AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5782
OFFERED BY M___.

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 subsection:

“(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 flam-
mable, 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:

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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-
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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 de-
fines 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 demol-
tion, 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:
“(e) 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 out-
side 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 re-
move those exceptions as appropriate.

“(4) RELATIONSHIP TO OTHER LAWS.—Noth-
ing 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 sub-
section, the term ‘low-stress hazardous liquid pipe-
line’ means a hazardous liquid pipeline that is oper-
ated 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 effec-
tive date of the rules promulgated by the Secretary
under this subsection.”.

(i) CORROSION CONTROL REGULATIONS.—The Sec-
retary of Transportation, in consultation with the Tech-
nical Hazardous Liquid Pipeline Safety Standards Com-
mittee and other appropriate entities, shall review the in-
ternal corrosion control regulations set forth in subpart
H of part 195 of title 49 of the Code of Federal Regula-
tions to determine if such regulations are currently ade-
quate 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 Sec-
retary of Transportation, shall analyze the domestic trans-
port of crude oil and other petroleum products by pipeline.
Such analysis shall identify areas where reliability con-
cerns 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 Secre-
taries 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 identifica-
tion of the operator involved in the enforcement ac-
tivity, 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 re-
quired under this section shall be made available to the
public via posting by electronic means.

“(c) RELATIONSHIP TO FOIA.—Nothing in this sec-
tion 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).”.

(2) In the table of sections of chapter 601, as amend-
ed 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 sub-
section:
“(n) 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)(l) 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.”.

(e) Section 60125(e) is repealed.

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

(e) Section 60125(e)(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”.