

IN SUPPORT AND RECOGNITION OF NATIONAL SAFE
DIGGING MONTH, APRIL, 2010

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MAY 4, 2010.—Ordered to be printed
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Mr. OBERSTAR, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H. Res. 1278]

The Committee on Transportation and Infrastructure, to whom was referred the resolution (H. Res. 1278) in support and recognition of National Safe Digging Month, April, 2010, having considered the same, report favorably thereon with amendments and recommend that the resolution be agreed to.

The amendments are as follows:

Strike all after the resolving clause and insert the following:

That the House of Representatives supports the goals and ideals of National Safe Digging Month, and encourages all homeowners and excavators throughout the country to call 811 before conducting any digging or excavation activities.

Amend the preamble to read as follows:

Whereas each year there are over 200,000 incidences of unintentional damage to underground utility infrastructure (including pipelines, electrical, telecommunications, water, and sewer lines), many as a result of an individual who fails to have underground utilities lines located before digging;

Whereas there are 2,534,000 miles of pipelines, of which 2,036,800 are for distribution of natural gas, 323,600 for transmission of natural gas, and 173,500 for hazardous materials including oil;

Whereas some utility lines are buried only a few inches underground, making them easy to strike even during shallow digging projects;

Whereas failure to locate underground utility lines before digging may have unintended consequences such as service interruption, environmental damage, property damage, personal injury, and even death;

Whereas State one-call notification programs allow homeowners and excavators to have underground utilities located and marked before conducting digging or excavation activities;

Whereas Congress first established minimum standards for State one-call notification programs and authorized appropriations for Federal grants to improve State one-call notification programs in the Transportation Equity Act for the 21st Century in 1998;

Whereas Congress required a 3-digit, nationwide toll-free number be established to be used by State one-call systems in the Pipeline Safety Improvement Act of 2002;

Whereas in 2005, “811” was designated as the nationwide one-call number for homeowners and excavators to call before conducting digging or excavation activities;

Whereas in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 Congress authorized the Secretary of Transportation to issue civil penalties to any owner or operator of a pipeline facility who fails to respond to a request to mark an underground pipeline facility, any individual who fails to use a State’s one-call system prior to digging or excavation activities, or any individual who disregards location information or markings while digging or excavating;

Whereas the one-call system has helped reduce the number of digging damages caused by failure to locate underground utilities prior to digging from 57 percent in 2004 to 37.5 percent in 2009;

Whereas the 1,400 members of the Common Ground Alliance, who are dedicated to ensuring public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices, promote the national “Call Before You Dig” campaign to increase public awareness about the importance of calling 811 to identify the exact location of underground utility lines;

Whereas the Common Ground Alliance has designated April as National Safe Digging month in order to increase awareness of safe digging practices across the country and to celebrate the anniversary of the designation of 811 as the national “Call Before You Dig” number; and

Whereas April is the beginning of the peak of excavation projects around the Nation: Now, therefore, be it

PURPOSE OF THE LEGISLATION

H. Res. 1278, as amended, recognizes April 2010 as National Safe Digging Month, and encourages all homeowners and excavators to call 811 before conducting any digging or excavation activities.

BACKGROUND AND NEED FOR LEGISLATION

H. Res. 1278, as amended, supports and recognizes April 2010 as National Safe Digging Month, and encourages all homeowners and excavators to call 811 before conducting any digging or excavation activities.

The Pipeline and Hazardous Materials Safety Administration (PHMSA), many States, and pipeline damage prevention stakeholders from across the country are supporting April as National Safe Digging Month to celebrate the three-year anniversary of 811, the national call-before-you-dig number.

Throughout April, PHMSA encouraged all homeowners and excavators to call 811 before they dig to prevent fatalities, injuries, environmental damage, and loss of critical infrastructure and services. According to PHMSA, excavation damage continues to be a leading cause of serious pipeline incidents. More than 256,000 underground utility lines are damaged during excavation each year in the United States; 37.5 percent of which are the result of not calling before digging.

In the Transportation Equity Act for the 21st Century (TEA 21) (P.L. 105–178), Congress established minimum standards for State one-call notification programs and authorized the Secretary to issue grants to States to improve one-call notification programs. TEA 21 also required the Secretary of Transportation to initiate a study of the best practices employed by one-call notification systems in operation in the States. PHMSA awarded \$6 million in 2001 and 2003 to States to fund a wide range of education efforts, communications system improvements, and enforcement of State requirements for damage prevention.

In the Pipeline Safety Improvement Act of 2002 (P.L. 107-355), Congress directed the Secretary of Transportation, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, to establish a three-digit nationwide toll-free telephone number for homeowners and excavators to call before digging. The law also encouraged States, operators of one-call notification programs, excavators, and underground facility operators to adopt and implement the best practices contained in the report required by TEA 21. Further, the law authorized States to enforce the one-call notification program, and established criminal penalties for knowing and willfully engaging in excavation activities without first using the one-call notification system or ignoring location information or markings and subsequently damaging the pipeline and causing harm to persons or property.

In 2005, the Secretary of Transportation and the Federal Communications Commission designated “811” as the nationwide one-call telephone number for homeowners and excavators to call before conducting digging or excavation activities. By dialing 811, excavators can reach a one-call center where, at no cost to the excavator, companies that may operate underground utilities in the area they plan to dig will be notified. Those companies are required to dispatch crews to determine and mark the exact location of their utilities so that homeowners and excavators can avoid hitting them when digging.

In the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act) (P.L. 109-468), Congress established civil penalties for enforcement of “call-before-you-dig” laws. The Secretary of Transportation has the authority to issue civil penalties to any owner or operator of a pipeline facility who fails to respond to a request to mark an underground pipeline facility. The Secretary also has the authority to issue civil penalties to any homeowner or excavator who fails to use a State’s one-call system prior to digging or excavation activities or any individual who disregards location information or markings while digging or excavating.

The PIPES Act also authorized PHMSA to award grants to fund improvements in State damage prevention programs as long as the State authority participates in the oversight of pipeline transportation pursuant to an annual certification or agreement with PHMSA and is designated by the State’s governor as the eligible recipient of the grant funding. The purpose of the grants is to establish comprehensive state programs designed to prevent damage to underground pipelines in States that do not have such programs in place and to improve damage prevention programs in States that do.

The one-call notification system has helped reduce the number of excavation damages caused by failure to locate underground utilities prior to digging from 57 percent in 2004 to 37.5 percent in 2009.

This resolution recognizes April 2010 as National Safe Digging Month, and encourages all homeowners and contractors to call 811 before conducting any digging or excavation activities.

SUMMARY OF THE LEGISLATION

H. Res. 1278, as amended, supports and recognizes April 2010 as National Safe Digging Month. Further, the resolution encourages all homeowners and excavators to call 811 before conducting any digging or excavation activities to prevent any fatalities, injuries, environmental damage, and loss of critical infrastructure and services that could occur as a result of damage to an underground utility, such as a pipeline.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On April 20, 2010, Subcommittee on Railroads, Pipelines, and Hazardous Materials Ranking Member Bill Shuster introduced H. Res. 1278. This resolution has not been introduced in a previous Congress.

On April 29, 2010, the Committee on Transportation and Infrastructure met in open session to consider H. Res. 1278. The Committee adopted an amendment in the nature of a substitute to the resolution by voice vote. The Committee on Transportation and Infrastructure ordered the resolution, H. Res. 1278, as amended, reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H. Res. 1278, or ordering the resolution, as amended, reported. A motion to order H. Res. 1278, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

With respect to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, H. Res. 1278, as amended, is a resolution of the House of Representatives, and therefore does not have the force of law. As such, there is no cost associated with this resolution for fiscal year 2010, or any fiscal year thereafter.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee advises that the resolution contains no measure that authorizes funding, so no comparison of the total estimated funding level for the relevant programs to the appropriate level under current law is required.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee ad-

vises that the resolution contains no measure that authorizes funding, so no statement of general performance and objectives for any measure that authorizes funding is required.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee advises that the resolution contains no measure that authorizes funding, so no cost estimate nor comparison for any measure that authorizes funding is required.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H. Res. 1278, as amended, does not contain any earmarks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, H. Res. 1278, as amended, is a resolution of the House of Representatives, and therefore does not have the force of law. As such, clause 3(d)(1) of rule XIII does not apply.

FEDERAL MANDATES STATEMENT

H. Res. 1278, as amended, contains no Federal mandates.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H. Res. 1278, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the resolution 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 (P.L. 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H. Res. 1278, as amended, makes no changes in existing law.