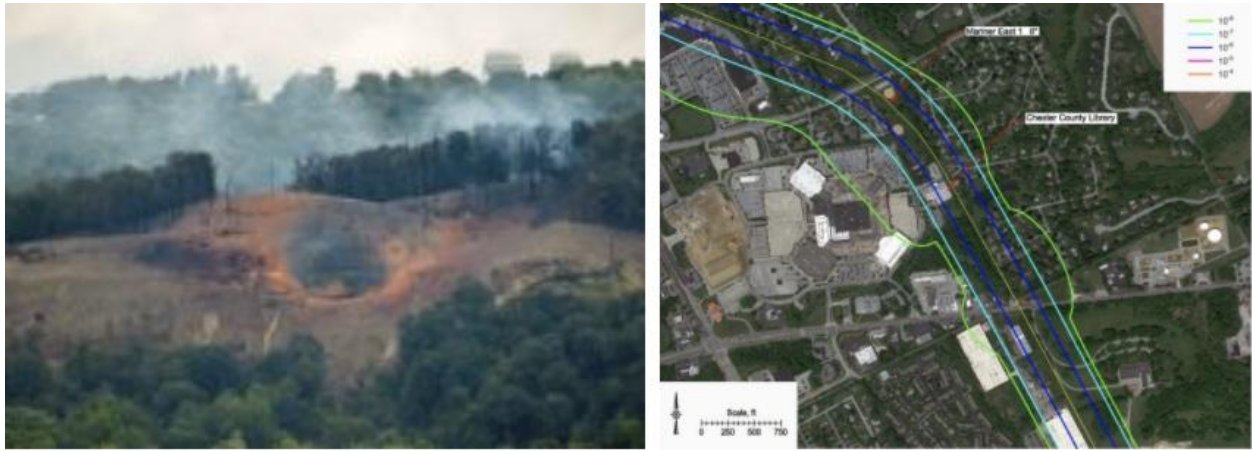


Natural Gas Pipelines Are Not Required To Carry Insurance Or Show They Can Pay For Damages If They Explode, Leak Or Kill Someone

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The PA Environment Digest [prepared a policy paper](#) on the issue of requiring natural gas and hazardous liquid pipelines to have insurance or financial assurance resources in place to cover property damage, bodily harm and environmental cleanup resources if a leak or explosion happens.

It started with a simple question: Are natural gas pipelines required to have insurance to cover property damage, bodily harm or environmental cleanup and natural resource damage costs?

Spoiler-- the answer is-- no.

They are not required by federal or state agencies to have or show proof of general liability or environmental liability insurance or produce a financial assurance plan that demonstrates they can pay for damages the operation of their facilities may cause.

For decades, general liability, and many times environmental cleanup insurance, has been a key part of many environmental programs to pay the cost of injuries to people, property and the environment in case something goes very wrong.

These measures were put in place so neighbors, communities and taxpayers do not have to pay the costs of repairing property damage, natural resources or worse.

If you own a car or own your own home, you have to have insurance.

But, operators of pipelines carrying gasoline, natural gas, natural gas liquids and other hazardous and explosive substances do not have to have insurance or a financial assurance plan.

Many pipelines in Pennsylvania follow rights-of-way that were laid out in the 1930s or earlier and houses, apartments and businesses have grown up close to and in some cases within 25 to 50 feet of those pipeline routes.

What happens if there's an accident in one of those areas or in a more rural area that causes significant damage or loss of life?

Will neighbors, communities and taxpayers be left to pay the bills?

Now, these neighbors and communities rely on the good intentions of pipeline companies to pay for these damages, and they have in most cases, but what about in the future?

With the number of miles of natural gas and hazardous liquid pipelines are expected to [quadruple by 2030](#), the scope of the potential risk of property damage and bodily injury increases.

Will those who suffer damages have to go to court to seek damages or will insurance or financial assurance programs be in place to cover those costs?

Now, we simply don't know.

Pipelines Explode, Leak

Pipelines do explode, leak and pollute.

In 2018, the brand new Revolution Natural Gas Pipeline exploded in Beaver County causing property and natural resource damage, but fortunately no deaths or injuries. It has so far resulted in fines and penalties of over \$30 million by DEP [[Read more here](#)] and the Public Utility Commission proposed a \$1 million penalty [[Read more here](#)].

In 2016, a natural gas pipeline exploded in Westmoreland County injuring one person, searing about 40 acres of farmland and causing property damage. [Read more here](#).

The construction of the Mariner East 2 Pipeline across the state has resulted in hundreds of leaks and discharges, sinkholes, damage to private water wells, even pollution to Raystown Lake in Huntingdon County and the lake at Marsh Creek State Park in Chester County.

A 2019 report by Trout Unlimited further documents spills, pollution incidents along the Mariner East 2 Pipelines and others in Appalachia. [Read more here](#)

Fines and penalties for Mariner East 2 Pipeline violations now exceed over \$16.3 million, just in Pennsylvania. [Read more here](#).

In discussions surrounding legislation to expand coverage of the PA One Call Program to prevent construction and digging equipment from hitting underground utility and pipelines, advocates said about half of the accidental hits each year-- about 3,000 cases-- involved striking natural gas pipelines of one type or another. [Read more here](#).

Pipeline Miles Growing

There are differing estimates of how many miles of pipelines there are in Pennsylvania depending on the agency and its regulatory authority. Many pipelines, in particular gathering lines for conventional natural gas, were never mapped.

A report on pipelines by The Nature Conservancy projected the miles of pipelines in Pennsylvania will at least quadruple by 2030. [Read more here](#).

The federal Pipeline and Hazardous Materials Safety Administration has an [online database on pipelines by states](#) and other features, but that isn't exactly user friendly.

The Public Utility Commission has authority to regulate pipelines in Pennsylvania and has an agreement with the federal Pipeline and Hazardous Materials Safety Administration to enforce federal pipeline safety laws within the state. [Read more here](#).

The PUC enforces the safety requirements for a total of 81,213 miles of pipelines of several types-- gas distribution mains (48,139 miles), natural gas distribution services (28,933 miles), natural gas gathering lines (799 miles), natural gas transmission lines (1,275 miles) and hazardous liquids (2,067 miles). [Read more here](#).

Gov. Wolf's 2016 Pipeline Infrastructure Report found there were more than 12,000 miles of larger-diameter oil and gas and hazardous liquid pipelines in the ground in Pennsylvania. [Read more here](#).

Advocates for changes to the PA One Call said there were at least 100,000 miles of unmapped natural gas gathering lines in the state that carry natural gas from individual wells or

well fields to larger transmission pipelines. [Read more here.](#)

No Coverage Required

The PUC Safety Division and Bureau of Technical Utility Services confirmed they were not aware of any state requirement for third-party general liability coverage for property damage, bodily injury or environmental liability coverage.

The PUC can take enforcement action, as a result of cases brought by the Safety Division and/or consumer complaints for violations, but the Commission cannot address damages - only civil penalties. Damage claims are addressed in civil court by those affected.

On July 15, the PUC adopted a notice of proposed rulemaking seeking comments on its regulations related to the pipeline transport of petroleum products and hazardous liquids in interstate commerce that will be published in the PA Bulletin. [Read more here.](#)

The [Pipeline Safety Trust](#), a nonprofit group based in Bellingham, Washington that works on pipeline safety issues, also verified there are no requirements for federal or state third party general liability coverage for property damage, bodily injury or environmental liability coverage.

[American Risk Management Resources Network](#), which provides insurance services for environmental risks and general insurance coverage including in Pennsylvania based in Middleton, Wisconsin, also confirmed they are not aware of any requirements for federal or state third party general liability coverage for property damage, bodily injury or environmental liability coverage.

The [Ohio River Valley Institute](#) recently highlighted the lack of federal general liability or environmental insurance coverage requirements for another part of the transportation system for oil and natural gas-- trains-- rolling pipelines. [Read more here.](#)

The Department of Environmental Protection requires permits for stream crossings and construction-related activities for pipelines under [Chapter 105 \(Dams and Encroachments\)](#) and [Chapter 102 \(Erosion and Sedimentation\)](#), but no insurance or financial assurance is required to be provided or demonstrated under these permits.

Recent proposed changes to the Chapter 105 regulations do not propose to add insurance or financial assurance requirements for pipeline or other projects. [Read more here.](#)

DEP does not require general liability or environmental coverage for General Air Quality Permits covering natural gas pipeline compressor stations ([GP-05](#)) or for unconventional gas well site operations ([GP-5A](#)).

No insurance coverage of either type is required for large underground natural gas storage areas [Read more here](#)

It's interesting to note, there is no general liability coverage for property damage, bodily injury and/or environmental liability coverage under the state Oil and Gas Act that regulates conventional and unconventional oil and gas well drilling. [Read more here.](#)

In 2014, there was a significant unconventional natural gas well explosion that caused the death of one worker [Read more here.](#)

In 2019, an unconventional natural gas well experienced a failure that resulted in gas leaking out through nine nearby unplugged conventional gas wells. [Read more here.](#)

As noted, there is no insurance required under the related Chapter 105 and 102 requirements covering drilling oil and gas wells.

According to DEP's 2019 Oil and Gas Annual Report, there were 148 incidents involving discharges that caused water pollution and 360 cases where conventional well operators did not plug a well before abandoning them leaving an open channel for polluting groundwater or for

methane to escape. [Read more here](#).

There are some bonding requirements to cover the cost of plugging a well if drillers walk away.

Insurance Coverage - Standard

Requiring third party general liability coverage for property damage, bodily injury and frequently environmental liability coverage has been a standard part of many environmental protection programs dealing with activities that can harm people, property or the environment for decades.

The main rationale for financial assurance is twofold:

- Ensure that financial resources exist to compensate injured parties; and
- Grant injured third parties access to remuneration without having to resort to costly litigation.

These insurance and/or financial assurance coverages are in addition to bonding requirements to properly close facilities, reclaim mines or plug oil and gas wells, again so neighbors, communities and taxpayers do not have to pay those costs.

Some examples of environmental programs that now require general liability and/or environmental liability insurance include--

- septage haulers (what you pump out of septic tanks) [\[Read more\]](#)
- surface coal mine operators [\[Read more\]](#)
- coal refuse disposal areas [\[Read more\]](#)
- noncoal mine operators [\[Read more\]](#)
- blasting activities permits [\[Read more\]](#)
- municipal waste facilities [\[Read more\]](#)
- household hazardous waste collection contractors [\[Read more\]](#).
- residual waste facilities, including waste oil storage and treatment facilities [\[Read more\]](#)
- facilities that treat oil and gas well drilling wastewater and production water under General Permit WMGR123 [Read more](#)
- hazardous waste facilities [\[Read more\]](#)

In 1988, Pennsylvania created its own insurance program to handle environmental cleanup liability related to underground storage tanks through the Underground Storage Tank Indemnification Fund administered by the Department of Insurance. [\[Read more\]](#)

Third party liability coverage is also required in addition to the environmental liability coverage provided by USTIF. [\[Read more\]](#)

Requirements for these coverages come from state law, but are also required under federal law where DEP is administering federal programs, for example, under the Surface Mining Control and Reclamation Act [\[Read more\]](#), Resource Conservation and Recovery Act for waste facilities [\[Read more\]](#) and Underground Storage Tank Act [\[Read more\]](#).

DEP also administers a state Coal and Clay Mine Subsidence Insurance program to deal with property damage caused by abandoned underground coal and clay mines in the state. [Read more](#).

Corporate Organization

Pipeline operators like Williams or Energy Transfer Partners are generally large, well-capitalized businesses.

However, their corporate model is designed to spread business and financial risks by creating subsidiary or intermediate businesses that serve as the permittee and operator of record for individual pipelines or pipeline segments.

If these subsidiaries get into financial or other trouble, they can be put into Chapter 11 bankruptcy or other steps can be taken to shield the main business enterprise from liability or financial responsibility.

For example, Revolution Pipeline is operated by ETC Northeast Pipeline, LLC, a subsidiary of Energy Transfer Partners.

Mariner East 2 Pipeline is operated by Sunoco Pipeline, L.P., also a subsidiary of Energy Transfer Partners.

Leach Xpress Pipeline is operated by Columbia Gas Transmission, LLC, a subsidiary of Columbia Gas.

CNX Midstream Partners, LP operates pipelines for CNX Gas Company.

Because of these business arrangements, neighbors, communities and taxpayers have no assurance either the named operators, an intermediary and/or their parent company have the financial wherewithal to pay for damages and restoration if things go very wrong.

Are the subsidiaries just shell companies with no assets of their own, other than the pipeline they operate?

What are the arrangements for handling these kinds of damage claims from neighbors or communities or between subsidiaries, an intermediary or parent companies?

According to [American Risk Management Resources Network](#), larger companies in these businesses generally self-insure up to a point, then they spread the risk with a third party insurance or financial assurance arrangement.

But again, no one knows these arrangements.

The neighbors, communities and taxpayers cannot be reassured the resources would be there.

Risk Assessment

Businesses that are following their fiduciary responsibilities, will have insurance and financial assurance arrangements to help manage the risks from their operations.

But key issues with these financial arrangements include what process was used to define and quantify the risk and what is the amount of risk-- in dollars-- the plan is designed to manage?

Agencies like the Federal Energy Regulatory Commission, the federal Pipeline and Hazardous Pipeline Materials Safety Administration and state agencies like the Public Utility Commission and the Department of Environmental Protection are focused on very specific missions.

In evaluating pipeline routes, FERC is focused on how a pipeline is constructed, is the company meeting the construction and safety standards as it passes through densely populated communities or those with fewer people and what will the environmental impact be?

The laws under which the Department of Environmental Protection operates focuses on whether constructing a pipeline will meet Chapter 102 and 105 regulations and other state requirements to mitigate the environmental impact of construction activities.

After pipelines are built and go into operation, PHPMSA and the state Public Utility Commission inspect to make sure operating requirements are met and investigate any accidents from the standpoint of whether those safety requirements were met or not.

Insurance and financial assurance plans should be based on something very different.

They are focused primarily outside the right-of-way trying to assess the risk of damage and injury that could happen as a result of a failure in a pipeline's operation.

This kind of risk assessment should be done by an independent third-party risk management consultant with an interdisciplinary team composed of engineering, risk assessment, underwriting and loss control representatives looking at the risk of bodily injury, property damage and environmental damage that could happen along the route of the pipeline.

It is a fundamentally different process.

For example, a risk assessment done by a consultant for citizen groups for portions of the Mariner East 2 Pipeline in Chester and Delaware counties in 2018 tried to quantify the risk of an explosive vapor cloud release, flash fire or an explosion related to a pipeline failure found significant risk to people, property and the environment, especially within 2,135 feet of the pipeline. [Read more here.](#)

While not an insurance-type risk assessment, it provides some idea of the kinds of evaluations and tools available to help define and manage these risks.

According to [American Risk Management Resources Network](#), those tools for assessing, quantifying and managing that risk are well known and frequently used for all sorts of insurance liability underwriting-- general liability or environmental liability.

Whatever processes are used now by pipeline operators, intermediaries and parent companies to assess, quantify and manage this risk for individual pipelines and facilities is now unknown.

Again, neighbors, communities and taxpayers cannot be reassured the resources would be there.

Federal Preemption

Federal law generally preempts the authority of states and local governments to approve pipeline routes and regulate many aspects of natural gas and natural gas liquids pipeline operations in interstate commerce.

The [Pipeline Safety Trust](#), who are experts in this field, is not familiar with any language in the federal Pipeline Safety Act that would preempt a state from adopting general liability or environmental liability insurance requirements covering pipelines to neighbors, communities and taxpayers.

The Pipeline Safety Trust identified instances [in Iowa](#) and [Minnesota](#) where certain kinds of insurance requirements were adopted covering specific pipeline or compressor station projects within their certificate of needs process.

According to the Trust, municipalities and local governments in many states routinely require insurance coverage as part of right of way agreements for new pipeline facilities.

[Legislation was introduced in Illinois](#) in 2016 and 2017 to require \$100 million of general liability and \$25 million in environmental liability coverage, but the legislation didn't go anywhere.

Conclusion

Given that we know pipelines do explode, leak and pollute.

Given we know there are significant risks of bodily injury, property damage and environmental damage that can and have occurred along pipeline routes, especially where development has overtaken pipeline rights-of-way.

Given the number of natural gas and hazardous liquid pipelines are expected to quadruple by 2030.

Given public and regulating agencies know nothing or very little now of the financial capacity or the claims process used by named pipeline operators, intermediate or parent

companies for managing these risks.

Given the significant concerns neighbors, communities and taxpayers have about how they would cope with a significant or catastrophic incident involving a pipeline.

Is it appropriate to require pipeline operators, intermediate and parent companies to demonstrate they have an insurance/financial assurance plan-- based on independent, third party risk assessment and underwriting processes-- to manage risks of bodily injury, property damage and environmental damage that can occur along pipeline routes?

The answer is yes to protect the interest of neighbors, communities and taxpayers.

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