

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
H.R. 6008, THE “CORPORATE LIABILITY AND EMERGENCY ACCIDENT NOTIFICATION ACT”
MYTHS AND FACTS
September 23, 2010

The National Petrochemical and Refiners Association (NPRA) has been circulating information to Members’ offices regarding H.R. 6008, the “Corporate Liability and Emergency Accident Notification Act” (the CLEAN Act), introduced by Representative Mark H. Schauer. **The claims made by NPRA are blatantly false.**

Here are the facts on H.R. 6008:

Myth: *The bill has not received a hearing or a markup before the House Committee on Transportation and Infrastructure.*

Fact: **Although the bill is only four pages long, the Committee on Transportation and Infrastructure has held five hearings on these issues in 2010, including 37 witnesses testifying before the Committee for more than 18 hours.**

Last week, on September 15, 2010, the Committee on Transportation and Infrastructure held a seven-hour hearing specifically on the Enbridge pipeline oil spill in Marshall, Michigan. The U.S. Department of Transportation (DOT), the National Transportation Safety Board, Enbridge, Inc., and others participated in the hearing. H.R. 6008 specifically addresses the issues raised by the Enbridge pipeline oil spill and these issues were discussed during the hearing.

In addition, the Subcommittee on Railroads, Pipelines, and Hazardous Materials has held four hearings on pipeline safety issues in the 111th Congress: May 20, June 29, July 15, and July 21, 2010.

Myth: *H.R. 6008 would replace the current regulatory standard with a hard cap for pipeline operators to notify the NRC and shut down the pipeline within one hour when there is a report concerning a release of a hazardous liquid or natural gas – whether or not the operator has been able to verify that there is in fact has been a release.*

Fact: Nothing in H.R. 6008 requires a pipeline operator to shut down a pipeline. Under current DOT guidance, an operator is required to shut down a pipeline “if a condition is discovered that could present an immediate hazard to safety and health or the environment” until the condition can be corrected. Nothing in H.R. 6008 changes that.

Moreover, current regulations (adopted by the Bush administration) require pipeline operators to report a release of hazardous liquid or gas “at the earliest practicable moment following discovery of a release.” The release has to be discovered first.

H.R. 6008 does not change the requirement. The release still has to be discovered by the pipeline operator. H.R. 6008 simply requires that such reporting occur within one hour of discovery, instead of the current standard of one to two hours. The fact is that prompt reporting provides adequate time for a prompt response to a pipeline incident, which in turn could result in less damage to those that are most impacted by a spill.

Myth: *H.R. 6008 would lead to inaccurate reporting to the NRC because sufficient information is not available on the extent of the spill within an hour.*

Fact: According to the NRC, when a pipeline operator currently reports an incident certain information is often not available, and the NRC takes preliminary information and encourages the operator to call back with supplemental information on the extent of the spill.

The 2002 advisory also encourages operators to provide updated information to the NRC when it is available, including when there is a change in the number of injuries or fatalities; a revised estimate of the release amount if it is at least 10 times greater than the amount reported; and a revised estimate of the property damage which exceeds prior estimates. The 2002 advisory states: “the Office of Pipeline Safety expects an operator to provide significant update information [to the NRC] during the emergency response phase,” which PHMSA later defines as within several days.

Myth: *False alarm notifications may cause false alarm deployments of first responders, an unwarranted expenditure of resources and manpower.*

Fact: **Again, a pipeline operator has to discover a release first – before the operator must notify the NRC. The NRC does not notify first local responders of potential incidents.** That is the responsibility of the operator. The NRC notifies Federal and State agencies that may be required to respond to or investigate an incident so that they can contact the operator for further information.

Myth: *We have heard the bill could actually get more proscriptive by: (1) requiring that pipeline owners and operators notify the NRC and shut down the pipeline not later than 1 hour after the owner or operators knew of or should have known of a release; (2) requiring leak detection systems that provide for flow verification through an accounting method such as volume balance and rate of pressure at least once every 24 hours; and (3) requiring weekly aerial surveillance for remote pipelines.*

Fact: **None of these provisions are included in H.R. 6008. Representative Schauer introduced H.R. 6008 on July 30, 2010.**