



## 2021 South Dakota Legislature

# Senate Bill 37

*Introduced by: The Committee on Commerce and Energy at the request of the Public Utilities Commission*

1 **An Act to update certain citations to federal regulations regarding pipeline safety**  
 2 **inspections.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 49-34B-3 be AMENDED.

5 **49-34B-3. Pipeline safety inspection program created--Compliance program.**

6 There is created a pipeline safety inspection program. The federal safety standards  
 7 adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199  
 8 as amended to January 1, ~~2019~~ 2021, are adopted as minimum safety standards for this  
 9 chapter. The commission shall establish and implement a compliance program to enforce  
 10 these safety standards. The program shall be established and implemented in a manner  
 11 that fully complies with requirements for state certification under the United States Code,  
 12 title 49, section 60105, as amended to January 1, ~~2019~~ 2021.

13 **Section 2.** That § 49-34B-4 be AMENDED.

14 **49-34B-4. Promulgation of safety standards--Considerations.**

15 The commission may, by rules promulgated pursuant to chapter 1-26, establish  
 16 safety standards, but not more stringent than federal safety standards as provided by  
 17 § 49-34B-3, for the intrastate transportation of gas and gas pipeline facilities. The  
 18 standards may apply to the design, installation, inspection, testing, construction,  
 19 extension, operation, replacement, and maintenance of gas pipeline facilities. Standards  
 20 affecting the design, installation, construction, initial inspection, and initial testing do not  
 21 apply to pipeline facilities in existence on the date the standards are adopted by either  
 22 this state or the federal government. The safety standards shall be practicable and  
 23 designed to meet the need for pipeline safety. In prescribing the standards, the  
 24 commission shall consider:

25 (1) Relevant available pipeline safety data;

- 1 (2) Whether the standards are appropriate for the particular type of pipeline  
2 transportation of gas;
- 3 (3) The reasonableness of any proposed standards;
- 4 (4) The extent to which the standard will contribute to public safety; and
- 5 (5) The existing standards established by the secretary of the United States  
6 Department of Transportation pursuant to the United States Code, title 49, section  
7 60101 et seq. as amended to January 1, ~~2019~~ 2021.

8 **Section 3.** That § 49-34B-13 be AMENDED.

9 **49-34B-13. Conduct in violation of federal act--Authority of commission to**  
10 **pursue remedies.**

11 No person is subject to civil penalties under this chapter if prior civil penalties have  
12 been imposed under the United States Code, title 49, section 60101 et seq. as amended  
13 to January 1, ~~2019~~ 2021, for conduct that may give rise to a violation of both acts. Nothing  
14 in this chapter limits the powers of the commission, or precludes the pursuit of any other  
15 administrative, civil, injunctive, or criminal remedies by the commission or any other  
16 person. Administrative remedies need not be exhausted in order to proceed under this  
17 chapter. The remedies provided by this chapter are in addition to those provided under  
18 existing statutory or common law.

19 **Section 4.** That § 49-34B-14 be AMENDED.

20 **49-34B-14. Commission as agent of United States Department of**  
21 **Transportation in regulating interstate pipelines.**

22 The commission may, to the extent authorized by agreement with the secretary of  
23 the United States Department of Transportation, act as agent for the secretary of  
24 transportation to implement the United States Code, title 49, section 60101 et seq. as  
25 amended to January 1, ~~2019~~ 2021, and any federal pipeline safety regulations  
26 promulgated thereto with respect to interstate gas pipelines located within this state, as  
27 necessary to obtain annual federal certification. The commission shall, to the extent  
28 authorized by federal law, inspect pipelines in the state as authorized by the provisions of  
29 this chapter.

30 **Section 5.** That § 49-34B-15 be AMENDED.

1           **49-34B-15. Designation of commission's inspectors as federal agents.**

2           The commission may seek and accept federal designation of the commission's  
3 pipeline inspectors as federal agents for the purposes of inspection pursuant to the United  
4 States Code, title 49, section 60101 et seq. as amended to January 1, ~~2019~~ 2021, and  
5 federal rules adopted to implement those acts. If the Department of Transportation  
6 delegates inspection authority to the state as provided in this section, the commission  
7 shall do what is necessary to carry out its delegated federal authority.

8           **Section 6.** That § 49-34B-19 be AMENDED.

9           **49-34B-19. Promulgation of inspection and safety rules.**

10          The commission may promulgate pipeline inspection and safety rules, pursuant to  
11 chapter 1-26, to the extent necessary to enable the state to qualify for annual federal  
12 certification to operate the federal pipeline inspection program of intrastate and interstate  
13 gas pipelines as authorized by the United States Code, title 49, section 60101 et seq. as  
14 amended to January 1, ~~2019~~ 2021.