



2023 South Dakota Legislature

House Bill 1005

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

1 **An Act to update certain citations to federal regulations regarding pipeline safety**
 2 **inspections.**

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

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

5 **49-34B-1.** Terms used in this chapter mean:

- 6 (1) "Commission," the Public Utilities Commission;
- 7 (2) "Emergency release," a release of a quantity of gas that is great enough to pose a
 8 clear and immediate danger to life, health, environment, or that threatens a
 9 significant loss of property;
- 10 (3) "Gas," natural gas, liquefied natural gas, flammable gas, gas which is toxic or
 11 corrosive, or liquefied petroleum gas in distribution systems;
- 12 (4) "Gas pipeline," all parts of those physical facilities through which gas moves in
 13 transportation, including pipe, valves, and other appurtenances attached to pipe,
 14 compressor units, metering stations, regulator stations, delivery stations, holders,
 15 and fabricated assemblies;
- 16 (5) "Gas pipeline facilities," new and existing pipelines, rights-of-way, master meter
 17 systems, pipeline facilities within this state which transport gas from an interstate
 18 gas pipeline to a direct sales customer within this state purchasing gas for its own
 19 consumption, and any equipment, facility, or building used in the transportation of
 20 gas or in the treatment of gas during the course of transportation;
- 21 (6) "Inspection fee," any fee assessed to pipeline operators based on the expenses
 22 and obligations incurred by the commission in implementing and administering this
 23 chapter;
- 24 (7) "Intrastate pipeline," any pipeline or that part of a pipeline to which this part applies
 25 that is not an interstate pipeline;

- 1 (8) "Interstate pipeline," pipeline facilities used in the transportation of gas which are
 2 subject to the jurisdiction of the Federal Energy Regulatory Commission under the
 3 Natural Gas Act, United States Code, Title 15, sections 717 to 717z, inclusive, as
 4 amended to January 1, ~~2019~~2023, except that it does not include any pipeline
 5 facilities within this state which transport gas from an interstate gas pipeline to a
 6 direct sales customer within this state purchasing gas for its own consumption;
- 7 (9) "Liquefied natural gas," natural gas or synthetic gas having methane (CH₄) as its
 8 major constituent that has been changed to a liquid or semisolid;
- 9 (10) "Master meter system," any pipeline system for distributing gas within a definable
 10 area, such as a mobile home park, housing project, or apartment complex, where
 11 the operator purchases metered gas from an outside source for resale through a
 12 gas distribution pipeline system and the gas distribution pipeline system supplies
 13 the ultimate consumer who either purchases the gas directly through a meter or
 14 by other means, such as by rents;
- 15 (11) "Pipeline operator," any person who owns or operates a pipeline;
- 16 (12) "Release," a spilling, leaking, pumping, pouring, emitting, emptying, discharging,
 17 injecting, leaching, dumping, disposing, flowing, or any uncontrolled escape of a
 18 gas from a pipeline; and
- 19 (13) "Transportation of gas," the gathering, transmission, or distribution of gas by
 20 pipeline or the storage of gas.

21 **Section 2. That § 49-34B-3 be AMENDED:**

22 **49-34B-3.** There is created a pipeline safety inspection program. The federal
 23 safety standards adopted as Code of Federal Regulations, title 49 appendix, parts 191,
 24 192, 193, and 199 as amended to January 1, ~~2021~~2023, are adopted as minimum safety
 25 standards for this chapter. The commission shall establish and implement a compliance
 26 program to enforce these safety standards. The program shall be established and
 27 implemented in a manner that fully complies with requirements for state certification
 28 under the United States Code, title 49, section 60105, as amended to January 1,
 29 ~~2021~~2023.

30 **Section 3. That § 49-34B-4 be AMENDED:**

31 **49-34B-4.** The commission may, by rules promulgated pursuant to chapter 1-26,
 32 establish safety standards, but not more stringent than federal safety standards as
 33 provided by § 49-34B-3, for the intrastate transportation of gas and gas pipeline facilities.

1 The standards may apply to the design, installation, inspection, testing, construction,
2 extension, operation, replacement, and maintenance of gas pipeline facilities. Standards
3 affecting the design, installation, construction, initial inspection, and initial testing do not
4 apply to pipeline facilities in existence on the date the standards are adopted by either
5 this state or the federal government. The safety standards shall be practicable and
6 designed to meet the need for pipeline safety. In prescribing the standards, the
7 commission shall consider:

- 8 (1) Relevant available pipeline safety data;
- 9 (2) Whether the standards are appropriate for the particular type of pipeline
10 transportation of gas;
- 11 (3) The reasonableness of any proposed standards;
- 12 (4) The extent to which the standard will contribute to public safety; and
- 13 (5) The existing standards established by the secretary of the United States
14 Department of Transportation pursuant to the United States Code, title 49, section
15 60101 et seq. as amended to January 1, ~~2021~~2023.

16 **Section 4. That § 49-34B-13 be AMENDED:**

17 **49-34B-13.** No person is subject to civil penalties under this chapter if prior civil
18 penalties have been imposed under the United States Code, title 49, section 60101 et seq.
19 as amended to January 1, ~~2021~~2023, for conduct that may give rise to a violation of both
20 acts. Nothing in this chapter limits the powers of the commission, or precludes the pursuit
21 of any other administrative, civil, injunctive, or criminal remedies by the commission or
22 any other person. Administrative remedies need not be exhausted in order to proceed
23 under this chapter. The remedies provided by this chapter are in addition to those provided
24 under existing statutory or common law.

25 **Section 5. That § 49-34B-14 be AMENDED:**

26 **49-34B-14.** The commission may, to the extent authorized by agreement with the
27 secretary of the United States Department of Transportation, act as agent for the secretary
28 of transportation to implement the United States Code, title 49, section 60101 et seq. as
29 amended to January 1, ~~2021~~2023, and any federal pipeline safety regulations promulgated
30 thereto with respect to interstate gas pipelines located within this state, as necessary to
31 obtain annual federal certification. The commission shall, to the extent authorized by
32 federal law, inspect pipelines in the state as authorized by the provisions of this chapter.

1 **Section 6. That § 49-34B-15 be AMENDED:**

2 **49-34B-15.** The commission may seek and accept federal designation of the
3 commission's pipeline inspectors as federal agents for the purposes of inspection pursuant
4 to the United States Code, title 49, section 60101 et seq. as amended to January 1,
5 ~~2021~~2023, and federal rules adopted to implement those acts. If the Department of
6 Transportation delegates inspection authority to the state as provided in this section, the
7 commission shall do what is necessary to carry out its delegated federal authority.

8 **Section 7. That § 49-34B-19 be AMENDED:**

9 **49-34B-19.** The commission may promulgate pipeline inspection and safety rules,
10 pursuant to chapter 1-26, to the extent necessary to enable the state to qualify for annual
11 federal certification to operate the federal pipeline inspection program of intrastate and
12 interstate gas pipelines as authorized by the United States Code, title 49, section 60101
13 et seq. as amended to January 1, ~~2021~~2023.

14 **Section 8. That § 49-34B-22 be AMENDED:**

15 **49-34B-22.** All information reported to or obtained by the commission under this
16 chapter that contains or relates to a trade secret referred to in United States Code, title
17 18, section 1905, as amended to January 1, ~~2019~~2023, or that is granted by chapter 37-
18 29 is confidential for the purpose of that section, except that the information may be
19 disclosed to the commission or commission employee or agent concerned with enforcing
20 this chapter. Nothing in this section authorizes the withholding of information by the
21 commission from a committee of the Legislature.