

# House Bill Analysis

## HB 2420

HOUSE AGRICULTURE AND ECOLOGY COMMITTEE

January 20,  
2000

House Bill 2420 changes provisions for pipeline safety in Washington  
--transfers responsibility for pipeline safety from the utility and transportation  
commission to the department of ecology;  
--requires development of a governing transportation authority and by  
pipeline and express prohibitions by federal law and  
--requiring additional safety measures when excavation work takes place on pipelines.

### BACKGROUND:

#### Oil Transportation in Washington

Crude oil comes into Washington via pipeline and tankers. The majority « 465,000 barrels per day (BPD) « enters in tankers. About 85,000 BPD enters through pipeline going to one of five refineries<sup>2</sup> in Washington state. In addition, a number of terminals provide storage for petroleum products. There are four interstate pipelines in Washington:

- the TransMountain Pipeline, which transports crude oil from Canada to Washington refineries;
- the Olympic Pipe Line, which transports refined produces and extends 400 miles from Ferndale, Washington, south to Portland, Oregon;
- the Yellowstone Pipeline, which enters the state south of Spokane and ends in Moses Lake; and
- the Chevron Pipeline, which enters the state near Pasco and travels northeast toward Spokane.

In addition, there are 83 miles of intrastate oil pipeline in the form of spurs off of the Olympic Pipe Line serving Ft. Lewis and Sea-Tac International Airport.

In addition, there are two gas transmission companies in Washington; PG&E Gas Transmission-Northwest and Williams Pipeline-West.

## Regulation of Pipeline Safety

The federal pipeline safety act (49 U.S.C. 60101 et seq.) provides the statutory basis for the federal and state pipeline safety programs. This law provides for exclusive federal authority over the regulation of interstate pipeline facilities, and federal delegation to the States for all or part of the responsibility for intrastate pipeline facilities under annual certification or agreement. Chapter 601 authorizes grants to states for up to fifty percent of a state's personnel, equipment and activity costs for its pipeline safety program. The federal Office of Pipeline Safety is located within the U.S. Department of Transportation. The office identifies third party excavation damage as the leading cause of pipeline accidents.

Unlike many environmental laws, such as the Clean Air Act or the Clean Water Act, that allow states to set standards that are equal to or more stringent than federal standards, the federal Pipeline Safety Act preempts states from adopting safety or environmental standards. The act does allow states, however, to seek and accept designation as federal agents for the purpose of enforcing existing federal requirements on interstate hazardous liquid pipelines. To date, only four states have obtained this additional designation for hazardous liquid pipelines: Arizona, California, Minnesota, and New York. Three other states have obtained this designation for natural gas pipelines. The federal Office of Pipeline Safety has not allowed additional states to obtain this designation since the mid-1990's.

The state of Washington is certified to assume safety responsibilities related to intrastate pipelines. The state's program is carried out within the Utilities and Transportation Commission.

Criticism of the federal pipeline safety act falls into two areas: (1) it does not allow states to develop more stringent requirements, and (2) the existing requirements are viewed by some as inadequate. One of the critics is the National Transportation Safety Board (NTSB), which is charged with investigating pipeline accidents. The NTSB alleges that many of its recommendations to the Office of Pipeline Safety have not been adopted.

In 1996, the federal pipeline safety act was amended by the Accountable Pipeline Safety and Partnership Act. Among several provision of this law are the following:

- identification of the costs and benefits of minimum safety standards; and
- establishment of risk management demonstration projects to allow owners and operators to be exempted from all or a portion of safety standards that would otherwise apply.

This law is authorized until 2000 and bills have been, or will soon be, introduced by members of the Washington congressional delegation requesting additional delegation of responsibility.

## Hazardous Liquid Pipeline Accidents

On June 10, 1999, a 16-inch diameter pipeline owned by the Olympic Pipe Line Company ruptured and leaked approximately 277,000 gallons of gasoline into the Hanna and Whatcom

Creeks in Whatcom Falls Park in Bellingham. About an hour and half later, the gasoline ignited and caused a fireball that traveled approximately one and a half miles downstream from the pipeline failure location. As a result, two children and a young man lost their lives. Significant property and environmental damage also occurred. This is not the only pipeline spill to have occurred in Washington, but it is the only one to have resulted in fatalities. Since 1964, spills in Washington have totaled 905,000 gallons for pipelines, 1.3 million gallons for facilities such as refineries and terminals, and 4.6 million gallons for vessels.

Nationally since 1984, there have been over 3000 incidents spilling a total of 1.7 million barrels resulting in 35 fatalities, 246 injuries, and a half billion dollars worth of property damage. The record is worse for the nation's 302,000 mile network of gas pipelines: 241 deaths and 1,105 injuries since 1986.

### Governor's Fuel Accident Prevention and Response Task Force

As a result of the tragedy in Bellingham, Governor Gary Locke convened a fuel accident prevention and response task force. The task force met six times between July and December 1999, and issued a set of recommendations. The Governor's principal priorities are to seek reauthorization of the federal pipeline safety act that allows for delegation of additional authority for states to set standards, as well as additional funding for the state's pipeline safety activities.

### **SUMMARY:**

House Bill 2420 is based on many of the recommendations of the governor's task force, and on requirements found within the State of Minnesota's pipeline safety act.

At written, the bill applies to both hazardous liquid and gas pipelines. The bill defines pipelines— as being six inches in diameter or greater. This is intended to exclude residential lines.

The current duties of the Utilities and Transportation Committee are transferred to the Department of Ecology, and Ecology is given additional responsibilities for administering pipeline safety laws. To the extent not expressly prohibited by federal law, the department must develop and implement a comprehensive program of pipeline safety.

The department is directed to adopt rules regarding:

- intrastate safety standards (this is an existing provision which is transferred from the Utilities and Transportation Commission to the department of ecology);
- requirements related to detection and control of leaks;
- requirements related to training and certification of personnel who operate pipelines;
- measures aimed at prevention of third-party excavation damage through establishment of a one-call system; and
- requirements related to pipeline company submission of operations safety plans that are fit for service— (i.e., tailored to company's needs, but that result in the highest

practicable level of public safety–).

The department is also required to coordinate information by providing technical assistance to local planning authorities and to the Energy Facility Site Evaluation Council.

The department is required to evaluate any proposals that are developed related to methods and technologies for testing the structure of pipelines, for leak detection, and for other similar elements.

The department is required to compile accurate maps of pipeline distribution systems into a statewide whole in a geographic information system format.

The department is required to develop:

- a model ordinance related to setbacks and depth of new pipeline construction;
- a model franchise agreement; and
- protective standards applicable to pipelines in densely populated areas and environmentally sensitive areas.

These documents would be developed for the consideration of local governments, but are not required to be adopted.

The department is required to seek federal designation of the department's inspectors as federal agents for the inspection of interstate pipelines. This is a provision of existing law that is transferred from the Utilities and Transportation Commission to the department of Ecology

The department is also required to seek federal authority to adopt safety standards related to the monitoring and testing of interstate pipelines

The department is authorized to inspect any document that federal law requires pipeline companies to keep that are related to reporting of emergency releases, design, construction, testing, operation, and maintenance.

The next section of the bill prohibits the Department of Licensing from issuing an annual business license to any person that violates this act– (the pipeline safety act). The intent of this provision is to be able to exercise existing state authority over pipeline companies.

A citizens advisory committee, comprised of local government representatives, including elected officials, and citizens is established. The committee may advise the department, the energy facility site evaluation council, and other appropriate agencies on matters relating to pipeline safety, routing, construction, and maintenance. Members are appointed by the governor to staggered three-year terms.

The department of ecology is required to establish a single statewide toll-free telephone number to be used for excavation notification and the six existing one-call centers must be reachable through that number.

Existing law on underground utilities is amended to require that, whenever work occurs within five feet of a hazardous liquid or gas pipeline, the pipeline company that owns or operates the pipeline must be notified.

The state fire marshal's office, located within the Washington State Patrol, is required to address emergency management and developing training curricula for training local first responders.

Requirements are provided for pipeline companies. Pipeline companies are required to ensure that any pipeline that has had excavation work within five feet is fully uncovered and examined prior to re-burial. Pipeline companies are also required to terminate the flow of hazardous liquids when they are notified of third party damage to a pipeline they own or operate, and to not resume the flow of hazardous liquids until the pipeline has been visually inspected and, if necessary, repaired or replaced. Pipeline companies are also required to notify first responders in the event of a dangerous release, which is defined in the definitions section as posing a clear and immediate danger to life, health, or that threatens a significant loss of property.

An enforcement section is added. Failure to notify pipeline companies that excavation work will occur within five feet of hazardous liquid or gas pipelines is subject to penalties not more than one thousand dollars per violation.

Any pipeline company that fails to comply with any provision of this bill is subject to civil penalties of not less than five thousand dollars. Finally, failure to report a dangerous release— that results in death or injury is a class B felony. A class B felony is punishable by a fine of not more than \$20,000, or by imprisonment for not more than ten years, or both.

1. A barrel is 42 gallons of petroleum.
2. ARCO in Cherry Point; Tosco Northwest in Ferndale; Tesoro Northwest in- Anacortes; Puget Sound Refining in Anacortes, and U.S. Oil and Refining in Tacoma.