
ENGROSSED SENATE BILL 6441

State of Washington

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By Senators Spanel, Gardner, Oke, Franklin, Costa, Kline, Bauer, B. Sheldon, Shin, Eide, Patterson, Haugen, Swecker, Kohl-Welles, Goings, Rasmussen, Fairley, McAuliffe, Prentice, Fraser and Thibaudeau

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1 AN ACT Relating to oil and gas pipeline safety; amending RCW
2 19.122.030, 19.122.050, 19.122.070, 47.44.150, and 43.21B.300; adding
3 a new section to chapter 43.110 RCW; adding a new section to chapter
4 81.88 RCW; adding a new section to chapter 19.122 RCW; adding a new
5 section to chapter 48.48 RCW; adding a new chapter to Title 70 RCW;
6 repealing RCW 81.88.040; and prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The intent of this act is to protect the
9 health and safety of the citizens of the state of Washington and the
10 quality of the state's environment by developing and implementing
11 environmental and public safety measures applicable to persons
12 transporting hazardous liquids and gas by pipeline within the state of
13 Washington. The legislature finds that public safety and the
14 environment may best be protected by adopting standards that are equal
15 to, or more stringent than, those adopted by the federal government, so
16 long as they do not impermissibly interfere with interstate commerce.

17 The legislature recognizes that additional federal authority is
18 needed to implement a comprehensive pipeline safety program and by this
19 act and other measures directs the state to seek that authority.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Dangerous release" means a release of hazardous liquid or gas
4 that: (a) Poses a clear and immediate danger to life or health; (b)
5 threatens a significant loss of property; or (c) threatens significant
6 environmental damages.

7 (2) "Department" means the department of ecology.

8 (3) "Failsafe system" means a nonelectronic or mechanically based
9 system that prevents a pipeline from exceeding its maximum operating
10 pressure in the event of a failure of the primary or electronic system
11 designed for this purpose.

12 (4) "Gas" has the meaning given to it in 49 C.F.R. Part 192.

13 (5) "Hazardous liquid" means: (a) Petroleum, petroleum products,
14 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
15 in effect March 1, 1998; and (b) carbon dioxide. The department by
16 rule may incorporate by reference other substances designated as
17 hazardous by the secretary of transportation under 49 U.S.C. Sec.
18 60101(a)(4).

19 (6) "Local government" means a subdivision of the state or a city
20 or town.

21 (7) "Person" means an individual, partnership, franchise holder,
22 association, corporation, a state, a city, a county, or any subdivision
23 or instrumentality of a state, and its employees, agents, or legal
24 representatives.

25 (8) "Pipeline" or "pipeline system" means all parts of a pipeline
26 facility through which a hazardous liquid or carbon dioxide moves in
27 transportation, including, but not limited to, line pipe, valves, and
28 other appurtenances connected to line pipe, pumping units, fabricated
29 assemblies associated with pumping units, metering and delivery
30 stations and fabricated assemblies therein, and breakout tanks.

31 (9) "Pipeline company" means a person or entity constructing,
32 owning, or operating a pipeline for transporting hazardous liquid or
33 gas.

34 (10) "Process safety management systems" means management systems
35 that include coordinated and interdisciplinary evaluations of the
36 effect of significant changes to a pipeline system before such changes
37 are implemented.

38 (11) "Release" means a spilling, leaking, pumping, pouring,
39 emitting, emptying, discharging, injecting, leaching, dumping,

1 disposing, flowing, or any other uncontrolled escape of a hazardous
2 liquid or gas from a pipeline.

3 NEW SECTION. **Sec. 3.** (1) The department shall have charge for the
4 state of the administration and enforcement of all laws related to
5 hazardous liquid pipeline safety. To the extent not expressly
6 prohibited by federal law, the department shall develop and implement
7 a comprehensive program of pipeline safety.

8 (2) The department shall adopt rules for pipeline safety standards
9 for hazardous liquid pipeline transportation that:

10 (a) Require pipeline companies to design, construct, and maintain
11 their pipeline facilities so they are safe and efficient;

12 (b) Require pipeline companies to rapidly locate and isolate all
13 releases from hazardous liquid pipelines, including:

14 (i) Installation of remote control shut-off valves at a distance of
15 no less than four to ten miles in urban areas and twenty to sixty miles
16 in rural areas, depending on the type and density of development, the
17 presence of environmentally sensitive areas, and the application of
18 appropriate engineering standards. The installation of remote valves
19 shall include design features and safety procedures to minimize risks
20 associated with valve malfunctions;

21 (ii) Installation of remotely monitored pressure gauges and meters
22 at each pump station and remote valve location; and

23 (iii) Emergency response procedures, combined with training, for
24 shutting down pumps, locating leaks and spills, and shutting
25 appropriate valves as rapidly as possible;

26 (c) Require the training and certification of personnel who operate
27 hazardous liquid pipelines and the associated systems; and

28 (d) Require hazardous liquid pipeline companies to submit
29 operations safety plans once every five years and provide no less than
30 annual plan updates that identify plan implementation progress, as well
31 as any amendments to the plan made necessary by changes to the pipeline
32 system or its operation.

33 (3) The department shall approve operations safety plans if they
34 have been deemed fit for service. A plan shall be deemed fit for
35 service when it provides for pipelines that are designed, developed,
36 constructed, operated, and periodically modified to provide the highest
37 practicable level of public safety. Pipeline operations safety plans
38 shall include:

1 (a) A schedule of inspection and testing within the pipeline
2 distribution system of:

3 (i) All mechanical components;

4 (ii) All electronic components; and

5 (iii) The structural integrity of all pipelines as determined
6 through pressure testing and internal inspection tool surveys;

7 (b) Failsafe systems;

8 (c) Process safety management principles; and

9 (d) Emergency management training for pipeline operators.

10 (4) The department shall coordinate information related to pipeline
11 safety by providing technical assistance to local planning and siting
12 authorities and to the energy facility site evaluation council
13 established in chapter 80.50 RCW.

14 (5) The department shall evaluate, and consider adopting, proposals
15 developed by the federal office of pipeline safety, the national
16 transportation safety board, and other agencies and organizations
17 related to methods and technologies for testing the integrity of
18 pipeline structure, leak detection, and other elements of pipeline
19 operation.

20 NEW SECTION. **Sec. 4.** The pipeline companies shall develop a
21 curricula aimed at the prevention of third-party excavation damage to
22 hazardous liquid and gas pipelines. The curricula must be reviewed and
23 approved by the department and the utilities and transportation
24 commission. The curricula shall be made available to municipal workers
25 and construction workers who are involved in construction work within
26 the right-of-way or easement of a hazardous liquid and gas pipeline.
27 The curricula shall include training on:

28 (1) Prevention of damage to pipelines;

29 (2) The danger involved if a pipeline is damaged;

30 (3) The significance of pipeline damage that does not cause
31 immediate failure; and

32 (4) The importance of immediately reporting damage to a pipeline
33 and the importance of immediately repairing a damaged pipeline.

34 NEW SECTION. **Sec. 5.** (1) The department and utilities and
35 transportation commission shall require hazardous liquid and gas
36 pipeline companies to provide accurate maps of their pipeline

1 distribution networks to specifications developed by the department
2 including depth information.

3 (2) The department and the utilities and transportation commission
4 shall evaluate the accuracy of the maps and consolidate the maps into
5 a state-wide geographic information system, and fill any gaps for which
6 companies or local governments may have no information. The mapping
7 system shall be used in conjunction with the one-number locator service
8 as provided in chapter 19.122 RCW. The mapping system shall be
9 compatible with the United States department of transportation national
10 pipeline mapping program.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.110 RCW
12 to read as follows:

13 The municipal research council shall, by June 30, 2001, develop and
14 periodically update, for the consideration by local governments:

15 (1) A model ordinance that establishes setback and depth
16 requirements for new hazardous liquid and gas pipeline construction;

17 (2) A model franchise agreement for jurisdictions through which a
18 hazardous liquid or gas pipeline is located; and

19 (3) Protective standards applicable to existing and proposed
20 hazardous liquid and gas pipelines in densely populated areas and
21 environmentally sensitive areas.

22 NEW SECTION. **Sec. 7.** (1) The department shall seek and accept
23 federal designation of the department's inspectors as federal agents
24 for the purposes of enforcement of the federal hazardous liquid
25 pipeline safety act (49 U.S.C. Sec. 60101 et seq.), and federal rules
26 adopted to implement that act, as they exist as of the effective date
27 of this act. The department shall establish and submit to the United
28 States secretary of transportation an inspection program that complies
29 with requirements for delegated interstate agent inspection authority.
30 If the secretary of transportation delegates inspection authority to
31 the state as provided in this subsection, the department, at a minimum,
32 shall do the following to carry out the delegated federal authority:

33 (a) Inspect hazardous liquid pipelines periodically as specified in
34 the inspection program;

35 (b) Collect fees;

36 (c) Order and oversee the testing of hazardous liquid pipelines as
37 authorized by federal law and regulation; and

1 (d) File reports with the United States secretary of transportation
2 as required to maintain the delegated authority.

3 (2) The department shall also seek federal authority to adopt
4 safety standards related to the monitoring and testing of interstate
5 hazardous liquid pipelines.

6 (3) Upon designation under subsection (1) of this section or under
7 a grant of authority under subsection (2) of this section, to the
8 extent authorized by federal law, the department shall adopt rules for
9 interstate pipelines that are no less stringent than the state's laws
10 and rules for intrastate hazardous liquid pipelines.

11 NEW SECTION. **Sec. 8.** The department shall inspect, as necessary,
12 any record, map, or written procedure required by federal law to be
13 kept by a hazardous liquid pipeline company concerning the reporting of
14 dangerous releases, and the design, construction, testing, or operation
15 and maintenance of hazardous liquid pipelines.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 81.88 RCW
17 to read as follows:

18 The commission shall inspect, as necessary, any record, map, or
19 written procedure required by federal law to be kept by a gas pipeline
20 company concerning the reporting of dangerous releases, and the design,
21 construction, testing, or operation and maintenance of gas pipelines.

22 NEW SECTION. **Sec. 10.** (1) All powers, duties, and functions of
23 the utilities and transportation commission pertaining to hazardous
24 liquid pipeline safety, except economic regulatory authority under
25 chapters 80.28, 80.24, and 81.24 RCW, are transferred to the department
26 of ecology. The timing of the transfer shall be facilitated by a
27 memorandum of agreement between the two agencies, with any disputes
28 resolved by the office of financial management. The transfer shall be
29 completed by June 30, 2001. All references to the commission or the
30 utilities and transportation commission in the Revised Code of
31 Washington shall be construed to mean the director or the department of
32 ecology when referring to the functions transferred in this section.

33 (2)(a) All reports, documents, surveys, books, records, files,
34 papers, or written material in the possession of the utilities and
35 transportation commission pertaining to the powers, functions, and

1 duties transferred shall be delivered to the custody of the department
2 of ecology. All cabinets, furniture, office equipment, motor vehicles,
3 and other tangible property employed by the utilities and
4 transportation commission in carrying out the powers, functions, and
5 duties transferred shall be made available to the department of
6 ecology. All funds, credits, or other assets held in connection with
7 the powers, functions, and duties transferred shall be assigned to the
8 department of ecology.

9 (b) Any appropriations made to the utilities and transportation
10 commission for carrying out the powers, functions, and duties
11 transferred shall, on the effective date of this section, be
12 transferred and credited to the department of ecology.

13 (c) Whenever any question arises as to the transfer of any
14 personnel, funds, books, documents, records, papers, files, equipment,
15 or other tangible property used or held in the exercise of the powers
16 and the performance of the duties and functions transferred, the
17 director of financial management shall make a determination as to the
18 proper allocation and certify the same to the state agencies concerned.

19 (3) All employees of the utilities and transportation commission
20 engaged in performing the powers, functions, and duties transferred are
21 transferred to the jurisdiction of the department of ecology. All
22 employees classified under chapter 41.06 RCW, the state civil service
23 law, are assigned to the department of ecology to perform their usual
24 duties upon the same terms as formerly, without any loss of rights,
25 subject to any action that may be appropriate thereafter in accordance
26 with the laws and rules governing state civil service.

27 (4) All rules and all pending business before the utilities and
28 transportation commission pertaining to the powers, functions, and
29 duties transferred shall be continued and acted upon by the department
30 of ecology. All existing contracts and obligations shall remain in
31 full force and shall be performed by the department of ecology.

32 (5) The transfer of the powers, duties, functions, and personnel of
33 the utilities and transportation commission shall not affect the
34 validity of any act performed before the effective date of this
35 section.

36 (6) If apportionments of budgeted funds are required because of the
37 transfers directed by this section, the director of financial
38 management shall certify the apportionments to the agencies affected,
39 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation
2 accounts and equipment records in accordance with the certification.

3 (7) Nothing contained in this section may be construed to alter any
4 existing collective bargaining unit or the provisions of any existing
5 collective bargaining agreement until the agreement has expired or
6 until the bargaining unit has been modified by action of the personnel
7 board as provided by law.

8 NEW SECTION. **Sec. 11.** (1) A hazardous liquid and gas pipeline
9 safety advisory committee is established to advise the department, the
10 utilities and transportation commission, energy facility site
11 evaluation council, and other appropriate federal, state, and local
12 government agencies and officials on matters relating to pipeline
13 safety, routing, construction, operation, and maintenance. Members of
14 the advisory committee shall be appointed by the governor to staggered
15 three-year terms and, at a minimum, shall consist of representatives of
16 local government, including elected officials and the general public.
17 The committee shall review and comment on proposed rules and the
18 operation of the state pipeline safety programs.

19 (2) The advisory committee established in subsection (1) of this
20 section constitutes a class one group under RCW 43.03.220. Expenses
21 for this group, as well as staff support provided by the department,
22 shall be funded through a legislative appropriation to the department.

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.122
24 RCW to read as follows:

25 The utilities and transportation commission shall establish by
26 December 31, 2000, a single state-wide toll-free telephone number to be
27 used for referring excavators to the appropriate one-number locator
28 service. The utilities and transportation commission, in consultation
29 with the Washington utilities coordinating council, shall establish
30 minimum standards and best management practices for the one-number
31 locator service consistent with the recommendations of the governor's
32 fuel accident prevention and response team issued in December 1999.

33 **Sec. 13.** RCW 19.122.030 and 1988 c 99 s 1 are each amended to read
34 as follows:

1 (1) Before commencing any excavation, the excavator shall provide
2 notice of the scheduled commencement of excavation to all owners of
3 underground facilities through a one-number locator service.

4 (2) Whenever excavation work is to occur within twenty-five feet of
5 a hazardous liquid or gas pipeline, the state-wide one-number locator
6 service established under section 12 of this act shall be notified. In
7 addition, if the excavation work is to occur within five feet of a
8 hazardous liquid or gas pipeline, the pipeline company that owns or
9 operates the pipeline shall be notified, and its representative shall
10 be on-site, prior to the start of excavation.

11 (3) All owners of underground facilities within a one-number
12 locator service area shall subscribe to the service. One number
13 locator service rates for cable television companies will be based on
14 the amount of their underground facilities. If no one-number locator
15 service is available, notice shall be provided individually to those
16 owners of underground facilities known to or suspected of having
17 underground facilities within the area of proposed excavation. The
18 notice shall be communicated to the owners of underground facilities
19 not less than two business days or more than ten business days before
20 the scheduled date for commencement of excavation, unless otherwise
21 agreed by the parties. The notice shall also comply with the
22 requirements of section 16 of this act.

23 (4) Upon receipt of the notice provided for in this section, the
24 owner of the underground facility shall provide the excavator with
25 reasonably accurate information as to its locatable underground
26 facilities by surface-marking the location of the facilities. If there
27 are identified but unlocatable underground facilities, the owner of
28 such facilities shall provide the excavator with the best available
29 information as to their locations. The owner of the underground
30 facility providing the information shall respond no later than two
31 business days after the receipt of the notice or before the excavation
32 time, at the option of the owner, unless otherwise agreed by the
33 parties. Excavators shall not excavate until all known facilities have
34 been marked. Once marked by the owner of the underground facility, the
35 excavator is responsible for maintaining the markings. Excavators
36 shall have the right to receive compensation from the owner of the
37 underground facility for costs incurred if the owner of the underground
38 facility does not locate its facilities in accordance with this
39 section.

1 (5) The owner of the underground facility shall have the right to
2 receive compensation for costs incurred in responding to excavation
3 notices given less than two business days prior to the excavation from
4 the excavator.

5 (6) An owner of underground facilities is not required to indicate
6 the presence of existing service laterals or appurtenances if the
7 presence of existing service laterals or appurtenances on the site of
8 the construction project can be determined from the presence of other
9 visible facilities, such as buildings, manholes, or meter and junction
10 boxes on or adjacent to the construction site.

11 (7) Emergency excavations are exempt from the time requirements for
12 notification provided in this section.

13 (8) If the excavator, while performing the contract, discovers
14 underground facilities which are not identified, the excavator shall
15 cease excavating in the vicinity of the facility and immediately notify
16 the owner or operator of such facilities, or the one-number locator
17 service.

18 **Sec. 14.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to
19 read as follows:

20 (1) An excavator who, in the course of excavation, contacts or
21 damages an underground facility shall immediately notify the utility
22 owning or operating such facility and the state-wide one-number locator
23 service. If the damage causes an emergency condition, the excavator
24 causing the damage shall also immediately alert the appropriate local
25 public safety agencies and take all appropriate steps to ensure the
26 public safety. No damaged underground facility may be buried until it
27 is repaired or relocated.

28 (2) The owner of the underground facilities damaged shall arrange
29 for repairs or relocation as soon as is practical or may permit the
30 excavator to do necessary repairs or relocation at a mutually
31 acceptable price.

32 NEW SECTION. **Sec. 15.** A new section is added to chapter 48.48 RCW
33 to read as follows:

34 (1) In consultation with the emergency management program within
35 the state military department, the department of ecology, the utilities
36 and transportation commission, and local emergency services

1 organizations, the chief of the Washington state patrol, through the
2 director of fire protection or his or her authorized deputy, shall:

3 (a) Evaluate the preparedness of local first responders in meeting
4 emergency management demands under subsection (2) of this section; and

5 (b) Conduct an assessment of the equipment needed by local first
6 responders to meet emergency management demands related to pipelines.

7 (2) The chief of the Washington state patrol, through the director
8 of fire protection or his or her deputy, shall develop curricula for
9 training local first responders to deal with hazardous liquid and gas
10 pipeline accidents. The curricula shall distinguish the differences
11 and dangers between hazardous liquid and gas pipelines. The curricula
12 shall be developed in conjunction with pipeline companies and local
13 first responders, and shall include a timetable and costs for providing
14 training as defined in the curricula to all communities housing
15 pipelines. The need for a training program for regional incident
16 management teams shall also be evaluated.

17 (3) In consultation with other relevant agencies, the chief of the
18 Washington state patrol, through the director of fire protection or his
19 or her deputy, shall identify the need and means for achieving
20 consistent application of the national interagency incident management
21 system.

22 (4) For the purposes of this section, "local first responders"
23 means police, fire, emergency medical staff, and volunteers.

24 NEW SECTION. **Sec. 16.** (1) A pipeline company that has been
25 notified by an excavator pursuant to RCW 19.122.050 that excavation
26 work will occur within five feet of a hazardous liquid or gas pipeline
27 shall ensure that the pipeline company's representative is on-site
28 during the excavation within the five foot zone. The pipeline company
29 has the discretion to require that the pipeline section in the vicinity
30 of the excavation is fully uncovered and examined for damage prior to
31 being reburied. If safety concerns exist, the pipeline company may
32 elect, at the excavator's expense, to conduct the uncovering of the
33 pipeline.

34 (2) Immediately upon receiving information of third-party damage to
35 a pipeline owned or operated by a pipeline company, that company shall
36 visually inspect the pipeline. After visual inspection, a pipeline
37 company shall determine whether the pipeline section that has sustained
38 third-party damage should be replaced or repaired, or whether it is

1 safe to resume pipeline operation. A record of the company's
2 inspection report and test results shall be provided to the department
3 within fourteen calendar days of the inspection.

4 (3) Pipeline companies shall immediately notify local first
5 responders and the department of any dangerous release from a hazardous
6 liquid pipeline, or the utilities and transportation commission of any
7 dangerous release from a gas pipeline.

8 **Sec. 17.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to
9 read as follows:

10 (1) Any person who willfully or maliciously damages or removes a
11 marking used to identify a hazardous liquid or gas pipeline, as defined
12 in section 2 of this act, is subject to a civil penalty of not more
13 than one thousand dollars for each act.

14 (2) Any person who fails to notify the one-number locator service
15 of excavation work that is planned to occur within twenty-five feet of
16 a hazardous liquid or gas pipeline is subject to a civil penalty of not
17 more than five thousand dollars for each violation.

18 (3) Any person who fails to notify a pipeline company of excavation
19 work that is planned to occur within five feet of a hazardous liquid or
20 gas pipeline, or excavates within five feet of the pipeline without the
21 pipeline company's representative on-site, is subject to a civil
22 penalty of not more than ten thousand dollars for each violation.

23 (4) Any person who violates any provision of this chapter, and
24 which violation results in damage to underground facilities, is subject
25 to a civil penalty of not more than ~~((one))~~ ten thousand dollars for
26 each violation.

27 (5) All civil penalties recovered ~~((in such actions))~~ under
28 subsections (1) through (4) of this section shall be deposited in the
29 general fund and expended for the purpose of enforcement of hazardous
30 liquid and gas pipeline safety laws.

31 ~~((+2))~~ (6) Any excavator who willfully or maliciously damages a
32 field-marked underground facility shall be liable for treble the costs
33 incurred in repairing or relocating the facility. In those cases in
34 which an excavator fails to notify known underground facility owners or
35 the one-number locator service, any damage to the underground facility
36 shall be deemed willful and malicious and shall be subject to treble
37 damages for costs incurred in repairing or relocating the facility.

1 (~~(3)~~) (7) This chapter does not affect any civil remedies for
2 personal injury or for property damage, including that to underground
3 facilities, nor does this chapter create any new civil remedies for
4 such damage.

5 **Sec. 18.** RCW 47.44.150 and 1989 c 196 s 1 are each amended to read
6 as follows:

7 In any action for damages against the state of Washington, its
8 agents, contractors, or employees by reason of damages to a utility or
9 other facility located on a state highway, the damages are limited to
10 the cost of repair of the utility or facility and are recoverable only
11 in those instances where the utility or facility is authorized to be
12 located on the state highway. However, the state is subject to the
13 penalties provided in RCW 19.122.070 (~~(1)~~) (4) and (~~(2)~~) (6) only
14 if the state has failed to give a notice meeting the requirements of
15 RCW 19.122.030 to utilities or facilities that are authorized to be
16 located on the state highway.

17 NEW SECTION. **Sec. 19.** A pipeline company that fails to comply
18 with any provision of this chapter shall be subject to civil penalties
19 of not less than five thousand dollars. This penalty shall be imposed
20 pursuant to RCW 43.21B.300.

21 NEW SECTION. **Sec. 20.** A pipeline company that fails to report a
22 dangerous release shall be guilty of a class B felony punishable under
23 RCW 9A.20.021 if:

24 (1) The company knows or has reason to know that a dangerous
25 release exists;

26 (2) The company does not immediately report the release to the
27 local first responder; and

28 (3) The dangerous release causes the death of, or bodily injury to,
29 an individual.

30 NEW SECTION. **Sec. 21.** A pipeline containing petroleum or
31 petroleum products that is wholly located on the owner's property, that
32 is not adjoining marine waters, is exempt from the provisions of this
33 chapter.

1 NEW SECTION. **Sec. 22.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application to
7 the agencies concerned. Rules adopted under this act must meet federal
8 requirements that are a necessary condition to the receipt of federal
9 funds by the state.

10 **Sec. 23.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
11 read as follows:

12 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
13 70.105.080, 70.107.050, section 19 of this act, 88.46.090, 90.03.600,
14 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in
15 writing, either by certified mail with return receipt requested or by
16 personal service, to the person incurring the penalty from the
17 department, the administrator of the ((office of marine safety))
18 integrated oil spill prevention and response program, or the local air
19 authority, describing the violation with reasonable particularity.
20 Within fifteen days after the notice is received, the person incurring
21 the penalty may apply in writing to the department, the administrator,
22 or the authority for the remission or mitigation of the penalty. Upon
23 receipt of the application, the department, the administrator, or
24 authority may remit or mitigate the penalty upon whatever terms the
25 department, the administrator, or the authority in its discretion deems
26 proper. The department or the authority may ascertain the facts
27 regarding all such applications in such reasonable manner and under
28 such rules as it may deem proper and shall remit or mitigate the
29 penalty only upon a demonstration of extraordinary circumstances such
30 as the presence of information or factors not considered in setting the
31 original penalty.

32 (2) Any penalty imposed under this section may be appealed to the
33 pollution control hearings board in accordance with this chapter if the
34 appeal is filed with the hearings board and served on the department,
35 the administrator, or authority thirty days after receipt by the person
36 penalized of the notice imposing the penalty or thirty days after
37 receipt of the notice of disposition of the application for relief from
38 penalty.

1 (3) A penalty shall become due and payable on the later of:
2 (a) Thirty days after receipt of the notice imposing the penalty;
3 (b) Thirty days after receipt of the notice of disposition on
4 application for relief from penalty, if such an application is made; or
5 (c) Thirty days after receipt of the notice of decision of the
6 hearings board if the penalty is appealed.
7 (4) If the amount of any penalty is not paid to the department or
8 the administrator within thirty days after it becomes due and payable,
9 the attorney general, upon request of the department or the
10 administrator, shall bring an action in the name of the state of
11 Washington in the superior court of Thurston county, or of any county
12 in which the violator does business, to recover the penalty. If the
13 amount of the penalty is not paid to the authority within thirty days
14 after it becomes due and payable, the authority may bring an action to
15 recover the penalty in the superior court of the county of the
16 authority's main office or of any county in which the violator does
17 business. In these actions, the procedures and rules of evidence shall
18 be the same as in an ordinary civil action.
19 (5) All penalties recovered shall be paid into the state treasury
20 and credited to the general fund except those penalties imposed
21 pursuant to RCW 18.104.155, which shall be credited to the reclamation
22 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
23 disposition of which shall be governed by that provision, RCW
24 70.105.080, which shall be credited to the hazardous waste control and
25 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
26 which shall be credited to the coastal protection fund created by RCW
27 90.48.390.

28 NEW SECTION. **Sec. 24.** This act may be known and cited as the
29 Washington state pipeline safety act.

30 NEW SECTION. **Sec. 25.** Sections 1 through 5, 7, 8, 10, 11, 16, 19
31 through 22, and 24 of this act constitute a new chapter in Title 70
32 RCW.

33 NEW SECTION. **Sec. 26.** RCW 81.88.040 (Intrastate pipeline safety

1 standards--Definitions--Rules--Violations) and 1998 c 123 s 1 are each
2 repealed.

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