

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

400X0205

## HOUSE BILL NO. 1038

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

1 FOR AN ACT ENTITLED, An Act to update certain citations to federal regulations regarding  
2 pipeline safety inspections.

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

4 Section 1. That subdivision (8) of § 49-34B-1 be amended to read:

5 (8) "Interstate pipeline," pipeline facilities used in the transportation of gas which are  
6 subject to the jurisdiction of the Federal Energy Regulatory Commission under the  
7 Natural Gas Act, United States Code, Title 15, sections 717 to 717z, inclusive, as  
8 amended to ~~January 12, 2012~~ January 1, 2016, except that it does not include any  
9 pipeline facilities within this state which transport gas from an interstate gas pipeline  
10 to a direct sales customer within this state purchasing gas for its own consumption;

11 Section 2. That § 49-34B-2 be amended to read:

12 49-34B-2. Any rural gathering facility as defined in 49 C.F.R. 192.8 as ~~of January 12, 2012~~  
13 amended to January 1, 2016, is exempt from this chapter.

14 Section 3. That § 49-34B-3 be amended to read:

15 49-34B-3. There is created a pipeline safety inspection program. The federal safety standards



1 adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199 as  
2 amended to ~~January 12, 2012~~ January 1, 2016, are adopted as minimum safety standards for this  
3 chapter. The commission shall establish and implement a compliance program to enforce these  
4 safety standards. The program shall be established and implemented in a manner that fully  
5 complies with requirements for state certification under the United States Code, title 49, section  
6 60105, as amended to ~~January 12, 2012~~ January 1, 2016.

7 Section 4. That § 49-34B-4 be amended to read:

8 49-34B-4. The commission may, by rules promulgated pursuant to chapter 1-26, establish  
9 safety standards, but not more stringent than federal safety standards as provided by § 49-34B-3,  
10 for the intrastate transportation of gas and gas pipeline facilities. The standards may apply to the  
11 design, installation, inspection, testing, construction, extension, operation, replacement, and  
12 maintenance of gas pipeline facilities. Standards affecting the design, installation, construction,  
13 initial inspection, and initial testing do not apply to pipeline facilities in existence on the date  
14 the standards are adopted by either this state or the federal government. The safety standards  
15 shall be practicable and designed to meet the need for pipeline safety. In prescribing the  
16 standards, the commission shall consider:

- 17 (1) Relevant available pipeline safety data;
- 18 (2) Whether the standards are appropriate for the particular type of pipeline  
19 transportation of gas;
- 20 (3) The reasonableness of any proposed standards;
- 21 (4) The extent to which the standard will contribute to public safety; and
- 22 (5) The existing standards established by the secretary of the United States Department  
23 of Transportation pursuant to the United States Code, title 49, section 60101 et seq.  
24 as amended to ~~January 12, 2012~~ January 1, 2016.

1 Section 5. That § 49-34B-13 be amended to read:

2 49-34B-13. No person is subject to civil penalties under this chapter if prior civil penalties  
3 have been imposed under the United States Code, title 49, section 60101 et seq. as amended to  
4 ~~January 12, 2012~~ January 1, 2016, for conduct that may give rise to a violation of both acts.  
5 Nothing in this chapter limits the powers of the commission, or precludes the pursuit of any  
6 other administrative, civil, injunctive, or criminal remedies by the commission or any other  
7 person. Administrative remedies need not be exhausted in order to proceed under this chapter.  
8 The remedies provided by this chapter are in addition to those provided under existing statutory  
9 or common law.

10 Section 6. That § 49-34B-14 be amended to read:

11 49-34B-14. The commission may, to the extent authorized by agreement with the secretary  
12 of the United States Department of Transportation, act as agent for the secretary of  
13 transportation to implement the United States Code, title 49, section 60101 et seq. as amended  
14 to ~~January 12, 2012~~ January 1, 2016, and any federal pipeline safety regulations promulgated  
15 thereto with respect to interstate gas pipelines located within this state, as necessary to obtain  
16 annual federal certification. The commission shall, to the extent authorized by federal law,  
17 inspect pipelines in the state as authorized by the provisions of this chapter.

18 Section 7. That § 49-34B-15 be amended to read:

19 49-34B-15. The commission may seek and accept federal designation of the commission's  
20 pipeline inspectors as federal agents for the purposes of inspection pursuant to the United States  
21 Code, title 49, section 60101 et seq. as amended to ~~January 12, 2012~~ January 1, 2016, and  
22 federal rules adopted to implement those acts. If the Department of Transportation delegates  
23 inspection authority to the state as provided in this section, the commission shall do what is  
24 necessary to carry out its delegated federal authority.

1 Section 8. That § 49-34B-19 be amended to read:

2 49-34B-19. The commission may promulgate pipeline inspection and safety rules, pursuant  
3 to chapter 1-26, to the extent necessary to enable the state to qualify for annual federal  
4 certification to operate the federal pipeline inspection program of intrastate and interstate gas  
5 pipelines as authorized by the United States Code, title 49, section 60101 et seq. as amended to  
6 ~~January 12, 2012~~ January 1, 2016.

7 Section 9. That § 49-34B-22 be amended to read:

8 49-34B-22. All information reported to or obtained by the commission under this chapter  
9 that contains or relates to a trade secret referred to in United States Code, title 18, section 1905,  
10 as amended to ~~January 12, 2012~~ January 1, 2016, or that is granted by chapter 37-29 is  
11 confidential for the purpose of that section, except that the information may be disclosed to the  
12 commission or commission employee or agent concerned with enforcing this chapter. Nothing  
13 in this section authorizes the withholding of information by the commission from a committee  
14 of the Legislature.