

PIPELINE SAFETY IMPROVEMENT ACT OF 2006

DECEMBER 5, 2006.—Ordered to be printed

Mr. BARTON of Texas, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

[To accompany H.R. 5782]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5782) to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Safety Improvement Act of 2006”.

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) **TABLE OF CONTENTS.**—
 Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
 Sec. 2. Pipeline safety and damage prevention.
 Sec. 3. Distribution integrity management program rulemaking deadline.
 Sec. 4. Authorization of appropriations.

SEC. 2. PIPELINE SAFETY AND DAMAGE PREVENTION.

(a) **ONE CALL CIVIL ENFORCEMENT.**—(1) Section 60114 is amended by adding at the end the following new subsections:

“(d) **PROHIBITION.**—A person who engages in demolition, excavation, tunneling, or construction—

“(1) may not engage in such demolition, excavation, tunneling, or construction activity in a State that has adopted a one-call notification system without first using that system to establish the location of underground facilities in the demolition, excavation, tunneling, or construction area;

“(2) may not engage in such demolition, excavation, tunneling, or construction activity in disregard of location information or markings established by a pipeline facility operator pursuant to subsection (b);

“(3) may not fail to take reasonable steps to ensure safe demolition, excavation, tunneling, or construction to prevent damage to a pipeline; and

“(4) if the person damages, or becomes aware of damage to, a pipeline facility and such damage may endanger life or cause serious bodily harm or damage to property, may not fail to promptly report the damage to the owner or operator of the facility and, if the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, may not fail to promptly report to other appropriate authorities by calling the 911 emergency telephone number.

“(e) **LIMITATION.**—The Secretary may not conduct an enforcement proceeding under subsection (d) within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State’s damage prevention laws, unless the Secretary has determined that the State’s enforcement is inadequate to protect safety, consistent with this chapter.”.

(2) Section 60122(a)(1) is amended by striking “60114(b)” and inserting “60114(b) or (d)”.

(b) **STATE DAMAGE PREVENTION PROGRAMS.**—(1) Section 60105(b)(4) is amended to read as follows:

“(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);”.

(2) Chapter 601 is amended by adding at the end the following new section:

“§ 60134. State damage prevention programs

“(a) **ELIGIBILITY.**—A State authority (including a municipality if the agreement under section 60106(a) or (b) applies to intrastate gas pipeline transportation) shall be eligible for a grant under this section only if—

“(1) it has an annual certification under section 60105 or an agreement under section 60106; and

“(2) either—

“(A) it is from a State that has an effective damage prevention program that meets the requirements of subsection (b); or

“(B) it demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection (b).

“(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:

“(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications among stakeholders from receipt of a notification of demolition, excavation, tunneling, or construction until successful completion of the demolition, excavation, tunneling, or construction, as appropriate.

“(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

“(3) A process for reviewing the adequacy of a pipeline operator’s internal performance measures regarding persons performing locating services and quality assurance programs.

“(4) Participation by operators, excavators, the one-call center, the enforcing agency, and other stakeholders in the development and implementation of effective training programs for the employees of operators, excavators, and locators.

“(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

“(6) A process for resolving disputes that defines the State authority’s role as a partner and facilitator to resolve issues.

“(7) Enforcement of State damage prevention laws and regulations for all aspects of the demolition, excavation, tunneling, or construction process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

“(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

“(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

“(c) GRANTS TO STATES.—

“(1) IN GENERAL.—The Secretary may make a grant of financial assistance to a State authority that is eligible under this section to assist in improving the overall quality and effectiveness of a damage prevention program of a State. In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

“(2) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year, the Secretary of Transportation shall review the State’s damage prevention program to determine its effectiveness. For programs determined to be effective, the Secretary may make a grant of financial assistance for the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year to carry out an effective damage prevention enforcement program. A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary. Funds provided under this section may not be used for lobbying or in direct support of litigation.”

(3) In the table of sections of chapter 601, the following item is added at the end:

“60134. State damage prevention programs.”

(c) STATE PIPELINE SAFETY GRANTS.—Section 60107(a) is amended by striking “not more than 50 percent” and inserting “not more than 80 percent”.

(d) DAMAGE PREVENTION TECHNOLOGY DEVELOPMENT.—Section 60114 (as amended by this section) is further amended by adding at the end the following new subsection:

“(f) TECHNOLOGY DEVELOPMENT GRANTS.—To the extent and in the amount provided in advance in appropriations acts, the Secretary may make grants to any organization or entity (not including for-profit entities) for the development of technologies that will facilitate the prevention of pipeline damage caused by demolition, excavation, tunneling, or construction activities, with emphasis on wireless and global positioning technologies having potential for use in connection with notification systems and underground facility locating and marking services. Funds provided under this subsection may not be used for lobbying or in direct support of litigation. The Secretary may also support such technology development through cooperative agreements with trade associations, academic institutions, and other organizations.”

(e) PUBLIC EDUCATION AND AWARENESS.—

(1) AMENDMENT.—Chapter 61 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 6109. Public education and awareness

“(a) GRANT AUTHORITY.—The Secretary shall make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$1,000,000 for fiscal year 2007 for carrying out this section.”.

(2) CONFORMING AMENDMENT.—The table of sections of chapter 61 of title 49, United States Code, is amended by adding at the end the following new item:

“6109. Public education and awareness.”.

(f) SAFETY ORDERS.—Section 60117(l) is amended to read as follows:

“(l) SAFETY ORDERS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Pipeline Safety and Improvement Act of 2006, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action, to remedy that condition.

“(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Secretary shall, if relevant, and pursuant to the regulations issued under paragraph (1), consider—

“(A) the considerations specified in section 60112(b);

“(B) the likelihood that the condition will impair the serviceability of a pipeline;

“(C) the likelihood that the condition will worsen over time; and

“(D) the likelihood that the condition is present or could develop on other areas of the pipeline.”.

(g) INTEGRITY PROGRAM ENFORCEMENT.—Section 60109(c)(9)(A)(iii) is amended to read as follows:

“(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), has not been adequately implemented, or is inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under sections 60108(a), 60112, 60118(a) and (b), 60120, 60122, or any other section of this chapter.”.

(h) LOW-STRESS PIPELINES.—Section 60102(k) is amended to read as follows:

“(k) LOW-STRESS HAZARDOUS LIQUID PIPELINES.—

“(1) MINIMUM STANDARDS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2006, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. The regulations issued under this paragraph shall not apply to gathering lines.

“(2) GENERAL PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

“(3) LIMITED EXCEPTIONS.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

“(A) are subject to safety regulations of the United States Coast Guard;

or

“(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation,

until regulations issued under paragraph (1) become effective, after which the Secretary may retain or remove those exceptions as appropriate.

“(4) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

“(5) DEFINITION.—For purposes of this subsection, the term ‘low-stress hazardous liquid pipeline’ means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

“(6) EFFECTIVE DATE.—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.”

(i) CORROSION CONTROL REGULATIONS.—The Secretary of Transportation, in consultation with the Technical Hazardous Liquid Pipeline Safety Standards Committee and other appropriate entities, shall review the internal corrosion control regulations set forth in subpart H of part 195 of title 49 of the Code of Federal Regulations to determine if such regulations are currently adequate to ensure that the pipeline facilities subject to such regulations will not present a hazard to public safety or the environment. The Secretary shall submit a report to the Congress within one year after the date of enactment of this Act containing the results of such review, and may modify such regulations if necessary and appropriate.

(j) CRITICAL ENERGY INFRASTRUCTURE STUDY.—The Secretary of Energy, in consultation with the Secretary of Transportation, shall analyze the domestic transport of crude oil and other petroleum products by pipeline. Such analysis shall identify areas where reliability concerns exist or where failure or unplanned loss of individual pipeline facilities may cause shortages of crude oil or other petroleum products or price disruptions. Not later than one year after the date of enactment of this Act, the Secretaries shall submit a report to the Congress setting forth their recommendations to reduce the likelihood of such shortages or disruptions.

(k) NATURAL GAS PIPELINES.—The Secretary shall review and comment on the Comptroller General report issued under section 14(d)(1) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60109 note), and not later than 60 days after the date of enactment of this Act, transmit to the Congress any legislative recommendations the Secretary considers necessary and appropriate to implement the conclusions of that report.

(l) TECHNICAL ASSISTANCE GRANTS.—Section 60130 is amended—

(1) in subsection (a)(1) by striking “The Secretary shall establish competitive” and insert “No grants may be awarded under section 60114(e) until the Secretary has established competitive”;

(2) by redesignating paragraph (2) of subsection (a) as paragraph (4);

(3) by inserting after paragraph (1) of subsection (a) the following new paragraphs:

“(2) DEMONSTRATION GRANTS.—At least the first 3 grants awarded under this section shall be demonstration grants for the purpose of demonstrating and evaluating the utility of grants under this section. Each such demonstration grant shall not exceed \$25,000.

“(3) DISSEMINATION OF TECHNICAL FINDINGS.—Each recipient of a grant under this section shall ensure that the technical findings made possible by the grants are made available to the relevant operators, and that open communication between the grant recipients, local operators, local communities, and other interested parties is encouraged.”; and

(4) in subsection (d) by striking “2006” and inserting “2010”.

(m) ENFORCEMENT TRANSPARENCY.—(1) Chapter 601, as amended by this section, is amended by adding at the end the following new section:

“§ 60135. Enforcement transparency

“(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall—

“(1) provide a monthly updated summary to the public of all gas and hazardous liquid pipeline enforcement actions taken by the Secretary or the Pipeline and Hazardous Materials Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final. Each summary shall include identification of the operator involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

“(2) provide a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

“(b) ELECTRONIC POSTING.—Each summary required under this section shall be made available to the public via posting by electronic means.

“(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that would be exempt from disclosure under sec-

tion 552 of title 5, United States Code (commonly known as the Freedom of Information Act).”

(2) In the table of sections of chapter 601, as amended by this section, the following item is added at the end:

“60135. Enforcement transparency.”

(n) **COST REIMBURSEMENTS.**—Section 60117 is amended by adding at the end the following new subsection:

“(m) **COST RECOVERY FOR DESIGN REVIEWS.**—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a liquefied natural gas pipeline facility, the Secretary may require the person requesting such reviews to pay the associated staff costs relating to such reviews incurred by the Secretary, such funds to be deposited into the pipeline safety fund. Funds deposited pursuant to this section are authorized to be appropriated for the purposes set forth in section 60301(d). The Secretary may assess such costs in any reasonable manner.”

(o) **DIRECT LINE SALES.**—Section 60101(a) is amended—

(1) by amending paragraph (6) to read as follows:

“(6) ‘interstate gas pipeline facility’ means a gas pipeline facility—

“(A) used to transport gas; and

“(B) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);” and

(2) by amending paragraph (9) to read as follows:

“(9) ‘intrastate gas pipeline facility’ means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);”

SEC. 3. DISTRIBUTION INTEGRITY MANAGEMENT PROGRAM RULEMAKING DEADLINE.

Section 60109 of title 49, United States Code, is amended by adding at the end the following:

“(e) **DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.**—Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.”

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 60125(a) is amended to read as follows:

“(a) **GAS AND HAZARDOUS LIQUID.**—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Secretary, from fees collected under section 60301 in each respective year, and from the Oil Spill Liability Trust Fund:

“(1) For fiscal year 2007, \$55,497,000, of which \$39,872,000 shall be from fees and \$15,625,000 shall be from the Fund.

“(2) For fiscal year 2008, \$57,997,000, of which \$42,651,000 shall be from fees and \$15,346,000 shall be from the Fund.

“(3) For fiscal year 2009, \$60,482,000, of which \$44,839,000 shall be from fees and \$15,643,000 shall be from the Fund.

“(4) For fiscal year 2010, \$62,375,000, of which \$46,444,000 shall be from fees and \$15,931,000 shall be from the Fund.”

(b) Section 60125(b)(1) is amended to read as follows:

“(1) To carry out section 60107, the following amounts are authorized to be appropriated to the Secretary, from fees collected under section 60301 in each respective year, and from the Oil Spill Liability Trust Fund:

“(A) For fiscal year 2007, \$20,238,000, of which \$17,053,000 shall be from fees and \$3,185,000 shall be from the Fund.

“(B) For fiscal year 2008, \$23,221,000, of which \$19,567,000 shall be from fees and \$3,654,000 shall be from the Fund. Of the amount appropriated, \$1,500,000 shall be available for fiscal year 2008 for the grants to States authorized in section 60134.

“(C) For fiscal year 2009, \$24,513,000, of which \$20,656,000 shall be from fees and \$3,857,000 shall be from the Fund. Of the amount appropriated, \$1,750,000 shall be available for fiscal year 2009 for the grants to States authorized in section 60134.

“(D) For fiscal year 2010, \$25,855,000, of which \$21,786,000 shall be from fees and \$4,069,000 shall be from the Fund. Of the amount appropriated, \$2,000,000 shall be available for fiscal year 2010 for the grants to States authorized in section 60134.”

(c) Section 60125(c) is repealed.

(d) Subsections (d) and (e) of section 60125 are redesignated as subsections (c) and (d), respectively.

(e) Section 60125(c)(2), as so redesignated by subsection (d) of this section, is amended by striking “2003 through 2006” and inserting “2007 through 2010”.

(f) Section 6105(c)(2) is amended by striking “fiscal years 2003 through 2006” and inserting “fiscal years 2007 through 2010”.

(g) Section 6107 is amended—

(1) in subsection (a), by striking “fiscal years 2003 through 2006” and inserting “fiscal years 2007 through 2010”; and

(2) in subsection (b), by striking “for fiscal years 2003 through 2006” and inserting “for fiscal years 2007 through 2010”.

SEC. 5. INCIDENT REPORTING.

(a) AMENDMENT.—Chapter 601 is amended by adding at the end the following section:

“§ 60136. Incident reporting

“Not later than 12 months after date of enactment of this section, the Secretary shall review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data gathered accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO report 06-946.”.

(b) TECHNICAL AMENDMENT.—In the table of sections of chapter 601, the following item is added at the end:

“60136. Incident reporting.”.

PURPOSE AND SUMMARY

The purpose of H.R. 5782 is to reauthorize the pipeline safety laws, Subtitle VIII of Title 49, U.S.C. and to provide for new authorities.

BACKGROUND AND NEED FOR LEGISLATION

Nearly half a million miles of crude oil, petroleum product, and natural gas transmission pipelines cross the United States. These pipelines feed critical infrastructure, such as power plants, airports, and military bases. While an efficient and fundamentally safe means of transport, many pipelines carry volatile or flammable material, with the potential, if not managed safely, to cause public injury and environmental damage.

The Department of Transportation (DOT) is the lead Federal regulator of pipeline safety. DOT administers pipeline regulations through the Office of Pipeline Safety (OPS) within the Pipelines and Hazardous Material Safety Administration (PHMSA). The Transportation Security Administration at the Department of Homeland Security is responsible for security (P.L. 107–71 transferred pipeline security from OPS to TSA, and P.L. 107–296 transferred TSA from DOT to DHS).

The Pipeline Safety Improvement Act of 2002 (the Act) improved pipeline safety and provided for pipeline safety education programs. Authorizations for programs that fall under the Act expire in 2006. The Committee notes that PHMSA has made progress in achieving every mandate set forth in the Pipeline Safety Improvement Act (PSIA) of 2002, and the agency has done so in a timely manner. Over the past five years, the agency has responded positively to 46 NTSB safety recommendations and is working to close the three recommendations remaining from the pre-2002 environment. The Government Accountability Office (GAO) recently closed eight pipeline safety recommendations; six in enforcement, and two in research and development. However, challenges still remain and improvements can be made to the pipeline safety program.

When comparing the years 2001–2005 to the previous five-year period of 1996–2000, the rate of hazardous liquid pipeline accidents has declined by 18 percent. In addition, by 2005 the volume of significant oil spills decreased by 34 percent from the previous 10 year average, and the 10-year average volume of net spills for the same period decreased 36 percent. While much advancement has been made, concerns about other causes of pipeline accidents and damage continue to exist. Urbanization of previously rural areas is placing people closer to pipelines. Expansion and development also means more construction activity near pipelines. It should come as no surprise therefore, that third party excavation damage is a leading cause of pipeline accidents. To address the increasing risks associated with the damage prevention process, this legislation seeks to encourage the States to adopt and enforce more stringent procedures for all parties involved in the process. The State programs authorized under this legislation require excavators to use a one call notification system to identify pipelines marked before construction activity begins and also requires pipeline operators to follow through and take reasonable steps to mark their pipelines upon notice of excavation activity. In addition, the language contains a requirement to call 911 if any damage results to a pipeline from construction or excavation activity that causes a release of toxic, flammable or corrosive gas or liquid.

In addition, on March 2, 2006, a leak was discovered on a BP oil transit line in Prudhoe Bay, on Alaska's North Slope. The spill was estimated at 250,000 gallons making it the largest spill in the history of North Slope oil production. The Department of Transportation issued a Corrective Action Order (CAO) which required the operator to inspect the line that failed, as well as several others. In August of this year anomalies found in these lines as a result of the required testing resulted in the temporary shut-in of America's largest producing oil field or approximately 8 percent of domestic production.

While the DOT reacted quickly by issuing a CAO bringing these lines under their jurisdiction, prior to the spill the lines were unregulated by the Federal government because they operated at low internal stress. Historically, low-stress lines have been assumed to be low-risk lines due to the lower pressure at which they operate. However, there has been a gradual understanding since an accident in 1990 that the regulatory gap that has existed for low-stress lines needed to be closed and this bill accomplishes that objective.

Another area of pipeline safety regulation that needed attention was the transparency of DOT's enforcement actions against operators. The Committee has had a longstanding concern that the DOT's enforcement actions were not well understood or resulted in a complete accounting of the fines and penalties proposed and collected. These concerns were substantiated by a GAO study released in July 2004. While the GAO declared in hearings before the Subcommittee on Energy and Air Quality that the DOT's enforcement performance had improved, the Committee continues to monitor the situation and has included a provision in the bill on enforcement transparency that will hopefully provide timely and accurate information on enforcement proceedings to all interested parties.

HEARINGS

The Subcommittee on Energy and Air Quality held two hearings on pipeline safety laws in the 109th Congress. The first hearing, "Pipeline Safety: A Progress Report since the Enactment of the Pipeline Safety Act of 2002" was held on April 27, 2006. The Subcommittee received testimony from Stacy L. Gerard, Acting Administrator/Chief Safety Officer, Pipeline and Hazardous Materials Administration, U.S. Department of Transportation; Theodore Alves, Principal Assistant Inspector General for Audit and Evaluation, Office of Inspector General, U.S. Department of Transportation; Robert Chipkevich, Director, Office of Railroad, Pipeline, and Hazardous Materials Investigations, National Transportation Safety Board; Katherine Siggerud, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; The Honorable Donald L. Mason, Commissioner, Public Utilities Commission of Ohio, on behalf of the National Association of Regulatory Utility Commissioners; Massoud Tahamtani, Director, Division of Utility and Railroad Safety, Virginia State Corporation Commission, on behalf of the National Association of Pipeline Safety Representatives; Edmund F. Bender Jr., Vice President, Gas Distribution and New Business Division, Baltimore Gas and Electric Company, on behalf of the American Gas Association; Jeryl L. Mohn, Senior Vice President, Operations and Engineering, Panhandle Energy, on behalf of the Interstate Natural Gas Association of America; Timothy C. Felt, President and CEO, Explorer Pipeline Company, on behalf of the Association of Oil Pipe Lines; Lois N. Epstein P.E., Senior Engineer, Oil and Gas Industry Specialist, Cook Inlet Keeper, on behalf of the Pipeline Safety Trust; and Bob Kipp, President, Common Ground Alliance.

The second hearing, "Discussion Draft on the Pipeline Safety Improvement Act of 2006 and H.R. 5782" was held on July 27, 2006. The Subcommittee received testimony from the Honorable Thomas J. Barrett, Administrator, Pipeline and Hazardous Materials Administration, U.S. Department of Transportation; the Honorable Donald L. Mason, Commissioner, Public Utilities Commission of Ohio, on behalf of the National Association of Regulatory Utility Commissioners; Ronald W. Jibson, Vice President, Operations, Questar Gas, on behalf of the American Gas Association; Jeryl L. Mohn, Senior Vice President, Operations and Engineering, Panhandle Energy, on behalf of the Interstate Natural Gas Association of America; Timothy C. Felt, President and CEO, Explorer Pipeline Company, on behalf of the Association of Oil Pipe Lines; Lois N. Epstein P.E., Senior Engineer, Oil and Gas Industry Specialist, Cook Inlet Keeper.

COMMITTEE CONSIDERATION

On September 27, 2006, the Committee on Energy and Commerce met in open markup session and ordered H.R. 5782 favorably reported to the House, amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion

to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 5782 reported. A motion by Mr. Barton to order H.R. 5782 favorably reported to the House, amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative and oversight hearings and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 5782 is to reauthorize the pipeline safety laws, Subtitle VII of Title 49, U.S.C., and provides for new authorities.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5782, the Pipeline Safety Improvement Act of 2006, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK

In compliance with H. Res. 1000 as passed the House of Representatives on September 14, 2006, the Committee finds that H.R. 5782, the Pipeline Safety Improvement Act of 2006, contains no earmarks.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

NOVEMBER 9, 2006.

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5782, the Pipeline Safety Improvement Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gregory Waring (for

federal costs), Sarah Puro (for the state and local impact), and Fatimot Ladipo (for the private-sector impact).

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 5782—Pipeline Safety Improvement Act of 2006

Summary: The Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT) oversees the safety of pipelines that transport gas or hazardous liquids and provides grants to states for programs to ensure pipeline safety. For these activities, H.R. 5782 would authorize gross appropriations of about \$330 million over the 2007–2010 period. Under the bill, about \$253 million of those appropriations would be offset by the collection of fees paid by pipeline operators over the four-year period. In addition, CBO estimates that the bill would authorize PHMSA to collect almost \$5 million over the 2007–2010 period to recover its costs of conducting pipeline design reviews. The agency would be authorized to spend these collections over the 2007–2011 period for its pipeline safety activities, assuming appropriation of the necessary amounts.

The bill also would authorize the appropriation of \$24 million over the 2007–2010 period for PHMSA to provide grants to local governments for emergency management and would authorize the appropriations of \$11 million over the same period for grants to state programs that help excavators coordinate their work with the operators of underground pipelines, grants to local communities to improve pipeline safety, technical assistance, and public awareness. Finally, CBO estimates that preparing certain studies and rules required by the bill would cost about \$1 million over the 2007–2011 period.

CBO estimates that implementing H.R. 5782 would have a net cost of \$98 million over the 2007–2011 period. Enacting the bill would not affect direct spending and would have an insignificant effect on revenues.

H.R. 5782 contain intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate costs to state, local, and tribal governments, while uncertain, likely would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

H.R. 5782 contains private-sector mandates, as defined in UMRA, on operators of distribution and transmission pipelines for natural gas or liquids by increasing user fees, authorizing a new fee, and imposing new safety standards. Since some of the mandates in the bill would require the Department of Transportation to prescribe new safety standards for which information currently is not available, CBO cannot determine the direct costs of complying with all of the mandates in the bill or whether the total costs would exceed the annual threshold established by UMRA (\$128 million for private-sector mandates in 2006, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5782 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION					
Pipeline Safety Spending Under Current Law:					
Estimated Net Budget Authority	0	0	0	0	0
Estimated Outlays	34	10	2	0	0
Proposed Changes: ¹					
Estimated Net Authorization Level	29	28	28	29	0
Estimated Net Outlays	-15	15	23	26	49
Pipeline Safety Spending Under H.R. 5782:					
Estimated Authorization Level	29	28	28	29	0
Estimated Outlays	19	25	25	26	49

¹The amounts shown are the difference between the bill's authorized funding levels, estimated outlays, and estimated fee collections for each year.

Basis of estimate: For this estimate, CBO assumes that H.R. 5782 will be enacted early in fiscal year 2007 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. 5782 would cost \$98 million over the 2007–2011 period. This estimate includes net spending of about \$63 million for PHMSA's pipeline safety programs, reflecting the difference between gross authorized appropriations of about \$330 million over the 2007–2010 period and authorized collections of almost \$253 million from pipeline user fees over the same period. The gross authorization for those activities would average more than \$80 million a year, and the fees would average more than \$60 million a year. By comparison, the gross appropriation for pipeline safety activities was \$72 million in 2006, and fee collections totaled almost \$58 million that year. In addition, the bill would authorize the appropriation of nearly \$35 million for grants to states and nonprofit organizations.

Also, the bill would permit the administration to charge fees to operators of certain pipeline facilities that require a design review by PHMSA as a part of their application to construct, expand, or operate a liquefied natural gas pipeline facility. Under current law, the administration charges fees to existing pipeline operators. The bill would allow PHMSA to charge fees to entities proposing to construct a new facility or expand an existing operation. Based on PHMSA's review of three to five applications per year, CBO estimates that the administration would collect almost \$5 million over the 2007–2010 period. Assuming appropriation of the necessary amounts, PHMSA would then spend the almost \$5 million over the 2007–2011 period for its pipeline safety activities.

H.R. 5782 would impose civil penalties on any person who excavates in areas containing pipeline facilities without verifying the location of the pipelines or any person who fails to heed location information provided at the site. Collections of penalties are recorded in the budget as revenues. CBO expects that implementing the new penalties authorized by this legislation would increase revenues by less than \$500,000 a year.

Estimated impact on state, local, and tribal governments: H.R. 5782 contains intergovernmental mandates as defined in UMRA because it would impose new safety standards for pipeline operators, some of which are publicly operated. While the aggregate costs of complying with these new standards is uncertain, based on

information from government and industry sources, CBO estimates that the costs would not be significant and would not exceed the threshold established in UMRA.

Other provisions of the bill would authorize \$126 million in grants over five years for which states and local governments would be eligible to apply.

Estimated impact on the private sector: H.R. 5782 contains private-sector mandates, as defined in UMRA, on operators of distribution and transmission pipelines for natural gas or liquids by increasing user fees, authorizing a new fee and imposing new safety standards. Because many of those mandates would require DOT to prescribe new safety standards for which information currently is not available, CBO cannot determine the direct costs of complying with all of the mandates in the bill or whether the total cost would exceed the annual threshold established by UMRA (\$128 million for private-sector mandates in 2006, adjusted annually for inflation).

Pipeline fees

Section 2 contains a mandate on gas and liquid transmission pipeline operators. Under current law, the Secretary collects fees from pipeline operators to offset a large portion of its gross appropriations. The provisions in this section would authorize the Secretary of Transportation to increase the pipeline safety user fee assessed to those operators. In general, the amount of fees collected under the bill would depend on the level of future appropriations. CBO expects that the annual fees collected over the 2007–2010 period would be higher than they were in previous years and that the fees collected would average more than \$60 million a year over that period. By comparison, CBO estimates that fee collections in 2006 will total \$58 million.

The bill also would authorize the Secretary to charge pipeline operators a fee to cover the cost of conducting a safety review of their facility design, which is required as part of their application to construct, expand or operate a liquefied natural gas pipeline facility. CBO estimates that operators would pay almost \$5 million in such fees over the 2007–2010 period.

New safety standards

In addition, the bill would impose new safety standards on both liquid and natural gas pipeline operators. Under the bill, liquid pipeline operators would be required to abide by new low-stress pipeline requirements, and natural gas pipeline operators would be required to abide by new distribution integrity management requirements. Since several of the safety requirements in the bill hinge on future regulatory action, CBO cannot estimate the cost of those mandates.

Previous CBO estimate: On September 13, 2006, CBO transmitted a cost estimate for H.R. 5782, the Pipeline Safety Improvement Act of 2006, as ordered reported by the House Committee on Transportation and Infrastructure on July 19, 2006. The two bills authorize some different activities and different levels of net funding for the PHMSA.

Both versions of H.R. 5782 would impose new federal standards for operators of pipelines. The Transportation and Infrastructure

Committee's version of the bill, however, also would require operators of natural gas pipelines to make certain equipment changes and to comply with new reporting requirements. Neither bill contains intergovernmental mandates that would exceed the threshold established in UMRA.

The two versions of the bill contain similar private-sector mandates. Both versions would require pipeline operators to pay more in fees and comply with new safety standards. Because the safety standards imposed would depend on how future regulators would be implemented, CBO cannot determine whether the aggregate costs in either version of H.R. 5782 would exceed UMRA's annual threshold for private-sector mandates.

Estimate prepared by: Federal Costs: Gregory Waring. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title, amendment of Title 49, United States Code; table of contents

Section 1 establishes the short title as the "Pipeline Safety Improvement Act of 2006"; provides for an amendment to Title 49, United States Code, and provides the table of contents.

Section 2. Pipeline safety and damage prevention

Section 2(a) adds new Federal requirements to existing one call civil enforcement provisions in Section 60114 for a person who engages in demolition, excavation, tunneling, or construction activity. The section requires such person to first contact the State's one call notification system to establish the location of underground dis-

tribution pipelines in the demolition, construction, excavation or tunneling area and requires such person to not disregard the markings established by the operator as required by current law in subsection (b). It also requires such person to take reasonable steps to ensure safe demolition activity to prevent damage to a pipeline. Finally, it requires such person to promptly report damage that may endanger life or cause serious bodily harm to the pipeline operator, and if the damage results in the escape of any flammable, toxic or corrosive gas or liquid, to promptly report to other appropriate authorities by calling the 911 emergency telephone number.

In addition, section 2 contains a limitation on Federal enforcement of this provision within the boundaries of a State that has the authority to impose penalties, unless the DOT Secretary has determined that the State's enforcement is inadequate to protect safety. The section also amends 60122(a)(1) to apply and conform to this new authority. Current law already provides adequate federal criminal enforcement authority, which is not limited to enforcement against operators.

Section 2(b) amends Section 60105(b) addressing the State Pipeline Safety Program Certification requirements to modify the requirement for States to show they are encouraging, promoting, and establishing State programs designed to prevent damage by demolition, excavation, tunneling, or construction activity, with appropriate, enforceable penalties. In addition, section 2(b) adds a new Section 60134.

Section 60134. State damage prevention programs

New Section 60134 establishes a grant program for States that have an effective damage prevention program in place that includes 9 elements, adopted from successful State programs, such as Virginia, or for States that are making substantial progress towards establishing such a program.

The 9 elements focus on partnerships and open participation by operators, excavators, and other stakeholders in the development of methods for establishing and maintaining effective communication from receipt of notification of a construction or related activity through completion of such activity. Other elements of the 9 point plan to be adopted by States include focus on public education, dispute resolution, internal performance measures, enforcement, and review provisions.

Section 2(c) amends Section 60107(a) to authorize the Secretary of Transportation to pay for up to 80 percent of the cost of personnel, equipment, and activities the State authority requires during the calendar year. The current limit in PSIA is 50 percent.

Section 2(d) adds a new subsection to Section 60114 to authorize the Secretary to make grants to an organization or entity for the development of technologies that will facilitate the prevention of pipeline damage caused by demolition, tunneling, excavation, or construction activities, with emphasis on wireless and global positioning technologies having potential for use in connection with notification systems and underground facility locating and marking services.

Section 2(e) amends Chapter 61 of Title 49 on One Call Notification Programs.

Section 6109. Public education and awareness

New Section 6109 authorizes the Secretary to make a one time grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

Section 2(f) amends Section 60117(l) to authorize the Secretary to issue regulations within one year to add a requirement for notice and opportunity for hearing and to further specify the conditions for the Secretary to utilize the safety order authority when there is a condition that poses a pipeline integrity risk to public safety, property or the environment. Section 2(f) establishes further considerations for the Secretary in making the determination and in issuing regulations and allows the Secretary to order the operator of a facility to take necessary corrective action, including physical inspection, testing, or repair, to remedy that condition.

Section 2(g) amends the existing Integrity Enforcement Management Program plans and procedures enforcement provision to clarify that PHMSA may take any appropriate enforcement action under Title 49 when it determines the operator's Integrity Management Plan (IMP) is inadequate, including compliance orders, assessment of civil penalties, or any other provision under this chapter.

Section 2(h) amends Section 60102(k) to require the Secretary to issue regulations subjecting low stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except for the limited exceptions provided for in this section. The regulations issued under this paragraph shall not apply to gathering lines. Section 2(f) defines a low stress hazardous liquid pipeline as a line that is operating in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe. The Secretary shall provide or continue in force exceptions for low-stress hazardous liquid pipelines that are subject to safety regulations of the United States Coast Guard, or serve refining, manufacturing, or truck, rail or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation until the regulations become effective. After such regulations become effective, the Secretary may retain or remove those exemptions as appropriate. The requirements of this section do not take effect until the effective date of the rules promulgated by the Secretary.

Section 2(i) requires DOT to review, in consultation with the Technical Hazardous Liquid Pipeline Safety Standards Committee and other appropriate entities, the internal corrosion control regulations for hazardous liquid pipelines under Part 195 CFR Subpart H. The Secretary shall submit a report to the Congress within one year after the date of enactment containing the results of such review, and may modify regulations if necessary and appropriate.

Section 2(j) requires DOE, in consultation with DOT, to review and analyze the domestic transport of crude oil and other petroleum products by pipeline and identify areas where reliability concerns exist or where failure or unplanned loss of individual pipeline facilities may cause shortages of crude oil, petroleum products or price disruptions. Not later than one year after the date of enactment of this Act, the Secretaries shall submit a report to the Con-

gress setting forth their recommendations to reduce the likelihood of such shortages or disruptions.

Section 2(k) requires the Secretary to review and comment on the Comptroller General report issued under Section 14(d)(1) of the Pipeline Safety Improvement Act of 2002 (40 U.S.C. 60109 note), and not later than 60 days after the date of enactment of this Act, transmit to the Congress any legislative recommendations the Secretary considers necessary and appropriate to implement the conclusions of that report.

Section 2(l) amends Section 60130 to require the Secretary to establish competitive procedures for awarding grants under this section. Section 2(l) further establishes requirements for at least the first 3 grants awarded under this section to be demonstration grants for evaluating the utility of grants under this section, not to exceed \$25,000. It also requires each recipient of a grant under this section to ensure the technical findings made possible by the grants are made available to the relevant operators, local communities, and other parties and that open communication between the grant recipients and local operators and communities is encouraged.

Section 2(m) adds a new Section 60135 to Chapter 601.

Section 60135. Enforcement transparency

New Section 60135 requires the Secretary, within 12 months after the date of enactment, to provide a monthly updated summary to the public of all gas and liquid pipeline enforcement actions taken by the Secretary or PHMSA, from the time a notice commencing an action is issued until the enforcement action is final. Includes minimum requirements for the summaries to contain, including identification of the operator, penalties proposed, alleged violation, final assessment amount, and the reasons for a reduction in the penalty, if any. New Section 60135 also provides a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public. A section on electronic posting is also included, as well as FOIA protections.

Section 2(n) amends Section 60117 to add a new subsection (n) to authorize PHMSA to receive compensation from project applicants for facility design reviews that the agency performs for proposed LNG facilities.

Section 2(o) modifies the definitions of “interstate gas pipeline facility” and “intrastate gas pipeline facility” such that direct sales laterals are no longer excluded from the Federal pipeline safety requirements.

Section 3. Distribution integrity management program rulemaking deadline

Section 3 amends Section 60109 to require the Secretary to prescribe minimum standards for integrity management programs for distribution pipelines.

Section 4. Authorization of appropriations

Section 4 amends Section 60125(a) to reauthorize amounts to be appropriated as directed by the Secretary, from fees collected under

Section 60301 from 2007–2010, and from the Oil Spill Liability Trust Fund. Section 4 also amends Section 60125(b)(1) to carry out Section 60107, and from the Oil Spill Liability Trust Fund and makes other conforming changes.

Section 5. Incident reporting

Section 5 requires the Secretary to, not later than 12 months after enactment, review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO Report 06–946.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

* * * * *

CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

Sec.

6101. Purposes.

* * * * *

6109. *Public education and awareness.*

* * * * *

§ 6105. Implementation of best practices guidelines

(a) * * *

* * * * *

(c) GRANTS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection \$500,000 for each of [fiscal years 2003 through 2006] *fiscal years 2007 through 2010*. Such sums shall remain available until expended.

* * * * *

§ 6107. Authorization of appropriations

(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section

6106 \$1,000,000 for each of [fiscal years 2003 through 2006] *fiscal years 2007 through 2010.*

(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 [for fiscal years 2003 through 2006] *for fiscal years 2007 through 2010.*

* * * * *

§ 6109. Public education and awareness

(a) GRANT AUTHORITY.—*The Secretary shall make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.*

(b) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to the Secretary \$1,000,000 for fiscal year 2007 for carrying out this section.*

* * * * *

SUBTITLE VIII—PIPELINES

* * * * *

CHAPTER 601—SAFETY

Sec.

60101. Definitions.

* * * * *

60134. *State damage prevention programs.*

60135. *Enforcement transparency.*

60136. *Incident reporting.*

§ 60101. Definitions

(a) GENERAL.—In this chapter—

(1) * * *

* * * * *

[(6) “interstate gas pipeline facility”—

[(A) means a gas pipeline facility—

[(i) used to transport gas; and

[(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

[(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;]

(6) “interstate gas pipeline facility” means a gas pipeline facility—

(A) used to transport gas; and

(B) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);

* * * * *

[(9) “intrastate gas pipeline facility” means—

[(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Com-

mission under the Natural Gas Act (15 U.S.C. 717 et seq.); and

[(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;]

(9) “intrastate gas pipeline facility” means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);

* * * * *

§ 60102. Purpose and general authority

(a) * * *

* * * * *

[(k) PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress.]

(k) *LOW-STRESS HAZARDOUS LIQUID PIPELINES.—*

(1) *MINIMUM STANDARDS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2006, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. The regulations issued under this paragraph shall not apply to gathering lines.*

(2) *GENERAL PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.*

(3) *LIMITED EXCEPTIONS.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—*

(A) *are subject to safety regulations of the United States Coast Guard; or*

(B) *serve refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation,*

until regulations issued under paragraph (1) become effective, after which the Secretary may retain or remove those exceptions as appropriate.

(4) *RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.*

(5) *DEFINITION.—For purposes of this subsection, the term “low-stress hazardous liquid pipeline” means a hazardous liquid pipeline that is operated in its entirety at a stress level of*

20 percent or less of the specified minimum yield strength of the line pipe.

(6) *EFFECTIVE DATE.*—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.

* * * * *

§ 60105. State pipeline safety program certifications

(a) * * *

(b) *CONTENTS.*—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) * * *

* * * * *

[(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;]

(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);

* * * * *

§ 60107. State pipeline safety grants

(a) *GENERAL AUTHORITY.*—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay [not more than 50 percent] *not more than 80 percent* of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) * * *

* * * * *

§ 60109. High-density population areas and environmentally sensitive areas

(a) * * *

* * * * *

(c) *RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.*—

(1) * * *

* * * * *

(9) *REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.*—

(A) *REVIEW OF PROGRAMS.*—

(i) * * *

* * * * *

[(iii) *INADEQUATE PROGRAMS.*—If the Secretary determines that a risk analysis or integrity management

program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.】

(iii) *INADEQUATE PROGRAMS.*—*If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), has not been adequately implemented, or is inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under sections 60108(a), 60112, 60118(a) and (b), 60120, 60122, or any other section of this chapter.*

* * * * *

(e) *DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.*—*Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.*

* * * * *

§ 60114. One-call notification systems

(a) * * *

* * * * *

(d) *PROHIBITION.*—*A person who engages in demolition, excavation, tunneling, or construction—*

(1) *may not engage in such demolition, excavation, tunneling, or construction activity in a State that has adopted a one-call notification system without first using that system to establish the location of underground facilities in the demolition, excavation, tunneling, or construction area;*

(2) *may not engage in such demolition, excavation, tunneling, or construction activity in disregard of location information or markings established by a pipeline facility operator pursuant to subsection (b);*

(3) *may not fail to take reasonable steps to ensure safe demolition, excavation, tunneling, or construction to prevent damage to a pipeline; and*

(4) *if the person damages, or becomes aware of damage to, a pipeline facility and such damage may endanger life or cause serious bodily harm or damage to property, may not fail to promptly report the damage to the owner or operator of the facility and, if the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, may not fail to promptly report to other appropriate authorities by calling the 911 emergency telephone number.*

(e) *LIMITATION.*—*The Secretary may not conduct an enforcement proceeding under subsection (d) within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State’s damage prevention laws, unless the Secretary has determined that the State’s en-*

forcement is inadequate to protect safety, consistent with this chapter.

(f) *TECHNOLOGY DEVELOPMENT GRANTS.*—To the extent and in the amount provided in advance in appropriations acts, the Secretary may make grants to any organization or entity (not including for-profit entities) for the development of technologies that will facilitate the prevention of pipeline damage caused by demolition, excavation, tunneling, or construction activities, with emphasis on wireless and global positioning technologies having potential for use in connection with notification systems and underground facility locating and marking services. Funds provided under this subsection may not be used for lobbying or in direct support of litigation. The Secretary may also support such technology development through cooperative agreements with trade associations, academic institutions, and other organizations.

* * * * *

§ 60117. Administrative

(a) * * *

* * * * *

[(1) *SAFETY ORDERS.*—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.]

(l) *SAFETY ORDERS.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Pipeline Safety and Improvement Act of 2006, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action, to remedy that condition.

(2) *CONSIDERATIONS.*—In making a determination under paragraph (1), the Secretary shall, if relevant, and pursuant to the regulations issued under paragraph (1), consider—

(A) the considerations specified in section 60112(b);

(B) the likelihood that the condition will impair the serviceability of a pipeline;

(C) the likelihood that the condition will worsen over time; and

(D) the likelihood that the condition is present or could develop on other areas of the pipeline.

(m) *COST RECOVERY FOR DESIGN REVIEWS.*—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a liquefied natural gas pipeline facility, the Secretary may require the person requesting such reviews to pay the associated staff costs relating to such reviews incurred by the Secretary, such funds to be deposited into the pipeline safety fund. Funds deposited pursuant to this section are authorized to be

appropriated for the purposes set forth in section 60301(d). The Secretary may assess such costs in any reasonable manner.

* * * * *

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section ~~【60114(b)】~~ *60114(b) or (d)* or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$100,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$1,000,000.

* * * * *

§ 60125. Authorization of appropriations

~~【(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:~~

~~【(1) \$45,800,000 for fiscal year 2003, of which \$31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.~~

~~【(2) \$46,800,000 for fiscal year 2004, of which \$35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.~~

~~【(3) \$47,100,000 for fiscal year 2005, of which \$41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.~~

~~【(4) \$50,000,000 for fiscal year 2006, of which \$45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.】~~

~~(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Secretary, from fees collected under section 60301 in each respective year, and from the Oil Spill Liability Trust Fund:~~

~~(1) For fiscal year 2007, \$55,497,000, of which \$39,872,000 shall be from fees and \$15,625,000 shall be from the Fund.~~

~~(2) For fiscal year 2008, \$57,997,000, of which \$42,651,000 shall be from fees and \$15,346,000 shall be from the Fund.~~

~~(3) For fiscal year 2009, \$60,482,000, of which \$44,839,000 shall be from fees and \$15,643,000 shall be from the Fund.~~

~~(4) For fiscal year 2010, \$62,375,000, of which \$46,444,000 shall be from fees and \$15,931,000 shall be from the Fund.~~

(b) STATE GRANTS.—【(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

【(A) \$19,800,000 for fiscal year 2003, of which \$14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

[(B) \$21,700,000 for fiscal year 2004, of which \$16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

[(C) \$24,600,000 for fiscal year 2005, of which \$19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

[(D) \$26,500,000 for fiscal year 2006, of which \$21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.]

(1) *To carry out section 60107, the following amounts are authorized to be appropriated to the Secretary, from fees collected under section 60301 in each respective year, and from the Oil Spill Liability Trust Fund:*

(A) *For fiscal year 2007, \$20,238,000, of which \$17,053,000 shall be from fees and \$3,185,000 shall be from the Fund.*

(B) *For fiscal year 2008, \$23,221,000, of which \$19,567,000 shall be from fees and \$3,654,000 shall be from the Fund. Of the amount appropriated, \$1,500,000 shall be available for fiscal year 2008 for the grants to States authorized in section 60134.*

(C) *For fiscal year 2009, \$24,513,000, of which \$20,656,000 shall be from fees and \$3,857,000 shall be from the Fund. Of the amount appropriated, \$1,750,000 shall be available for fiscal year 2009 for the grants to States authorized in section 60134.*

(D) *For fiscal year 2010, \$25,855,000, of which \$21,786,000 shall be from fees and \$4,069,000 shall be from the Fund. Of the amount appropriated, \$2,000,000 shall be available for fiscal year 2010 for the grants to States authorized in section 60134.*

* * * * *

[(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, \$8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.]

[(d)] (c) EMERGENCY RESPONSE GRANTS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$6,000,000 for each of fiscal years [2003 through 2006] 2007 through 2010 to carry out this subsection.

[(e)] (d) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

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§ 60130. Pipeline safety information grants to communities

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the

safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). ~~【The Secretary shall establish competitive】~~ *No grants may be awarded under section 60114(e) until the Secretary has established competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed \$50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.*

(2) *DEMONSTRATION GRANTS.—At least the first 3 grants awarded under this section shall be demonstration grants for the purpose of demonstrating and evaluating the utility of grants under this section. Each such demonstration grant shall not exceed \$25,000.*

(3) *DISSEMINATION OF TECHNICAL FINDINGS.—Each recipient of a grant under this section shall ensure that the technical findings made possible by the grants are made available to the relevant operators, and that open communication between the grant recipients, local operators, local communities, and other interested parties is encouraged.*

~~【(2)】~~ (4) *TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term “technical assistance” means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.*

* * * * *

(d) *AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,000,000 for each of the fiscal years 2003 through ~~【2006】~~ 2010. Such amounts shall not be derived from user fees collected under section 60301.*

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§ 60134. State damage prevention programs

(a) *ELIGIBILITY.—A State authority (including a municipality if the agreement under section 60106(a) or (b) applies to intrastate gas pipeline transportation) shall be eligible for a grant under this section only if—*

(1) it has an annual certification under section 60105 or an agreement under section 60106; and

(2) either—

(A) it is from a State that has an effective damage prevention program that meets the requirements of subsection (b); or

(B) it demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection (b).

(b) *DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:*

(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications among stakeholders from receipt of a notification of demolition, exca-

vation, tunneling, or construction until successful completion of the demolition, excavation, tunneling, or construction, as appropriate.

(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

(4) Participation by operators, excavators, the one-call center, the enforcing agency, and other stakeholders in the development and implementation of effective training programs for the employees of operators, excavators, and locators.

(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

(7) Enforcement of State damage prevention laws and regulations for all aspects of the demolition, excavation, tunneling, or construction process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

(c) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary may make a grant of financial assistance to a State authority that is eligible under this section to assist in improving the overall quality and effectiveness of a damage prevention program of a State. In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

(2) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year, the Secretary of Transportation shall review the State's damage prevention program to determine its effectiveness. For programs determined to be effective, the Secretary may make a grant of financial assistance for the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year to carry out an effective damage prevention enforcement program. A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary. Funds provided under this section may not be used for lobbying or in direct support of litigation.

§ 60135. Enforcement transparency

(a) *IN GENERAL.*—Not later than 12 months after the date of enactment of this section, the Secretary shall—

(1) provide a monthly updated summary to the public of all gas and hazardous liquid pipeline enforcement actions taken by the Secretary or the Pipeline and Hazardous Materials Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final. Each summary shall include identification of the operator involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

(2) provide a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

(b) *ELECTRONIC POSTING.*—Each summary required under this section shall be made available to the public via posting by electronic means.

(c) *RELATIONSHIP TO FOIA.*—Nothing in this section shall be construed to require disclosure of information or records that would be exempt from disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

§ 60136. Incident reporting

Not later than 12 months after date of enactment of this section, the Secretary shall review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data gathered accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO report 06–946.

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