

LFC Requester:

Julisa Rodriguez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 23, 2025

Check all that apply:

Bill Number: SB 9

Original Correction
Amendment X Substitute

Sponsor: Sen. William P. Soules

Agency Name and Code Number: 305 - New Mexico Department of Justice

Short Title: PIPELINE SAFETY ACT VIOLATIONS CIVIL PENALTY

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with columns: Appropriation (FY25, FY26), Recurring or Nonrecurring, Fund Affected

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Table with columns: Estimated Revenue (FY25, FY26, FY27), Recurring or Nonrecurring, Fund Affected

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This Bill amends Section 70-3-19(C) NMSA 1978 to increase the cap on civil penalties for violations of the Pipeline Safety Act from \$100,000 “for each violation for each day that the violation exists,” with a maximum of \$1,000,000 to instead mirror those under analogous Federal pipeline regulations (49 U.S.C. § 60122 and 49 C.F.R. 190.223).

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

If Congress amends the statute referenced, or the agency promulgating the regulation amends the regulation, this Section would no longer have an identifiable civil penalty incorporated by reference.

PERFORMANCE IMPLICATIONS

None identified

ADMINISTRATIVE IMPLICATIONS

None identified

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

While not directly related, HB 35: Restricting Oil and Gas Operations in Children’s Health Protection Zones, amends the definitions of “production facility” and “gas transportation facility” in Section 70-2-33 NMSA 1978 Oil and Gas Act, both of which implicate pipelines. These changes could create confusion in comparison to the Pipeline Safety Act definitions of gas/oil/interstate pipeline facilities in Section 70-3-12 NMSA 1978.

TECHNICAL ISSUES

As drafted, the Amendment reads:

“shall be subject to a civil penalty in an amount not to exceed [one hundred thousand dollars (\$100,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed one million dollars (\$1,000,000) for any related series of violations] the maximum civil penalty provided pursuant to 49 U.S.C. Section 602122 and 49 C.F.R. 190.223.”

However, 49 U.S.C. Section 602122 does not exist, this appears to be a typographical error. The Section that does address civil penalties and pipeline safety is 49 U.S.C. Section 60122. It should be noted that the penalty limits outlined in 49 U.S.C. Section 60122 and 49 C.F.R. 190.223 are not identical - the C.F.R. limit is higher and potentially reflects an increase for inflation.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

To address the potential reference concern noted above (significant issues), the bill could be amended to provide, “. . . 49 U.S.C. Section 60122 or any successor statute and 49 C.F.R. 190.223 or any successor regulation.”

A potential alternative approach to increasing civil penalties for violations of the Pipeline Safety Act would be to amend the statute to increase the civil penalty proportionately to inflation instead of incorporating reference to Federal law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None identified