

Public Law 94-477
94th Congress

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

Oct. 11, 1976
[H.R. 12168]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

Natural Gas
Pipeline Safety
Act Amendments
of 1976.

SEC. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 is amended—

49 USC 1671
note.

(1) in subsection (a) thereof, by striking out "and" after "June 30, 1975," and by inserting "\$500,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$4,664,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for the fiscal year ending September 30, 1978," after "June 30, 1976,"; and

49 USC 1684.

(2) in subsection (b) thereof, by striking out "5 (c)" and inserting in lieu thereof "5 (c) and (f)", and by striking out "and" after "June 30, 1975," and by inserting ", \$2,500,000 for the fiscal year ending September 30, 1977, and \$4,500,000 for the fiscal year ending September 30, 1978" after "June 30, 1976".

SEC. 3. Section 2 of the Natural Gas Pipeline Safety Act of 1968 is amended—

49 USC 1671.

(1) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof ", except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption,"; and

(2) by redesignating paragraph (9) as paragraph (10), and inserting after paragraph (8) the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

"Intrastate
pipeline
transportation."

15 USC 717w.

SEC. 4. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 is amended—

49 USC 1672.

(1) by inserting "emergency plans and procedures," after "inspection," in the second sentence thereof; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective."

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended—

49 USC 1674.

(1) in the first sentence thereof, by striking out "pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" and inserting in lieu thereof "intrastate pipeline transportation";

(2) in clause (1) thereof, by striking out "pipeline facilities and transportation of gas" and inserting in lieu thereof "transportation";

(3) by striking out "(2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification;" and inserting in lieu thereof "(2) has adopted, as of the date of the certification, each Federal safety standard established under this Act which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standard;" and

(4) by striking out "and (4)" and inserting in lieu thereof "(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity; and (5)".

49 USC 1674.

(b) Section 5(b) of such Act is amended by striking out "With respect to" and all that follows down through "actions to—" and by inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

(c) The first sentence of section 5(d) of such Act is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this Act after the date of such certification."

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection (f):

"(f) (1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed \$60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

"(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

"(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

"(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations."

SEC. 6. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 is amended to read as follows: "Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency."

49 USC 1680.

SEC. 7. Section 14(a) (1) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents,"

49 USC 1683.

SEC. 8. The Natural Gas Pipeline Safety Act of 1968 is amended by adding at the end thereof the following:

"CONSUMER EDUCATION

"SEC. 16. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary may develop materials suitable for use in such education programs.

49 USC 1685.

"CITIZEN'S CIVIL ACTION

"SEC. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this Act or of any order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

49 USC 1686.

Jurisdiction.

"(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this Act or any order or regulation issued under this Act—

"(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

Notice.

"(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

Regulations.

"(c) In any action under subsection (a), the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

“(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this Act or any order or regulation under this Act or to seek any other relief.

“(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney’s fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney’s fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

“(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this Act or of any order or regulation under this Act only to the extent that such standard or practice is not more stringent than the comparable Federal minimum safety standard.”

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1050 (Comm. on Interstate and Foreign Commerce) and No. 94-1660 (Comm. of Conference).

SENATE REPORT No. 94-852 accompanying S. 2042 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 2042.

Sept. 27, House receded and concurred with amendment to Senate amendment.

Sept. 28, Senate concurred in House amendment.