

AN ACT

relating to pipeline safety emergency response plans and the requirements governing notification of pipeline construction and operation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 117.012, Natural Resources Code, is amended by amending Subsections (h), (i), and (k) and adding Subsections (l) and (m) to read as follows:

(h) The commission shall require operators or their designated representatives to communicate and conduct liaison activities with fire, police, and other appropriate public emergency response officials. The liaison activities must be conducted by meetings in person except as provided by this section. An operator or the operator's representative may conduct required community liaison activities as provided by Subsection (i) only if the operator or the operator's representative has made an effort, by one of the following methods, [~~the following efforts~~] to conduct a community liaison meeting in person with the officials:

(1) mailing a written request for a meeting in person to the appropriate officials by certified mail, return receipt requested;

(2) sending a request for a meeting in person to the appropriate officials by facsimile transmission; or [~~and~~]

(3) making one or more telephone calls or e-mail

1 message transmissions to the appropriate officials to request a
2 meeting in person.

3 (i) If the operator or operator's representative cannot
4 arrange a meeting in person after complying with Subsection (h),
5 the operator or the operator's representative shall make an effort,
6 by one of the following methods, [~~the following efforts~~] to conduct
7 community liaison activities by means of a telephone conference
8 call with the officials:

9 (1) mailing a written request for a telephone
10 conference to the appropriate officials by certified mail, return
11 receipt requested;

12 (2) sending a request for a telephone conference to
13 the appropriate officials by facsimile transmission; or [~~and~~]

14 (3) making one or more telephone calls or e-mail
15 message transmissions to the appropriate officials to request a
16 telephone conference.

17 (k) The commission by rule shall require the owner or
18 operator of each [~~interstate or~~] intrastate hazardous liquid or
19 carbon dioxide pipeline facility any part of which is located
20 within 1,000 feet of a public school building containing
21 classrooms, or within 1,000 feet of another public school facility
22 where students congregate, to:

23 (1) on written request from the school district,
24 provide in writing the following parts of a pipeline emergency
25 response plan that are relevant to the school:

26 (A) a description and map of the pipeline
27 facilities that are within 1,000 feet of the school building or

1 facility;

2 (B) a list of any product transported in the
3 segment of the pipeline that is within 1,000 feet of the school
4 facility;

5 (C) the designated emergency number for the
6 pipeline facility operator;

7 (D) information on the state's excavation
8 one-call system; and

9 (E) information on how to recognize, report, and
10 respond to a product release [~~develop an emergency response plan in~~
11 ~~consultation with the fire department in whose jurisdiction the~~
12 ~~school is located or another local emergency response entity]; and~~

13 (2) mail a copy of the requested items by certified
14 mail, return receipt requested, to the superintendent of the school
15 district in which the school building or facility is located
16 [~~present the plan:~~

17 [~~(A) at the first annual budget meeting of the~~
18 ~~board of trustees of the school district in which the school is~~
19 ~~located after the plan is developed; and~~

20 [~~(B) at subsequent annual budget meetings of the~~
21 ~~board of trustees of the school district on the request of the~~
22 ~~board].~~

23 (1) A pipeline operator or the operator's representative
24 shall appear at a regularly scheduled meeting of the school board to
25 explain the items listed in Subsection (k) if requested by the
26 school board or school district.

27 (m) The commission may not require the release of parts of

1 an emergency response plan that include security sensitive
2 information including maps or data. Security sensitive information
3 shall be made available for review by but not provided to the school
4 board.

5 SECTION 2. (a) Chapter 756, Health and Safety Code, is
6 amended by adding Subchapter G to read as follows:

7 SUBCHAPTER G. CONSTRUCTION AFFECTING PIPELINE EASEMENTS AND
8 RIGHTS-OF-WAY

9 Sec. 756.101. DEFINITIONS. In this subchapter:

10 (1) "Construction" means a building, structure,
11 driveway, roadway, or other construction any part of which is
12 physically located on, across, over, or under the easement or
13 right-of-way of a pipeline facility or that physically impacts or
14 creates a risk to a pipeline facility.

15 (2) "Constructor" means a person that builds,
16 operates, repairs, replaces, or maintains a construction or causes
17 a construction to be built, operated, repaired, maintained, or
18 replaced.

19 (3) "Pipeline facility" means a pipeline used to
20 transmit or distribute natural gas or to gather or transmit oil,
21 gas, or the products of oil or gas.

22 Sec. 756.102. APPLICABILITY. (a) This subchapter applies
23 to a construction or the repair, replacement, or maintenance of a
24 construction unless there is a written agreement, including a Texas
25 Department of Transportation right-of-way agreement, to the
26 contrary between the owner or operator of the affected pipeline
27 facility and the person that places or causes a construction to be

1 placed on the easement or right-of-way of a pipeline facility.

2 (b) This subchapter does not apply to:

3 (1) construction done by a municipality on property
4 owned by the municipality, unless the construction is for private
5 commercial use; or

6 (2) construction or repair, replacement, or
7 maintenance of construction on property owned by a navigation
8 district or port authority created or operating under Section 52,
9 Article III, or Section 59, Article XVI, Texas Constitution.

10 Sec. 756.103. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE.

11 A person may not build, repair, replace, or maintain a construction
12 on, across, over, or under the easement or right-of-way for a
13 pipeline facility unless notice of the construction is given the
14 operator of the pipeline facility and:

15 (1) the operator of the pipeline facility determines
16 that the construction will not increase a risk to the public or
17 increase a risk of a break, leak, rupture, or other damage to the
18 pipeline facility;

19 (2) if the operator of the pipeline facility
20 determines that the construction will increase risk to the public
21 or the pipeline facility, the constructor pays the cost of the
22 additional fortifications, barriers, conduits, or other changes or
23 improvements necessary to protect the public or pipeline facility
24 from that risk before proceeding with the construction;

25 (3) the building, repair, replacement, or maintenance
26 is conducted under an existing written agreement; or

27 (4) the building, repair, replacement, or maintenance

1 is required to be done promptly by a regulated utility company
2 because of the effects of a natural disaster.

3 (b) The change in law made by Subchapter G, Chapter 756,
4 Health and Safety Code, as added by this section, applies only to an
5 activity described by Section 756.103, Health and Safety Code, as
6 added by this section, that is initiated on or after the effective
7 date of this Act.

8 (c) Section 756.102(b), Health and Safety Code, as added by
9 this section, does not affect litigation that is pending on the
10 effective date of this section and does not affect the rights or
11 obligations of a municipality, navigation district, or port
12 authority otherwise provided by law.

13 SECTION 3. Section 81.056, Natural Resources Code, is
14 repealed.

15 SECTION 4. This Act applies to a permit application that is
16 pending with the Railroad Commission of Texas on the effective date
17 of this Act or that is filed with the commission on or after that
18 date.

19 SECTION 5. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1931 was passed by the House on May 1, 2003, by the following vote: Yeas 142, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1931 on May 29, 2003, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1931 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor