



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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DATE: 2/17/00

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (MOORE) *CTM DS*
DIVISION OF ELECTRIC AND GAS (MILLS) *CM CRBS*

RE: DOCKET NO. 991754-GP - PETITION BY FRIENDS OF THE AQUIFER, INC. TO ADOPT RULES NECESSARY TO ESTABLISH SAFETY STANDARDS AND A SAFETY REGULATORY PROGRAM FOR INTRASTATE AND INTERSTATE NATURAL GAS PIPELINES AND PIPELINE FACILITIES LOCATED IN FLORIDA. *JDJ*

AGENDA: 2/29/00 - REGULAR AGENDA - RULE PETITION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE - 30-DAY STATUTORY DEADLINE WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\APP\WP\991754.RCM

CASE BACKGROUND

Friends of the Aquifer, Inc., ("the petitioner") filed a Petition to Initiate Rulemaking on November 23, 1999. A petition to intervene was filed on December 20, 1999, by Buccaneer Gas Pipeline Co., L.L.C. ("Buccaneer"). At the agenda conference on December 21, 1999, Friends of the Aquifer agreed to waive the 30-day statutory time for the Commission to act on its petition in order for Friends of the Aquifer to respond to the petition to intervene. The Commission deferred further consideration of the rulemaking petition until the January 18, 2000, agenda conference. No response to Buccaneer's petition to intervene was filed within the time authorized and an order granting the intervention was issued on January 4, 2000.

On January 5, 2000, Friends of the Aquifer, Inc., filed an Amended Petition to Initiate Rulemaking. (Attachment 1) The

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petitioner proposes that the Commission adopt rules establishing safety and environmental standards for intrastate and interstate natural gas pipelines and pipeline facilities. Buccaneer filed a response on January 13, 2000, opposing the petition. (Attachment 2) The Commission deferred a decision on the original petition at the January 18, 2000, agenda conference. Pursuant to the petitioner's request, this item was again deferred to the February 29, 2000, agenda.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the amended petition by Friends of the Aquifer, Inc., to initiate rulemaking to adopt rules stating that it will propose further rules governing safety and environmental standards for intrastate and interstate natural gas pipelines and pipeline facilities?

RECOMMENDATION: No, the Commission should deny the amended petition. To the extent that the Commission has jurisdiction and the authority to adopt rules regulating gas pipelines, it has done so.

STAFF ANALYSIS: The petitioner requests the Commission to adopt two rules. The first rule provides:

The Florida Public Service Commission accepts the delegation by the United States Department of Transportation, pursuant to 49 U.S.C.A. § 60105, to regulate Florida natural gas pipelines and pipeline facilities. The Commission will proceed to propose rules necessary to ensure the safe construction and operation of Florida natural gas pipelines and pipeline facilities. The Public Service Commission recognizes that its acceptance of such delegation is necessary for the protection of persons and the environment from the risks of harm presented by the construction and operation of natural gas pipelines in Florida.

(Petition at 11) The second rule requested by the petitioner provides:

The Florida Public Service Commission accepts the authority granted to it pursuant to 49

U.S.C.A. § 60106 to enter into an agreement with the United States Department of Transportation to implement the Federal Hazardous Liquid Pipeline Act with respect to intrastate and interstate pipeline facilities located within the State of Florida, to the extent authorized by certification or agreement with the Secretary under 49 U.S.C.A. § 60106. To carry out its responsibilities in implementing the Act, the PSC shall have the same powers act (sic) as given to the Secretary under the Federal Hazardous Liquid Pipeline Act. The PSC will forthwith initiate negotiations with the United States Department of Transportation in order to reach such an agreement. The Public Service Commission recognizes that its entry into such an agreement is necessary for the protection of persons and the environment from the risks of harm presented by the construction and operation of natural gas pipelines in Florida.

(Petition at 12)

The premise for this proposal is the petitioner's assertion that the Commission is responsible for the promulgation and enforcement of safety and environmental standards for intrastate natural gas pipelines and pipeline facilities. (Emphasis added.) Although the amended petition acknowledges that the Commission has adopted Chapter 25-12, Florida Administrative Code, titled "Safety of Gas Transportation by Pipeline", the petitioner asserts that the rules are deficient because they do not address any environmental risks presented by natural gas pipelines in Florida. The petitioner further asserts that in order for the Commission to discharge its regulatory obligations under Florida law, it is required to enforce the environmental requirements of the Federal Hazardous Liquid Pipeline Act. (Petition at 8)

First, by protecting life and property from the unintentional release of natural gas, the Commission's natural gas pipeline safety rules act to safeguard the environment. The petitioner is mistaken, however, that section 368.03, Florida Statutes, delegates to the Commission the authority or responsibility to promulgate environmental standards for natural gas pipelines. That section, and section 368.05, prescribing the Commission's jurisdiction, authorizes the Commission to prescribe safety standards for the design and construction of natural gas pipelines and their

operation and maintenance. The Commission has implemented this statute by adopting Chapter 25-12, Florida Administrative Code, and it employs six full-time gas safety engineers to inspect pipelines and enforce the rules. In addition, contrary to petitioner's assertion, the Commission's enforcement of its safety regulations is not "substantially unfunded." Inspections are made of all operations under the Commission's jurisdiction and the Commission collects regulatory assessment fees to fund its activities pursuant to sections 350.113 and 366.14, Florida Statutes, and Rule 25-7.0131, Florida Administrative Code. No discernible purpose would be served in adopting another rule to state that "[t]he Commission will proceed to propose rules necessary to ensure the safe construction and operation of Florida natural gas pipelines and pipeline facilities."

Second, it is unclear why the Commission should adopt a rule accepting delegation from the United States Department of Transportation (USDOT). The Commission cannot by rule expand its jurisdiction beyond that which is provided by Florida Statute. In addition, no rule is required for the Commission to seek and obtain certification by USDOT in order to enforce its safety regulations or the federal safety regulations that the Commission has incorporated into its rules. The Commission's pipeline safety program is already certified by the USDOT pursuant to 49 U.S.C. § 60105 and has been since 1971, contrary to the petitioner's assertion. (Attachment 3)

Third, as Buccaneer asserts in its response, numerous other laws govern the siting of pipelines and the environmental aspects of pipeline construction and operations, and agencies other than the Commission are charged with administering and enforcing those laws. (Buccaneer Response at 3-4) It is therefore misleading for the petitioner to make the blanket assertion that absent the Commission's adoption of the requested rules, pipelines will avoid regulation designed to address environmental concerns. In addition, 49 U.S.C. § 60108 requires the Secretary of the USDOT to inspect and require testing of pipeline facilities that are not covered by a certification under 49 U.S.C. § 60105 or an agreement under 49 U.S.C. § 60106. Thus, to the extent the Commission or another agency of the state is not certified or does not enforce the federal regulations pertaining to the environmental standards prescribed under 49 U.S.C. § 60101 et seq., the USDOT has that duty.

Fourth, the Commission does not have jurisdiction over hazardous liquid pipelines. To the extent the petitioner is asking the Commission to regulate hazardous liquid pipelines in addition

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to natural gas pipelines, the Commission cannot by rule expand its jurisdiction beyond what Florida Statutes provide.

In its amended petition, the petitioner suggests that the Commission consider several other states' regulations and attaches copies of Virginia, California, and Washington laws. The fact that several other state legislatures have chosen to implement federal pipeline regulations, however, has no relevance to this Commission's regulatory authority.

In summary, to the extent the Commission has the jurisdiction to regulate gas pipelines, it is exercising that jurisdiction and has adopted comprehensive rules. The Commission should deny the amended petition of Friends of the Aquifer, Inc.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: If the Commission accepts staff's recommendation in Issue 1, the docket should be closed.

CTM/
Attachments

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE FRIENDS OF THE AQUIFER, INC.,)
)
Petitioner.)

Docket No. 991754-GP

AMENDED PETITION TO INITIATE RULEMAKING

COMES NOW the Petitioner, Friends of the Aquifer, Inc., and, pursuant to Fla. Stat. Ann § 120.54(7), petitions the Florida Public Service Commission ("PSC") to adopt the rules necessary to establish safety and environmental standards and regulatory programs for intrastate and interstate natural gas pipelines and pipeline facilities located within the State of Florida. In order to establish such safety and environmental standards and regulatory programs, the Petitioner requests that the PSC adopt the rules necessary to accept delegation from the United States Department of Transportation, Office of Pipeline Safety, to implement the Federal Hazardous Liquid Pipeline Act, 49 U.S.C. § 60101 et seq. ("the Act"). Currently, there are insufficient safety and environmental standards and regulatory programs with respect to intrastate and interstate natural gas pipelines and pipeline facilities located

within the State of Florida to ensure the health and welfare of the citizens of Florida and to protect the environment of this state. In support hereof, the Petitioner alleges the following:

- AFA
- APP
- CAF
- CMU
- CTR
- EAG
- LEG
- MAS
- OFC
- RRR
- SEC
- WAW
- OTH

1. The Petitioner, a public-interest corporation consisting of concerned Florida citizens, has a substantial interest in the adoption of the proposed rules set forth herein. In

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the absence of the requested rules, the health and safety of the citizens of Florida, as well as the environment of this state, will be jeopardized due to inadequate regulation of the safety and environmental integrity of intrastate and interstate natural gas pipelines and pipeline facilities located in Florida.

2. The responsibility to promulgate and to enforce safety and environmental standards with respect to Florida intrastate natural gas pipelines and pipeline facilities is conferred at the state level by Fla. Stat. Ann. § 368.03, which authorizes the PSC to establish standards for the installation, operation, and maintenance of natural gas transmission and distribution systems, including gas pipelines, gas compressor stations, gas metering and regulating stations, gas mains, gas services up to the outlet of the customer's meter set assembly, gas-storage equipment of the closed-pipe type, and gas storage lines. Fla. Stat. Ann. § 368.03 states that it is intended that the requirements of the rules and regulations promulgated by the PSC be adequate for safety under conditions normally encountered in the gas industry. Fla. Stat. Ann. § 368.05 confers jurisdiction upon the PSC over all persons, corporations, partnerships, associations, public agencies, municipalities, and other legal entities engaged in the operation of gas transmission or distribution facilities with respect to rules and regulations governing standards established by the PSC pursuant to Fla. Stat. Ann. § 368.03.

3. The authority to promulgate and to enforce safety and environmental standards with respect to Florida intrastate natural gas pipelines and pipeline facilities is conferred at the federal level by 49 U.S.C.A. §§ 60105 and 60109, which are part of the Federal

Hazardous Liquid Pipeline Act. The Act was adopted by Congress to establish and to enforce safety and environmental standards for both intrastate and interstate natural gas and hazardous liquid pipelines and pipeline facilities. The Act was intended to protect citizens of a state by requiring that the responsible federal or state regulatory authority promulgate regulations to ensure that natural gas pipelines and pipeline facilities are constructed and operated safely and with adequate concern for the environment. Pursuant to § 60105, a state agency having regulatory jurisdiction over safety standards and practices relating to intrastate pipeline facilities or pipeline transportation is authorized to adopt standards applicable to the construction and operation of intrastate natural gas pipelines and pipeline facilities. The jurisdiction conferred upon the PSC by Florida law to promulgate regulations for natural gas pipelines makes the PSC a responsible state authority pursuant to the requirements of the Federal Hazardous Liquid Pipeline Act.

4. 49 U.S.C.A. § 60106 provides that if the United States Secretary of Transportation does not receive a certification from the responsible state authority that such authority is asserting regulatory jurisdiction over pipeline facilities or pipeline transportation within its jurisdiction, then the Secretary may make an agreement with a state authority authorizing it to take necessary action with respect to standards for pipeline facilities and pipeline transportation. The Secretary of Transportation has not received such a certification from any responsible Florida state authority. The jurisdiction conferred upon the PSC by Florida law to promulgate regulations for natural gas pipelines makes the PSC a responsible state authority pursuant to § 60106.

5. There are no existing regulations that cover the complete risk of harm presented by natural gas pipelines located in Florida. The regulations promulgated by the PSC at Fla. Admin. Code Ann. r. 25-12.001 et seq. relate generally to the design, construction, installation, and testing of natural gas pipelines, and deal with such matters as required construction materials, design requirements relating to valves and joints, corrosion resistance, leak surveys and gas leak reports, odorization, and accident reports. They do not address any environmental risks presented by natural gas pipelines in Florida. The regulations in Fla. Admin. Code Ann. r. 25-12.001 et seq. incorporate by reference the federal regulations in 49 C.F.R. Parts 191, 192, and 199 (1998). The regulations in 49 C.F.R. Part 191 address reports required of pipeline operators. The regulations in 49 C.F.R. Part 192 are similar to the PSC regulations referenced above, in that they set forth standards for gas pipeline materials, design, construction, corrosion control, testing, operation, and maintenance. The regulations in Part 199 set forth drug and alcohol testing requirements for personnel operating covered facilities. The federal regulations incorporated by the PSC do not address any environmental risks presented by natural gas pipelines in Florida

6. By contrast, the Federal Hazardous Liquid Pipeline Act sets forth standards that require the issuance of criteria for identifying (1) each hazardous liquid pipeline facility, whether otherwise subject to the Act, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area and (2) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to the Act, located in an area that the Secretary of Transportation,

in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident. 49 U.S.C.A. § 60109(a). Section 60109(b) provides that, when describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the government must consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including (1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas and (2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species. The current PSC and incorporated federal regulations do not cover such environmental concerns and the substantial risk of environmental harm presented by interstate and intrastate natural gas pipelines located in Florida.

7. In determining how to discharge its responsibility under the Federal Hazardous Liquid Pipeline Act to protect the welfare and safety of the citizens of Florida and the environment of the state with respect to natural gas pipelines, the PSC may wish to consider the regulations of other states. For example, the Commonwealth of Virginia has enacted a system whereby the responsible state authority must accept the delegation to regulate hazardous liquid pipelines pursuant to the federal Act. (*See Va. Code Ann. § 56-553 et seq. (Michie 1995)*) (attached as Exhibit A). Under the Virginia Act, the State Corporation

Commission is authorized to act for the United States Secretary of Transportation to implement the federal Act with respect to intrastate and interstate pipelines located within Virginia to the extent authorized by certification or agreement with the Secretary. In order to carry out its responsibilities, the State Corporation Commission is granted the same powers as the Secretary is given under the federal Act. The Virginia regulatory system provides that, for purposes of intrastate pipelines, any person failing or refusing to obey Commission orders relating to the adoption or enforcement of regulations for the design, construction, operation, and maintenance of pipeline facilities is subject to fines, as established by the federal Act. The Commission is also under a duty inspect hazardous liquid pipelines and is authorized to assess and to collect from every hazardous liquid pipeline operator an inspection fee to be used by the Commission in administering the regulatory program established by the Virginia Act.

Similarly, the State of California has adopted a Pipeline Safety Act under which the responsible state authority is required to exercise exclusive authority over intrastate hazardous liquid pipelines and, to the extent authorized by agreement with the United States Secretary of Transportation, may act as agent for the Secretary to implement the Federal Hazardous Liquid Pipeline Act and federal pipeline regulations as to portions of interstate pipelines located within California. Cal. Gov't Code § 51010 et seq. (West Supp. 1999) (attached as Exhibit B). The responsible state authority is required to adopt pipeline safety regulations in compliance with federal law, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions. The state authority is required to

establish a Pipeline Safety Advisory Committee for purposes of informing local agencies and pipeline operators of changes in applicable laws and regulations affecting the operation of pipelines and of reviewing proposed hazardous liquid pipeline safety regulations adopted pursuant to the California Act. Pipeline operators are required to file with the responsible state authority various assessments regarding the inspection, maintenance, improvement, or replacement of pipelines. New pipelines are required to accommodate the passage of instrumented internal inspection devices, and operators are required to create leak mitigation and emergency response plans as the responsible state authority mandates. Moreover, the California Act recognizes that the protection of pipeline easements is essential to public safety and protection of the environment. Section 51014.6 prohibits any person, other than a pipeline operator, from, among other things, (1) building a structure or improvement within a pipeline easement, (2) building any structure adjacent to a pipeline easement, if such construction would prevent complete and unimpaired access to the easement, and (3) planting any shrubbery or building any shielding on the pipeline easement that would impair the aerial observation of the easement. The California Act also requires the responsible state authority to conduct risk assessment studies regarding hazardous liquid pipelines located near rail lines and mandates that the responsible authority promulgate regulations designed to minimize pipeline accidents in such locations. In addition, the California Act contains provisions protecting public drinking water wells. Pipeline operators are required to file reports in the event of any rupture, explosion, or fire involving a pipeline. As with the

Virginia Act, the California Act requires the payment of fees by pipeline operators for purposes of administering the Act.

The State of Washington has promulgated regulations prohibiting the location of certain gas transmission facilities within specified distances of buildings used by persons. (See Exhibit C).

8. As demonstrated by the foregoing state regulation of pipelines, there are many aspects of regulation necessary for the protection of persons and the environment that are not contained in the PSC regulations and in the federal standards adopted by the PSC. For example, the PSC regulations do not undertake to enforce the provisions of the Federal Hazardous Liquid Pipeline Act, including the provisions for the protection of the environment. The federal Act defines hazardous liquid pipelines to include natural gas pipelines. The PSC is the agency that has been granted the authority by Florida law to regulate natural gas pipelines. Accordingly, in order to discharge its regulatory obligations, the PSC is required to regulate intrastate and interstate natural gas pipelines in Florida in order to enforce the environmental requirements of the federal Act. //

Moreover, the regulations adopted by the PSC do not establish a mechanism for informing local agencies and pipeline operators of changes in applicable laws and regulations affecting the operation of pipelines and of reviewing proposed hazardous liquid pipeline safety regulations. In addition, existing PSC regulations do not mandate the filing of assessments by gas pipeline operators regarding the inspection, maintenance, improvement, or replacement of pipelines for purposes of identifying facilities presenting a risk of harm to

persons and to the environment. There are also no provisions requiring gas pipeline operators to design their pipelines in such a manner as to facilitate efficient and contemporaneous monitoring of pipeline failures or potential failures. Existing PSC regulations are silent with respect to activities potentially impinging upon gas pipeline easements, which may present a risk of harm to persons and to the environment, and with respect to the siting of gas pipelines near rail facilities and other installations increasing the risk of pipeline accidents and attendant harm to persons and to the environment. The PSC regulations contain no provision protecting public drinking water supplies from the risk of harm presented by natural gas pipelines. Finally, the PSC regulations leave safety and environmental enforcement substantially unfunded by not requiring pipeline operators to pay fees enabling safety and environmental inspections of gas pipeline facilities.

9. On December 20, 1999, Buccaneer Gas Pipeline Company, L.L.C. ("Buccaneer") filed a Petition to Intervene in the Petitioner's original Petition to Initiate Rulemaking before the PSC. Buccaneer alleged that its substantial interests would be affected by the rulemaking sought by the Petitioner because Buccaneer has filed with the United States Federal Energy Regulatory Commission an application for a certificate of public convenience and necessity requesting authorization for the construction and operation of a new natural gas pipeline and related facilities in Florida. In its Petition to Intervene, Buccaneer asserts that it has selected "a potential route that seeks to avoid adverse socioeconomic and environmental impacts to the greatest extent possible." (Petition to Intervene ¶ 5). However, Buccaneer's filings with the PSC belie the allegedly minimal

environmental effect of the project and make plain why the Petitioner seeks the PSC's regulatory assistance in protecting persons and the environment from the risks of harm presented by natural gas pipelines. (*See* Exhibit D). According to Buccaneer, the proposed natural gas pipeline would deliver 950 million cubic feet of natural gas to Florida. (Exhibit D at 3). The offshore portion of the project would require 400 miles of 36-inch diameter pipeline and would extend from a processing plant in Mobile County, Alabama to the west coast of Florida, just north of Tampa. (*Id.*) The onshore portion of the project would bisect Florida, running from the west coast to the Cape Canaveral area on the east coast, and would require approximately 250 miles of onshore pipe. (*Id.* at 3, 6). The diameter of the pipeline built across Florida would vary from 12 to 36 inches and would be buried, according to Buccaneer, with a minimum of three feet of ground cover. (*Id.* at 3). Buccaneer envisions 14 delivery points in Florida, in Pasco, Polk, Osceola, Orange, Lake, Seminole, Volusia, Brevard, and Bay Counties. Buccaneer anticipates that a minimum, permanent easement of 50 feet will be necessary to operate and to maintain the pipeline, but it also states that it may need to acquire an additional 35 feet of temporary right-of-way during the construction phase. (*Id.*)

10. *Buccaneer's Petition to Intervene* is evidence that existing regulations do not cover the full range of safety and environmental risks presented by the proposed project or by any natural gas pipeline in Florida. According to Buccaneer, the adoption of new regulations during the course of the approval process for the proposed pipeline would create "uncertainty as to the regulatory scheme with which Buccaneer's pipeline will eventually

have to comply." (Petition to Intervene ¶ 7). Such uncertainty would arise because existing regulations do not address the environmental and safety concerns encompassed by the Federal Hazardous Liquid Pipeline Act. Buccaneer's Petition to Intervene also demonstrates the urgency with which new regulations are required. If the PSC, as the state agency having the duty to regulate natural gas pipelines in Florida, waits until after the completion of a major gas pipeline project, like that proposed by Buccaneer, to issue the regulations necessary to protect persons and the environment from the risk of harm presented by gas pipelines, then it will be much more difficult, if not impossible, to impose effective regulations in the future.

11. For all the foregoing reasons, the Petitioner requests that the PSC accept the delegation conferred upon it by 49 U.S.C.A. § 60105, as the responsible state authority, to promulgate regulations necessary to accomplish the purposes of the Federal Hazardous Liquid Pipeline Act.

12. The rule proposed by the Petitioner with respect to the PSC's acceptance of the federal delegation to regulate Florida intrastate pipelines and pipeline facilities is as follows:

The Florida Public Service Commission accepts the delegation by the United States Department of Transportation, pursuant to 49 U.S.C.A. § 60105, to regulate Florida natural gas pipelines and pipeline facilities. The Commission will proceed to propose rules necessary to ensure the safe construction and operation of Florida natural gas pipelines and pipeline facilities. The Public Service Commission recognizes that its acceptance of such delegation is necessary for the protection of persons and the environment from the risks of harm presented by the construction and operation of natural gas pipelines in Florida.

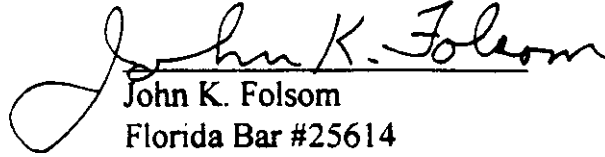
13. Moreover, the Petitioner requests that the PSC adopt the rules necessary to act for the United States Secretary of Transportation to implement the Federal Hazardous Liquid Pipeline Act with respect to intrastate and interstate natural gas pipelines located within the State of Florida, to the extent authorized by certification or agreement with the Secretary pursuant to 49 U.S.C.A. § 60106. The Petitioner requests that such rules provide that the PSC will have the same powers as given to the Secretary under the Federal Hazardous Liquid Pipeline Act to carry out its responsibilities in implementing the Act.

14. The rule proposed by the Petitioner with respect to the PSC's entry into an agreement with the United States Department of Transportation under § 60106 is as follows:

The Florida Public Service Commission accepts the authority granted to it pursuant to 49 U.S.C.A. § 60106 to enter into an agreement with the United States Department of Transportation to implement the Federal Hazardous Liquid Pipeline Act with respect to intrastate and interstate pipeline facilities located within the State of Florida, to the extent authorized by certification or agreement with the Secretary under 49 U.S.C.A. § 60106. To carry out its responsibilities in implementing the Act, the PSC shall have the same powers act as given to the Secretary under the Federal Hazardous Liquid Pipeline Act. The PSC will forthwith initiate negotiations with the United States Department of Transportation in order to reach such an agreement. The Public Service Commission recognizes that its entry into such an agreement is necessary for the protection of persons and the environment from the risks of harm presented by the construction and operation of natural gas pipelines in Florida.

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Respectfully submitted,



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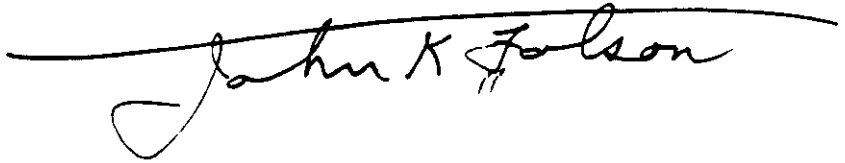
Attorney for Petitioner,
Friends of the Aquifer, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Petition to Initiate Rulemaking has been provided via regular U.S. Mail on this 5th day of January, 2000, to the following:

Christiana Moore
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Richard D. Melson
Richard S. Brightman
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P.O. Box 6526
Tallahassee, FL 32314



John K. Folsom

section, for the purpose of funding transportation improvements which are related to or affected by the toll road. Toll rates shall be set in multiples of five cents; however, the Commission shall order that that percentage of each toll by which the toll established exceeds that necessary to provide the operator with an amount necessary to meet the operator's obligations under § 56-543 and earn a reasonable return shall be committed to the fund. In addition the operator, the Board, and the local governments through which the road passes may jointly petition the Commission to establish an additional toll amount to be committed to this fund. (1968, c. 649.)

CHAPTER 21.

HAZARDOUS LIQUID PIPELINE SAFETY ACT.

Sec.	Hazardous Liquid Pipeline Safety Act.
56-553. Title.	
56-554. Definitions.	
56-555. Commission to implement the federal	

§ 56-553. Title. — This chapter may be cited as the "Hazardous Liquid Pipeline Safety Act of 1994." (1994, c. 512.)

§ 56-554. Definitions. — For the purposes of this chapter:
 "Hazardous liquid" means "hazardous liquid" and "highly volatile liquid" as defined in 49 C.F.R. § 195.2.

"Person" means an individual, corporation, partnership, association or other business entity or a trustee, receiver, assignee, or personal representative of any of these.

"Pipeline operator" means a person who owns and operates pipeline facilities as defined in 49 C.F.R. § 195.2.

"Interstate pipeline" and "intrastate pipeline" shall have the same meanings as defined in 49 C.F.R. § 195.2. (1994, c. 512.)

§ 56-555. Commission to implement the federal Hazardous Liquid Pipeline Safety Act. — A. The Commission is authorized to act for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act, 49 U.S.C. App. §§ 2001 to 2014, with respect to intrastate and interstate pipelines located within the Commonwealth to the extent authorized by certification or agreement with the Secretary under Section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. § 2004). To carry out its responsibilities under this section, the Commission shall have the same powers as given the Secretary in Sections 210 and 211 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §§ 2009 and 2010).

B. For the purposes of intrastate pipelines, any person failing or refusing to obey Commission orders relating to the adoption or enforcement of regulations for the design, construction, operation and maintenance of pipeline facilities and temporary or permanent injunctions issued by the Commission shall be fined such sums not exceeding the fines and penalties specified by § 208 (a) (1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. § 2007 et seq.), as amended.

C. The Commission shall assess and collect from every hazardous liquid pipeline operator an inspection fee to be used by the Commission for administering the regulatory program authorized by this section. For purposes of interstate pipelines, such fees shall be computed based on the number of

inspection man-days devoted to each pipeline operator to determine the operator's compliance with any provision of, or order or agreement issued under, the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. § 2001 et seq.), and shall not exceed the costs of inspection and investigation under this section. The costs shall not include expenses reimbursed by the federal government. The number of planned inspections conducted on each interstate pipeline operator shall be reasonable under the circumstances and prioritized by risk to the public or to the environment.

D. The authority granted to the Commission under this section to conduct inspections of interstate pipeline operators and facilities in the Commonwealth shall not extend to any official, employee, or agent of any political subdivision in the Commonwealth. No political subdivision shall have the authority to seek reimbursement for the cost of monitoring the inspections conducted by the Commission under this section. Nothing in this subsection, however, shall be deemed to impair or limit the police powers of such political subdivisions otherwise provided by law.

E. The authority of the Commission to act as an agent for the United States Secretary of Transportation with respect to interstate hazardous liquid pipelines shall become effective the first day of July next after the date the Commission receives a formal delegation of authority from the Secretary. (1994, c. 512.)

CHAPTER 22.

PUBLIC-PRIVATE TRANSPORTATION ACT OF 1995.

Sec.		Sec.	
56-556.	Title.	56-567.	Federal, state and local assistance.
56-557.	Definitions.	56-568.	Material default; remedies.
56-558.	Policy.	56-569.	Condemnation.
56-559.	Prerequisite for operation.	56-570.	Utility crossings.
56-560.	Approval by the responsible public entity.	56-571.	Police powers; violations of law.
56-561.	Service contracts.	56-572.	Dedication of assets.
56-562.	[Repealed.]	56-573.	Sovereign immunity.
56-563.	Affected local jurisdictions.	56-573.1.	Procurement.
56-564.	Dedication of public property.	56-573.2.	Jurisdiction.
56-565.	Powers and duties of the operator.	56-574.	Preservation of the Virginia Highway Corporation Act of 1988.
56-566.	Comprehensive agreement.	56-575.	[Not set out.]

§ 56-556. Title. — This chapter may be cited as the "Public-Private Transportation Act of 1995." (1994, c. 855; 1995, c. 647.)

The numbers of §§ 56-556 through 56-575 were assigned by the Virginia Code Commission, the numbers in the 1994 act having been §§ 56-553 through 56-572.

Effective date. — This section is effective July 1, 1996.

The 1995 amendment substituted "Public-Private Transportation Act of 1995" for "Qualifying Transportation Facilities Act of 1994."

§ 56-557. Definitions. — As used in this chapter, unless the context requires a different meaning:

"Affected local jurisdiction" means any county, city or town in which all or a

Article 6
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Section
50973. Disbursement of assets upon termination
of award system.

§ 50979. Disbursement of assets upon termination of award system

Upon termination of the award system, assets in the fund shall be disbursed in the following order:

- (a) An amount sufficient to pay awards shall be retained by the board.
- (b) An amount sufficient to pay reasonable administrative expenses shall be retained by the board.
- (c) An amount sufficient to pay the General Fund loan shall be paid to the General Fund.

(d) From any balance in the fund after the above amounts have been retained or disbursed, each department's accumulated contributions, less a proportionate share of the amount retained for reasonable administrative expenses, less the amount retained to pay awards of that department's volunteers, shall be refunded to the department.

(Added by Stats.1963, c. 909, § 6.)

Chapter 5.5

THE ELDER CALIFORNIA PIPELINE SAFETY ACT OF 1961

Section 51010.	Legislative intent.	Section 51015.1.	Risk assessment study; hazardous liquid pipelines near rail lines.
51010.5.	Definitions.	51015.2.	Regulations governing hazardous liquid pipelines near rail lines.
51010.6.	Pipelines subject to federal safety acts and regulations.	51015.3.	Emergency regulations; hazardous liquid pipelines near rail lines.
51011.	Regulations; adoption; exemptions.	51015.4.	Valves and check valves; regulations.
51012.	Pipeline safety advisory committee.	51015.5.	Nonemergency site alterations; approval; regulations.
51012.3.	Pipeline operators; schedule of conformance with federal regulations.	51016.	Valve spacing study.
51012.4.	Inspection, maintenance, improvement, or replacement assessment; filing requirements.	51017.	Pipeline information data base.
51013.	New pipelines; design and construction requirements; internal inspection devices.	51017.1.	Public drinking water wells; identification of pipelines transporting petroleum products near wells; notification of operators; pipeline wellhead protection plans.
51013.5.	Testing; higher risk pipelines list; risk studies; testing frequency regulations.	51017.2.	Wellhead protection plan regulations.
51014.	Pressure tests; manner of conducting.	51018.	Rupture, explosion or fire reports; assistance by State Fire Marshal.
51014.3.	Notification prior to testing; observation of tests.	51018.5.	Repealed.
51014.5.	Hydrostatic testing; certification of results; test result reports.	51018.6.	Enforcement proceedings; regulations for conducting; civil penalty for violation; determination of amount; collection; disposition of penalties.
51014.6.	Pipeline easements; building, vegetation and shielding restrictions.	51018.7.	Punishment for chapter violations; sign or marker offenses.
51015.	Maps and diagrams; contingency plans for pipeline emergencies; availability of records, maps, etc.; inspections; yearly review of contingency plans.	51018.8.	Orders for compliance.
51015.05.	Data base; intrastate pipelines; public access; reporting by agencies; study to encourage replacements and improvements.	51019.	Fees.
		51019.05.	Annual fee assessments; intrastate pipeline operators; delinquency fees.
		51019.1.	California hazardous liquid pipeline safety fund; creation; deposit of fees.

Stats.1962, c. 855 (A.B.199), § 1, in the heading of Chapter 5.5 inserted "THE ELDER".

Additions or changes indicated by underline; deletions by ~~asterisks~~ " " "

§ 51010. Legislative intent

It is the intent of the Legislature to create a comprehensive safety regulatory and enforcement system for the extent authorized by agreement with the Department of Transportation, and may act as a federal Hazardous Liquid Pipeline regulations as to those portions of annual federal certification.

(Amended by Stats.1963, c. 1222,

148 U.S.C.A. § 2001 et seq.

§ 51010.5. Definitions

As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every substance or highly volatile liquid containing those substances located on a common carrier and is served by a pipeline at least five miles in length.

- (1) An interstate pipeline subject to federal safety acts.
- (2) A pipeline for the transport of petroleum.
- (3) A pipeline for the transport of less than one percent or less of the specified material.
- (4) Transportation of petroleum.

(5) A pipeline for the transport of a hazardous liquid where the outlet flange of each facility where produced hydrocarbons are further downstream.

- (6) Transportation of a hazardous liquid.
- (7) A pipeline for the transport of a hazardous liquid at a refinery, or manufacturing facility.

(8) Transportation of a hazardous liquid or terminal facilities used for transportation.

(b) "Flow line" means a pipeline treating facility or production site.

(c) "Hydrostatic testing" means operating pressure to a segment of a pipeline with liquid test medium.

(d) "Local agency" means a city or county.

(e) "Rural area" means a local city or city and county, or other shopping center, or a community.

(f) "Gathering line" means a pipeline from a production facility to a processing facility.

(g) "Production facility" means a production facility under this act which produces petroleum from the ground and includes a wellhead.

(h) "Public drinking water well" means a well as defined in Section 11 of the Department of Health Services.

(i) "GIS mapping system" means a system that stores, and displays environmental data.

Additions or changes indicated by underline; deletions by ~~asterisks~~ " " "

Adoptions or changes indicated by underlines; deletions by overlines

- (1) "GIS mapping system" means a geographical information system that will collect, store, retain, analyze, and display environmental geospatial data in a data base that is accessible to the public.
- (2) "Public drinking water well" means a wellhead that provides drinking water to a public water supply system and is subject to Section 11610 of the Health and Safety Code.
- (3) "Production facility" means piping or equipment used in the production, extraction, recovery, refining, stabilization, separation, or treatment of petroleum or associated storage or measurement. (1) Petroleum from the ground and transporting it by pipeline.
- (4) "Cathering line" means a pipeline with a diameter of less than nominal diameter that transports petroleum from a production facility.
- (5) "Local agency" means a city, county, or the production district.
- (6) "Rural area" means a location which lies outside the limits of any incorporated or unincorporated city or county, or other residential or commercial area, such as a subdivision, a business, shopping center, or a community development.
- (7) "Hydraulic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing liquid test medium.
- (8) "Flow line" means a pipeline which transports hazardous liquid substances from the well head to a production facility or production storage facility.
- (9) "Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between these modes of transportation."
- (10) "A pipeline for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or implant piping system associated with the transportation of a hazardous liquid by a flow line."
- (11) "A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or stored produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is further downstream."
- (12) "A pipeline for the transportation of crude oil that operates by gravity or at a stress level of 2 percent or less of the specified minimum yield strength of the pipe."
- (13) "An interstate pipeline subject to Part 196 of Title 49 of the Code of Federal Regulations."
- (14) "Pipeline" includes every interstate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all pipes containing those substances located within a defined production bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns an interest in the pipeline at least five such facilities in the state. "Pipeline" does not include the following:
 - (a) Pipelines that are used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all pipes containing those substances located within a defined production bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns an interest in the pipeline at least five such facilities in the state.
 - (b) Pipelines that are used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all pipes containing those substances located within a defined production bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns an interest in the pipeline at least five such facilities in the state.

As used in this chapter, the following definitions apply:

§ 51015. Definitions

149 U.S.C.A. § 2001 et seq.

(Amended by Stats.1988, c. 1222 § 1, eff. Sept. 30, 1988; Stats.1988, c. 863, § 1; Stats.1988, c. 986, § 1)

It is the intent of the Legislature, in enacting this chapter, that the State Fire Marshal shall exercise exclusive safety regulatory and enforcement authority over interstate hazardous liquid pipelines and transportation, and may act as agent for the United States Secretary of Transportation to implement the Federal Hazardous Liquid Pipeline Safety Act (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations as to those portions of interstate pipelines located within this state, as necessary to obtain annual federal certification.

§ 51016. Legislative intent

GOVERNMENT CODE

§ 51010.

5.5 inserted THE SLIDER

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 safety fund; violation; deposit of
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 able drinking water wells; identifica-
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 valves and check valves; regulations.
 and pipelines near rail lines.
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 and pipelines near rail lines.
 risk assessment study; hazardous liq-

HTY ACT OF 1981

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aid to the General Fund.

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GOVERNMENT CODE

(j) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol, or gasoline and oxygenates, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosene, liquefied petroleum gas, or natural gas in liquid or gaseous form.

(k) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

(Amended by Stats.1988, c. 1222, § 2, eff. Sept. 30, 1988; Stats.1986, c. 1407, § 1; Stats.1983, c. 1401, § 1; Stats.1982, c. 1195, § 1; Stats.1990, c. 856 (A.B.3527), § 1; Stats.1992, c. 855 (A.B.190), § 2; Stats.1997, c. 814 (A.B.592), § 1.)

Historical and Statutory Notes

1997 Legislation
Section 14 of Stats.1997, c. 814 (A.B.592), provides:
"This act shall become operative only if Senate Bill 1189 of the 1997-98 Regular Session is also enacted and be-

comes effective on or before January 1, 1998 [Stats.1997, c. 816 (S.B.1199)]."

§ 51010.6 Pipelines subject to federal safety acts and regulations

Notwithstanding Section 51010.5, that portion of an interstate pipeline which is located within this state and is subject to an agreement between the United States Secretary of Transportation and the State Fire Marshal is subject to the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 2001 et seq.), the Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100-561), and federal pipeline safety regulations.

(Added by Stats.1988, c. 988, § 2. Amended by Stats.1989, c. 1277, § 2.)

Historical and Statutory Notes

1988 Legislation
Section 1 of Stats.1988, c. 1277 provides:

"This act shall be known and may be cited as the Hazardous Liquid Pipeline Amendments of 1988."

§ 51011. Regulations; adoptions; exemptions

The State Fire Marshal shall adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety . . . , including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions, and including amendments to those laws and regulations which may be hereafter enacted and adopted. Regulations adopting the minimum standards for hazardous liquid pipelines contained in the Federal Hazardous Liquid Pipeline Safety Act, 49 U.S.C. Sec. 2001 et seq., and Title 49 of the Code of Federal Regulations, by the State Fire Marshal are exempt from the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, except that those regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

The State Fire Marshal may exempt the application of regulations adopted pursuant to this section to any pipeline, or portion thereof, when it is determined that the risk to public safety is slight and the probability of injury or damage remote.

Notification of exemptions shall be written, and shall include a discussion of those factors which the State Fire Marshal considers significant to the granting of the exemption.

(Amended by Stats.1988, c. 1222, § 3, eff. Sept. 30, 1988; Stats.1989, c. 1277, § 2.5; Stats.1991, c. 88 (A.B.718), § 1.)

§ 51012. Pipeline safety advisory committee

The State Fire Marshal shall establish a . . . Pipeline Safety . . . Advisory Committee for purposes of informing local agencies and every pipeline operator of changes in applicable laws and regulations affecting the operations of pipelines and reviewing proposed hazardous liquid pipeline safety regulations adopted pursuant to Section 51011.

The committee shall be composed of eight members of whom two shall represent pipeline operators, three shall represent local agencies, one shall be a fire chief, and two shall be public members. The committee shall meet when requested by the State Fire Marshal, but not less than once a year. The members shall be paid expenses and one hundred dollars (\$100) per diem for each meeting.

(Amended by Stats.1988, c. 1222, § 4, eff. Sept. 30, 1988; Stats.1989, c. 1252, § 1.)

Additions or changes indicated by underline; deletions by asterisks . . .

§ 51012.1 Pipeline operators:

(a) Every operator of a pipeline F, inclusive, of Part 196 of Title hereafter amended, in accordance:

(1) On or before July 1, 1984, Section 196.401 of Title 49 of the C a pipeline constructed after January transports by gravity or which op yield strength of the pipe.

(2) On or before January 1, 1986 of Title 49 of the Code of Feder regulation under Amendment 196- April 17, 1985, (effective date, Oct Section 196.402 of Title 49 of the C

(3) The pipeline operator shall r 196.414 of Title 49 of the Code of F.

(A) On or before October 21, 198

(B) On or before October 21, 198'

(C) On or before October 19, 1 provided in paragraph (D).

(D) On or before January 1, 1991 transport by gravity or operate at strength of the pipe.

(4) Operators of intrastate pipeln of Title 49 of the Code of Federal R P.R. 15885 et seq.) shall meet the r of Federal Regulations.

(b) For purposes of applying the Regulations, the word "Secretary," Marshal."

(Added Stats.1988, c. 1222, § 5, eff. 1401, § 2; Stats.1988, c. 1195, § 2.)

Explosives cont.
C.J.R. Explosives §§ 1.2

§ 51012.4 Inspection, maintenance

(a) Notwithstanding any other pro each pipeline operator shall file with maintenance, improvement, or replac

(1) Any pipeline or pipeline segmen

(2) Any pipeline installed on or aft conducted, or which shows diminish

(b) When preparing any assessme older pipelines located in densely pop near existing seismic fault lines, or, pi

(c) On or before January 1, 1988, Advisory Committee and pipeline op operator when conducting any assessm

(d) A pipeline inspection, maintenac to this section may incorporate any i that could act as barriers to the ins including, but not limited to, findings f

Additions or changes in

is of gasoline and alcohol, or liquefied liquid may be known or sold, which is known type engine. It does not include (turn.

hat has been approved by the United States to meet the requirements for States Code.

c. 1407, § 1; Stats.1986, c. 1401, § 1; 2. c. 855 (A.B.199), § 2; Stats.1997, c.

on or before January 1, 1988 (Stats.1987,)

line which is located within this state of Transportation and the State Fire Act of 1979 (49 U.S.C. Sec. 2001 et 00-561), and federal pipeline safety

2.)

It be known and may be cited as the Pipeline Amendments of 1988."

v regulations in compliance with the ling, but not limited to, compliance including amendments to those laws Regulations adopting the minimum cautious Liquid Pipeline Safety Act. tions, by the State Fire Marshal with Section 112461 of Chapter 3.5 of no regulations shall be submitted to te and publication in the California

adopted pursuant to this section to s to public safety is slight and the

discussion of those factors which the ion.

), c. 1277, § 2.5; Stats.1991, c. 398

* Advisory Committee for purposes in applicable laws and regulations is liquid pipeline safety regulations

shall represent pipeline operators, so shall be public members. The it not less than once a year. The um for each meeting.

1252, § 1.)

ns by asterisks * * *

§ 51012.3 Pipeline operators; schedule of conformance with federal regulations

(a) Every operator of a pipeline shall conform the pipeline to the federal regulations in Subparts A to F, inclusive, of Part 195 of Title 49 of the Code of Federal Regulations, as those regulations may be hereafter amended, in accordance with the following schedule:

(1) On or before July 1, 1984, the pipeline operator shall meet the requirements of subsection (c) of Section 195.401 of Title 49 of the Code of Federal Regulations, but those requirements shall apply only to a pipeline constructed after January 1, 1984, and shall not apply until January 1, 1991, to a pipeline which transports by gravity or which operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(2) On or before January 1, 1986, the pipeline operator shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations. Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985-50 F.R. 15395 et seq.), shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations on or before April 23, 1987.

(3) The pipeline operator shall meet the cathodic protection requirements of subdivision (a) of Section 195.414 of Title 49 of the Code of Federal Regulations as follows:

(A) On or before October 21, 1986, 25 percent of the required cathodic protection shall be installed.

(B) On or before October 21, 1987, 50 percent of the required cathodic protection shall be installed.

(C) On or before October 19, 1988, all required cathodic protection shall be installed, except as provided in paragraph (D).

(D) On or before January 1, 1991, all required cathodic protection shall be installed on pipelines which transport by gravity or operate at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(4) Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 of Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985-50 F.R. 15395 et seq.), shall meet the requirements of Section 195.414(a), (b), and (c) of Title 49 of the Code of Federal Regulations.

(b) For purposes of applying the federal regulations of Part 195 of Title 49 of the Code of Federal Regulations, the word "Secretary," when it appears in the federal regulations, means the "State Fire Marshal."

(Added Stats.1983, c. 1222, § 5, eff. Sept. 30, 1983. Amended by Stats.1985, c. 1407, § 2; Stats.1986, c. 1401, § 2; Stats.1988, c. 1195, § 2.)

Library References

Explosives 492.
C.I.S. Explosives §§ 1, 3.

§ 51012.4. Inspection, maintenance, improvement, or replacement assessment; filing requirements

(a) Notwithstanding any other provision of this chapter, including, but not limited to, Section 51012.3, each pipeline operator shall file with the State Fire Marshal, on or before July 1, 2000, an inspection, maintenance, improvement, or replacement assessment for the following:

(1) Any pipeline or pipeline segments built before January 1, 1980.

(2) Any pipeline installed on or after January 1, 1980, for which regular internal inspections cannot be conducted, or which shows diminished integrity due to corrosion or inadequate cathodic protection.

(b) When preparing any assessment required by subdivision (a), the operator shall give priority to older pipelines located in densely populated areas, pipelines with a high-leak history, pipelines located near existing seismic fault lines, or pipelines in areas with identified ground formations.

(c) On or before January 1, 1998, the State Fire Marshal, in consultation with the Pipeline Safety Advisory Committee and pipeline operators, shall establish evaluation criteria for use by a pipeline operator when conducting any assessment required by subdivision (a).

(d) A pipeline inspection, maintenance, improvement, or replacement assessment developed pursuant to this section may incorporate any information on regulatory requirements or existing public policies that could act as barriers to the inspection, maintenance, improvement, or replacement of pipelines including, but not limited to, findings from the studies required pursuant to Section 51015.05.

Additions or changes indicated by underline; deletions by asterisks * * *

(e) Nothing in this section is intended to require the replacement of a pipeline.
 (Added by Stats.1996, c. 973 (A.B.349), § 2.)

Historical and Statutory Notes

1996 Legislation

Sections 1 and 5 of Stats.1996, c. 973 (A.B.349), provide:
 "Section 1. The Legislature hereby finds and declares all of the following:

"(a) In the past several years, pipeline spills in California have posed safety hazards to local populations and seriously impacted the environment.

"(b) The State Fire Marshal's Hazardous Liquid Pipeline Risk Assessment report published in 1998 found that the leading cause of hazardous liquid pipeline leaks during the period January 1981 through December 1998 was external corrosion, causing 58.8 percent of all leaks. The State Fire Marshal's report also found a significant correlation between the age of a pipeline and the degree to which it experiences external corrosion and leaks.

"(c) According to the State Fire Marshal's report, pipelines constructed before 1949 leaked at a rate nearly 20 times that of pipelines constructed in the 1980's. Two factors that contribute to the high-leak incidence rate in older pipes, especially those constructed before 1949, are the older coatings on the pipelines and the higher operating temperatures. For example, pre-1949 pipelines operated at an average temperature of 126°F, higher than the average operating temperature for pipelines constructed during any other period.

"(d) The State Fire Marshal's report also found all of the following:

"(1) Pipelines within standard metropolitan statistical areas (SMSAs) had a higher external corrosion incident rate than pipelines in non-SMSAs.

"(2) Pipelines without cathodic protection, or with inadequate, older coatings, had a drastically higher frequency of external corrosion-caused leaks than protected leaks.

"(3) Somewhere between 13 and 29 incidents caused by seismic activity are anticipated on regulated California hazardous liquid pipelines during a future 30-year period.

"(e) Existing statutory requirements for hydrostatic pressure testing on some pipelines are helpful in locating leaks, but inadequate as a preventative measure to detect external corrosion that will eventually cause leakage.

"(f) A recent investigation of pipeline regulatory programs by the Department of Fish and Game and the Office of Oil Spill Prevention and Response found that the lack of complete and easily accessible pipeline information frustrated oil spill response efforts.

"(g) Therefore, it is essential for the protection of public health and safety and the environment to develop a statewide inspection, maintenance, improvement, or replacement program of older pipelines that are more susceptible to corrosion and leakage, and to centralize information on pipelines to aid in spill prevention planning and response efforts."

"Sec. 5. This act shall become operative only if Assembly Bill 1487 (Stats.1996, c. 765) of the 1996-98 Regular Session is enacted and becomes effective on or before January 1, 1997."

§ 51012. New pipelines; design and construction requirements; internal inspection devices

(a) Any new pipeline constructed after January 1, 1984, and which normally operates under conditions of constant flow and pressure, shall be designed and constructed in accordance with Subparts C and D of Part 196 of Title 49 of the Code of Federal Regulations, and shall include a means of leak detection and cathodic protection which the State Fire Marshal determines is acceptable, except that any " " pipeline which transports by gravity or operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe shall meet these design and construction requirements on or before January 1, 1991.

(b) ANY new pipeline on which construction begins after January 1, 1990, shall be designed to accommodate the passage of instrumented internal inspection devices, and shall have leak mitigation and emergency response plans and equipment as the State Fire Marshal may require. Any repairs to existing pipelines which can accommodate instrumented internal inspection devices shall be done in a manner not to interfere with the passage of these devices.

(c) Subdivision (a) does not apply to the replacement of valves and the relocation or replacement of portions of pipelines.

(d) For pipelines which cannot accommodate internal inspection devices, replacements of portions of the pipe shall be done in a manner consistent, to the extent practicable, with the eventual accommodation of instrumented internal inspection devices.

(Amended by Stats.1983, c. 1222, § 8, eff. Sept. 20, 1983; Stats.1988, c. 1195, § 3; Stats.1989, c. 1277, § 2.)

§ 51012.5. Testing; higher risk pipelines list; risk studies; testing frequency regulations

(a) Every newly constructed pipeline, existing pipeline, or part of a pipeline system that has been relocated or replaced, and every pipeline that transports a hazardous liquid substance or highly volatile liquid substance, shall be tested in accordance with Subpart E (commencing with Section 196.800) of Part 196 of Title 49 of the Code of Federal Regulations.

(b) Every pipeline not provided with properly sized automatic pressure relief devices or properly designed pressure limiting devices shall be hydrostatically tested annually.

Additions or changes indicated by underlines; deletions by ~~asterisks~~ * * *

(c) Every pipeline over 10 hydrostatically tested every 1 pipelines, which shall be hydr

(d) Every pipeline over 1 hydrostatically tested every 1 pipelines which shall be hydr

(e) Piping within a refined dically at 125 percent of maxi ed in that piping if that piping yield strength of the pipe. 1 for those pipelines with effec effective cathodic protection.

(f) Beginning on July 1, 19 pursuant to subdivision (g) is satisfies any of the following : pipelines until five years pas Initially, pipelines on that list placed on the list, whichever Marshal with a list of all their any pipeline becomes eligible shall report that fact to the St retroactively to the date on w the list, but are not so repar retroactively. Operators fail Section 51012.6. Pipelines no be deleted from the list when subdivision, a leak which is or shall be deemed caused by cor or "reportable leak" means a pipelines are tested in their e (c) and (d), it shall suffice for directions along an operator's retention of that pipeline on t of the following criteria:

(1) Have suffered two or : pressure test, due to corrosio

(2) Have suffered three or pressure test, due to corrosio three years.

(3) Have suffered a repor corrosion or defect of more t area, in the prior three years Marshal finds has resulted in jurisdiction entering a water hazardous liquid with a flashp prior three years.

(4) Are less than 50 miles hydrostatic pressure test, due paragraph, the length of a pip termini along the pipeline.

(5) Have experienced a rep s certified hydrostatic pressur s in this category, and no ot subdivision shall be required o than 50 years old which is w pipeline is tested.

(g) The State Fire Marshal consultation with the Pipelin hazardous liquid pipelines pos and likely seriousness of, an a

Additions or chan

of a pipeline.

within standard metropolitan statistical areas and a higher external corrosion incident rate than in non-SMSAs.

without cathodic protection, or with less than the minimum required cathodic protection, had a drastically higher frequency of pipeline-caused leaks than protected pipelines: between 13 and 23 incidents caused by leaks anticipated on regulated California pipelines during a future 30-year period.

Additional requirements for hydrostatic testing of some pipelines are helpful in locating leaks as a preventative measure to detect leaks that will eventually cause leaks.

Investigation of pipeline regulatory programs of the Department of Fish and Game and the Department of Transportation and the Department of Public Safety has shown that the availability of pipeline information is essential for the protection of public health and the environment to develop a maintenance, improvement, or repair program for older pipelines that are more prone to leaks and to coordinate with local spill prevention planning.

shall become operative only if Assembly Bill 1988, c. 765 of the 1988-89 Regular Session and becomes effective on or before

inspection devices

normally operates under conditions similar to those specified in Subparts C and D of this section as a means of leak detection and repair, except that any " " pipeline shall be tested at least at the specified minimum intervals on or before January 1,

1, 1990, shall be designed to detect and report leaks and shall have leak mitigation and repair devices that shall be done in a

relocation or replacement of

replacements of portions of the pipeline to accommodate the eventual accommodation

§ 3; Stats. 1989, c. 1277, § 3.)

agency regulations

pipeline system that has been found to be a safety hazard or highly volatile with Section 196.300 of Part

relief devices or properly

asterisks * * *

(b) Every pipeline over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years, except for those on the State Fire Marshal's list of higher risk pipelines, which shall be hydrostatically tested annually.

(d) Every pipeline over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years, except for those on the State Fire Marshal's list of higher risk pipelines which shall be hydrostatically tested every two years.

(e) Piping within a refined products bulk loading facility served by pipeline shall be tested hydrostatically at 125 percent of maximum allowable operating pressure utilizing the product ordinarily transported in that piping if that piping is operated at a stress level of 20 percent or less of the specified minimum yield strength of the pipe. The frequency for pressure testing these pipelines shall be every five years for those pipelines with effective cathodic protection and every three years for those pipelines without effective cathodic protection. If that piping is observable, visual inspection may be the method of testing.

(f) Beginning on July 1, 1990, and continuing until the regulations adopted by the State Fire Marshal pursuant to subdivision (g) take effect, each pipeline within the State Fire Marshal's jurisdiction which satisfies any of the following sets of criteria shall be placed on the State Fire Marshal's list of higher risk pipelines until five years pass without a reportable leak due to corrosion or defect on that pipeline. Initially, pipelines on that list shall be tested by the next scheduled test date, or within two years of being placed on the list, whichever is first. On July 1, 1990, pipeline operators shall provide the State Fire Marshal with a list of all their pipelines which satisfy the criteria in this subdivision as of July 1, 1990. If any pipeline becomes eligible for the list of higher risk pipelines after that date, the pipeline company shall report that fact to the State Fire Marshal within 30 days, and the pipeline shall be placed on the list retroactively to the date on which it became eligible for listing. Pipelines which are found to belong on the list, but are not so reported by the operator to the State Fire Marshal, shall be placed on the list retroactively. Operators failing to properly report their pipelines shall be subject to penalties under Section 51018.6. Pipelines not covered under the risk criteria developed pursuant to subdivision (g) shall be deleted from the list when regulations are adopted pursuant to that subdivision. For purposes of this subdivision, a leak which is traceable to an external force, but for which corrosion is partly responsible, shall be deemed caused by corrosion. "defect" refers to manufacturing or construction defects, and "leak" or "reportable leak" means a rupture required to be reported pursuant to Section 51018.6. As long as all pipelines are tested in their entirety at least as frequently as standard risk pipelines under subdivisions (c) and (d), it shall suffice for additional tests on higher risk pipelines to cover 20 pipeline miles in all directions along an operator's pipeline from the position of the leak or leaks which led to the inclusion or retention of that pipeline on the higher risk list. The interim list shall include pipelines which meet any of the following criteria:

(1) Have suffered two or more reportable leaks, not including leaks during a certified hydrostatic pressure test, due to corrosion or defect in the prior three years.

(2) Have suffered three or more reportable leaks, not including leaks during a certified hydrostatic pressure test, due to corrosion, defects, or external forces, but not all due to external forces, in the prior three years.

(3) Have suffered a reportable leak, except during a certified hydrostatic pressure test, due to corrosion or defect of more than 50,000 gallons, or 10,000 gallons in a standard metropolitan statistical area, in the prior three years; or have suffered a leak due to corrosion or defect which the State Fire Marshal finds has resulted in more than 42 gallons of a hazardous liquid within the State Fire Marshal's jurisdiction entering a waterway in the prior three years; or have suffered a reportable leak of a hazardous liquid with a flashpoint of less than 140 degrees Fahrenheit, or 60 degrees centigrade, in the prior three years.

(4) Are less than 50 miles long, and have experienced a reportable leak, except during a certified hydrostatic pressure test, due to corrosion or a defect in the prior three years. For the purposes of this paragraph, the length of a pipeline with more than two terminals shall be the longest distance between two terminals along the pipeline.

(5) Have experienced a reportable leak in the prior five years due to corrosion or defect, except during a certified hydrostatic pressure test, on a section of pipe more than 50 years old. For pipelines which fall in this category, and no other category of higher risk pipeline, additional tests required by this subdivision shall be required only on segments of the pipe more than 50 years old as long as all pipe more than 50 years old which is within 20 pipeline miles from the leak in all directions along an operator's pipeline is tested.

(g) The State Fire Marshal shall study indicators and precursors of serious pipeline accidents, and, in consultation with the Pipeline Safety Advisory Committee, shall develop criteria for identifying which hazardous liquid pipelines pose the greatest risk to people and the environment due to the likelihood of, and likely seriousness of, an accident due to corrosion or defect. The study shall give due consideration

Additions or changes indicated by underline; deletions by asterisks * * *

to research done by the industry, the federal government, academia, and to any other information which the State Fire Marshal shall deem relevant, including, but not limited to, recent leak history, pipeline location, and materials transported. Beginning January 1, 1992, using the criteria identified in that study, the State Fire Marshal shall maintain a list of higher risk pipelines, which exceed a standard of risk to be determined by the State Fire Marshal, and which shall be tested as required in subdivisions (c) and (d) as long as they remain on the list. By January 1, 1992, after public hearings, the State Fire Marshal shall adopt regulations to implement this subdivision.

(h) In addition to the requirements of subdivisions (a) to (e), inclusive, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, or any other test or inspection, at any time, in the interest of public safety.

(i) Test methods other than the hydrostatic tests required by subdivisions (b), (c), (d), and (e), including inspection by instrumented internal inspection devices, may be approved by the State Fire Marshal on an individual basis. If the State Fire Marshal approves an alternative to a pressure test in an individual case, the State Fire Marshal may require that the alternative test be given more frequently than the testing frequencies specified in subdivisions (b), (c), (d), and (e).

(j) The State Fire Marshal shall adopt regulations before January 1, 1992, to establish what the State Fire Marshal deems to be an appropriate frequency for tests and inspections, including instrumented internal inspections, which, when permitted as a substitute for tests required under subdivisions (b), (c), and (d), do not damage pipelines or require them to be shut down for the testing period. That testing shall in no event be less frequent than is required by subdivisions (b), (c), and (d). Each time one of these tests is required on a pipeline, it shall be approved on the same individual basis as under subdivision (i). If it is not approved, a hydrostatic test shall be carried out at the time the alternative test would have been carried out, and subsequent tests shall be carried out in accordance with the time intervals prescribed by subdivision (b), (c), or (d), as applicable.

(Added by Stats.1988, c. 1222, § 7, eff. Sept. 30, 1988. Amended by Stats.1988, c. 1407, § 3; Stats.1988, c. 1401, § 3; Stats.1988, c. 1196, § 4; Stats.1989, c. 1277, § 4; Stats.1990, c. 856 (A.B.3527), § 1.5; Stats.1991, c. 395 (A.B.718), § 2.)

Library References

Explosives ~~4~~2
C.J.S. Explosives §§ 1, 2.

§ 51014. Pressure tests; manner of conducting

(a) The pressure tests required by subdivisions (b), (c), and (d) of Section 51013.5 shall be conducted in accordance with Subpart E (commencing with Section 196.300) of Part 196 of Title 49 of the Code of Federal Regulations, except that an additional four-hour leak test, as specified in subsection (e) of Section 196.302 of Title 49 of the Code of Federal Regulations, shall not be required under subdivisions (b), (c), and (d) of Section 51013.5. The State Fire Marshal may authorize the use of liquid petroleum having a flashpoint over 140 degrees Fahrenheit or 60 degrees Centigrade as the test medium. The State Fire Marshal shall make these authorizations in writing. Pressure tests performed under subdivisions (b), (c), and (d) of Section 51013.5 shall not show an hourly change for each section of the pipeline under test at the time in excess of either 10 gallons or the sum of one gallon and an amount computed at a rate per gallons per mile equivalent to one-tenth of the nominal internal diameter of the pipe in inches.

(b) Test pressure shall be at least 125 percent of the actual pipeline operating pressure.

(Added by Stats.1988, c. 1222, § 9, eff. Sept. 30, 1988. Amended by Stats.1988, c. 1407, § 4; Stats.1988, c. 1401, § 4; Stats.1989, c. 1277, § 5.)

Historical and Statutory Notes

1983 Legislation.
Former § 51014 was repealed by Stats.1988, c. 1222, § 8, eff. Sept. 30, 1988.

§ 51014.3. Notification prior to testing; observation of tests

(a) Each pipeline operator shall notify the State Fire Marshal and the local fire department having fire suppression responsibilities at least three working days prior to conducting a hydrostatic test which is required by this chapter. The notification shall include all of the following information:

- (1) The name, address, and telephone number of the pipeline operator.
- (2) The specific location of the pipeline section to be tested and the location of the test equipment.

Additions or changes indicated by underline; deletions by asterisks * * *

- (3) The date and time the test
- (4) An invitation and a teleph

- (5) The test medium.
 - (6) The name and telephone certification of the test results.
 - (b) The State Fire Marshal r
- (Added by Stats.1983, c. 1222, c. 1277, § 5.5.)

§ 51014.5. Hydrostatic tests

(a) When hydrostatic testing independent testing firm or p independent testing firms or Marshal may charge a fee fo pursuant to this subdivision.

(b) The results of the tests firm or person within 30 days review the results. The report

- (1) The date of the test.
 - (2) A description of the pi pipeline.
 - (3) The results of the test.
 - (4) Any other test informati
 - (c) The State Fire Marshal
- (Added by Stats.1988, c. 1277, Stats.1988, c. 906, § 3.)

§ 51014.6. Pipeline easement

(a) Effective January 1, 199 with respect to any pipeline es

- (1) Build, erect, or create building, erection, or creation
- (2) Build, erect, or create which would prevent complete creation, or creation thereof.

(b) No shrubbery or shield observation of the pipeline landscape disturbed within a prevent the holder of the un seasonal agricultural crops on

(c) This section does not p pipeline easement, including operation of the pipeline.
(Added by Stats.1984, c. 1238)

Carriers ~~1~~ to 22.
Steam ~~1~~7.
Waters and Water Courses ~~1~~7.
C.J.S. Carriers §§ 1 to 3 et al
878 et seq.

Additions or chs

and to any other information which is required to, recent leak history, pipelines using the criteria identified in the pipeline, which exceed a standard of tested as required in subdivisions (c) after public hearings, the State Fire

usive, the State Fire Marshal may require test, or any other test of

visions (b), (c), (d), and (e), including ed by the State Fire Marshal on to a pressure test in an individual be given more frequently than the

l. 1992, to establish what the State inspections, including instrumented required under subdivisions (b), (c), r the testing period. That testing), (c), and (d). Each time one of : same individual basis as under out at the time the alternative test out in accordance with the time

ats.1985, c. 1407, § 3; Stats.1986, ra.1990, c. 856 (A.B.3527), § 1.5;

tion 51013.6 shall be conducted in r 195 of Title 49 of the Code of ecified in subsection (c) of Section quired under subdivisions (b), (c), use of liquid petroleum having a he test medium. The State Fire rmed under subdivisions (b), (c), tion of the pipeline under test at n amount computed at a rate in liameter of the pipe in inches.

writing pressure. ts.1985, c. 1407, § 4; Stats.1986,

local fire department having fire ting a hydrostatic test which is ; information:

tion of the test equipment. by asterisks * * *

- (3) The date and time the test is to be conducted.
 - (4) An invitation and a telephone number for local fire departments to call for further information on what they should do in the event of a leak during testing.
 - (5) The test medium.
 - (6) The name and telephone number of the independent testing firm or person responsible for certification of the test results.
- (b) The State Fire Marshal may observe tests conducted pursuant to this chapter.

(Added by Stats.1982, c. 1222, § 10, eff. Sept. 30, 1982. Amended by Stats.1988, c. 985, § 2; Stats.1989, c. 1277, § 6.5.)

§ 51014.5. Hydrostatic testing; certification of results; test result reports

(a) When hydrostatic testing is required by Section 51013.5, the test results shall be certified by an independent testing firm or person who is selected from a list, provided by the State Fire Marshal, of independent testing firms or persons approved annually by the State Fire Marshal. The State Fire Marshal may charge a fee for consideration and approval of an independent testing firm or person pursuant to this subdivision, not to exceed the reasonable costs of that consideration and approval.

(b) The results of the tests required by Section 51013.5 shall be submitted by the independent testing firm or person within 30 days after completion of the test to the " " State Fire Marshal, who may review the results. The report shall show all of the following information:

- (1) The date of the test.
 - (2) A description of the pipeline tested including a map of suitable scale showing the route of the pipeline.
 - (3) The results of the test.
 - (4) Any other test information that may be specifically requested by the State Fire Marshal " " .
- (c) The State Fire Marshal " " shall not supervise, control, or otherwise direct the testing.

(Added by Stats.1982, c. 1222, § 11, eff. Sept. 30, 1982. Amended by Stats.1986, c. 1401, § 4.5; Stats.1988, c. 958, § 3.)

§ 51014.6. Pipeline easements; building, vegetation and shielding restrictions

(a) Effective January 1, 1987, no person, other than the pipeline operator, shall do any of the following with respect to any pipeline easement " " :

- (1) Build, erect, or create a structure or improvement within the pipeline easement or permit the building, erection, or creation thereof.
- (2) Build, erect, or create a structure, fence, wall, or obstruction adjacent to any pipeline easement which would prevent complete and unimpaired surface access to the easement, or permit the building, erection, or creation thereof.

(b) No shrubbery or shielding shall be installed on the pipeline easement which would impair aerial observation of the pipeline easement. This subdivision does not prevent the revegetation of any landscape disturbed within a pipeline easement as a result of constructing the pipeline and does not prevent the holder of the underlying fee interest or the holder's tenant from planting and harvesting seasonal agricultural crops on a pipeline easement.

(c) This section does not prohibit a pipeline operator from performing any necessary activities within a pipeline easement, including, but not limited to, the construction, replacement, relocation, repair, or operation of the pipeline.

(Added by Stats.1984, c. 1238, § 1. Amended by Stats.1986, c. 1401, § 5.)

Library References

- Carriers 001 to 22. C.J.S. Steam § 12.
- Steam 001. C.J.S. Waters § 252.
- Waters and Water Courses 00110.
- C.J.S. Carriers §§ 1 to 3 et seq., 14, 15 et seq., 567 to 578 et seq.

Additions or changes indicated by underlining; deletions by asterisks * * *

§ 51015. Maps and diagrams; contingency plans for pipeline emergencies; availability of records, maps, etc.; inspections; yearly review of contingency plans

(a) Every pipeline operator shall provide to the fire department having fire suppression responsibilities a map or suitable diagram showing the location of the pipeline, a description of all products transported within the pipeline, and a contingency plan for pipeline emergencies which shall include, but not be limited to any reasonable information which the State Fire Marshal may require.

(b) A pipeline operator shall make available to the State Fire Marshal, or any officers or employees authorized by the State Fire Marshal, upon presentation of appropriate credentials, any records, maps, and written procedures that are required, by this chapter, to be kept by the pipeline operator and which concern accident reporting, design, construction, testing, or operation and maintenance.

The State Fire Marshal, or any officer or employee authorized by the State Fire Marshal, may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with this chapter.

(c) Every pipeline operator shall offer to meet with the local fire department having fire suppression responsibilities at least once each calendar year to discuss and review contingency plans for pipeline emergencies.

(Amended by Stats.1983, c. 1272, § 12, eff. Sept. 30, 1983; Stats.1985, c. 1407, § 5; Stats.1988, c. 996, § 4; Stats.1989, c. 1277, § 6.)

§ 51015.05. Data base; intrastate pipelines; public access; reporting by agencies; study to encourage replacements and improvements

Operation of § 51015.05 is contingent, by its own terms, upon receipt of federal block grant funds.

(a) The State Fire Marshal shall establish and maintain a centralized data base containing information and data regarding the following intrastate pipelines:

(1) Pipelines, as defined in paragraph (3) of subdivision (a) of Section 51010.5, used for the transportation of crude oil that operate by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(2) Pipelines, as defined in paragraph (4) of subdivision (a) of Section 51010.5, used for the transportation of petroleum in offshore gathering lines located in rural areas.

(b) The data base shall include, but is not limited to, an inventory of the pipelines described in subdivision (a), including pipeline locations, ownership, ages, and inspection histories, that are in the possession of the owner or operator of the oil field or other gas facility.

(c) The State Fire Marshal shall regularly update the data base and shall make the information in the data base available to the public, and to all local, state, and federal agencies.

(d) Any state or local governmental agency that regulates, supervises, or exerts authority over any pipeline described in subdivision (a) shall report any information or data specified in subdivision (b) in its possession to the State Fire Marshal. That information shall be submitted to the State Fire Marshal in a computer compatible format.

(e) The State Fire Marshal shall conduct a study of the fitness and safety of all pipelines described in subdivision (a), and investigate incentive options that would encourage pipeline replacement or improvements, including, but not limited to, a review of existing regulatory, permit, and environmental impact report requirements and other existing public policies, as may be identified by the Pipeline Safety Advisory Committee and adopted by the State Fire Marshal, that could act as barriers to the replacement or improvement of those pipelines. On or before December 31, 1996, the State Fire Marshal shall report his or her findings and recommendations to the Legislature.

(f) The costs of this section shall be funded from federal block grant funds. This section shall become operative only upon receipt of these federal block grant funds as determined by the State Fire Marshal. Upon receipt of these funds the State Fire Marshal shall provide written notice to both houses of the Legislature for publication in their respective journals.

(Added by Stats.1984, c. 623 (A.B.2261), § 2. Amended by Stats.1986, c. 91 (S.B.975), § 82.)

Additions or changes indicated by underlines; deletions by asterisks * * *

1986 Legislation

Subordination of legislation by 3 975), or other 1986 legislation, see H 17 Notes under Business and Pro

§ 51015.1. Risk assessment et

(a) The State Fire Marshal a and interstate hazardous liquid The study shall include, but is n

(1) Identification of each of name of the railroad line or line

(2) Analysis of historic even derailments. This analysis sha as those within railroad yards a for the transfer of railroad vehi

(3) Analysis of the feasibilit subject to approval of the Stat and derailments.

(4) Identification and analys and operation of intrastate and

(5) Analysis of the feasibility intrastate pipelines suspected minimum, that analysis shall in way, and requirements for gain for pipeline relocation.

(6) Analysis of the feasibility contents of hazardous liquid pi material being transported.

(7) Evaluation of the best av emergency resulting from a re

(A) Design and placement of

(B) Barriers or shields to be

(C) Special testing or inspec

(8) Recommendations for iz Fire Marshal, pipeline operato in the preparation and implem

(b) A pipeline located in a r

(c) This risk assessment ete by January 1, 1991.

(d) It is the intent of the I set forth in the risk assessme regulations provided for in Se (Added by Stats.1989, c. 1252,

§ 51015.2. Regulations gov

(a) The Legislature recognz immediate proximity of rail lia believe that their integrity is

(b) In an effort to better governing the construction, c state hazardous liquid pipeli minimum, include provisions:

(1) Minimum depth of cove Additions or chg

Historical and Statutory Notes

emergencies; availability of resources; plans

assigning fire suppression responsibilities; description of all products transported; which shall include, but not limited to, any requirements.

marshal, or any officers or employees; credentials, any records, maintained by the pipeline operator and which shall include, but not limited to, inspection and maintenance.

the State Fire Marshal, may examine the records and properties of any pipeline to determine whether the pipeline

department having fire suppression responsibilities; contingency plans for pipeline emergencies.

c. 1407, § 5; Stats.1968, c. 985, § 2

reporting by agencies; study to

receipt of federal block grant

data base containing information

§ 51010.5, used for the transportation of less than the specified minimum

§ 51010.5, used for the transportation

of the pipelines described in this section; histories, that are in the

shall make the information in this section

shall, or exerts authority over any pipeline, as specified in subdivision (b) in this section; to the State Fire Marshal in a

safety of all pipelines described in this section; pipeline replacement or improvement; permit, and environmental impact statement; notified by the Pipeline Safety Council; could act as barriers to the pipeline; in 1986, the State Fire Marshal

notice. This section shall become effective on the date specified in the notice; by the State Fire Marshal; in a notice to both houses of the

(S.B.975), § 52.)

ry asterisks . . .

Legislation

Subdivision of legislation by Stats.1998, c. 91 (S.B. 1000) to other 1998 legislation, see Historical and Statutory Notes under Business and Professions Code § 36.

§ 51015. Risk assessment study; hazardous liquid pipelines near rail lines

(a) The State Fire Marshal shall conduct and prepare a risk assessment study dealing with intrastate and interstate hazardous liquid pipelines which are located not more than 500 feet from any rail line. The study shall include, but is not limited to, the following:

(1) Identification of each of these pipelines, its operator, geographic location, leak history, and the name of the railroad line or lines.

(2) Analysis of historic events involving reported damage to pipelines as a result of railroad train derailments. This analysis shall differentiate between main higher speed rail lines and other lines such as those within railroad yards and maintenance facilities for railroad vehicles, and other "spur" lines used for the transfer of railroad vehicles from one line or train to another.

(3) Analysis of the feasibility of requiring that railroad operators and pipeline operators prepare, subject to approval of the State Fire Marshal, a coordinated contingency plan for pipeline emergencies and derailments.

(4) Identification and analysis of any impacts which geological or seismic activities may have on the safe operation of intrastate and interstate hazardous liquid pipelines.

(5) Analysis of the feasibility of requiring the pipeline operator to test, repair, replace, or relocate interstate pipelines suspected of potential damage resulting from a railroad car derailment. As a minimum, that analysis shall include the examination of issues involved in obtaining necessary rights-of-way, and requirements for gaining approval of concerned local, state, and federal governmental agencies for pipeline relocation.

(6) Analysis of the feasibility of requiring pipeline operators to notify local affected fire agencies of the contents of hazardous liquid pipelines. The notification would be required anytime there is a change in material being transported.

(7) Evaluation of the best available control technology to protect public safety in the event of a pipeline emergency resulting from a railroad train derailment. The technology may include, but is not limited to:

(A) Design and placement of check or safety valves.

(B) Barriers or shields to help protect pipelines in the event of a derailment.

(C) Special testing or inspection requirements.

(8) Recommendations for improving coordination and cooperation between local agencies, the State Fire Marshal, pipeline operators, rail line operators, and the United States Department of Transportation in the preparation and implementation of contingency plans for pipeline and rail emergencies.

(b) A pipeline located in a rural area shall be excluded from this study.

(c) This risk assessment study shall be completed and submitted to the Governor and the Legislature by January 1, 1991.

(d) It is the intent of the Legislature in enacting this section that the findings and recommendations set forth in the risk assessment study will be used by the State Fire Marshal in preparing and adopting regulations provided for in Section 51015.2.

(Added by Stats.1988, c. 1262, § 2.)

§ 51015.2. Regulations governing hazardous liquid pipelines near rail lines

(a) The Legislature recognizes that hazardous liquid pipelines are often located alongside and in the immediate proximity of rail lines. In the event of a derailment, these pipelines may be damaged in such a fashion that their integrity is lost, making a rupture or leak more likely.

(b) In an effort to better protect public safety, the State Fire Marshal shall adopt regulations governing the construction, testing, operations, periodic inspection, and emergency operations of intrastate hazardous liquid pipelines located within 500 feet of any rail line. These regulations shall, at a minimum, include provisions dealing with the following:

(1) Minimum depth of cover for newly constructed or reconstructed pipelines.

Additions or changes indicated by underline; deletions by asterisks . . .

§ 51015.2

GOVERNMENT CODE

GOVERNMENT CODE

- (2) Minimum hydrostatic testing requirements for newly constructed pipelines.
 - (3) Minimum requirements for testing existing pipelines which may have been affected by a derailment.
 - (4) Minimum requirements for periodic inspections.
 - (5) Minimum requirements for installation and operation of safety or check valves.
 - (6) Procedures for developing, testing, approving, and implementing coordinated emergency contingency plans prepared by pipeline and rail operators. These procedures shall also provide for consultation with local affected agencies, and require pipeline and rail operations to develop and implement emergency training for their employees approved by the State Fire Marshal.
- (Added by Stats.1989, c. 1252, § 3.)

§ 51015.3. Emergency regulations: hazardous liquid pipelines near rail lines

The State Fire Marshal may, in the interest of public safety, adopt emergency regulations which govern intrastate pipeline emergencies involving railroad car derailments. Any hazardous liquid pipeline located in a rural area shall be exempt from these regulations. Notwithstanding any other provision of law, these emergency regulations shall remain in effect until permanent regulations provided for in Section 51015.2 are adopted, but in no case beyond January 1, 1996.

(Added by Stats.1989, c. 1252, § 4.)

§ 51015.4. Valves and check valves; regulations

(a) Each operator shall, as specified in regulations provided for in subdivision (c), maintain each valve and check valve that is necessary for the safe operation of its pipeline systems in good working order at all times.

(b) Each operator shall provide protection for each valve and check valve from unauthorized operation and from vandalism.

(c) The State Fire Marshal shall adopt regulations, not later than June 30, 1991, which establish procedures for maintaining, testing, and inspecting mainline valves and check valves on intrastate hazardous liquid pipelines.

(Added by Stats.1989, c. 1252, § 5.)

§ 51015.5. Nonemergency site alterations; approval; regulations

(a) In the event of an intrastate pipeline rupture, leak, or other incident which could affect safe pipeline operation, any person who performs or intends to perform nonemergency site cleanup, repair, reconstruction, or any other alteration shall obtain prior approval from the State Fire Marshal.

(b) Approval by the State Fire Marshal of a repair plan, submitted by a pipeline operator in conformance with contingency plan requirements established by the State Fire Marshal, shall constitute prior approval to perform repairs as specified in subdivision (a).

(c) The State Fire Marshal may adopt regulations to implement subdivisions (a) and (b).

(Added by Stats.1989, c. 1252, § 6.)

§ 51016. Valve spacing study

The State Fire Marshal shall study the spacing of valves which would limit spillage into standard metropolitan statistical areas and environmentally sensitive areas from surrounding higher ground. If any existing pipeline system's valve spacing is deemed insufficient to protect California's uniquely situated population centers and environmental resources, the State Fire Marshal shall adopt regulations to require the addition of valves on existing pipelines. If the study indicates that guidelines for valve spacing do not, in the State Fire Marshal's opinion, adequately protect these population centers and environmental resources, the State Fire Marshal may adopt regulations to require new valves on new, existing, or replacement pipelines as necessary to protect the public interest.

(Added by Stats.1989, c. 1277, § 6.5.)

Historical and Statutory Notes

1988 Legislation

Former § 51016 was amended by Stats.1988, c. 1222, § 12, and repealed by Stats.1988, c. 986, § 5.

Additions or changes indicated by underline; deletions by asterisks * * *

§ 51017. Pipeline information

(a) The State Fire Marshal is authorized for emergency response information on pipeline location, capability of mapping pipelines compatible with any pipeline Transportation's Office of Pipeline Management required by Article 12 (c) Health and Safety Code.

(b) The sum of four hundred California Hazardous Liquid E subdivision (a).

(Added by Stats.1997, c. 814 (AJ)

1988 Legislation

Former § 51017 was repealed by :

1997 Legislation

Operative effect of Stats.1997, Historical and Statutory Notes and § 51016.6.

§ 51017.1. Public drinking wells near wells

(a) Utilizing GIS-based locust the State Water Resources Co determine the identity of each pursuant to this chapter that tr of a public drinking water well.

(b) With assistance from the Control Board, the State Fire (a) of the following information:

(1) That the specific pipeline of a public drinking water well.

(2) The name of the water pt advice from the GIS mapping a of the Health and Safety Code, the State Fire Marshal pursuant system created by Section 26239 information on pipeline and well

(c) Each pipeline operator : protection plan as required by : days from the date of either regulations by the State Fire M:

(d) With the advice of the St Board, appropriate California re Fire Marshal shall review each these plans that meet the crit Section 51017.2. The State Fr address multiple wellheads wh similar. The pipeline operator date of receiving approval from

(e) Each pipeline operator h pursuant to subdivision (d) shal is in compliance with the curv 51017.2. The pipeline operator the previously approved wellhe requirements of regulations ado

Additions or changes

§ 51017. Pipeline information data base

(a) The State Fire Marshal shall develop a comprehensive data base of pipeline information that can be utilized for emergency response and program operational purposes. The data base shall include information on pipeline location, age, reported leak incidences, and inspection history, and shall have the capability of mapping pipeline locations throughout the state. The data collection format shall be compatible with any pipeline mapping project implemented by the United States Department of Transportation's Office of Pipeline Safety and shall be compatible with GIS mapping and data management required by Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of the Health and Safety Code.

(b) The sum of four hundred sixty-nine thousand dollars (\$469,000) is hereby appropriated from the California Hazardous Liquid Pipeline Safety Fund to the State Fire Marshal for the purposes of subdivision (a).

(Added by Stats.1987, c. 814 (A.B.592), § 3.)

Historical and Statutory Notes

1988 Legislation

Former § 51017 was repealed by Stats.1988, c. 395, § 6.

1987 Legislation

Operative effect of Stats.1987, c. 814 (A.B.592), see Historical and Statutory Notes under Government Code § 51017.1.

Former § 51017, added by Stats.1986, c. 978 (A.B.349), § 2, relating to a pipeline information data base, was repealed by Stats.1987, c. 814 (A.B.592), § 2. See this section.

Derivative: Former § 51017, added by Stats.1986, c. 978, § 2.

§ 51017.1. Public drinking water wells; identification of pipelines transporting petroleum products near wells; notification of operators; pipeline wellhead protection plans

(a) Utilizing GIS-based location information furnished by the State Department of Health Services and the State Water Resources Control Board, at least once every two years the State Fire Marshal shall determine the identity of each pipeline or pipeline segment that is regulated by the State Fire Marshal pursuant to this chapter that transports petroleum product when that pipeline is located within 1,000 feet of a public drinking water well.

(b) With assistance from the State Department of Health Services and the State Water Resources Control Board, the State Fire Marshal shall notify the operator of the pipelines identified in subdivision (a) of the following information:

(1) That the specific pipeline or pipeline segment has been identified as being located within 1,000 feet of a public drinking water well.

(2) The name of the water purveyor and the location of the public drinking water well affected. With advice from the GIS mapping advisory committee, created pursuant to subdivision (b) of Section 25299.97 of the Health and Safety Code, the identification of the pipelines and notification of pipeline owners by the State Fire Marshal pursuant to subdivision (a) and this subdivision shall begin once the GIS mapping system created by Section 25299.97 of the Health and Safety Code is able to provide accurate and useful information on pipeline and wellhead locations.

(c) Each pipeline operator notified pursuant to subdivision (b) shall prepare a pipeline wellhead protection plan as required by Section 51017.2 and submit the plan to the State Fire Marshal within 180 days from the date of either receiving the notification specified in subdivision (b), or adoption of regulations by the State Fire Marshal pursuant to Section 51017.2, whichever is later.

(d) With the advice of the State Department of Health Services, the State Water Resources Control Board, appropriate California regional water quality control boards, and local water purveyors, the State Fire Marshal shall review each wellhead protection plan submitted by a pipeline operator, and approve those plans that meet the criteria of the regulations adopted by the State Fire Marshal pursuant to Section 51017.2. The State Fire Marshal shall have discretion to allow a wellhead protection plan to address multiple wellheads where the conditions creating the risk to the wellheads are substantially similar. The pipeline operator shall implement the wellhead protection plan within 180 days from the date of receiving approval from the State Fire Marshal.

(e) Each pipeline operator having a wellhead protection plan approved by the State Fire Marshal pursuant to subdivision (d) shall evaluate that plan at least once every five years to ensure that the plan is in compliance with the current regulations established by the State Fire Marshal pursuant to Section 51017.2. The pipeline operator shall provide either written documentation to the State Fire Marshal that the previously approved wellhead protection plan has been evaluated and that no changes are warranted, or submit a new wellhead protection plan to remain in compliance with existing regulations or to meet the requirements of regulations adopted since the plan was approved.

Additions or changes indicated by underline; deletions by asterisks * * *

(5) The pipeline operator subject to subdivision (c) may petition the State Fire Marshal in writing for an exemption from the requirements of subdivision (c). With advice from the State Water Resources Control Board, the State Department of Health Services, the California regional water quality control boards, and local water purveyors, the State Fire Marshal may approve the exemption if the petition demonstrates that the pipeline either does not transport motor vehicle fuel, or does not pose a significant threat to the public drinking water well based upon, but not limited to, the following criteria:

- (1) Pipeline parameters, such as operation pressure, operating temperature, age, design, fabrication materials, construction, corrosive nature of the surrounding soil, cathodic protection, and feasibility of internal inspection or evaluation tools (smart pigs).
- (2) Hydrogeologic parameters, such as soil permeability, direction and velocity of groundwater flow, aquifer location or depth, and hydrogeologic barriers or conduits.
- (3) Water well parameters, such as depth of well and well construction.
- (4) The nature of the fuel and its ability to migrate to public drinking water wells.
- (5) The impact of human activity that may elevate or reduce the risk to the drinking water well.

(Added by Stats.1997, c. 814 (A.B.692), § 4. Amended by Stats.1998, c. 485 (A.B.2908), § 91.)

Historical and Statutory Notes

1997 Legislation

Operative effect of Stats.1997, c. 814 (A.B.692), see Historical and Statutory Notes under Government Code § 51010.5.

1998 Legislation

Subordination of legislation by Stats.1998, c. 485 (A.B.2908), to other 1998 legislation, see Historical and Statutory Notes under Business and Professions Code § 4340.

§ 51017.2 Wellhead protection plan regulations

(a) With advice from the Pipeline Safety Advisory Committee, the State Water Resources Control Board, the California regional water quality control boards, and local water purveyors, the State Fire Marshal shall adopt regulations for wellhead protection plans that provide guidelines to be used by the pipeline operator as specified in Section 51017.1 to protect the public drinking water well from contamination should a pipeline rupture or leak pose a significant threat to a public drinking water well, taking into account the nature of the fuel and its ability to migrate to a public drinking water well. The regulations adopted by the State Fire Marshal shall require each plan to contain adequate and effective measures that are technologically feasible, practical, and operationally sound that protect public drinking water wells. At a minimum, the wellhead protection plan shall contain the following:

- (1) Operational activities that provide the pipeline operator with sufficient information to adequately ensure the integrity of the pipeline. These may include internal inspection or evaluation tools (smart pigs), substructure excavation (potholing), well monitoring, additional or more frequent pressure tests, cathodic protection surveys or visual inspections, or other technologies as appropriate.
- (2) Response measures that will enhance the pipeline operator's response to an emergency, such as a pipeline rupture, fire, earthquake, or flood. These measures may include activities, such as additional training for operator staff or improved coordination with emergency response agencies.

(b) At least once every five years, the State Fire Marshal, with the advice of the Pipeline Safety Advisory Committee, the State Water Resources Control Board, the California regional water quality control boards, and local water purveyors, shall review the regulations adopted pursuant to subdivision (a) to determine if new measures that have been proven to be technologically feasible, practical, and operationally sound should be included in the regulations. The State Fire Marshal shall adopt new regulations if such new measures are identified.

(Added by Stats.1997, c. 814 (A.B.692), § 5.)

Historical and Statutory Notes

1997 Legislation

Operative effect of Stats.1997, c. 814 (A.B.692), see Historical and Statutory Notes under Government Code § 51010.5.

§ 51018. Rupture, explosion or fire reports; assistance by State Fire Marshal

(a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (b) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire department having fire suppression responsibility.

Additions or changes indicated by underlining; deletions by asterisks . . .

ties and to the Office of Ex days of the rupture, explosion information that the State Fi to subdivision (d).

(b)(1) . . . The Office of of the incident, who shall in Marshal or his or her super, and all public agencies on acc

(2) For purposes of this su of the incident commander : direction for the incident con incident mitigation. Further: of the pipeline operator and particular location of the inci incident.

(c) For purposes of this se that occurs during hydrostatic or flow line in a rural area, o less than five barrels, when : thereby, does not constitute

(d) The State Fire Marsh pipeline leak incident rate a safety, and recommending an following . . . : total length . . . total number of line se study period . . . average of . . . average diameter of les . . . fatalities during study State Fire Marshal.

(e) This section does not pr

(f) Except as otherwise pro section shall satisfy any ins permitting agency.

(g) This section does not a Section 3223 of the Public Res

(Amended by Stats.1988, c. 12 § 6; Stats.1988, c. 1401, § 6; § (A.B.3821), § 1; Stats.1994, c. (A.B.1876), § 2.)

1984 Legislation

Amendment of this section by § : (A.B.3821), failed to become operi sions of § 4 of that Act.

Under the provisions of § 12 of : 1984 amendments of this section by c. 1214 (A.B.3404) were given effe the form set forth in § 4.5 of c. 121

Review of selected 1996 California L.J. 249 (1996).

§ 51018.5 Repealed by State.

The repealed section, added by St related to local agency enforcement :

Additions or chang

the State Fire Marshal in writing for the State Water Resources Control Board regional water quality control board to prove the exemption if the petroleum fuel, or does not pose a significant hazard, limited to, the following criteria: pressure, age, design, fabrication, and feasibility of

and velocity of groundwater flow.

or.

of water wells.

to the drinking water well.

185 (A.B.2903), § 91.)

legislation by Stats.1998, c. 465 (A.B. 1998), see Historical and Statutory Notes and Professions Code § 4848.

State Water Resources Control Board water purveyors, the State Fire Marshal shall adopt new guidelines to be used by the public drinking water well from a public drinking water well. The public drinking water well must contain adequate and effective measures and that protect public drinking water following:

incident information to adequately identify or evaluation tools (smart meters) more frequent pressure tests, appropriate.

use to an emergency, such as a fire, or other activities, such as additional use agencies.

advice of the Pipeline Safety Board California regional water quality control board pursuant to subdivision (d) is technically feasible, practical, and the State Fire Marshal shall adopt new

Marshal

a pipeline system otherwise undergoing testing, shall be fire suppression responsibility

asterisks * * *

and to the Office of Emergency Services * * *. In addition, the pipeline operator shall within 30 days of the rupture, explosion, or fire file a report with the State Fire Marshal containing all the information that the State Fire Marshal may reasonably require to prepare the report required pursuant to subdivision (d).

(b)(1) * * * The Office of Emergency Services * * * shall immediately notify the State Fire Marshal of the incident, who shall immediately dispatch his or her employees to the scene. The State Fire Marshal or his or her employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the "incident commander system," but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, "rupture" includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) The State Fire Marshal shall, every fifth year commencing in 1998, issue a report identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature. This report shall include all of the following: * * * total length of regulated pipelines * * * total length of regulated piggable pipelines * * * total number of line sections * * * average length of each section * * * number of leaks during study period * * * average spill size * * * average damage per incident * * * average age of leak pipe * * * average diameter of leak pipe * * * injuries during study period * * * cause of the leak or spill * * * fatalities during study period * * * and other information as * * * deemed appropriate by the State Fire Marshal.

(e) This section does not preempt any other applicable federal or state * * * reporting requirement.

(f) Except as otherwise provided in this section and Section 8689.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(g) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

(Amended by Stats.1983, c. 1222, § 14, eff. Sept. 30, 1983; Stats.1984, c. 1238, § 2; Stats.1985, c. 1407, § 6; Stats.1988, c. 1401, § 6; Stats.1988, c. 996, § 7; Stats.1990, c. 856 (A.B.3527), § 2; Stats.1994, c. 731 (A.B.3521), § 1; Stats.1994, c. 1214 (A.B.3404), § 4.5; Stats.1996, c. 156 (A.B.204), § 2; Stats.1996, c. 606 (A.B.1376), § 2.)

Historical and Statutory Notes //

1984 Legislation

Amendment of this section by § 15 of Stats.1984, c. 731 (A.B.3821), failed to become operative under the provisions of § 4 of that Act.

Under the provisions of § 11 of Stats.1984, c. 1214, the 1984 amendments of this section by c. 731 (A.B.3821) and c. 1214 (A.B.3404) were given effect and incorporated in the form set forth in § 4.5 of c. 1214. An amendment of

this section by § 4 of Stats.1984, c. 1214 (A.B.3404), failed to become operative under the provisions of § 11 of that Act.

Section affected by two or more acts at the same session of the legislature, see Government Code § 9805.

Legislative findings and declarations relating to Stats. 1984, c. 1214 (A.B.3404), see Historical and Statutory Notes under Government Code § 8689.7.

Law Review and Journal Commentaries

Review of selected 1986 California legislation. 27 Pac. L.J. 249 (1986).

§ 51018.5. Repealed by Stats.1998, c. 906, § 5

Historical and Statutory Notes

The repealed section, added by Stats.1988, c. 1222, § 16, related to local agency enforcement and fees.

Additions or changes indicated by underline; deletions by asterisks * * *

§ 51018.6. Enforcement proceedings; regulations for conducting; civil penalty for violation; determination of amount; collection; disposition of penalties

shall not exceed the actual e
State Fire Marshal " " " in .
(Added by Stats.1988, c. 1222

(a) The State Fire Marshal shall adopt regulations for conducting enforcement proceedings pursuant to this section. These regulations shall include provisions for the service and the content of the notice of probable violation, response options, conduct of hearings, issuing of the final order, amended final order, and petitions for reconsideration and compromise of penalties, and shall be consistent with the procedures specified in Sections 190.207 to 190.215, inclusive, and Section 190.227 of Title 49 of the Code of Federal Regulations.

1988 Legislation.
Former § 51019 was repealed
§ 13, eff. Sept. 30, 1988.

(b) If the State Fire Marshal determines, pursuant to the regulations adopted pursuant to subdivision (a), that a person has violated this chapter or any regulation adopted pursuant thereto, that person is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each day that violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any related series of violations.

§ 51019.05. Annual fee on
If the agreement specifies
collect, from every operator
described in the agreement.
Marshal may assess this fee
operator shall pay this fee "

(c) The amount of the penalty shall be assessed by the State Fire Marshal pursuant to the regulations adopted pursuant to subdivision (a). In determining the amount of the penalty, the State Fire Marshal shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith attempts to achieve compliance, ability to pay the penalty, and any other matters as justice may require.

The State Fire Marshal r
pipeline operator does not
interstate pipeline operator
the rate of 15 percent per a

(d) A civil penalty assessed under subdivision (b) may be recovered in an action brought by the Attorney General on behalf of the state. Prior to referring the penalty action to the Attorney General, the State Fire Marshal may accept an offer to compromise the amount of the assessed penalty pursuant to the regulations adopted pursuant to subdivision (a).

The total amount of the
actual expenses incurred, or
carrying out this chapter.

(e) The State Fire Marshal shall deposit all civil penalties assessed pursuant to this section in the Local Training Account in the California Hazardous Liquid Pipeline Safety Fund. The money in the Local Training Account is available, upon appropriation by the Legislature, to the State Fire Marshal who shall use the money for providing hazardous liquid fire suppression training to local fire departments.

(Added by Stats.1988, c. 86

(Added by Stats.1988, c. 1222, § 16, eff. Sept. 30, 1988. Amended by Stats.1989, c. 1277, § 7.)

§ 51019.1. California has

§ 51018.7. Punishment for chapter violations; sign or marker offenses

(a) There is hereby crea
Local Training Account " "

(a) Any person who willfully and knowingly violates any provision of this chapter or a regulation issued pursuant thereto shall, upon conviction, be subject, for each offense, to a fine of not more than twenty-five thousand dollars (\$25,000), imprisonment for a term not to exceed five years, or both.

(b) All fees collected per
Operations Account. The
State Fire Marshal for the
" " "

(b) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by federal or state law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than five thousand dollars (\$5,000), imprisonment for a term not to exceed one year, or both.

(Added by Stats.1988, c. 11
c. 905, § 10; Stats.1991, c.

(Added by Stats.1988, c. 1222, § 17, eff. Sept. 30, 1988. Amended by Stats.1989, c. 1277, § 8.)

CALIFORNIA

§ 51018.8. Orders for compliance

Chapter 5.6, added
repealed by Stats.199:

The State Fire Marshal may issue orders directing compliance with this chapter or any regulations adopted pursuant thereto. The State Fire Marshal shall specify in the order the particular action which is required of the person issued the order.

§ 51020 to 51026. Repe

(Added by Stats.1988, c. 1222, § 18, eff. Sept. 30, 1988.)

The repealed sections, add
1989, § 1, related to oil valve
preparation.

§ 51019. Fees

Section 51021 was amended
1988, c. 589 (A.B.2111), § 78.

The State Fire Marshal may assess and collect from every pipeline operator an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. A pipeline operator shall pay this fee when billed by the State Fire Marshal. The State Fire Marshal may impose a delinquency fee of 10 percent of the annual fee if the pipeline operator does not pay the fee within 60 days after receipt of the bill, and, in addition, the pipeline operator shall pay interest on that portion of its annual fee not paid within 60 days at the rate of 16 percent per annum from the date of receipt of the bill until paid. The total amount of the fee collected

Former § 51020 was rep
§ 22, eff. Sept. 30, 1988.

Additions or changes indicated by underlines; deletions by asterisks " " "

Additions or

ng; civil penalty for violation; penalties

shall not exceed the actual expenses incurred, or the estimated expenses which will be incurred, by the State Fire Marshal * * * in carrying out this chapter. * * *

(Added by Stats.1983, c. 1222, § 20, eff. Sept. 30, 1983. Amended by Stats.1988, c. 986, § 9.)

enforcement proceedings pursuant to and the content of the notice of the final order, amended final order, shall be consistent with the procedure of Title 49 of the Code of Federal

Historical and Statutory Notes

1983 Legislation.

Former § 51019 was repealed by Stats.1988, c. 1222, § 19, eff. Sept. 30, 1983.

as adopted pursuant to subdivision pursuant thereto, that person is \$1,000 for each day that violation hundred thousand dollars (\$500,000)

§ 51019.05. Annual fee assessments; interstate pipeline operators; delinquency fees

If the agreement specified in Section 51010.5 is entered into, the State Fire Marshal may assess and collect, from every operator of an interstate pipeline having a portion thereof located within this state, as described in the agreement, an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. The pipeline operator shall pay this fee when billed by the State Fire Marshal.

Marshal pursuant to the regulations as penalty, the State Fire Marshal and, with respect to the person history of prior violations, the effect eve compliance, ability to pay the

The State Fire Marshal may impose a delinquency fee of 10 percent of the annual fee if the interstate pipeline operator does not pay the fee within 60 days after receipt of the bill, and, in addition, it interstate pipeline operator shall pay interest on that portion of its annual fee not paid within 60 days: the rate of 15 percent per annum from the date of receipt of the bill until paid.

red in an action brought by the by action to the Attorney General, of the assessed penalty pursuant

The total amount of the fee collected pursuant to this section and Section 51019 shall not exceed the actual expenses incurred, or the estimated expenses which will be incurred, by the State Fire Marshal carrying out this chapter.

(Added by Stats.1988, c. 863, § 3.)

d pursuant to this section in the Safety Fund. The money in the nature, to the State Fire Marshal, sion training to local fire depart-

§ 51019.1. California hazardous liquid pipeline safety fund; creation; deposit of fees

(a) There is hereby created the California Hazardous Liquid Pipeline Safety Fund, consisting of the Local Training Account * * * and the * * * Pipeline Operations Account.

ats.1989, c. 1277, § 7.)

(b) All fees collected pursuant to Sections 51019 and 51019.05 shall be deposited in the * * * Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out this chapter * * *

1988

(Added by Stats.1983, c. 1222, § 21, eff. Sept. 30, 1983. Amended by Stats.1986, c. 863, § 4; Stats.1987, c. 986, § 10; Stats.1991, c. 395 (A.B.718), § 2.)

this chapter or a regulation issued fine of not more than twenty-five para. or both.

Chapter 5.6

ves. or destroys any pipeline sign shall, upon conviction, be subject, imprisonment for a term not to

CALIFORNIA OIL REFINERY AND CHEMICAL PLANT SAFETY PREPAREDNESS ACT OF 1981 (REPEALED)

Chapter 5.6, added by Stats.1981, c. 924 (A.B.100), § 1, consisting of §§ 51020 to 51026, was repealed by Stats.1991, c. 924 (A.B.100), § 1, operative Jan. 1, 1997.

ats.1989, c. 1277, § 8.)

§§ 51020 to 51026. Repealed by Stats.1991, c. 924 (A.B.100), § 1, operative Jan. 1, 1997

Historical and Statutory Notes

The repealed sections, added by Stats.1981, c. 924 (A.B. 100), § 1, related to oil refinery and chemical plant safety preparedness.

Section 51026.5 was amended, prior to repeal, by Stats. 1982, c. 98 (A.B.196), § 1.

Section 51021 was amended, prior to repeal, by Stats. 1988, c. 889 (A.B.2211), § 73.

Annotations Under Repealed Sections

SECTION 51020

Historical and Statutory Notes

Former § 51020 was repealed by Stats.1983, c. 1222, § 22, eff. Sept. 30, 1983.

Former § 51020, added by Stats.1983, c. 1222, § 22, related to disposition of fees for local agency expenses and was repealed by Stats.1988, c. 863, § 1.

this chapter or any regulations order the particular action which

operator an annual fee for the this fee for expenses which will his fee when billed by the State f 10 percent of the annual fee if of the bill, and, in addition, the aid within 60 days at the rate of total amount of the fee collected by asterisks * * *

Additions or changes indicated by underline; deletions by asterisks * * *

WAC 480-93-020

Proximity considerations.

Gas facilities having a maximum operating pressure greater than five hundred psig shall not be operated within five hundred feet of the places described below without prior written authorization of the commission, unless a waiver previously approved by the commission continues in effect:

- (1) A building intended for human occupancy which is in existence or under construction prior to the date authorization for construction is filed with the commission, and which is not owned and used by the petitioning gas company in its gas operations;
- (2) Property which has been zoned as residential or commercial prior to the date authorization for construction is filed with the commission;
- (3) A well-defined outside area, such as a playground, recreation area, outdoor theater, or other place of public assembly, which is occupied by twenty or more people, sixty days in any twelve-month period which is in existence or under construction prior to the date authorization for construction is filed with the commission; and
- (4) A public highway, as defined in RCW 81.80.010(3).

In requesting prior written authorization of the commission, the petitioning gas company shall certify that it is not practical to select an alternative route which will avoid such locations and further certify that management has given due consideration to the possibility of the future development of the area and has designed its facilities accordingly. The petition shall include, upon request of the commission, an aerial photograph showing the exact location of the pipeline in reference to places listed above that are within five hundred feet of the pipeline right of way.

[Statutory Authority: RCW 80.01.040, 92-16-100 (Order R-375, Docket No. UG-911261), § 480-93-020, filed 8/5/92, effective 9/5/92; Order R-28, § 480-93-020, filed 7/15/71; Order R-5, § 480-93-020, filed 6/6/69, effective 10/9/69.]

WAC 480-93-030

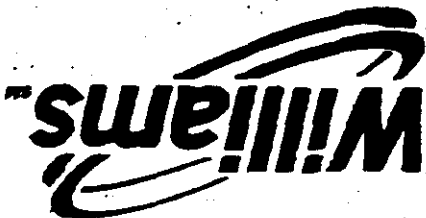
Proscribed areas.

Gas facilities having a maximum operating pressure between two hundred fifty-one psig and four hundred ninety-nine psig shall not be operated within 100 feet of the places described below without prior written authorization of the commission, unless a waiver previously approved by the commission continues in effect:

- (1) A building intended for human occupancy which is in existence or under construction prior to the date authorization for construction is filed with the commission, and which is not owned and used by the petitioning gas company in its gas operations; and
- (2) A well-defined outside area, such as a playground, recreation area, outdoor theater, or other place of public assembly which is occupied by twenty or more people, sixty days in any twelve-month period, which is in existence or under construction prior to the date authorization for construction is filed with the commission.

The petition shall include, upon request of the commission, an aerial photograph showing the exact location of the pipeline in reference to the places listed above that are within one hundred feet of the pipeline right of way.

[Statutory Authority: RCW 80.01.040. 92-16-100 (Order R-375, Docket No. UG-911261), § 480-93-030, filed 8/5/92, effective 9/5/92; Order R-23, § 480-93-030, filed 7/15/71; Order R-5, § 480-93-030, filed 6/6/69, effective 10/9/69.



500 South Florida Ave.
Lakeland, Fla. 33801

BUCCANEER PIPELINE PROJECT Executive Summary

The company

Based in Tulsa, OK, Williams is the largest-volume transporter of natural gas in the United States and one of the foremost builders of pipelines in the world. Our 27,000-mile natural gas pipeline network extends from the East to the West Coast and from Mexico to Canada, delivering roughly 16 percent of all the natural gas used in the United States.

Natural gas

Cleaner-burning natural gas is the fuel of choice for industrial and commercial users searching for ways to reduce air pollution and costs. Florida's commitment to being in compliance with the Clean Air Act means electric generators and industrial users that now rely on coal or oil to fuel their plants are looking to natural gas as their primary fuel source for new capacity. This could spare the state millions of tons of sulfur dioxide, carbon monoxide and fine particulate matter.

As one of the fastest growing states in the country, Florida has identified the need for an additional 10,000 megawatts of electric generating capacity by the year 2007. Florida residents have increasingly demanded the use of natural gas to help meet the state's power generation needs, because it is one of the cleanest and most economical energy sources.

The Buccaneer Pipeline Project

Williams will soon begin conducting preliminary surveys on public & private properties in several counties in Central Florida to determine the feasibility of constructing a natural gas pipeline to safely serve the state's growing natural gas needs. The surveying is a preliminary step in the process of bringing more inexpensive and environmentally safe natural gas to Florida consumers.

Williams is studying potential routes for the project that minimize the impact on property owners and the environment by maximizing placement adjacent to existing right-of-way and utility corridors. We are committed to building a pipeline that is good for Florida and its citizens. That means the pipeline will be safe for consumers, the community and the environment.

Our Commitment

Williams intends to work with communities and citizens to select a pipeline route that reflects the community's interests and needs and is in line with the technical and environmental requirements of supplying natural gas safely and economically to Florida.

The pipeline project exists to serve consumers in Florida. Therefore, Williams looks forward to partnering with communities throughout Florida to ensure that the project is the best it can be.

Even during the earliest stages of the project, Williams is dedicated to communicating fully with citizens to ensure that we understand the community's needs and interests with regard to the proposed pipeline. We will also answer all questions and be responsive to Florida's consumers throughout the entire process. We are available at any time to address your questions. Please call us at 1-888-214-8275 with any comments or suggestions and we will respond to you directly.



BUCCANEER PIPELINE PROJECT

500 South Florida Ave.
Lakeland, Fla. 33801

About Williams

During the past 90 years, the Williams name has become synonymous with energy, innovation and trust. Based in Tulsa, OK., Williams is a \$17.8 billion energy and communications corporation with operations in all 50 states. Williams has operated in Florida for more than a decade.

As the largest-volume transporter of natural gas in the United States, Williams has established itself as one of the foremost builders of natural gas pipelines in the world. Its 27,000-mile natural gas pipeline network extends from the East to the West Coast and from Mexico to Canada, delivering roughly 16 percent of all the natural gas used in the United States. This vast pipeline network includes more than 3,000 miles of pipeline located offshore in the Gulf of Mexico.

Florida's increasing demand for natural gas

Cleaner-burning natural gas is the fuel of choice for industrial and commercial users searching for ways to reduce air pollution and costs. Florida's commitment to being in compliance with the Clean Air Act means that electric generators and industrial users that now rely on coal or oil to fuel their plants are looking to natural gas as their primary fuel source for new capacity. This could spare the state millions of tons of sulfur dioxide, carbon monoxide and fine particulate matter.

As one of the fastest growing states in the country, Florida has identified the need for more than 10,000 megawatts of additional power generation capacity within the state by 2007. If fueled entirely by natural gas, this would require an additional 1.5 billion cubic feet of natural gas per day. Existing pipeline capacity cannot adequately satisfy that growing need.

Natural gas pipelines

Natural gas pipelines safely transport large volumes of gas over long distances. Today in the United States, there are more than 300,000 miles of onshore and offshore natural gas pipelines in operation. Natural gas is put into the pipeline at pipeline interconnects, wellheads, or processing plants near the gas fields. The gas moves through underground pipelines with the aid of compression to customers in the pipelines' market area. These customers include local distribution companies, which resell the gas to residential and business customers. They also include electric utilities that use the natural gas to generate electricity.

Natural gas supplies

The current capacity of the sole interstate pipeline serving peninsular Florida, Florida Gas Transmission, is approximately 1.5 billion cubic feet per day. In order for the State of Florida to grow residentially, industrially and commercially, additional natural gas must be transported into the state.

The Buccaneer Pipeline Project

Williams is currently conducting various studies to measure market interest and determine the feasibility of constructing a pipeline that would supply approximately 950 million cubic feet of natural gas to Florida.

The offshore portion of the pipeline would require approximately 400 miles of 36-inch diameter pipeline extending from a processing plant in Mobile County, AL, to the west coast of Florida just north of the Tampa area and then continue onshore in an easterly direction.

The diameter of the onshore pipeline will vary from 12-36 inches in diameter and will be buried with a minimum of three feet of ground cover. Williams anticipates that the project will require approximately 250 miles of onshore pipe.

In early 1999, Williams will conduct preliminary surveys on public and private properties to determine the feasibility of potential routes. Williams has identified 14 potential delivery points in Pasco, Polk, Osceola, Orange, Lake, Seminole, Volusia, Brevard and Bay counties, Florida.

The surveying process does not involve any construction and is relatively simple. Survey crews, usually consisting of four people, will survey a variety of potential pipeline routes. This involves using survey equipment to take certain geographical measurements. The survey crews are directed to exercise the utmost care and concern for property during the entire survey process.

Williams is studying potential routes for the project that minimize the impact on property owners and the environment by maximizing placement adjacent to existing right-of-way and utility corridors. If existing landscape forces a deviation from a corridor, Williams would work closely with local municipalities, environmental groups and citizens to find ways to minimize any adverse impacts.

In general, the width of the permanent easement needed to operate and maintain the pipeline would be 50 feet. Williams may also need to acquire an additional 35 feet of temporary right-of-way during the construction period only. These easements are purchased by Williams from the property owner.

An excellent safety record

Statistics gathered by the National Transportation Safety Board, a federal agency, show that natural gas pipelines are the safest mode of transportation for meeting America's energy needs. To ensure pipelines are safe, the United States Department of Transportation (DOT) imposes, and pipelines comply with, a broad range of pipeline design, materials, construction, testing, maintenance and inspection requirements. In addition, Williams complies with state DOTs and other agency requirements, if different from the federal requirements.

What does Williams do to ensure safety?

- Safety starts long before actual construction begins. At steel rolling mills where pipe is fabricated, pipeline representatives carefully inspect the pipe to ensure that it is of high quality and meets both federal and industry standards.
- Coating systems and other corrosion control techniques are used to prevent corrosion of the pipeline and facilities.

The regulatory process

Before Williams can receive permission to construct an interstate natural gas transmission pipeline, it must first file an application with the Federal Energy Regulatory Commission (FERC). Williams plans to file an application with the FERC in the late summer or early fall of 1999.

Congress charges the FERC with determining whether any proposed interstate pipeline project is in the public interest. The FERC approves the location and construction of interstate pipelines that move natural gas across state boundaries. These pipelines criss-cross the United States moving nearly a quarter of the nation's energy to markets in 48 states. They are vital to the economy.

Environmental responsibility

All members of the Buckaneer team are committed to protecting sensitive areas and the environment. This commitment extends through all aspects of the project. Williams will work with all agencies to fully comply with all laws and regulations designed to protect sensitive areas. Beyond that, we have our own standards and procedures that help ensure Williams professionals do their utmost to demonstrate care and respect for the possible effect of our activities on sensitive areas.

Williams will select a route that avoids sensitive areas wherever possible. This route will be based on detailed professional surveys and studies. Next, Williams is very careful during construction, choosing only qualified and experienced professional pipeline builders and training and supervising them closely. By doing this, Williams can minimize the impact of construction activities. Finally, other construction, Williams ensures that the site is thoroughly cleaned up and restored, to the best of our ability, to its original condition.

- During construction, pipeline representatives inspect the fabrication and construction of the pipeline. Welds linking the joints of the pipeline are 100 percent x-rayed to ensure their integrity. Once in the ground, and before being placed into service, the pipeline is pressure tested with water in excess of its maximum operating pressure, adhering to standards set by the United States Department of Transportation.
- Pipeline markers will alert the public of the pipeline's presence, identify pipeline rights-of-way and provide a telephone number to be used to contact pipeline personnel in an emergency.
- To help protect against third-party damage, regular inspections by motor vehicles and patrol aircraft keep a watchful eye on pipeline routes and adjacent areas.
- Pipeline maintenance crews stationed in Florida perform facility inspections at regular intervals to identify any construction in the vicinity of the pipeline and to maintain the pipelines and their rights-of-way.
- Pipelines undergo periodic maintenance inspections, including leak surveys, valve and safety device inspections and electronic inspections using devices known as a smart pigs to confirm the continuing integrity of the line.
- Williams representatives meet with local emergency response officials on pipeline operations and coordinate emergency response procedures in the unlikely event of an emergency.
- Finally, all of Williams' pipelines are monitored 24-hours a day from its Gas Control Centers in addition to local station offices.



HOPPING GREEN SAMS & SMITH

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January 13, 2000

Ms. Blanca S. Bayo
 Director, Records and Reporting
 Florida Public Service Commission
 2540 Shumard Oak Boulevard
 Tallahassee, FL 32399-0850

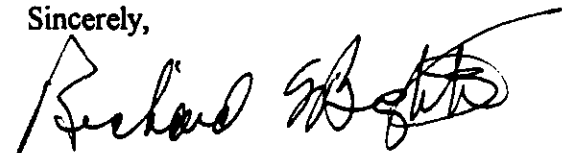
RE: Docket No. 991754-GP

Dear Ms. Bayo:

Enclosed for filing on behalf of Buccaneer Gas Pipeline Co., L.L.C., are the original and fifteen copies of its Response in Opposition to Amended Petition to Initiate Rulemaking.

By copy of this letter, this document is being furnished to the parties on the attached service list.

Sincerely,



Richard S. Brightman

RSB/df

Enclosure

cc: Parties of Record

DOCUMENT NUMBER-DATE

00581 JAN 13 8

FPSC-RECORDS/REPORTING

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by Friends of the Aquifer, Inc., to adopt rules necessary to establish safety standards and a safety regulatory program for intrastate and interstate natural gas pipelines and pipeline facilities located in Florida.

**Docket No. 991754-GP
Filed January 13, 2000**

**RESPONSE IN OPPOSITION TO
AMENDED PETITION TO INITIATE RULEMAKING**

Intervener, Buccaneer Gas Pipeline Co., L.L.P. ("Buccaneer"), by and through its undersigned counsel, hereby respectfully responds in opposition to the AMENDED PETITION TO INITIATE RULEMAKING ("Amended Petition") filed in this matter on January 5, 2000, and states:

1. The Amended Petition should be denied primarily because it requests the Public Service Commission ("Commission") to adopt rules for which the Commission has no statutory authority. As a creature of statute, the Commission has only that rulemaking authority granted it by the Florida legislature. *Radio Telephone Communications, Inc. v. Southeastern Telephone Company*, 170 So.2d 577, 582 (Fla. 1965). As an agency subject to Chapter 120, Florida Statutes (1999) ("F.S."), the Commission may adopt "only rules that implement or interpret the specific powers and duties granted by the enabling statute." Section 120.536(1), F.S.

2. The Commission is authorized to adopt rules regulating certain aspects of the transmission of gas by pipeline under Section 368.03, F.S., This statute is specific as to the scope of the Commission's authority to adopt rules regulating natural gas pipelines, stating:

This law authorizes the establishment of rules and regulations covering the design, fabrication, installation, inspection, testing and safety standards for installation, operation and maintenance of gas transmission and distribution systems, including gas pipelines, gas compressor stations, gas metering and regulating stations, gas mains and gas services up to the outlet of the customer's meter set assembly, gas storage equipment of the closed-pipe type fabricated or forged from pipe or fabricated from pipe and fittings.

3. The Commission has adopted Chapter 25-12, Florida Administrative Code ("F.A.C."), pursuant to the grant of rulemaking authority in section 368.03, F.S. Chapter 25-12, F.A.C., either expressly or by incorporation by reference of federal regulations, addresses each and every topic upon which the Commission is authorized by statute to adopt rules.

4. The fact that federal law authorizes the Federal Department of Transportation to enter into agreements with, or delegate its authority to, states to implement federal pipeline regulatory authority does not empower the Commission to adopt any rule regarding such agreements or delegation. The Commission is a creature of state law and has only that authority granted to it by its authorizing state legislation.

5. The fact that other states have chosen to enter into agreements with or accept delegation from the Federal Department of Transportation to implement federal pipeline regulatory authority does not empower the Commission to do so. The Commission is a creature of Florida law and has only that authority granted to it by its authorizing Florida legislation.

6. The Commission has no specific statutory to adopt a rule accepting delegation of federal authority to regulate intrastate pipelines and pipeline facilities as requested by the Amended Petition.

7. The Commission has no specific statutory authority to adopt a rule accepting authority or agreeing to implement the Federal Hazardous Liquid Pipeline Safety Act with respect to

intrastate and interstate pipeline facilities located within the State of Florida as requested by the Amended Petition.

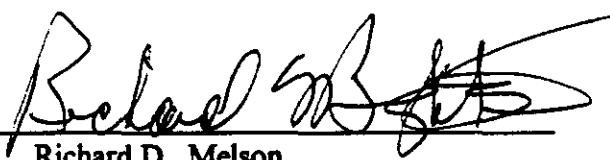
8. The Amended Petition recites Buccaneer's proposed natural gas pipeline project as demonstrating "the urgency with which new regulations are required." Amended Petition, Paragraph 10, at 11. Without attempting to correct the outdated and now extremely inaccurate description of Buccaneer's project contained in the Amended Petition, the record of this proceeding should at least reflect the actual level of regulation, including environmental regulation, to which the Buccaneer project is subject. The primary federal regulatory authority over the Buccaneer project is that of the Federal Energy Regulatory Authority ("FERC"). The FERC process is composed of two major components: a need determination and an environmental analysis. The environmental analysis undertaken by FERC is supported by a full Environmental Impact Statement ("EIS") pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.). Based upon this EIS, it is the FERC (not Buccaneer) which ultimately decides if and where the Buccaneer pipeline will be built. Also at the federal level, the U.S. Army Corps of Engineers ("Corps") is a cooperating agency with FERC on the EIS, and the Corps will ultimately have to issue a permit for the project under Section 404 of the Clean Water Act (dredge and fill impacts) and Section 10 of the River and Harbor Act (effects on navigation). At the state level, the Buccaneer project must be authorized by an Environmental Resource Permit ("ERP") issued by the Department of Environmental Protection ("DEP") pursuant to Part IV of Chapter 373, F.S., and permission from the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet) to cross state owned lands pursuant to Chapter 253, F.S. The ERP permit involves the full array of environmental issues, including but not limited to siting, water quality protection,

surface water and storm water management, wetland impacts and mitigation, threatened and endangered species protection, and archaeological and historic site protection. The ERP also includes a determination as to whether the Buccaneer project is consistent with Florida's federally approved Coastal Zone Management Plan. The approval to cross state lands involves a public interest test applicable to the entire project (not just the actual crossings), and Buccaneer will have to show that the project is clearly in the public interest. In addition, at the local level, Buccaneer will have to comply with the local government comprehensive plans and land development regulations of each and every local government jurisdiction through which the pipeline will pass. It is misleading to suggest that the Buccaneer project will somehow avoid regulation if the Commission does not grant the Amended Petition.

WHEREFORE, Buccaneer Gas Pipeline Co., L.L.P., respectfully requests that the **AMENDED PETITION TO INITIATE RULEMAKING** filed in this matter by Friends of the Aquifer, Inc., on January 5, 2000, be denied and this docket be closed.

Respectfully submitted this 13th day of January, 2000 in Tallahassee, Florida.

Hopping Green Sams & Smith, P.A.

BY: 

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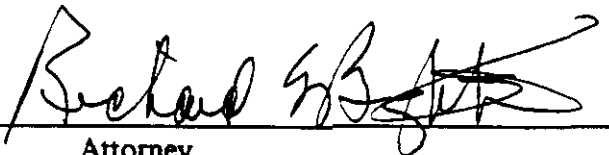
Attorneys for BUCCANEER GAS PIPELINE CO., INC.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing RESPONSE IN OPPOSITION TO AMENDED PETITION TO INITIATE RULEMAKING was hand delivered this 13th day of January, 2000, to the following:

Christiana Moore
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

John Folsom
122 S. Calhoun St.
Tallahassee, FL 32301



Attorney



GAS PIPELINE SAFETY PROGRAM
CERTIFICATION FOR CALENDAR YEAR 1999

This certificate (including attachments) is submitted by the Florida Public Service Commission
(insert name of state agency)
 _____ (the state agency) to the Secretary of Transportation (the Secretary) under
 Section 60105 of Title 49, United States Code.

Pursuant to Section 60105(a) of this Title, the state agency hereby certifies to the Secretary that--

1. Except as set forth in Attachment 1, under the Constitution and laws of
Florida *
(insert name of state) it has regulatory jurisdiction over the safety standards and
 practices of all intrastate pipeline transportation within Florida
(insert name of state) as summarized
 on Attachment 1.
2. It has adopted, as of the date of this certification, each federal safety standard established under
 this Title that is applicable to the intrastate pipeline transportation under its jurisdiction as set forth
 in paragraph 1, or, with respect to each such federal safety standard established within 120 days
 before the date of the certification, is taking steps pursuant to state law to adopt such standard.
 (The adoption by a state agency of a safety standard that is additional to or more stringent than
 the applicable federal standard and is compatible with the federal standards [see Section
 60102(a)(1) of this Title] does not prohibit that state agency from certifying to the actions
 described in this paragraph.)
3. It is enforcing each standard referred to in paragraph 2.
4. It is encouraging and promoting programs designed to prevent damage to pipeline facilities as
 a consequence of demolition, excavation, tunneling, or construction activity.
5. It has authority to require each person who engages in the transportation of gas or who owns
 or operates pipeline facilities subject to its jurisdiction as set forth in paragraph 1, to establish and
 maintain records, to make reports, and to provide information, and that this authority is
 substantially the same as the authority provided under Section 60117 of this Title.
6. It has authority to require each person who engages in the transportation of gas or who owns
 * Applicability as defined in Chapter 368, Gas Transmission and Distribution Facilities, and
 Commission Rules Chapter 25-12. Safety of Gas Transportation by Pipeline, Florida
 Administrative Code

or operates intrastate pipeline transportation facilities, subject to its jurisdiction as set forth in paragraph 1, to file with it for approval a plan for inspection and maintenance substantially as described under Section 60108(a) and (b) of this Title.

7. The laws of Florida provide for the enforcement of the safety standards referred to in paragraph 2 by injunctive and monetary sanctions substantially the same as those provided under Sections 60120 and 60122(a)(1) and (b)-(f) of this Title.

The state agency furthermore agrees to cooperate fully in a system of federal monitoring of the state program to assure the program is being carried out in compliance with this certification.

The terms "intrastate pipeline transportation," "pipeline facilities," "transportation of gas," and "state," are used in this certification as defined in this Title. This certification is subject to termination by the Secretary in accordance with Section 60105(f) of this Title if the Secretary determines the state agency is not satisfactorily enforcing compliance with federal safety standards. Under Section 60105(f), the Secretary, on reasonable notice and after opportunity for hearing, may reject the certification or take such other action as deemed appropriate to achieve adequate enforcement including assertion of federal jurisdiction.

In witness whereof, the hand and seal of the Florida Public Service Commission

is hereby affixed on March 1, 1999 (date) (insert name of state agency)

Florida Public Service Commission
(insert name of state agency)

BY [Signature]
(official signature)
Executive Director