

Overview of South Dakota
Codified Laws
for
Pipeline Safety

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South Dakota's Laws and Rules

- South Dakota Codified Law (SDCL)
- Administrative Rules of South Dakota (ARSD)
- What's the difference between SDCL and ARSD?
- <http://puc.sd.gov/statutes-administrativelaw/default.aspx>



SDCL Chapter 49-34B

- Pertains to Pipeline Safety within South Dakota
- Currently there are 27 laws in this Chapter
- Right now no ARSD specifically for Pipeline Safety (but we are in the process of developing some)

Without Further Ado!



49-34B-1

- Definition of terms used within Chapter 34B that include:
 - Emergency release
 - Inspection fee
 - Intrastate/interstate pipeline
 - Master meter system
 - Release

(Note: There are several other definitions in 49-34B-1 that are not listed on this slide)

49-34B-2

- Rural gathering facility exempt.
 - Any rural gathering facility (as defined in 49 CFR 192.8) is exempt from these laws.

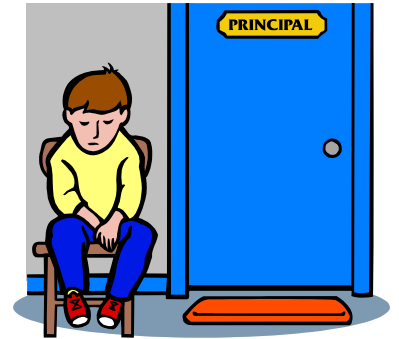
49-34B-3

- Pipeline safety inspection program created
 - - Program for compliance.
- This established SD’s pipeline safety program
 - Conduct inspections/enforce laws
- Adopted 49 CFR parts 191, 192, 193, and 199
- We must comply with federal requirements to maintain control of intrastate program

49-34B-4

- Promulgation of safety standards - -
Considerations.
 - PUC can establish safety standards for intrastate pipeline facilities (but not more stringent than the federal rules)
 - Safety standards may apply to design, installation, inspection, testing, construction, extension, operation, replacement, maintenance
 - PUC must consider: relevant & available data; appropriateness; reasonableness; extent they will contribute to public safety; existing federal standards

49-34B-5



- **Noncompliance - - Hearing - - Corrective Action**
 - Intrastate gas operators must comply with all safety standards
 - If PUC finds (after notice & opportunity for hearing) operator has failed to comply they can order corrective actions such as:
 - Restrict/suspend use of facility
 - Inspection or testing
 - Repair or replacement (or other actions as appropriate)

Note: PUC may issue order without notice or hearing if there is a serious threat to harm life, health, environment, or property



49-34B-6

- Plan for inspection and maintenance of facility
 - - Inadequate plan - - Hearing
 - PUC may require intrastate operators to submit a plan for inspection & maintenance of their system and any changes to the plan
 - If plan is inadequate for safe operation, PUC will require the plan to be revised (after notice & opportunity for hearing)
 - PUC shall consider relevant safety data; appropriateness; reasonableness; and extent plan will contribute to public safety

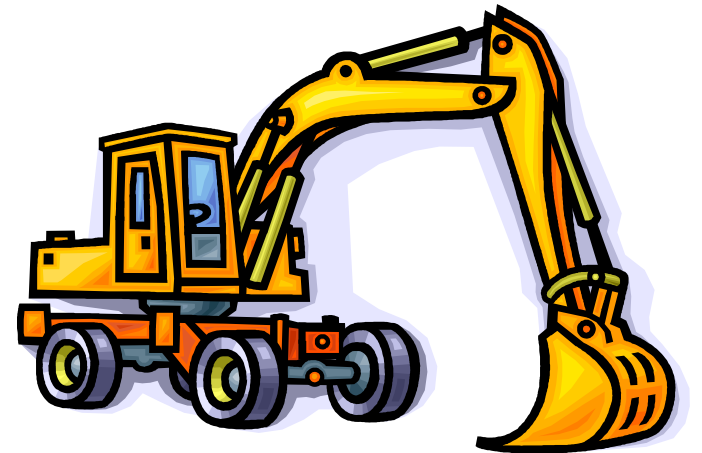
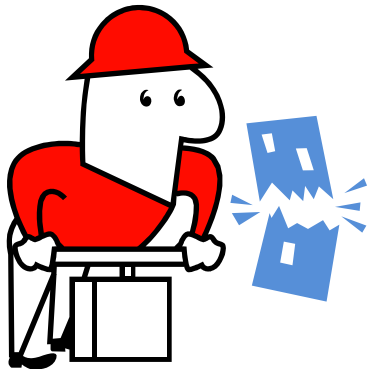
49-34B-7

- Required records and information - - Inspection by employee or agent of commission
 - Intrastate gas operators must create, maintain, and provide info to the PUC
 - Info must also be provided to employees or agents of the PUC
 - Employees of PUC (with credentials) may enter and inspect gas pipeline facilities at reasonable times & in a reasonable manner



49-34B-8

- Programs for prevention of damage
 - PUC shall encourage and promote damage prevention programs for pipeline facilities



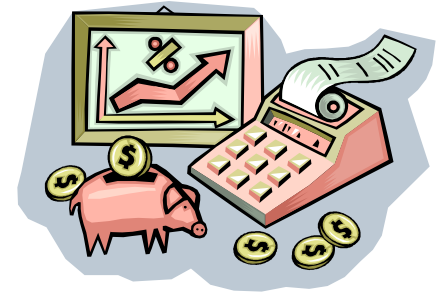


49-34B-9

- Inspection fee for intrastate operators - -
Recovery of unreasonable fees - - Pipeline
safety account established
 - PUC shall assess and collect an inspection fee on
an annual basis
 - Operator may dispute fee (within 30 days after fee
has been mailed)
 - Fees are used to administer the SD pipeline safety
program (to conduct inspections, operator
assistance, and incident investigations, etc.)

49-34B-10

- Calculating inspection fee for intrastate operators
 - Companies will be charged annually for expenses directly attributed to the individual company (ex. Inspections)
 - Companies will be charged for a pro rata share for expenses not directly attributable based on the following:
 - For LDCs - Number of meters in service on preceding Dec. 31
 - For Transmission and LPG facilities - % of total miles operated



49-34B-11

- Initial inspection fee for intrastate operators -
- Filing objection - - Delinquency fee - - Fees credited to pipeline safety account
 - Initial fee was assessed on July 1, 1994





49-34B-12

- Civil penalty for violations - - Maximum penalties - - Penalties credited to pipeline safety account - - Interstate facilities exempt
 - If a violation is discovered, PUC may impose civil penalties (after notice & opportunity for hearing)
 - Civil penalties may not exceed:
 - \$10,000/day for each violation
 - \$500,000 for any related series of violations
 - In determining the penalty amount PUC considers:
 - Appropriateness of penalty to the size of the business
 - Seriousness of violation
 - Prior offenses and compliance history
 - Good faith of company in attempting to achieve compliance

Note: all penalties collected are deposited in the pipeline safety account

49-34B-13

- Conduct in violation of federal act - -
Authority of commission to pursue remedies
 - PUC cannot subject operators to civil penalties under this chapter if prior civil penalties were imposed under the federal regulations (Parts 191, 192, 193, or 199)
 - In a sense this prevents “double jeopardy”

49-34B-19

- Promulgation of inspection and safety rules
 - PUC may create pipeline inspection & safety rules to the extent necessary to qualify for federal certification to operate the pipeline inspection program of intra and interstate gas pipelines

49-34B-20

- Promulgation of rules for calculation, assessment, and collection of fees
 - PUC may create rules that govern the calculation, assessment, and collection of fees that are imposed in 49-34B

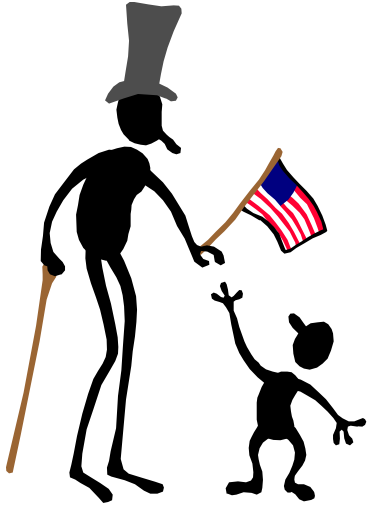
49-34B-21

- Accident report available in judicial proceedings
 - Pipeline safety accident reports made by PUC employees are available for use in civil, criminal, or other judicial proceedings
 - PUC employees may be required to testify
 - Reports that are made available to the public do not need to identify individuals
 - Reports on research projects, demonstration projects, and other related activities is public information

49-34B-22

- Trade secrets information confidential
 - Information reported to or obtained by the PUC that contains or refers to a trade secret is considered confidential
 - Info can be disclosed to PUC employees
 - Cannot withhold information from committee of the Legislature





49-34B-23

- Acceptance of federal moneys
 - PUC can accept money from federal government to implement pipeline safety program (money will go into pipeline safety account)
 - PUC may not do anything unlawful to obtain money

49-34B-24

- Waiver of compliance with standards - -
Reasons to be stated
 - PUC may grant waivers to pipeline safety regulations
 - PUC must give notice and opportunity for hearing
 - Waiver must not be inconsistent with gas pipeline safety

49-34B-25

- Damaging or tampering with sign or line markers prohibited - - Violation as misdemeanor
 - No person may destroy, remove, or tamper with pipeline markers
 - People found violating this law are guilty of a Class 2 misdemeanor

49-34B-26

- Prohibition against disposing of, destroying or altering pipeline involved in emergency release - - Violation as felony
 - No operator may dispose of, destroy, or alter part of the pipeline that was involved in an emergency release
 - Must get PUC approval prior to removing or disposing of materials
 - This section does not prevent operators from taking action to limit further release of gas
 - Excavation and removal of pipeline from ground may be performed as long as pipeline is not intentionally altered that prevents determination of the cause
 - People found intentionally violating this law are guilty of a Class 5 felony

49-34B-27

- Powers of commission in enforcement of chapter
 - PUC may do the following to carry out enforcement responsibilities for pipeline safety:
 - Conduct investigations
 - Make reports
 - Issue subpoenas
 - Conduct hearings
 - Require production of relevant records
 - Take depositions
 - Conduct research, testing development, demonstration, and training activities

Conclusion

- South Dakota PUC has been delegated the “intrastate” pipeline safety program for gas operators
- South Dakota Codified Law, Chapter 49-34B outlines the current pipeline safety laws
- South Dakota PUC is proposing some Administrative Rules to clarify SDCL Chapter 49-34B

Questions?!

