

FIFTEENTH CONGRESS
REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **5477**

EXPLANATORY NOTE

Last July 12, 2010, residents of a condominium in Barangay Bangkal in Makati City, the West Tower Condominium, were surprised to see that their basement was flooded and discovered that there was seepage from a pipeline of the First Philippine Industrial Corporation (FPIC) that caused fuel to be mixed with flood waters. As a result, immediate evacuation was ordered because of a potential disaster that could happen.

The incident became an eye-opener for the public and the government because it was discovered that there is no particular governing body that regulates the operation of fuel pipelines in the country and nobody is in charge of ensuring that necessary safeguards and regulations are in place to protect the public.

To avoid a similar situation from happening again and to properly monitor and regulate the operations of oil and gas pipelines in the country, a regulatory board for this specific industry is necessary, specially considering that regulating oil and gas pipelines are an entirely different matter since different safety standards are needed and that it also involves different technologies. The creation of this new Board comes at an opportune time considering that the Department of Energy is prioritizing the establishment of gas pipelines from Batangas to Metro Manila and establishing other pipelines in order to improve the delivery of supply all over the country. Also, it must be clarified and put into law that oil and gas pipeline systems are national security concerns and that the transport of oil and gas is an act of common carriers and as such requires the owners of the oil and gas pipeline to secure a Congressional franchise before they could operate.

In view of the foregoing, immediate passage of this bill is earnestly requested.


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.



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AN ACT

PROVIDING FOR THE REGULATION OF OIL AND GAS PIPELINES, CREATING
THE NATIONAL PIPELINE BOARD FOR THE PURPOSE, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Short Title. - This Act shall be known as the "*Oil and Gas Pipeline Regulation Act of 2011*".

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to provide for enhanced safety and environmental protection in pipeline transportation, and greater reliability in the transportation of oil and gas by pipeline in the country.

SEC. 3. Scope and Application. - This Act shall apply to all existing and future oil and gas pipelines in the country.

SEC. 4. Definition of Terms. -

- a) AFP - shall refer to the Armed Forces of the Philippines;
- b) DILG - shall refer to the Department of Interior and Local Government;
- c) DOE - shall refer to the Department of Energy;
- d) DOH - shall refer to the Department of Health;
- e) DOTC - shall refer to the Department of Transportation and Communications;
- f) DND - shall refer to the Department of National Defense;

- g) DPWH - shall refer to the Department of Public Works and Highways;
- h) Gas Pipeline - shall refer to a structure for transporting gaseous fuels over long distances;
- i) NPB - shall refer to the National Pipeline Board created under this Act;
- j) Oil pipeline - shall refer to a structure for transporting liquid fuels over long distances;
- k) Person - shall include natural or juridical person;
- l) Petroleum - shall include any mineral oil, hydrocarbon gas, bitumen, asphalt, mineral wax, and all other similar or naturally associated substances; with the exception of coal, peat, bituminous shale, and/or other stratified mineral fuel deposits; and
- m) Pipeline - shall mean a conduit made from pipes connected end-to-end for long-distance transport and traversing different local geographical units.

CHAPTER II PIPELINE FRANCHISE

SEC. 5. Nature and Scope of a Pipeline Franchise. - Subject to the provisions of the 1987 Constitution and applicable laws, rules and regulations, the Congress of the Philippines may grant, upon application of any person, a franchise to construct, install, own, operate and maintain for commercial purposes and in the interest of the public, oil and gas pipeline system including such other equipment or facilities as may be needed from time to time for the purpose of transporting and distributing oil and gas through pipeline in the country.

SEC. 6. Prior Approval of the Department of Energy and the Department of Environment and Natural Resources. - The franchise grantee shall secure from the DOE and the DENR, the appropriate permits and licenses for the construction, installation, ownership, operation and maintenance of oil and gas pipeline system.

SEC. 7. Rights Conveyed Under the Pipeline Franchise. - A pipeline franchise grantee acquires the non-exclusive right to transport petroleum, by means of, and through, a pipeline or system of pipelines, between the sources of production and/or refining and the places defined in the Pipeline Franchise, in accordance with the provisions of this Act and the implementing rules and regulations.

This franchise privilege includes the construction and operation of pipelines, pumping or compressing stations, storage tanks, gas tanks, power plants, shops, storehouses and other buildings, water supply and communication systems, roads, and such other equipment or facilities as may be needed for the purpose of the franchise.

All such auxiliary works and operations and the products thereof shall be for the exclusive use of the franchise grantee in the operation of his franchise: Provided, however; That all roads and bridges constructed by the franchise grantee, except as

may otherwise be agreed upon between the Secretary of the DOE and the franchise grantee, shall be available for public use.

SEC. 8. Pipeline Franchise as a Common Carrier. - A pipeline franchise shall have the preferential right to utilize his installations for the transportation of petroleum owned by him, but is obligated to utilize any remaining transportation capacity pro rata for the transportation of such other petroleum as may be offered by others for transport, and to charge without discrimination such rates as may be approved by the NPB, pursuant to the provisions of this Act.

When the pipeline franchise grantee is also an exploration concessionaire, the Secretary of DOE may require that the royalty in kind of the Government received from the same franchise grantee, be transported, pro rata, with that owned by the franchise grantee from the same concession; and in all cases the petroleum of the Government shall have priority over all other petroleum in the utilization of the excess capacity of the pipeline over that required to transport petroleum owned by the pipeline franchise grantee.

Procedure for the determination of pipeline transportation rates and the conditions governing the transportation of petroleum other than that owned by the franchise grantee shall conform to the implementing rules and regulations set by the NPB.

SEC. 9. Term of Pipeline Franchise. - The term of a Pipeline Franchise shall not exceed twenty-five (25) years counted from the date of its issuance, unless sooner revoked or cancelled. The term of the franchise is renewable for another twenty-five (25) years, upon application of the grantee filed prior to the expiration of the original term.

SEC. 10. Termination of Pipeline Franchise. - Any Pipeline Franchise may be terminated or revoked at any time for any violation of the franchise terms and conditions.

SEC. 11. Franchise Tax. - In lieu of all national internal revenue taxes, the grantee of a Pipeline Franchise shall pay an annual franchise tax equivalent to five percent (5%) of gross income earned during the year.

CHAPTER III PETROLEUM TRANSPORTATION CAPACITY AND REGULATORY ADEQUACY STUDY

SEC. 12. Petroleum Transportation Capacity and Regulatory Study. The Secretary of the DOE shall conduct periodic analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify the areas through which the pipeline traverses where unplanned loss of pipeline facilities may cause shortages of petroleum products or price disruptions and where shortages of pipeline capacity and reliability concerns may have or are anticipated to contribute to shortages of petroleum products or price disruptions. Upon identifying such areas, the Secretary may determine if the current level of regulation is sufficient to minimize the potential for unplanned losses of pipeline capacity.

SEC. 13. Consultation with other Government Agencies. In preparing any analysis under this Chapter, the Secretary of DOE may consult with the heads of other government agencies and public and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, pipeline capacity, population and economic development.

CHAPTER IV CREATION OF THE NATIONAL PIPELINE BOARD, ITS POWERS AND FUNCTIONS

SEC. 14. Creation of the National Pipeline Board (NPB) - The National Pipeline Board (NPB) is hereby created. The NPB shall be composed of the Secretary of the DOE as Chairman and the Secretaries of DENR, DOTC, DPWH, DOH and DILG as members or their duly designated representatives who shall not be below the rank of Assistant Secretary and who shall sit on a permanent basis.

The DOE Secretary, in his capacity as Chairperson, shall, within one month from the effectivity of this Act, convene the NPB.

The NPB shall be assisted by a Technical Secretariat attached to the Oil Industry Management Bureau of the DOE. The number of staff of the Technical Secretariat and the corresponding positions shall be determined by the NPB, subject to approval by the Department of Budget and Management (DBM) and existing civil service rules and regulations.

SEC. 15. Powers and Functions of the NPB. - The NPB shall have the following powers and functions:

a) Prescribe the environment and safety standards in the construction, installation, ownership, operation and maintenance of oil and gas pipeline systems, as well as in remediation procedures in cases of pipeline leaks or other physical disturbances;

b) Within six months from convening, the NPB shall prescribe minimum standards for integrity management programs for oil and gas pipelines. For this purpose, the NPB may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity and to monitor program effectiveness;

c) Issue regulations providing that, after notice and opportunity for a hearing, if it determines that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment, it may order the pipeline franchise grantee to take the necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy the condition;

d) Order and require the pipeline franchise grantee, forthwith, or within or at any specified time and in any manner prescribed by it, any act, matter or undertaking that such pipeline franchise grantee is or may be required to do under this Act, or any regulation, certificate, license, or permit, or any order or direction made or given under this Act;

e) Prohibit the commission or violation of any provisions of the pipeline franchise;

f) Be the repository of pipeline franchises, data and information pertaining to the oil and gas pipeline industry;

g) In carrying out its duties and functions under this section, it shall, wherever appropriate, utilize agencies of the government to obtain technical, economic and statistical information and advice.

CHAPTER V PIPELINE SECURITY AND ROLE OF OTHER GOVERNMENT AGENCIES

SEC. 16. Pipeline Security. - It is hereby declared that oil and gas pipeline systems are national security concerns. For this purpose, the DOE, DND and DILG shall compose the Pipeline Security Inter-Agency Committee under the supervision of the NPB which shall devise a "National Pipeline Security Plan". The composition of the Pipeline Security Inter-Agency Committee may be expanded by the President to include other concerned agencies.

SEC. 17. Role of Other Government Agencies. - In the implementation of the provisions of this Act, its implementing rules and regulations and related laws, the following agencies shall perform, among others, the following functions:

a) The DOE shall:

i) Conduct periodic analyses of the domestic transport of petroleum products by pipeline; and

ii) Monitor the integrity of the pipeline.

b) The DOTC shall:

i) Coordinate networks of pipeline transportation as well as the fast and safe transportation services; and

ii) Advise the NPB of identified routes, zones and/or areas of operations of particular operators.

c) The DENR shall:

i) Enforce environmental protection laws;

ii) Recommend rules and regulations for environmental impact assessments and provide technical assistance for their implementation and monitoring;

iii) Take charge of remediation measures; and

iv) Undertake, in the event that emergency clean-up operations are necessary and the polluter fails to undertake the same, in coordination with other government agencies concerned, containment, removal and clean-up operations. Expenses incurred in said operations shall be reimbursed by the persons found to have caused such pollution upon proper administrative determination in accordance with this Act.

d) The DPWH shall:

i) Identify and/or advise the Pipeline Franchise Grantee the route or areas where the pipeline can be installed; and

ii) Provide the technical supervision in the construction and installation of oil and gas pipelines.

e) The DND shall:

- i) Develop, through the AFP, a security plan for oil and gas pipelines; and
 - ii) Conduct regular site security inspections of the oil and gas pipelines.
- f) The DILG shall:
 - i) Provide, through the Philippine National Police (PNP), manpower to implement the security plan established under e (i) of this Section;
 - ii) Employ the assistance, cooperation and coordination of local government units (LGUs) in the implementation of the policies and orders issued by the NPB; and
 - iii) Mobilize the Bureau of Fire Protection (BFP) to ensure the prevention and suppression of all destructive fires on the petroleum industry installations.
- h) The DOH shall:
 - i) Formulate rules and regulations concerning health emergency preparedness and response in cases of oil and gas pipeline system disturbances.

CHAPTER VI

REPORTORIAL REQUIREMENTS

SEC. 18. Reportorial Requirements. - To ensure the safety, security and integrity of the oil and gas pipelines and the installations within the vicinity where said pipelines traverse, the following are required to be submitted to the NPB:

a) For franchise grantees:

1. Pipeline Profile;
2. Pipeline Right of Way;
3. Vicinity Layout and Route Map of the Pipeline;
4. Pipeline Integrity Inspection Report, annually;
5. Safety Management Plan;
6. In-Out Petroleum Data Supply, quarterly;
7. Repair Method;
8. Weld Procedures for welding on live pipelines;
9. Accomplishment Reports; and,
10. Audit Process for management and operating systems.

b) For oil and gas companies. - Oil and gas companies transporting their products in the pipeline system of the franchise grantee are required to submit, on a regular basis, with a minimum of monthly basis, to the pipeline franchise grantee the supply or delivery reports of oil and gas which passed through the pipeline facility of the franchise grantee. Significant loss or underdelivery of oil and gas should be immediately reported to the franchise grantee and the NPB, in which case if the NPB found that there is sufficient basis that the loss or under-delivery of oil and gas is due to leak/leaks in the pipeline, the NPB, through its Chairman, may *motu proprio*, order the franchise grantee to shut down its pipeline operations and conduct an investigation, including leak tests, to determine the real cause of the loss or under-delivery.

The NPB may require other documents and data, other than the abovementioned, from the pipeline franchise grantee, and the oil companies, especially in cases of leaks, disasters and similar emergencies.

CHAPTER VII PROHIBITED ACTS

SEC. 19. Prohibited Acts. - The following acts shall be prohibited:

a) Any person who engages in demolition, excavation, tunneling, or construction in areas traversed by the oil and gas pipelines without first securing clearance from the NPB; and

b) Any entity who fails to comply with any of the foregoing provisions shall be subject to appropriate sanctions imposed under applicable laws, rules and regulations.

CHAPTER VIII FINAL PROVISIONS

SEC. 20. Transitory Provision. - The grantee of existing pipeline concession shall be allowed to operate until the expiration of the term of its concession. Thereafter, such concessionaire shall secure a Congressional franchise to be allowed to continue to operate.

SEC. 21. Penal Sanction. - Any person who violates any of the provisions of this Act shall suffer the penalty of two (2) to six (6) years imprisonment and a fine ranging from Five Hundred Thousand Pesos (PhP500,000.) to One Million Pesos (Ph Pi ,000,000.). If the violator is a corporation, the president or chief executive officer shall be held liable.

SEC. 22. Implementing Rules and Regulations. - The DOE, in coordination with the Board, shall formulate and issue the necessary implementing rules and regulations within (60) days after the effectivity of this Act.

SEC. 23. Appropriations. - An amount of Two Hundred Million Pesos (PhP200,000,000.) is hereby appropriated for the initial operation of the NPB and to be included in the General Appropriations Act in the year following the approval of this Act.

Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 24. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SEC. 25. Repealing Clause. - Republic Act No. 387, otherwise known as the "Petroleum Act of 1949" is hereby repealed. Such other laws, acts, executive orders, rules and regulations and other issuances inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 26. Effectivity. - This Act shall take effect immediately upon publication in at least two (2) newspapers of general circulation.

Approved.