

LEGISLATIVE COMMITTEE MINUTES

HB1224

Bill as
Introduced

HB 1224-FN - AS INTRODUCED

2014 SESSION

14-2188
06/05

HOUSE BILL

1224-FN

AN ACT

relative to best practices for the transmission of energy.

SPONSORS:

Rep. Baber, Straf 14; Rep. Murotake, Hills 32; Rep. Shepardson, Ches 10;
Rep. Pastor, Graf 12; Rep. Raymond, Belk 4; Rep. Rappaport, Coos 1;
Rep. Mulholland, Graf 17; Rep. Suzanne Smith, Graf 8; Rep. Backus, Hills 19;
Rep. Ebel, Merr 5; Sen. Fuller Clark, Dist 21; Sen. Watters, Dist 4; Sen. Bradley,
Dist 3

COMMITTEE:

Science, Technology and Energy

ANALYSIS

This bill requires the public utilities commission to establish best practices assessment scoring for energy transmission projects.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to best practices for the transmission of energy.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Utilization of Best Practices for the Transmission of Energy. Amend
2 RSA 162-H by inserting after section 20 the following new subdivision:

3 Utilization of Best Practices for the Transmission of Energy

4 162-H:21 Purpose and Scope.

5 I. It is the intent of the legislature to encourage the utilization of current best quality
6 practices under RSA 162-H:30 for fuel pipelines and other hazardous liquids pipelines to minimize
7 negative impact during construction, operation, decommissioning, or in the event of an emergency or
8 accident. The intent of this act is not to impose approval standards, but to serve as an incentive for
9 pipeline operators to provide a high standard of execution that may exceed the threshold standards
10 set by federal or state regulations.

11 II. This subdivision applies to all new, repurposed, or reactivated pipelines that transport
12 any form of liquid fuel or fuel stock including, but not limited to, petroleum and other forms of
13 hazardous liquids.

14 162-H:22 Definition; Repurposed. In this subdivision, "repurposed" means reversing the
15 direction of flow in a pipeline or substantially changing the type of substance transmitted in a
16 pipeline, including, but not limited to, converting between natural gas and hazardous liquids,
17 between light and heavy crude oil, between conventional and unconventional crude oil, between
18 crude oil and conventional refined petroleum products, or between natural gas or petroleum and any
19 other hazardous liquid.

20 162-H:23 Notification. Pipeline operators shall notify the commission in a timely fashion of any
21 action that would activate conditions of this subdivision. Fees, if any, shall commence on the day the
22 covered change goes into production.

23 162-H:24 Liability. The payment of any fee for suboptimal implementation of best quality
24 practices shall not absolve a pipeline operator, parent company affiliate, assign, subsidiary, or other
25 entity financially or materially involved in the transport of materials through such pipelines, of
26 responsibilities for any liabilities that may be incurred.

27 162-H:25 Duties of the Commission. The commission shall administer the execution of the best
28 practices assessment scoring, establish and collect fees, and adopt rules, pursuant to RSA 541-A, to
29 conduct the scoring and implementation of the fee process.

30 162-H:26 Best Practices Assessment. Each project shall be evaluated on the impact of the
31 project as a whole. Fees shall be based on the degree to which a project fails to achieve the optimal

1 implementation of the defined best practices to reduce the negative short term and lifecycle impacts
2 to the state. The director of the safety division of the commission shall measure compliance with the
3 defined best practices. The assessment shall consider the content of the transported fluid,
4 compliance with defined best quality metrics, the size and length of the pipeline, and assess a fee, if
5 any, based on the formula under RSA 162-H:31.

6 162-H:27 Frequency of Review. Best practices assessment scoring reviews shall be conducted at
7 intervals of no greater than every 5 years to confirm the current validity of an existing score or on
8 appeal by a pipeline operator at intervals of no less than 2 years if, in the judgment of the operator,
9 there is substantial reason to believe the scoring should be lowered. The pipeline operator shall be
10 responsible for the cost of the review process.

11 162-H:28 Pipeline Content Categories (PCC).

12 I. The contents of each evaluated pipeline project shall be classified on the characteristics of
13 the type of liquid transported into one of the following 3 numeric categories:

14 (a) PCC-1:

- 15 (1) Transported liquid will float on water.
16 (2) Consumption of transported liquid is not toxic to humans and animals.
17 (3) Released transported liquid is not capable of forming a toxic gas.
18 (4) A fire of transported liquid can be extinguished with water.

19 (b) PCC-2:

- 20 (1) Transported liquid will float on water.
21 (2) Consumption of transported liquid is toxic to humans and animals.
22 (3) Released transported liquid is not capable of forming a toxic gas.
23 (4) A fire of transported liquid cannot be extinguished with water.

24 (c) PCC-3:

- 25 (1) A substantial portion of transported liquid will sink in water.
26 (2) Consumption of transported liquid is toxic to humans and animals.
27 (3) Released liquid is capable of forming a toxic gas.
28 (4) A fire of transported liquid cannot be extinguished with water.
29 (5) Transported fluid contains abrasives known to reduced pipeline lifespan.

30 II. In the case of multiple types of transported fluids, the highest numeric scoring material
31 shall be used for classification purposes. Transported fluids shall be classified into the highest
32 numeric category with which they share even one characteristic. For example, a transported fluid
33 that floats on water, but is capable of forming a toxic gas would be assigned a PCC of 3.

34 162-H:29 Pipeline Quality Compliance Values (PQCV). All pipeline quality metrics shall be
35 scored for impact assessment using one of the following 3 levels:

36 I. Highly compliant (HC) PQCV is 0.

37 II. Moderately compliant (MC) PQCV is 1.

1 III. Poorly compliant (PC) PQCv is 3.

2 162-H:30 Pipeline Quality Metrics (PQM); Score. The following metrics represent the defined
3 best quality practice and their individual PQCv available assignments. The pipeline quality score
4 (PQS) is arrived at by evaluating each PQM and assigning an individual PQCv. The PQS is the
5 average of the assigned PQCv of all PQMs.

6 I. Existence of a comprehensive federal or state managed pipeline safety and integrity
7 inspection program: on an annual basis (HC), at least every 5 years (MC), at intervals greater than
8 every 5 years (PC).

9 II. Existence of a leak detection system capable of reporting leaks greater than one gallon an
10 hour and their location using external measurement and not through inference: yes (HC), no (PC)

11 III. Existence of an ongoing comprehensive training program for local emergency responders
12 throughout the length of the pipeline: annual training (HC), training not less than every 15 years
13 (MC), no training or training more than every 5 years (PC).

14 IV. Existence of prepositioned emergency response supplies sufficient to respond to a
15 pipeline failure of any scale: within one hour travel time of all pipeline (HC), within 3 hours travel
16 time of all pipeline (MC), greater than 3 hours travel time of all pipeline (PC).

17 V. Water body or wetland crossings: 10 or less (HC), 10-25 (MC), more than 25 (PC).

18 VI. Containment berms adjacent to water bodies: 80 percent or greater (HC), 50 percent or
19 greater (MC), less than 50 percent (PC).

20 VII. Containment berms surrounding pumping stations and storage facilities. 80 percent or
21 greater (HC), 50 percent or greater (MC), less than 50 percent (PC).

22 VIII. Metal pipeline age: less than 10 years old (HC), built after 1970 (MC), built on or
23 before 1970 (PC).

24 IX. An accidental release would not pose a risk to any nearby school, hospital, or residential
25 care facility or endangered species and their habitats: yes (HC), no (PC).

26 X. Protection from terrorism or vandalism attacks by encaging exposed section of pipe or
27 supporting facilities with security fencing or other secure boundaries and remote reporting intrusion
28 alarm systems: yes (HC), no (PC).

29 162-H:31 Fee Assessments. The commission may request an application fee from the
30 pipeline operator for each project reviewed. The fee calculation is the PPC numeric value (1, 2,
31 or 3) times the PQS (from 0 to 3), times the PCM, times the PQF. The pipeline capacity metric
32 (PCM) value is the diameter of each pipe in feet squared times the length of the New Hampshire
33 portion of the pipeline in feet. The pipeline quality fee (PQF) rate is fixed at \$2.50. For
34 example, the fee calculation for a moderately compliant 10 mile long 1' diameter pipeline, where
35 the PCC value for moderately compliant transported content is 2, the PQS for a moderately
36 compliant quality project is 1.0, and the PCM value is $1 \times 1 \times 10 \times 5,280 = 52,800$ would be: 2×1
37 $\times 52,800 \times \$2.5 = \$739,200$.

HB 1224-FN - AS INTRODUCED

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1 **162-H:32 Distribution of Fees.** After deducting funds sufficient to cover the expense of
2 administering this subdivision, the commission shall distribute 20 percent of the remaining funds to
3 the oil pollution control fund established under RSA 146-A:11-a and the balance to the energy
4 efficiency fund established under RSA 125-O:23.

5 **162-H:33 Penalty.** Any pipeline operator who fails to report a usage covered by this subdivision
6 prior to commencing production shall be charged a penalty equal to 10 times the annual rate
7 proportional to the length of time between commencing production and reporting.

8 **2 Effective Date.** This act shall take effect January 1, 2015.

LBAO
14-2188
11/21/13

HB 1224-FN - FISCAL NOTE

AN ACT relative to best practices for the transmission of energy.

FISCAL IMPACT:

The Public Utilities Commission and Department of Environmental Services states this bill, as introduced, may increase state restricted revenue by an indeterminable amount in FY 2015 and each year thereafter. There is no impact on state expenditures, or county and local expenditures and revenue.

METHODOLOGY:

The Public Utilities Commission and Department of Environmental Services states this bill requires the Commission to implement best practices assessment scoring and implement the fee process. This bill directs the fees be used to cover the expense of administering this program with any excess fees being allocated 20 percent to the Oil Pollution Control Fund and 80 percent to the Energy Efficiency Fund. The Commission and Department state this bill may increase state restricted revenue by an indeterminable amount. The Commission does not anticipate overall state expenditures will increase as a result of this bill; however the restricted funding source for the expenditures may change.

Amendments

Amendment to HB 1224-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to pipeline operation safety.
4

5 Amend the bill by replacing all after the enacting clause with the following:
6

7 1 Purpose Statement. Given the importance of pipelines for the transport of natural gas and
8 other energy products to the state's economy and wellbeing, and given the potential safety and
9 environmental hazards of such pipelines, it is deemed in the best interest of the state for the state to
10 assume oversight for interstate natural gas and hazardous liquids pipelines.

11 2 New Section; Pipeline Safety. Amend RSA 363 by inserting after section 22 the following new
12 section:

13 363:22-a Pipeline Operation Safety.

14 I. The commission shall apply annually to the Pipeline and Hazardous Material Safety
15 Administration of the United States Department of Transportation for authorization to take such
16 actions on its behalf to oversee pipeline operation safety, security, monitoring, and compliance
17 through an inspection process.

18 II. The commission shall report annually to the house science, technology, and energy
19 committee prior to October 1 on the status of pipeline safety, new and proposed projects, any
20 deficiency in state law that limits the commission's ability to oversee interstate pipelines, or state
21 regulations for pipelines that do not meet the minimum federal standard.

22 3 Supervisory Power of Department of Transportation; Violation. Amend RSA 374:7-a, I-II to
23 read as follows:

24 I. Any person who knowingly or willfully violates any provision of RSA 370:2 or any
25 standards or rules adopted under it by the public utilities commission, relative to gas pipelines and
26 liquefied petroleum gas systems pursuant to the Natural Gas Pipeline Safety Act, shall be subject to
27 a civil penalty [~~of not exceeding \$100,000 for each violation for each day that the violation persists.~~
28 ~~However, the maximum civil penalty shall not exceed \$1,000,000 for any related series of violations]~~
29 *not to exceed the maximum civil penalty under 49 U.S.C. section 60122(a), as amended.*

30 II. Any person who otherwise violates any provision of RSA 370:2 or any standards or rules
31 adopted under it by the public utilities commission, relative to gas pipelines and liquefied petroleum
32 gas systems pursuant to the Natural Gas Pipeline Safety Act, shall be subject to a civil penalty [of

Amendment to HB 1224-FN

- Page 2 -

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4 4 Effective Date. This act shall take effect January 1, 2015.

2014-0655h

AMENDED ANALYSIS

This bill requires the public utilities commission to apply annually to the federal Pipeline and Hazardous Material Safety Administration for authorization to conduct pipeline inspections on its behalf.

This bill also modifies the penalties for violation of standards for service equipment.

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Amendment to HB 1224-FN

- Page 2 -

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Speakers

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1224

BILL TITLE: relative to best practices for the transmission of energy.
DATE: 2-18-14
LOB ROOM: 304 **Time Public Hearing Called to Order:** 3:00 pm
Time Adjourned: 4:30 pm

(please circle if present)

Committee Members: Reps. Borden, Townsend, Introne, Cali-Pitts, Pastor, Baber, Backus, Grossman, J. Mann, Raymond, Shepardson, Merrill, Devine, Rappaport, Bradley, Reilly, Khan, LeVasseur, Murotake and Vadney.

Bill Sponsors: Reps. Baber, Murotake, Shepardson, Pastor, Raymond, Rappaport, Mulholland, Suzanne Smith, Backus, Ebel, and Sen. Fuller Clark, Watters and Bradley

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. William Baber, prime sponsor – Introduced the bill. State currently has no jurisdiction over interstate pipelines. He is going to bring in an amendment. Wants state inspection of hazardous pipelines. Pipeline (PVC) currently 80 miles of pipe along Rt. 2. Grant dollars from federal department of transportation for doing the inspection; 14 states doing this.

***Rep. Ian Raymond, co-sponsor** – Supports the amendment; makes sense to have state inspection of liquid pipes as they inspect gas lines. New York Times 9-9-11 article excerpt; see map of spills.

***Mike, Wimgatt, NH Dept. of Environmental Services** – No position on the bill; some concerns regarding funding. Explained the department's responsibilities; see written testimony.

Q: Rep. Laurence Rappaport – Any equipment specific to oil sand?

A: No.

Q: Rep. Robert Backus – Amended version-support?

A: Just learned about it; inspection is a strength of division.

Q: Rep. Chuck Townsend – Who pays – spiller or oil spill pollution fund?

A: Spiller usually; other the fund kicks in.

Q: Rep. Rappaport – Do you have means to deal with oil sands spill?

A: Haven't had to yet; not transported in NH, yet.

***John Quinn, American Petroleum Institute** – Opposes the bill, see written testimony. National Academy Sciences study says other heavy crudes. Recent environmental impact re: Key stone – other heavy crudes.

Q: Rep. Backus – Dilution of oil sands before transport?

A: PMP doesn't have plans to transport oil sands. If they did do it, it would be shipped to China.

Q: Rep. Herb Vadney – Re: dilutants used for oil sands.

Q: Rep. Rappaport – What about Kalamazoo?

A: Not a (17hrs.) corrosion issue. Delayed detection of spill. Approximately 95% cleaned up.


Jim Merrill, Portland Montréal Pipeline Corporation (PMP) – Opposed to the bill. PMP there since 1941; recognition for safety record. Largest taxpayer in Randolph, ? Lancaster. FSA (federal regulator) inspects PMP regularly.

Carol Foss, NH Audubon Society – Supports amended version of the bill.

Q: Rep. Rappaport – Can PMP detect spill before on-site inspection?

Mr. Quinn – Some monitoring of pressure.

Respectfully Submitted:



Amanda A. Merrill, Acting Clerk

Science, Technology & Energy
HOUSE COMMITTEE ON ~~COMMERCE AND CONSUMER AFFAIRS~~

PUBLIC HEARING ON HB 1224

BILL TITLE: relative to best practices for the transmission of energy.

DATE: 2-18-14

LOB ROOM:

~~302~~

304

Time Public Hearing Called to Order: 3:00

Time Adjourned: ~~4:40~~

(please circle if present)

Committee Members: Reps. Borden, Townsend, Introne, Cali-Pitts, Pastor, Baber, Backus, Grossman, J. Mann, Raymond, Shepardson, Merrill, Devine, Rappaport, Bradley, Reilly, Khan, LeVasseur, Murotake and Vadney.

Bill Sponsors:

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Baber
* Rep Raymond - (map of spills)
Mike Wimsall, WMD
John Quinn, ED, NE Petroleum Council
Jim Merrill, Portland Montreal Pipeline Corp
Carol Foss, Audubon

2/18/14

HB 1224 1

Baber -

State currently has no jurisdiction over interstate pipelines

going to bring in amendment

wants ~~to~~ state inspection of ^{hazardous} ~~the~~ liquid pipelines of pipe (along Rte 2) - currently ~ 80 m.

Grant \$ from ^{fed} DOT for doing the inspection

14 states doing this

Raymond -

supports amendment - makes sense to have state inspect liquid pipes, as they inspect gas lines

9/9/11 article - excerpts

Mike Winsatt, WMD

no position

some concerns re. funding (

Res. Request Q - any equipment specific to oil sand? A: No

2/18/14

#B 1244

2

Backus Q re amended version. Support? A: Don't know Just learned about it. Inspection is a strength of division

Townsend Q re. who pays - spiller or Oil Spill Pollution Fund?
A: Spiller, usually. Otherwise, Fund kicks in

Rappaport Q - Do you have means to deal w/ oil sands spill? A - Haven't had to yet (not transported in NHT - yet)

John Quinn, ED, NE Petroleum Council
Nat. Acad. Sciences study - = other heavy crudes
recent Env. Impact re. Keystone - " " "

Backus Q re. dilution of oil sands before transport
~~Backus Q~~ ~~last page~~

PMP doesn't have plans to ship transport oil sands.
If they did do it, it would be shipped to China

Vadny, (g) re. dilutant used for oil sands

Rappaport Q - What about Kalamazoo? A: Not a (17 hrs.) corrosion issue. Delayed ^{detection of} ~~reaction to~~ spill.
Approx 95% cleaned up.

2/18

Jim Merrill, P.M.P. Corp

P.M.P. there since 1941; recognition for safety record
Largest taxpayer in Randolph, ? Lancaster

FMSA (Federal ~~regulator~~ regulator) inspects
P.M.P. regularly

Carol Fass, Auditor

Support amended version

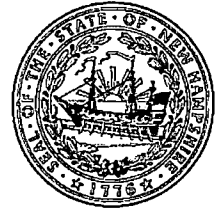
Request: ~~Q: can~~ can P.M.P. detect spill before
before on-site inspection

Quinn A - some some monitoring of pressure

Testimony



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 18, 2014

The Honorable David Borden, Chair
House Science, Technology and Energy Committee
Room 304
Legislative Office Building
Concord, New Hampshire 03301

RE: HB 1224-FN, Relative to Best Practices for the Transmission of Energy

Dear Chairman Borden and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1224-FN. This bill would require the Public Utilities Commission (PUC) to evaluate best management practice compliance for energy transmission pipelines, and assess a fee accordingly. Twenty percent (20%) of fees collected after deduction for PUC administrative costs would be deposited in the Oil Pollution Control (OPC) Fund, which is administered by the Department of Environmental Services (DES). In anticipation of questions about the OPC Fund, we offer information concerning DES programs and activities that the fund supports, current fund revenues and expenditures, and existing petroleum pipelines.

- The OPC Fund supports DES Waste Management Division programs for statewide petroleum spill prevention and preparedness, response, and cleanup. This includes 12 full time positions, related overhead costs, and funding for contractors. The fund also supports maintaining the DES coastal office located at the Pease Development Authority.
- OPC Fund activities include: regulation and inspection of petroleum storage tanks and motor vehicle salvage yards (3 positions); equipment, vehicles, and resources to provide emergency spill response (6 positions); coastal oil spill response planning (1 position); and administration (2 positions). Contracts are maintained for spill response services, investigation of contaminated sites, and provision of clean drinking water for owners of contaminated private water supply wells.
- Fund revenues are principally from a \$0.00125 (1/8¢) per gallon fee on all oil imported into the state. In addition, persons found strictly liable for spills are subject to recovery of DES response, investigation, and cleanup costs. Recovered costs may also include fines, penalties, and legal costs for enforcement. In FY 2013, total OPC Fund revenues were \$1.5 million dollars, total expenditures were \$1.9 million dollars, and the year-end balance was \$1.1 million dollars. Future import fee revenues are expected to be flat or declining, while expenditures are variable. Thus, DES is concerned about future OPC Fund viability.
- At present, a petroleum pipeline system (including two pipelines, 18-inch and 24-inch diameter) operated by the Portland-Montreal Pipeline Company traverses five north-

DES Web Site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2900 Fax: (603) 271-2456 TDD Access: Relay NH 1-800-735-2964

country towns for a total of 35.2 miles, running principally along the U.S. Route 2 corridor. The pipeline system is federally regulated by the Pipeline Hazardous Materials Safety Administration (PHMSA) which is part of the U.S. Department of Transportation. DES does not have regulatory authority over pipeline operations, and does not conduct inspections of the pipeline. DES does have authority to require cleanup in the event of a spill, and the pipeline owner and operator would be strictly liable under state law for containment and cleanup. In the event of a spill, DES personnel would respond along with its state and federal partners to oversee cleanup actions, with the expectation that the owner would provide the necessary response services. If the owner did not take timely action, DES could deploy its resources and seek cost recovery. DES is not currently maintaining spill response equipment specific to the pipeline along its route, but DES does maintain equipment and supplies in Berlin, Gorham, Lancaster, and Littleton for general spill response in the north country.

As a point of information, we found two potential typographical errors in the bill. We believe "15 years" on page 3, at line 12, should read "5 years", and "PPC" at line 30 should read "PCC".

If you have any questions, please contact Mike Wimsatt, Director of the Waste Management Division at (603) 271-2905 Michael.Wimsatt@des.nh.gov, or Timothy R. Denison at (603) 271-2570 Timothy.Denison@des.nh.gov.

Sincerely,



Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Sponsors of HB 1224

Public Hearing on HB 1224

House Science, Technology and Energy Committee

February 18, 2014

Statement of Mr. John Quinn

on behalf of the American Petroleum Institute

Arguments Against Passage of New Hampshire H.B. 1224

I. Summary

- API and its members encourage New Hampshire legislators to decline passage of *H.B. 1224* because the bill is unconstitutional.
- *H.B. 1224* purports to incentivize liquid pipeline operators to adopt safety and environmental “best practices” that exceed current legal requirements.
- Because the bill targets areas of pipeline safety already regulated by federal law, it would violate the Supremacy Clause of the U.S. Constitution.
- In addition, the bill’s passage could place an impermissible burden on interstate commerce in violation of the Commerce Clause of the U.S. Constitution.
- Unlike comparable laws passed in other states, the bill fails to account for these constitutional limitations.

II. H.B. 1224 is Unconstitutional

A. Passage of H.B. 1224 Would Violate the Supremacy Clause

- Under the Supremacy Clause, Congress may preempt states’ authority to regulate in certain areas as long as it clearly expresses an intent to do so. *U.S. Const., Art VI, Sec 2.*
- The preemption provision of the federal Pipeline Safety Act (PSA) clearly expresses Congress’s intent to preempt state regulation of interstate pipeline safety. *49 U.S.C. § 60104(c).*
- Further, the PSA preempts New Hampshire from regulating safety on intrastate pipelines because it has not been certified to do so by the federal pipeline safety agency. *49 U.S.C. § 60105.*

1. H.B. 1224 Targets Pipeline Safety

- *H.B. 1224* could only survive a preemption challenge if: (1) it provided solely for regulation of matters outside of the preempted field of pipeline safety or (2) safety concerns were incidental to its overall purpose.

- *H.B. 1224* fails on both accounts because its primary aim is to prescribe safety measures for liquid pipelines.
- The “best quality practices” described in the bill overlap, and in many cases exceed, federal pipeline safety regulations (e.g., integrity management, leak detection, emergency response and training of personnel, and security of pipeline facilities).

2. *H.B. 1224’s Incentives are Equivalent to Safety Requirements*

- *H.B. 1224* does not merely create “incentives;” the bill’s incentives are the equivalent of outright pipeline safety regulation.
 - Certain operators—such as large operators carrying heavy crude—could face fees that exceed the cost of optimal compliance with the bill’s “best practices.”
 - Other operators could be subject to larger fees than similarly situated competitors, despite having comparable operations in the State and identical levels of compliance with federal pipeline safety laws.
- In cases like these, the economic incentives created by the bill will dictate an operator’s safety practices, making *H.B. 1224* the equivalent of regulation in a preempted field in violation of the Supremacy Clause.

B. *Passage of H.B. 1224 Would Violate the Commerce Clause*

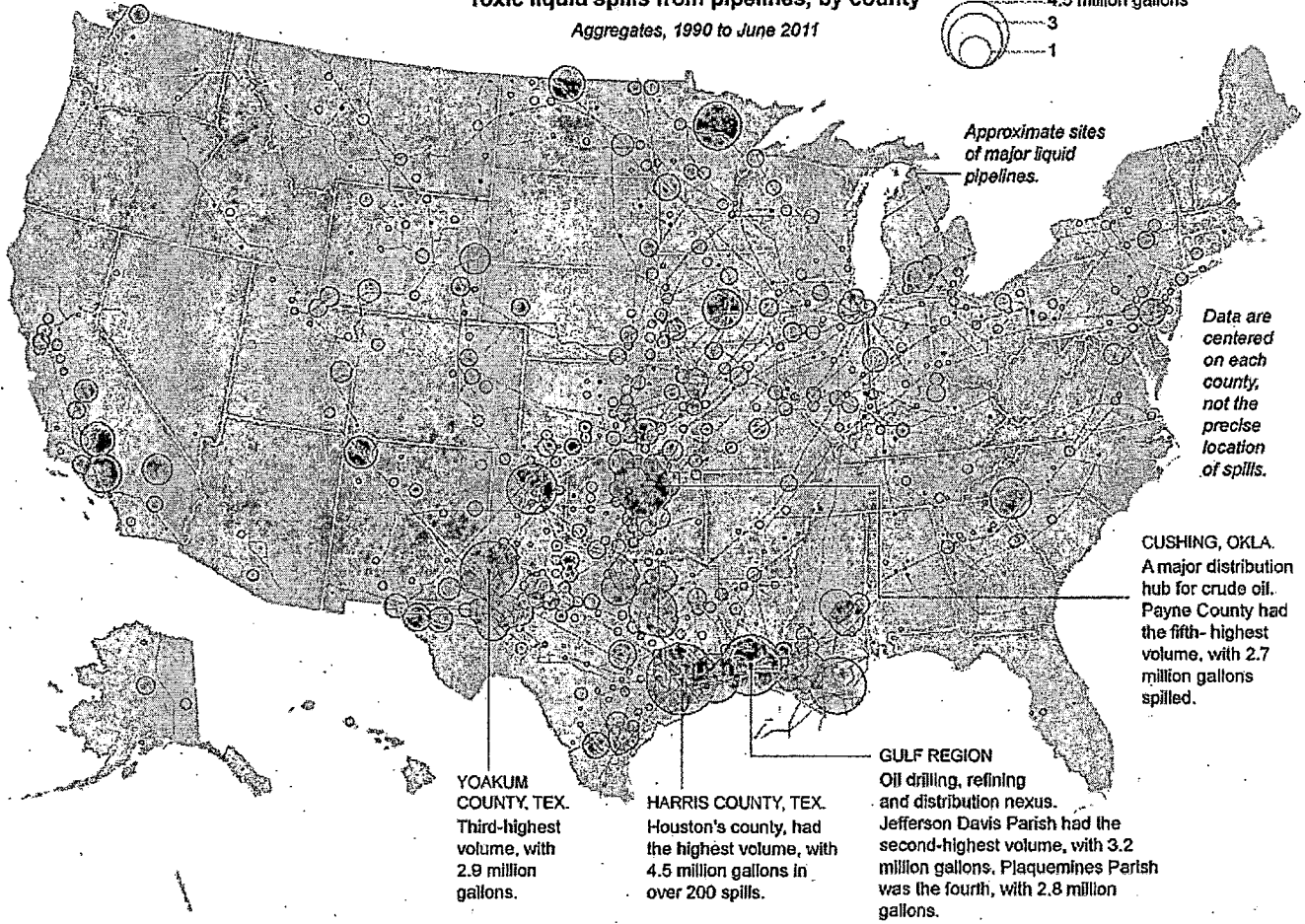
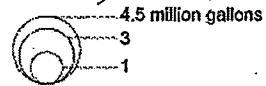
- A state law may not burden interstate commerce in a way that clearly exceeds the state’s interest to be furthered by the regulation. *U.S. Const., Art I, § 8, cl. 3.*
- *H.B. 1224* has the potential to impede the interstate transportation of liquids by pipeline in a manner that clearly exceeds New Hampshire’s interests to be furthered by the bill.
 - The bill could create regulatory uncertainty for interstate pipeline operators.
 - It could also deter operators from routing new pipelines through the State or could cause them to abandon certain projects altogether.
- In comparison to these burdens on commerce, New Hampshire’s interest in minimizing negative impacts associated with pipelines in the state is insufficient, especially given that these impacts are already addressed by federal pipeline safety laws.

III. Conclusion

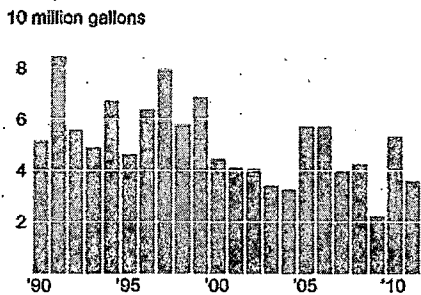
- *H.B. 1224* oversteps the boundaries of prudent and lawful state regulation in light of the strong national interest in uniform and transparent national standards for pipeline safety.

From Rep. Raymond
 HB 1224 2/18/14

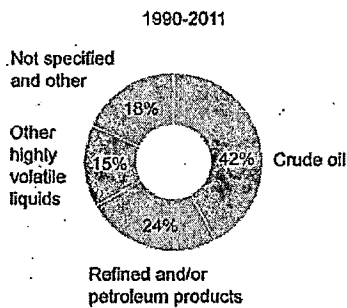
Toxic liquid spills from pipelines, by county
 Aggregates, 1990 to June 2011



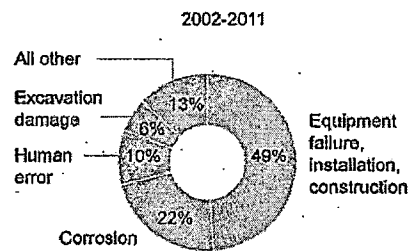
Total spilled each year



Average type spilled



Chief reason for spill



THE NEW YORK TIMES | Send Feedback

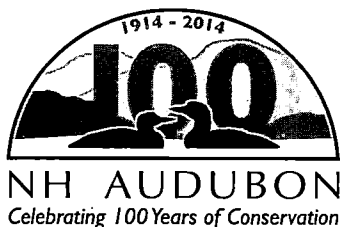
Source: Department of Transportation, Pipeline and Hazardous Materials Safety Administration

Published: September 9, 2011

Two Decades of Spills

RECOMMEND TWITTER LINKEDIN SIGN IN TO E-MAIL SHARE

Since 1990, more than 110 million gallons of mostly crude and petroleum products have spilled from the nation's mainland pipeline network. More than half of it occurred in three states — Texas, Oklahoma and Louisiana — where more pipelines exist. [Related Article »](#)



February 18, 2014

The Honorable David Borden
Chair, House Science, Technology and Energy Committee
Room 304, Legislative Office Building
Concord, NH 03301

STATEWIDE OFFICES

84 Silk Farm Road
Concord, N.H. 03301
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FAX 603-226-0902
nha@nhaudubon.org
www.nhaudubon.org

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FAX 603-668-3796

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84 Silk Farm Road
Concord, N.H. 03301
PHONE 603-224-9909
FAX 603-226-0902

**NEWFOUND
AUDUBON CENTER**

50 North Shore Road
P.O. Box 142
Hebron, N.H. 03241
PHONE 603-744-3516
FAX 603-744-1090

Re: Support for House Bill 1224 relative to best practices for the transmission of energy.

Dear Chairman Borden and Members of the House Science, Technology and Energy Committee:

I am writing on behalf of the Audubon Society of New Hampshire in support of House Bill 1224. We are a statewide non-governmental organization dedicated to protecting New Hampshire's environment for wildlife and for people.

House Bill 1224 takes important steps toward protecting public health and natural resources from adverse impacts of a hazardous liquids pipeline spill in New Hampshire.

Crude oil is currently transported across New Hampshire's North Country through a 236-mile pipeline from Portland, ME to Montreal, Quebec that is owned by Portland Pipe Line Corporation (a subsidiary of Exxon, Shell Oil and Imperial Oil). The pipeline's 35.5-mile right-of-way in New Hampshire roughly parallels U.S. Route 2, passing through Shelburne, Gorham, Randolph, Jefferson and Lancaster.

An oil spill anywhere along this route would have a devastating impact on the North Country's communities, environment and economy. Route 2 is the only major east-west transportation corridor in Coos County, and is a critical travel route for residents, tourists and goods moving both within New Hampshire and across the State between Maine and Vermont. The right-of-way includes more than 70 stream crossings, including the Connecticut and Androscoggin rivers, wetlands, floodplains, and aquifers, and crosses state and local conservation lands as well as portions of the White Mountain National Forest.

New Hampshire Audubon, therefore, believes it is prudent for the General Court to improve state-level safeguards against an oil spill. Although

pipelines are regulated at the federal level by the Pipeline Hazardous Materials Safety Administration (PHMSA), the agency's resources are stretched very thin. Its 135 inspectors are tasked with the oversight of 2.6 million miles of pipeline throughout the United States. Moreover, PHMSA's oversight has proven inadequate to prevent recent, costly pipeline spills such as those in Marshall, MI and Mayflower, AR.


On July 25, 2010, when a 30-inch pipeline owned by Enbridge Energy Partners (Enbridge) ruptured near Marshall, MI, at least 843,000 gallons of tar sands crude oil (also known as diluted bitumen or dilbit) flowed into the Kalamazoo River. Cleanup efforts to date have cost nearly \$1B, and an estimated 180,000 gallons of tar sands crude remain in river sediment today—of which only 12,000-18,000 gallons are readily recoverable.

The possibility of even a small spill in the Granite State should give us all pause. Unfortunately, our state's oil pollution control fund—which supports spill preparedness and response—is currently well below its intended balance of \$5M. Meanwhile, the risk of the Granite State being caught unprepared for such a spill will only continue to increase.

As recently as 2008, Enbridge, as part of its "Trailbreaker" proposal, expressed an interest in transporting dilbit from Montreal to Portland by reversing flow on the Portland-Montreal Pipe Line's more than 60 year-old 18" pipeline across the Granite State. While the economic downturn led to abandonment of this proposal, current market conditions suggest that reversal of this pipeline to carry dilbit or other crude oil from western North America to the marine terminal at South Portland may be a profitable enterprise in the foreseeable future. Enbridge is currently seeking approval from Canada's National Energy Board for the final leg of a project to pipe dilbit from the Alberta tar sands region to Montreal. If approved, this project will soon renew pressure to reverse flow through the New Hampshire pipeline.

Due to the existing and future risks to New Hampshire's citizens, visitors and important natural resources posed by an oil spill, we urge the House Science, Technology and Energy Committee to report House Bill 1224 as Ought to Pass. Thank you for the opportunity to comment on House Bill 1224.

Sincerely,


Michael J. Bartlett
President

Voting Sheets

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

EXECUTIVE SESSION on HB 1224-FN

BILL TITLE: relative to best practices for the transmission of energy.

DATE: 3-4-14

LOB ROOM: 304

Amendments:

Sponsor: Rep. Baber OLS Document #: 2014 0655h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Baber

Seconded by Rep. Rappaport

Vote: 15-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Baber

Seconded by Rep. Rappaport

Vote: 15-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James E. Devine, Acting Clerk

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

EXECUTIVE SESSION on HB 1224-FN

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Sponsor: Rep. Baber

OLS Document #: 2014-0655h

Sponsor: Rep. [Signature]

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions:

^{OTP}
 OTP OTP/A ITL, Interim Study (Please circle one.)

Amendment 0655h
1224-FN

Moved by Rep. Baber

Seconded by Rep. RAPPAPORT

Vote: (Please attach record of roll call vote.)

Motions:

^{OTP/A} OTP ITL, Interim Study (Please circle one.)

Moved by Rep. Baber

Seconded by Rep. RAPPAPORT

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report.

Respectfully submitted,

Rep. Robert E. Introne, Clerk

James E. Devine

Baber Blurb



2014 SESSION

SCIENCE, TECHNOLOGY AND ENERGY

Bill #: HB 1224-FN Title: Re: best practices for the transmission of energy.

PH Date: / /

Exec Session Date: 3 14 14

Motion: OTP/A

Amendment #: 2014 0655h

MEMBER

YEAS

NAYS

MEMBER	YEAS	NAYS
Borden, David A, Chairman	1	
Townsend, Charles L, V Chairman	1	
Cali-Pitts, Jacqueline A	1	
Pastor, Beatriz	1	
Baber, William S	1	
Backus, Robert A	1	
Grossman, Kenneth	1	
Mann, John E	1	
Raymond, Ian P	1	
Shepardson, Marjorie J	1	
Merrill, Amanda A	1	
Introne, Robert E, Clerk		
Devine, James E	1	
Rappaport, Laurence M	1	
Reilly, Harold T		
Khan, Aboul B		
LeVasseur, Richard D	1	
Murotake, David K		
Vadney, Herbert R	1	
TOTAL VOTE:		

15

0



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2/21/2014 9:14:10 AM
Roll Call Committee Registers
Report

2014 SESSION

SCIENCE, TECHNOLOGY AND ENERGY

Bill #: HB1224-FN Title: Re: best practices for the transmission of energy

PH Date: 1 / 1 /

Exec Session Date: 3 / 4 / 14

Motion: OT P/W Amendment

Amendment #: 2014-0655h

MEMBER

YEAS

NAYS

Borden, David A, Chairman	1	
Townsend, Charles L, V Chairman	1	
Cali-Pitts, Jacqueline A	1	
Pastor, Beatriz	1	
Baber, William S	1	
Backus, Robert A	1	
Grossman, Kenneth	1	
Mann, John E	1	
Raymond, Ian P	1	
Shepardson, Marjorie J	1	
Merrill, Amanda A	1	
Introne, Robert E, Clerk X		
Devine, James E	1	
Rappaport, Laurence M	1	
Reilly, Harold T X		
Khan, Aboul B X		
LeVasseur, Richard D	1	
Murotake, David K X		
Vadney, Herbert R	1	
TOTAL VOTE:		

15

0

Committee Report

CONSENT CALENDAR

March 12, 2014

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on SCIENCE, TECHNOLOGY AND ENERGY to which was referred HB1224-FN,

AN ACT relative to best practices for the transmission of energy. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. William S Baber

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	SCIENCE, TECHNOLOGY AND ENERGY
Bill Number:	HB1224-FN
Title:	relative to best practices for the transmission of energy.
Date:	March 5, 2014
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

The state currently has no role or authority for inspecting hazardous liquid pipelines (i.e. oil pipelines). Two existing operational oil pipelines dating from WWII cross the state from Maine to New Hampshire in the Route 2 corridor passing some 70 bodies of water. These pipelines transport crude oil from Portland, ME to Montreal and may in the future be reversed to transport tar sands crude in the reverse direction. This bill requires the PUC apply for authorization and reimbursement to assume the federal inspection role for hazardous liquid pipelines that the PUC currently performs for natural gas pipelines. The bill also directs the PUC to report annually to the Science, Technology, and Energy committee on the safety of all pipelines under their responsibility. At the request of the PUC, the bill adjusts the civil penalty under RSA 374:7-a so that it is consistent with federal requirements to maintain inspection authority for natural gas pipelines.

Vote 15-0.

Rep. William S Baber
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

SCIENCE, TECHNOLOGY AND ENERGY

HB1224-FN, relative to best practices for the transmission of energy. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William S Baber for SCIENCE, TECHNOLOGY AND ENERGY. The state currently has no role or authority for inspecting hazardous liquid pipelines (i.e. oil pipelines). Two existing operational oil pipelines dating from WWII cross the state from Maine to New Hampshire in the Route 2 corridor passing some 70 bodies of water. These pipelines transport crude oil from Portland, ME to Montreal and may in the future be reversed to transport tar sands crude in the reverse direction. This bill requires the PUC apply for authorization and reimbursement to assume the federal inspection role for hazardous liquid pipelines that the PUC currently performs for natural gas pipelines. The bill also directs the PUC to report annually to the Science, Technology, and Energy committee on the safety of all pipelines under their responsibility. At the request of the PUC, the bill adjusts the civil penalty under RSA 374:7-a so that it is consistent with federal requirements to maintain inspection authority for natural gas pipelines. **Vote 15-0.**

Stapler, Carol

From: Charles Townsend [CLTownsend@comcast.net]
Sent: Wednesday, March 05, 2014 2:27 PM
To: Stapler, Carol
Subject: Fwd: Blurb draft for HB1224

Here it is!

Begin forwarded message:

From: Bill Baber <wsbaber@gmail.com>
Subject: **Blurb draft for HB1224**
Date: March 5, 2014 at 11:08:15 AM EST
To: David Borden <david@oursustainablenh.com>, <Chuck.Townsend@leg.state.nh.us>

COMMITTEE: Science, Technology, and Energy
BILL NUMBER: HB 1224
TITLE: Relative to pipeline operation safety
DATE: 3/4/2014
CONSENT CALENDAR: Yes

OUGHT TO PASS W/ AMENDMENT [Amendment No. 2014-0655H]

STATEMENT OF INTENT: The state currently has no role or authority for inspecting hazardous liquid pipelines (i.e. oil pipelines). Two existing operational oil pipelines dating from WWII cross the state from Maine to New Hampshire in the Route 2 corridor passing some 70 bodies of water. These pipelines transport crude oil from Portland, ME to Montreal and may in the future be reversed to transport tar sands crude in the reverse direction. This bill requires the PUC apply for authorization and reimbursement to assume the federal inspection role for hazardous liquid pipelines that the PUC currently performs for natural gas pipelines. The bill also directs the PUC to report annually to the Science, Technology, and Energy committee on the safety of all pipelines under their responsibility. At the request of the PUC, the bill adjusts the civil penalty under RSA 374:7-a so that it is consistent with federal requirements to maintain inspection authority for natural gas pipelines.

Carol, I do not have notes on the final vote count.

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