16 described in paragraph (4) contains the same
17 procedures as subsections (d) and (g) of section
18 109.19 of title 49, Code of Federal Regulations,
19 and is otherwise consistent with the review
20 process developed under such section to the
21 greatest extent practicable and not inconsistent
22 with this section.

23 “(8) IMMINENT HAZARD DEFINED.—In this
24 subsection, the term ‘imminent hazard’ means the
25 existence of a condition relating to a gas or haz-

1 ardous liquid pipeline facility that presents a sub-
2 stantial likelihood that death, serious illness, severe
3 personal injury, or a substantial endangerment to
4 health, property, or irreparable harm to the environ-
5 ment may occur before the reasonably foreseeable
6 completion date of a formal proceeding begun to
7 lessen the risk of such death, illness, injury, or
8 endangerment.

9 “(9) LIMITATION AND SAVINGS CLAUSE.—An
10 emergency order issued under this subsection may
11 not be construed to—

12 “(A) alter, amend, or limit the Secretary’s
13 obligations under, or the applicability of, section
14 553 of title 5; or

15 “(B) provide the authority to amend the
16 Code of Federal Regulations.”.

