

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 261 Session of
2019

INTRODUCED BY DINNIMAN, KILLION AND KEARNEY, FEBRUARY 7, 2019

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 7, 2019

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, providing for pipeline emergency response fee and
3 establishing the Pipeline Emergency Response Fund.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 58 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 28

9 PIPELINE EMERGENCY RESPONSE FEE

10 Sec.

11 2801. Definitions.

12 2802. Pipeline emergency response fee.

13 2803. Administration.

14 2804. Pipeline information.

15 2805. Powers and duties of commission.

16 2806. Enforcement.

17 2807. Enforcement orders.

18 2808. Administrative penalties.

19 2809. Recordkeeping.

1 2810. Examinations.

2 2811. Distribution of fee.

3 § 2801. Definitions.

4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Commission." The Pennsylvania Public Utility Commission.

8 "Common carrier." A common carrier as defined in 66 Pa.C.S.
9 § 102 (relating to definitions).

10 "Fee." The pipeline emergency response fee imposed under
11 section 2802 (relating to pipeline emergency response fee).

12 "Fund." The Pipeline Emergency Response Fund established
13 under section 2811 (relating to distribution of fee).

14 "Municipality." A borough, city, town or township.

15 "Natural gas." A fossil fuel consisting of a mixture of
16 hydrocarbon gases, primarily methane, which may include ethane,
17 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
18 hydrogen sulfide and other gas species. The term includes
19 natural gas from oil fields known as associated gas or casing
20 head gas, natural gas fields known as nonassociated gas, coal
21 beds, shale beds and other formations. The term does not include
22 coal bed methane.

23 "Operator." An operator or owner of a pipeline.

24 "Pipeline." Any of the following:

25 (1) A pipeline used for transporting or conveying
26 natural or artificial gas, crude oil, gasoline or petroleum
27 products for the public for compensation that is operated or
28 owned by a common carrier that is regulated by one or both of
29 the following:

30 (i) the commission as a public utility as defined in

1 paragraph (1)(v) of the definition of public utility in
2 66 Pa.C.S. § 102 (relating to definitions); or

3 (ii) the Federal Government under the Pipeline
4 Safety Act of 1992 (Public Law 102-508, 49 U.S.C. § 60101
5 et seq.).

6 (2) A pipeline subject to regulation under the act of
7 December 22, 2011 (P.L.586, No.127), known as the Gas and
8 Hazardous Liquids Pipelines Act.

9 § 2802. Pipeline emergency response fee.

10 (a) General rule.--The governing body of a county that has a
11 pipeline located within the county's borders may elect to impose
12 a fee on the pipelines located in the county.

13 (b) Passage of ordinance.--Within 60 days of the effective
14 date of this section, the governing body of a county under
15 subsection (a) may adopt an ordinance to impose a fee. The
16 governing body of a county shall notify the commission and give
17 public notice of the county's intent to adopt the ordinance.

18 (c) County ordinance.--The ordinance imposing a fee under
19 subsection (b) shall be clear and in language that is readily
20 understandable by a layperson and shall be in the following
21 form:

22 The county of (insert name) hereby imposes a pipeline
23 emergency response fee on pipelines located in this
24 county.

25 (d) Prohibition.--

26 (1) A county subject to this section in which the
27 governing body does not adopt an ordinance imposing a fee
28 shall be prohibited from receiving money under section 2811
29 (relating to distribution of fee), unless paragraph (2)
30 applies.

1 (2) The prohibition on receiving money under paragraph
2 (1) shall remain in effect as to the county until the county
3 adopts an ordinance imposing a fee. The prohibition shall
4 expire as to the county and money may be received for the
5 calendar year following the adoption of an ordinance imposing
6 the fee under this section.

7 (e) Alternate imposition.--

8 (1) If the governing body of a county does not impose a
9 fee under subsection (a), the municipalities in the county
10 may compel the imposition of a fee on pipelines located in
11 the county by adopting resolutions under paragraphs (2), (3)
12 and (4).

13 (2) (i) Following 60 days, but not more than 120 days
14 after the effective date of this section, if the
15 governing bodies of at least half of the municipalities
16 located in a county or municipalities representing at
17 least 50% of the population of the county adopt
18 resolutions to impose fees on pipelines located in the
19 county, the fee shall take effect.

20 (ii) If a resolution is adopted, a copy of the
21 resolution shall be transmitted to the governing body of
22 the county and the commission.

23 (iii) The governing body of a municipality that is
24 located in more than one county shall transmit a copy of
25 a resolution adopted under this paragraph to the
26 governing body of each county in which the municipality
27 is located.

28 (3) The transmittal of resolutions by governing bodies
29 under paragraph (2) shall constitute an imposition of the fee
30 in the county. The population of a municipality that is

1 located in more than one county shall be determined
2 separately for each county on the basis of the municipality's
3 population within each county.

4 (4) Resolutions adopted under this subsection shall be
5 framed in the following form:

6 The (insert name of municipality) in the County of
7 (insert name) hereby resolves to have the county
8 impose a pipeline emergency response fee on pipelines
9 located in the county.

10 (5) A municipality that is located in a county that does
11 not adopt an ordinance imposing a fee and does not adopt a
12 resolution under paragraphs (2), (3) and (4) shall be
13 prohibited from receiving money under section 2811(c).

14 (f) Fee and amount.--

15 (1) The fee adopted under subsection (b) or (e) shall be
16 imposed on every operator and applies to pipelines located in
17 this Commonwealth.

18 (2) The fee shall be calculated by multiplying 5% by an
19 operator's total gross intrastate operating revenues for the
20 transportation of natural gas through a pipeline within this
21 Commonwealth for the immediately preceding calendar year.

22 § 2803. Administration.

23 (a) Fee due date.--The fee imposed under this chapter shall
24 be due by April 1, 2020, and each subsequent April 1. The fee
25 shall become delinquent if not remitted to the commission on the
26 reporting date.

27 (b) Report.--By April 1, 2020, and each subsequent April 1
28 of each year, each operator shall submit payment of the fee to
29 the commission and a report on a form prescribed by the
30 commission for the previous calendar year.

1 (c) Costs of commission.--Annually an amount equal to 1% of
2 the money received by the commission shall be allocated to the
3 commission for administrative costs.

4 § 2804. Pipeline information.

5 (a) List.--Within 60 days of the effective date of this
6 section, the commission shall maintain and update a list of all
7 pipelines subject to this chapter.

8 (b) Annual updates.--An operator subject to the fee shall
9 annually notify the commission of the following:

10 (1) The total volume and total revenues from the
11 transportation of natural gas through the pipeline within
12 this Commonwealth for the immediately preceding calendar
13 year.

14 (2) Any change in the classification of pipelines.

15 § 2805. Powers and duties of commission.

16 (a) General rule.--The commission may make all inquiries and
17 determinations necessary to calculate and collect the fee,
18 administrative charges or assessments imposed under this
19 chapter, including, if applicable, interest and penalties.

20 (b) Notice.--If the commission determines that the fee has
21 not been paid in full, the commission may issue a notice of the
22 amount due and demand for payment and shall identify the basis
23 for the determination.

24 (c) Address.--Notice of failure to pay the correct fee shall
25 be sent to the operator via certified mail.

26 (d) Time period.--Except as specified in subsection (e), the
27 commission may challenge the amount of a fee paid within three
28 years after the date the report under section 2803(b) (relating
29 to administration) is submitted.

30 (e) Intent.--If no report is submitted or an operator

1 submits a false or fraudulent report with the intent to evade
2 the fee, an assessment of the amount owed may be made at any
3 time.

4 § 2806. Enforcement.

5 (a) Assessment.--The commission shall assess interest on a
6 delinquent fee at a rate determined by the commission.

7 (b) Penalty.--In addition to the assessed interest under
8 subsection (a), if an operator fails to make timely payment of
9 the fee, a penalty in the amount of 5% of the amount of the fee
10 shall be added to the amount of the fee due if failure to file a
11 timely payment is for not more than one month, with an
12 additional 5% penalty for each additional month, or fraction of
13 a month, during which the failure continues, not to exceed 25%
14 in the aggregate.

15 (c) Timely payment.--If the commission determines that an
16 operator has not made a timely payment of the fee, the
17 commission shall send written notice of the amount of the
18 deficiency to the operator within 30 days from the date of
19 determining the deficiency.

20 (d) Remedies.--The remedies provided under this chapter are
21 in addition to any other remedies provided by law.

22 (e) Lien.--

23 (1) Fines, fees, interest and penalties shall be
24 collectible as authorized by law for the collection of debts.

25 (2) If the operator liable to pay an amount neglects or
26 refuses to pay the amount after demand, the amount, together
27 with costs, shall be a judgment in favor of the Commonwealth
28 upon the property of the operator, but only after the
29 judgment has been entered, docketed and recorded by the
30 prothonotary of the county where the property is situated.

1 (3) The Commonwealth shall transmit to the
2 prothonotaries of the respective counties certified copies of
3 the judgments.

4 (4) Each prothonotary shall enter, docket and record the
5 record in the prothonotary's office and index each judgment
6 without requiring the payment of costs as a condition
7 precedent to the entry of the judgment.

8 § 2807. Enforcement orders.

9 (a) Issuance.--

10 (1) The commission may issue an order as necessary to
11 enforce this chapter.

12 (2) An order issued under this section shall take effect
13 upon notice unless the order specifies otherwise.

14 (3) A person aggrieved by an order under this section
15 may appeal to Commonwealth Court under 42 Pa.C.S. § 763
16 (relating to direct appeals from government agencies).

17 (b) Compliance.--

18 (1) An operator shall comply with an order issued under
19 subsection (a).

20 (2) If an operator fails to proceed diligently to comply
21 with an order within the time required, the operator shall be
22 guilty of contempt and shall be punished by the court in an
23 appropriate manner.

24 § 2808. Administrative penalties.

25 (a) Civil penalties.--

26 (1) In addition to any other proceeding authorized by
27 law, the commission may assess a civil penalty not to exceed
28 \$2,500 per violation upon an operator for a violation of this
29 chapter.

30 (2) In determining the amount of the penalty, the

1 commission shall consider the willfulness of the violation
2 and other relevant factors.

3 (b) Separate offense.--Each violation for each separate day
4 and each violation of this chapter shall constitute a separate
5 offense.

6 (c) Limitation of actions.--Notwithstanding any limitation
7 under 42 Pa.C.S. Ch. 55 Subch. B (relating to civil actions and
8 proceedings), an action under this section must be brought
9 within three years of the violation.

10 (d) Procedure.--A penalty under this chapter is subject to
11 66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and
12 hearings).

13 § 2809. Recordkeeping.

14 (a) General rule.--An operator liable for the fee under this
15 chapter shall keep records, make reports and comply with
16 regulations of the commission.

17 (b) Power of commission.--The commission may require an
18 operator to make reports, render statements or keep records as
19 the commission deems sufficient to determine liability for the
20 fee.

21 § 2810. Examinations.

22 (a) Access.--The commission or the commission's authorized
23 agents or representatives shall:

24 (1) Have access to the relevant books, papers and
25 records of an operator in order to verify the accuracy and
26 completeness of a report filed or fee paid under this
27 chapter.

28 (2) Require the preservation of all relevant books,
29 papers and records for an appropriate period not to exceed
30 three years from the end of the calendar year to which the

1 records relate.

2 (3) Examine any employee of an operator under oath
3 concerning the pipeline subject to a fee or any matter
4 relating to the enforcement of this chapter.

5 (4) Compel the production of relevant books, papers and
6 records and the attendance of all individuals who the
7 commission believes to have knowledge of relevant matters in
8 accordance with this title.

9 (b) Unauthorized disclosure.--

10 (1) Information obtained by the commission as a result
11 of a report, examination, investigation or hearing under this
12 chapter shall be confidential and may not be disclosed,
13 except for official purposes, in accordance with a judicial
14 order or as otherwise provided by law.

15 (2) A commissioner or an employee of the commission who
16 without authorization divulges confidential information shall
17 be subject to disciplinary action by the commission.

18 § 2811. Distribution of fee.

19 (a) Establishment.--The Pipeline Emergency Response Fund is
20 established in the Treasury Department and shall be administered
21 by the commission.

22 (b) Deposit.--All fees imposed and collected under this
23 chapter shall be deposited into the fund. The money in the fund
24 is appropriated to the commission on a continuing basis for the
25 purpose specified under this section.

26 (c) Distribution.--Except as provided in sections 2802(d)
27 and (e) (relating to pipeline emergency response fee) and
28 2803(c) (relating to administration) from fees collected:

29 (1) Eighty-five percent of the revenue in the fund from
30 fees collected for the prior year shall be distributed to

1 counties and municipalities for purposes authorized under
2 subsection (d) (1). The money shall be distributed under the
3 following formula:

4 (i) Sixty percent shall be distributed to counties
5 where pipelines are located. The amount for each county
6 to which money will be distributed shall be determined
7 using a formula that:

8 (A) Divides the cumulative linear feet of
9 pipelines located within the county by the cumulative
10 linear feet of pipelines contained in this
11 Commonwealth.

12 (B) Multiplies the resulting percentage by the
13 amount available for distribution under this
14 paragraph.

15 (ii) Forty percent shall be distributed to
16 municipalities where pipelines are located. The amount
17 for each municipality to which money will be distributed
18 shall be determined using a formula that:

19 (A) Divides the cumulative linear feet of
20 pipelines located within the municipality by the
21 cumulative linear feet of pipelines contained in this
22 Commonwealth.

23 (B) Multiplies the resulting percentage by the
24 amount available for distribution under this
25 paragraph.

26 (2) The balance of the revenues in the fund from fees
27 collected for the prior year shall be distributed to counties
28 and municipalities for purposes authorized under subsection
29 (d) (2) and that have incurred costs for the purposes
30 authorized under subsection (d) (2). Money remaining in the

1 fund following distribution under this paragraph shall be
2 distributed under the formula contained in paragraph (1) on a
3 pro rata basis.

4 (d) Use of money.--A county or municipality that receives a
5 distribution under subsection (c) shall use the money received
6 only for the following purposes:

7 (1) Costs incurred by the county or municipality for
8 increasing the county's or municipality's capacity to respond
9 to future emergencies relating to pipelines located in the
10 county or municipality. The uses shall include:

11 (i) Emergency planning, coordination, training,
12 equipment acquisition, communication and implementation
13 for the county or municipality.

14 (ii) State-administered emergency response training,
15 planning and coordination for county or municipal
16 employees.

17 (2) Costs incurred by the county or municipality during
18 a response to an emergency relating to pipelines within the
19 county or municipality, including police and fire protection
20 for the county or municipality.

21 (e) Reporting.--

22 (1) The commission shall submit an annual report on all
23 money in the fund. The report shall include a detailed
24 listing of all deposits into and expenditures from the fund
25 and shall be submitted to the chairperson and the minority
26 chairperson of the Appropriations Committee of the Senate,
27 the chairperson and the minority chairperson of the
28 Environmental Resources and Energy Committee of the Senate,
29 the chairperson and the minority chairperson of the
30 Appropriations Committee of the House of Representatives and

1 the chairperson and the minority chairperson of the
2 Environmental Resources and Energy Committee of the House of
3 Representatives. The report shall be submitted by December
4 30, 2020, and by September 30 of each subsequent year.

5 (2) Counties and municipalities receiving a distribution
6 from the fund under this section shall submit information to
7 the commission on a form prepared by the commission that
8 specifies the amount and use of money received from the fund
9 in the prior calendar year. The form shall state if the money
10 received was used as authorized in this section. The reports
11 shall be published annually on the county's or municipality's
12 publicly accessible Internet website.

13 (f) Availability of money.--Distribution of money under this
14 section shall be contingent on the availability of money in the
15 fund. If sufficient money is not available for a distribution,
16 the commission shall disburse the money on a pro rata basis.

17 Section 2. This act shall take effect in 60 days.