2022 South Dakota Legislature

Senate Bill 40

Introduced by: The Committee on Commerce and Energy at the request of the South Dakota Public Utilities Commission

An Act to to establish safety standards regarding biogas gathering lines.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 49-34B-1 be AMENDED:

49-34B-1. Terms used in this chapter mean:

(1) "Biogas gathering line," new and existing pipeline facilities in South Dakota that transport gas from a bio-methane producer to an interstate or intrastate gas pipeline.

~~(1)~~(2) "Commission," the Public Utilities Commission;

~~(2)~~(3) "Emergency release," a release of a quantity of gas that is great enough to pose a clear and immediate danger to life, health, environment, or that threatens a significant loss of property;

~~(3)~~(4) "Gas," natural gas, liquefied natural gas, flammable gas, gas which is toxic or corrosive, or liquefied petroleum gas in distribution systems;

~~(4)~~(5) "Gas pipeline," all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

~~(5)~~(6) "Gas pipeline facilities," new and existing pipelines, rights-of-way, master meter systems, pipeline facilities within this state which transport gas from an interstate gas pipeline to a direct sales customer within this state purchasing gas for its own consumption, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation;

~~(6)~~(7) "Inspection fee," any fee assessed to pipeline operators based on the expenses and obligations incurred by the commission in implementing and administering this chapter;

~~(7)~~(8) "Intrastate pipeline," any pipeline or that part of a pipeline to which this part applies that is not an interstate pipeline;

~~(8)~~(9) "Interstate pipeline," pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, United States Code, Title 15, sections 717 to 717z, inclusive, as amended to January 1, 2019, except that it does not include any pipeline facilities within this state which transport gas from an interstate gas pipeline to a direct sales customer within this state purchasing gas for its own consumption;

~~(9)~~(10) "Liquefied natural gas," natural gas or synthetic gas having methane (CH4) as its major constituent that has been changed to a liquid or semisolid;

~~(10)~~(11) "Master meter system," any pipeline system for distributing gas within a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system and the gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents;

~~(11)~~(12) "Pipeline operator," any person who owns or operates a pipeline;

~~(12)~~(13) "Release," a spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, disposing, flowing, or any uncontrolled escape of a gas from a pipeline; and

~~(13)~~(14) "Transportation of gas," the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

Section 2. That chapter 49-34B be amended with a NEW SECTION:

Persons who engage in the intrastate transportation of gas through biogas gathering lines or who construct, operate, or maintain biogas gathering line facilities shall provide notice of the construction and operation to the affected counties, and townships and municipalities within an affected county. Notice must also be given to South Dakota One-Call and the commission. Notice must be sent to and received by all landowners within one-quarter mile along the pipeline route. All notices must identify the location of the pipeline and warn of the hazards and dangers associated with the pipeline.

To assist in locating hazards and leaks, and preventing damage to the pipeline, signage marking pipe locations must be maintained for the life of the biogas gathering lines. Signage must be in the rights-of-way and placed at all public road crossings and railroad crossings. Signs must be in sufficient numbers so that the pipeline route and

location is accurately and easily known. Signage must include the operator's name and a twenty-four-hour emergency telephone number. The word, warning, or danger, and the phrase, biogas pipeline, must be prominently displayed. When determining the placement of signage, consideration must be given to the hazardous characteristics of the biogas being transported; the pipeline's proximity to industrial, commercial, residential, and environmentally sensitive areas; susceptibility to excavation-related damage; consequences of failure; and applicable state and federal laws. Prior to commencement of operation, the operator shall certify to the Commission that the biogas gathering line meets the conditions in this chapter.

Section 3. That chapter 49-34B be amended with a NEW SECTION:

Persons who engage in the intrastate transportation of gas through biogas gathering lines or who construct, operate, or maintain biogas gathering lines shall at all times, after the effective date of any applicable safety standard established under this chapter, comply with the requirements of the standard. If the commission finds, after notice and opportunity for hearing, that a person has failed to comply with any applicable safety standard, the commission may order the person to take necessary corrective action to comply with the standard. Corrective action may include suspended or restricted use of the facility or other action, as appropriate. The commission may issue an order without notice and opportunity for hearing if the commission determines that to do otherwise would result in the likelihood of serious harm to life, health, environment, or property. The commission shall include in the an order an opportunity for hearing as soon as practicable after issuance of the order. The commission may, if necessary, apply to the circuit court in the county in which the biogas gathering lines operate for that court to enjoin the operation.

Section 4. That chapter 49-34B be amended with a NEW SECTION:

Any person who constructs, operates, or maintains biogas gathering lines other than in compliance with the conditions as prescribed by this chapter is guilty of a Class 1 misdemeanor and is subject to a civil penalty of not more than ten thousand dollars.