

[DISCUSSION DRAFT]

JULY 20, 2006

109TH CONGRESS
2D SESSION

H. R. _____

To provide for enhanced safety and environmental protection in pipeline transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide for enhanced safety and environmental protection
in pipeline transportation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

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

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

8 (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. Authorization of appropriations.

9 **SEC. 2. PIPELINE SAFETY AND DAMAGE PREVENTION.**

10 (a) ONE CALL CIVIL ENFORCEMENT.—(1) Section
11 60114 is amended by adding at the end the following new
12 subsection:

13 “(d) PROHIBITION.—A person who engages in demo-
14 lition, excavation, tunneling, or construction—

15 “(1) may not engage in such demolition, exca-
16 vation, tunneling, or construction activity in a State
17 that has adopted a one-call notification system with-
18 out first using that system to establish the location
19 of underground facilities in the demolition, exca-
20 vation, tunneling, or construction area;

21 “(2) may not engage in such demolition, exca-
22 vation, tunneling, or construction activity in dis-
23 regard of location information or markings estab-

1 lished by a pipeline facility operator pursuant to
2 subsection (b);

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

6 “(4) if the person damages, or becomes aware
7 of damage to, a pipeline facility and such damage
8 may endanger life or cause serious bodily harm or
9 damage to property, may not fail to promptly report
10 the damage to the owner or operator of the facility
11 and, if the damage results in the escape of any flam-
12 mable, toxic, or corrosive gas or liquid, may not fail
13 to promptly report to other appropriate authorities
14 by calling the 911 emergency telephone number.”.

15 (2) Section 60122(a)(1) is amended by striking
16 “60114(b)” and inserting “60114(b) or (d)”.

17 (3) Section 60123(a) is amended by striking
18 “60114(b)” and inserting “60114(b) or (d)”.

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

21 “(4) is encouraging and promoting the estab-
22 lishment of a program designed to prevent damage
23 by demolition, excavation, tunneling, or construction
24 activity to the pipeline facilities to which the certifi-
25 cation applies that subjects persons who violate the

1 applicable requirements of that program to civil pen-
2 alties and other enforcement actions that are sub-
3 stantially the same as are provided under this chap-
4 ter, and addresses the elements in section
5 60134(b);”.

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

8 **“§ 60134. State damage prevention programs**

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

13 “(1) has an annual certification under section
14 60105 or an agreement under section 60106; and

15 “(2) is from a State that has an effective dam-
16 age prevention program that meets the requirements
17 of subsection (b).

18 “(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—
19 An effective damage prevention program includes the fol-
20 lowing elements:

21 “(1) Participation by operators, excavators, and
22 other stakeholders in the development and imple-
23 mentation of methods for establishing and maintain-
24 ing effective communications among stakeholders
25 from receipt of a notification of demolition, exca-

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

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

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

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

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

20 “(6) A process for resolving disputes that de-
21 fines the State authority’s role as a partner and
22 facilitator to resolve issues.

23 “(7) Enforcement of State damage prevention
24 laws and regulations for all aspects of the demoli-
25 tion, excavation, tunneling, or construction process,

1 including public education, and the use of civil pen-
2 alties for violations assessable by the appropriate
3 State authority.

4 “(8) A process for fostering and promoting the
5 use, by all appropriate stakeholders, of improving
6 technologies that may enhance communications, un-
7 derground pipeline locating capability, and gathering
8 and analyzing information about the accuracy and
9 effectiveness of locating programs.

10 “(9) A process for review and analysis of the ef-
11 fectiveness of each program element, including a
12 means for implementing improvements identified by
13 such program reviews.

14 “(c) GRANTS TO STATES.—

15 “(1) IN GENERAL.—The Secretary may make a
16 grant of financial assistance to a State authority
17 that is eligible under this section to assist in improv-
18 ing the overall quality and effectiveness of a damage
19 prevention program of a State. In making grants
20 under this section, the Secretary shall take into con-
21 sideration the commitment of each State to ensuring
22 the effectiveness of its damage prevention program,
23 including legislative and regulatory actions taken by
24 the State.

1 “(2) APPLICATION.—If a State authority files
2 an application for a grant under this section not
3 later than September 30 of a calendar year, the Sec-
4 retary of Transportation shall review the State’s
5 damage prevention program to determine its effec-
6 tiveness. For programs determined to be effective,
7 the Secretary may make a grant of financial assist-
8 ance for the cost of the personnel, equipment, and
9 activities the authority reasonably requires during
10 the next calendar year to carry out an effective dam-
11 age prevention enforcement program. A grant made
12 under this section is not subject to the section
13 60107(a) limitation on the maximum percentage of
14 funds to be paid by the Secretary. Funds provided
15 under this section may not be used for lobbying or
16 in direct support of litigation.”.

17 (3) In the table of sections of chapter 601, the fol-
18 lowing item is added at the end:

 “60134. State damage prevention programs.”.

19 (c) STATE PIPELINE SAFETY GRANTS.—Section
20 60107(a) is amended by striking “not more than 50 per-
21 cent” and inserting “not more than 80 percent”.

22 (d) DAMAGE PREVENTION TECHNOLOGY DEVELOP-
23 MENT.—Section 60114 (as amended by this section) is
24 further amended by adding at the end the following new
25 subsection:

1 “(e) TECHNOLOGY DEVELOPMENT GRANTS.—To the
2 extent and in the amount provided in advance in appro-
3 priations acts, the Secretary may make grants to any or-
4 ganization or entity (not including for-profit entities) for
5 the development of technologies that will facilitate the pre-
6 vention of pipeline damage caused by demolition, exca-
7 vation, tunneling, or construction activities, with emphasis
8 on wireless and global positioning technologies having po-
9 tential for use in connection with notification systems and
10 underground facility locating and marking services. Funds
11 provided under this subsection may not be used for lob-
12 bying or in direct support of litigation. The Secretary may
13 also support such technology development through cooper-
14 ative agreements with trade associations, academic institu-
15 tions, and other organizations.”.

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

18 “(l) SAFETY ORDERS.—(1) IN GENERAL.—After no-
19 tice and opportunity for a hearing, if the Secretary deter-
20 mines that a pipeline facility has any condition that poses
21 a risk to public safety, property, or the environment, the
22 Secretary may order the operator of the facility to take
23 necessary corrective action, including physical inspection,
24 testing, repair, replacement, or other appropriate action,
25 to remedy that condition.

1 “(2) CONSIDERATIONS.—In making a determination
2 under paragraph (1), the Secretary shall, if relevant, con-
3 sider—

4 “(A) the considerations specified in section
5 60112(b);

6 “(B) the likelihood that the condition will im-
7 pair the serviceability of a pipeline;

8 “(C) the likelihood that the condition will wors-
9 en over time;

10 “(D) the likelihood that the condition is present
11 or could develop on other areas of the pipeline; and

12 “(E) other factors the Secretary considers ap-
13 propriate.”.

14 (f) INTEGRITY PROGRAM ENFORCEMENT.—Section
15 60109(c)(9)(A)(iii) is amended to read as follows:

16 “(iii) INADEQUATE PROGRAMS.—If
17 the Secretary determines that a risk anal-
18 ysis or integrity management program does
19 not comply with the requirements of this
20 subsection or regulations issued as de-
21 scribed in paragraph (2), has not been ade-
22 quately implemented, or is inadequate for
23 the safe operation of a pipeline facility, the
24 Secretary may conduct proceedings under
25 sections 60108(a), 60112, 60118(a) and

1 (b), 60120, 60122, or any other section of
2 this chapter.”.

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

5 “(k) LOW-STRESS PIPELINES.—

6 “(1) PROHIBITION AGAINST EXCEPTION.—The
7 Secretary may not provide an exception to this chap-
8 ter for a hazardous liquid pipeline facility only be-
9 cause the facility operates at low internal stress.

10 “(2) MINIMUM STANDARDS.—Not later than 1
11 year after the date of enactment of this paragraph,
12 the Secretary shall issue minimum standards for the
13 transportation of hazardous liquids by low-stress
14 pipelines.”.

15 (h) SEVEN YEAR REINSPECTION.—Not later than 60
16 days after receipt of the Comptroller General report re-
17 quired under section 14(d)(1) of the Pipeline Safety Im-
18 provement Act of 2002 (49 U.S.C. 60109 note), the Sec-
19 retary shall transmit to Congress any legislative rec-
20 ommendations the Secretary considers necessary to imple-
21 ment the conclusions of that report.

22 (i) TECHNICAL ASSISTANCE GRANTS.—Section
23 60130 is amended—

24 (1) in subsection (a)(1) by striking “The Sec-
25 retary shall establish competitive” and insert “No

1 grants may be awarded under section 60114(e) until
2 the Secretary has established competitive”;

3 (2) by redesignating paragraph (2) of sub-
4 section (a) as paragraph (4);

5 (3) by inserting after paragraph (1) of sub-
6 section (a) the following new paragraphs:

7 “(2) DEMONSTRATION GRANTS.—At least the
8 first 3 grants awarded under this section shall be
9 demonstration grants for the purpose of dem-
10 onstrating and evaluating the utility of grants under
11 this section. Each such demonstration grant shall
12 not exceed \$25,000.

13 “(3) DISSEMINATION OF TECHNICAL FIND-
14 INGS.—Each recipient of a grant under this section
15 shall ensure that the technical findings made pos-
16 sible by the grants are made available to the rel-
17 evant operators, and that open communication be-
18 tween the grant recipients, local operators, local
19 communities, and other interested parties is encour-
20 aged.”; and

21 (4) in subsection (d) by striking “2006” and in-
22 serting “2010”.

23 (j) ENFORCEMENT TRANSPARENCY.—(1) Chapter
24 601, as amended by this section, is amended by adding
25 at the end the following new section:

1 **“§ 60135. Enforcement transparency.**

2 “(a) IN GENERAL.—Not later than 12 months after
3 the date of enactment of this section, the Secretary shall
4 begin to provide a monthly summary to the public of all
5 gas and hazardous liquid pipeline enforcement actions
6 taken by the Secretary or the Pipeline and Hazardous Ma-
7 terials Safety Administration. Each summary shall include
8 information on the operator involved in the enforcement
9 activity, the type of violation that necessitated the enforce-
10 ment activity, the penalty or penalties proposed, the final
11 assessment amount of each penalty, and the reasons for
12 a reduction in the proposed penalty, if appropriate.

13 “(b) ELECTRONIC POSTING.—Each summary re-
14 quired under this section shall be made available to the
15 public via posting by electronic means.”.

16 (2) In the table of sections of chapter 601, as amend-
17 ed by this section, the following item is added at the end:

“60135. Enforcement transparency.”.

18 (k) COST REIMBURSEMENTS.—Section 60117 is
19 amended by adding at the end the following new sub-
20 section:

21 “(n) COST RECOVERY FOR DESIGN REVIEWS.—If the
22 Secretary conducts facility design safety reviews in con-
23 nection with a proposal to construct, expand, or operate
24 a pipeline system or liquefied natural gas pipeline facility,
25 the Secretary may require the person requesting such re-

1 views to pay the associated staff costs relating to such re-
2 views incurred by the Secretary, such funds to be depos-
3 ited into the pipeline safety fund. Funds deposited pursu-
4 ant to this section are authorized to be appropriated for
5 the purposes set forth in section 60301(d). The Secretary
6 may assess such costs in any reasonable manner.”.

7 (l) [DIRECT LINE SALES.—Section 60101(a) is
8 amended—

9 (1) by amending paragraph (6) to read as fol-
10 lows:

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

13 “(A) used to transport gas; and

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

17 (2) by amending paragraph (9) to read as fol-
18 lows:

19 “(9) ‘intrastate gas pipeline facility’ means a
20 gas pipeline facility and transportation of gas within
21 a State not subject to the jurisdiction of the Com-
22 mission under the Natural Gas Act (15 U.S.C. 717
23 et seq.);]”.

24 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

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

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

7 “(1) For fiscal year 2007, \$55,497,000, of
8 which \$39,872,000 shall be from fees and
9 \$15,625,000 shall be from the Fund.

10 “(2) For fiscal year 2008, \$57,997,000, of
11 which \$42,651,000 shall be from fees and
12 \$15,346,000 shall be from the Fund.

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

16 “(4) For fiscal year 2010, \$62,375,000, of
17 which \$46,444,000 shall be from fees and
18 \$15,931,000 shall be from the Fund.”.

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

20 “(1) To carry out section 60107, the following
21 amounts are authorized to be appropriated to the
22 Secretary, from fees collected under section 60301
23 in each respective year, and from the Oil Spill Li-
24 ability Trust Fund:

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

4 “(B) For fiscal year 2008, \$23,221,000, of
5 which \$19,567,000 shall be from fees and
6 \$3,654,000 shall be from the Fund. Of the
7 amount appropriated, \$1,500,000 shall be avail-
8 able for fiscal year 2008 for the grants to
9 States authorized in section 60134.

10 “(C) For fiscal year 2009, \$24,513,000, of
11 which \$20,656,000 shall be from fees and
12 \$3,857,000 shall be from the Fund. Of the
13 amount appropriated, \$1,750,000 shall be avail-
14 able for fiscal year 2009 for the grants to
15 States authorized in section 60134.

16 “(D) For fiscal year 2010, \$25,855,000, of
17 which \$21,786,000 shall be from fees and
18 \$4,069,000 shall be from the Fund. Of the
19 amount appropriated, \$2,000,000 shall be avail-
20 able for fiscal year 2010 for the grants to
21 States authorized in section 60134.”.

22 (c) Section 60125(c) is repealed.

23 (d) Subsections (d) and (e) of section 60125 are re-
24 designated as subsections (c) and (d), respectively.

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

4 (f) Section 6107 is amended—

5 (1) in subsection (a), by striking “fiscal years
6 2003 through 2006” and inserting “fiscal years
7 2007 through 2010”; and

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