

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 362

(Senator Zirkin)

Finance

Public Safety - Gas Pipeline Inspection Requirements - State Penalties

This bill requires a “gas transmission company” operating within the State to comply with all applicable federal laws and regulations regarding gas pipeline safety inspections. Subject to specified hearing requirements, the Public Service Commission (PSC) may impose a civil penalty of up to \$100,000 for each day that a gas transmission company fails to have a gas pipeline inspected as required by federal law. All penalties collected under the bill are paid into the general fund. PSC has jurisdiction over the bill’s provisions and any regulations adopted under it to the same extent and in the same manner as any provision of Division I of the Public Utilities Article.

Fiscal Summary

State Effect: PSC can implement the bill with existing budgeted resources. The bill’s penalty provisions are not anticipated to materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: “Gas” means natural gas, flammable gas, or toxic or corrosive gas, and a “gas pipeline” means an *intrastate* transmission line or any portion of an interstate transmission line located within the State that (1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center; (2) operates at a specified hoop stress; or (3) transports gas within a storage field. It does not mean any transmission line or

distribution line constructed, owned, or operated by a public service company as defined in the Public Utilities Article. A “gas transmission company” means a person who owns or operates a gas pipeline, and does not include a person that is primarily in the business of local gas distribution.

The Federal Natural Gas Pipeline Safety Act of 1968 requires the Secretary of the U.S. Department of Transportation to establish minimum federal safety standards for the transportation of gas and for pipeline facilities.

The Secretary’s authority to prescribe and enforce gas pipeline safety standards does not apply to *intrastate* pipeline transportation if a state agency regulates the safety standards and practices applicable to *intrastate* pipeline transportation and submits certification to the Secretary each year meeting specified criteria. PSC has adopted the applicable federal safety standards established under the Act and has established the required inspection, documentation, and enforcement program outlined in the Act.

The Act requires the establishment of minimum federal safety standards and provides that any state agency may adopt additional or more stringent regulations that are not incompatible with the minimum federal standards. Those standards may affect the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing do not apply to preexisting pipeline facilities.

PSC, under certification from U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA), assumes safety responsibility with respect to *intrastate* gas facilities, and has statutory authority to establish and enforce safety standards for *intrastate* gas facilities. PSC regulations regarding gas safety require each gas company to exercise reasonable care to reduce the hazards of gas distribution and transmission.

Each gas company must adopt and execute a safety program, odorize the gas, and bury pipe according to specified standards. The gas company must also respond promptly to all reports of gas leaks and investigate the reports in accordance with the Gas Piping and Technology Committee standards. For additional information related to the federal and state regulation of pipeline safety, see the **Appendix – Pipeline Regulation and Safety**.

PSC Civil and Criminal Penalties

In addition to any other penalty authorized, PSC may impose a civil penalty of up to \$25,000 against a person who violates specified provisions or an outstanding direction,

order, rule, or regulation of PSC. Each day or part of a day the violation continues is a separate offense.

Public service companies that violate PSC provisions relating to safety are subject to a civil penalty of up to \$25,000 per violation for each day that the violation persists. Civil penalties collected by PSC are paid into the general fund.

An individual who knowingly aids or abets a public service company in violating PSC rules, orders, and regulations is guilty of a misdemeanor and unless a different punishment is specified, on conviction is subject to a fine of up to \$1,000 for a first offense and up to \$5,000 for a subsequent offense.

A gas company or gas master meter operator that violates any of PSC's standards of safe service or other regulations related to safety is subject to a civil penalty determined by PSC that does not exceed the maximum penalties specified in federal regulations (currently a maximum fine of \$100,000 per day per violation, up to \$1,000,000 for any related series of violations).

Background: Chapter 571 of 2013 required PSC by December 1, 2013, to (1) evaluate the process and criteria the U.S. Secretary of Transportation would use to review an application for certification or agreement with the Secretary under federal law with respect to interstate pipelines located within the State and (2) determine whether it is in the public interest to apply for certification or agreement. PSC must apply for certification or agreement with the Secretary by January 1, 2014, if PSC determines that it is in the public interest for PSC to act for the Secretary. On completion of the evaluation and determination, PSC must report to the Governor and the General Assembly on its findings and conclusions. As of January 2014, PSC has determined it is in the public interest to apply for certification or agreement with the Secretary and is in the process of doing so.

Natural Gas Transmission and Distribution

The bill affects natural gas transmission companies and their associated pipelines – high-pressure pipes designed to move large volumes of natural gas across long distances. Natural gas transmission pipelines are a separate system from hazardous liquids pipelines. In general, natural gas is brought into the State through the interstate transmission system and then allocated as needed through the *intrastate* natural gas distribution systems of the State's gas companies for customer use. These interstate natural gas transmission pipelines are under the regulatory authority of PHMSA. However, three gas companies operate *intrastate* gas transmission systems that transport natural gas from the interstate transmission system to their franchised distribution

systems: Baltimore Gas and Electric Company, Washington Gas Light Company, and Columbia Gas of Maryland.

PSC currently manages two pipeline safety programs, one for natural gas and the other for hazardous liquids pipelines. The natural gas pipeline safety program includes the inspection of 77 jurisdictional natural gas and propane pipeline operators. The hazardous liquids pipeline safety program includes the inspection of one jurisdictional hazardous liquids pipeline operator.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2014
mm/lgc

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Appendix – Pipeline Regulation and Safety

The regulation of pipeline safety occurs at both the federal and state levels. The State’s Public Service Commission (PSC) regulates intrastate pipeline safety. PSC may enter and inspect, at reasonable times and in a reasonable manner, the pipeline facilities and the pipeline procedures of those involved with them, including books, records, papers, and other documents relevant to determining compliance with regulations. Whenever PSC finds a particular facility to be hazardous to life or property, it is empowered to require the person operating the facility to take the steps necessary to remove such hazards.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) within the U.S. Department of Transportation is the primary federal agency responsible for ensuring that pipelines are safe, reliable, and environmentally sound. PHMSA oversees the development and implementation of regulations concerning pipeline construction, maintenance, and operation, and shares these responsibilities with state regulators. PHMSA comprises two safety divisions, the Office of Pipeline Safety (OPS), and the Office of Hazardous Materials Safety. In overseeing approximately 2.3 million miles of natural gas and hazardous liquid pipelines, OPS:

- administers a national pipeline inspection and enforcement program;
- administers pipeline safety regulatory programs and establishes the regulatory agenda;
- oversees pipeline operator implementation of risk management and risk-based programs;
- develops regulatory policy options and initiatives, and researches, analyzes, and documents social, economic, technological, environmental, safety, and security impacts upon existing and proposed regulatory, legislative, or program activities involving pipeline safety;
- develops and maintains partnerships with other federal, state, and local agencies as well as other stakeholders to address threats to pipeline integrity, service, and reliability, and to share responsibility for the safety of communities;
- provides technical and resource assistance for state pipeline safety programs to ensure oversight of intrastate pipeline systems at the local level; and
- supports the development and conduct of pipeline safety training programs for federal and state regulatory and compliance staff and the pipeline industry.

According to PHMSA, pipelines are by far the safest method for transporting energy products. However, when pipeline incidents occur, they can present significant risks to the public and the environment. Nationally, across all pipeline systems, there were 2,815 “significant incidents” from 2003 through 2012, totaling \$5.1 billion in property

damage and causing 144 fatalities and 583 injuries. In contrast, during that same period, there were 27 significant incidents in Maryland, totaling \$12.3 million in property damage and causing seven injuries with no fatalities.