

# Lawyer Insights

## Implementation of Gas Leak Law Puts Emissions Over Safety

By Clare Ellis

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California Gov. Jerry Brown signed SB 1371 nearly six years ago, directing the California Public Utilities Commission and the California Air Resources Board to work together to further the dual goals of minimizing safety hazards associated with gas pipeline leaks and reducing pipeline greenhouse gas emissions.

The state Senate noted in its analysis of SB 1371 that "[t]he natural gas that travels through transmission and distribution pipelines is more than 99.5% methane, a potent greenhouse gas" and that "[t]he largest human-derived source of methane emissions in the U.S. is leaks from natural gas extraction and transmission pipelines." Leaking gas pipelines had been previously recognized as a major safety problem, but at the time of the bill's passage, "the significant climate change impacts of fugitive methane emissions [were] just . . . coming into focus."

SB 1371 directed the CPUC to require gas companies to report on their leak-management practices, open leaks, and an estimate of gas loss due to leaks. It also directed the CPUC to commence proceedings to adopt rules to provide for maximum feasible and cost-effective leak avoidance, reduction and repair on CPUC-regulated lines; to require repair as soon as reasonably possible after discovery; to evaluate existing practices; and to establish and require best practices for leak surveys, patrols, prevention and reduction.

The CPUC was also required to establish protocols for quantifying emissions from leaking gas pipeline facilities and for tracking leaks, to be used by gas companies in their operating plans as well as in tracking systems used for CARB-required GHG reporting. Finally, SB 1371 directed the CPUC to require pipeline facility owners to calculate and report a baseline systemwide leak rate, to periodically update this calculation, and to annually report on measures to be taken the following year to reduce the systemwide leak rate to achieve the dual goals stated above.

The CPUC's rulemaking proceedings were initiated Jan. 22, 2015. As part of this effort, the commission required companies to file reports on their natural gas leaks and leak-management practices by May 15, 2015, and to update the reports annually. Since 2015, companies have filed five annual reports to demonstrate progress toward the bill's dual hazardous-leak abatement and emissions-reduction objectives.

In June 2017, the CPUC approved the first phase of the Natural Gas Leak Abatement Program, including requirements for annual reporting to track methane emissions; best practices for minimizing emissions; biennial methane leak compliance plans; "soft" methane-reduction targets; and preliminary cost-recovery processes to facilitate CPUC implementation. Companies submitted their first compliance plans in March 2018, proposing measures to implement the best practices and associated revenue requirements for 2018-2019.

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In January, the CPUC and CARB issued their fifth annual joint staff report analyzing the annual reports reflecting 2018 emissions data. The joint report reflects that leaks and vented emissions from regulated systems totaled 5,971 million standard cubic feet of natural gas, 6.7 percent lower than the emissions volume reported in 2017, and 631 MMscf (9.6 percent) below the 2015 baseline. According to the report, the overall decrease from 2017 to 2018 is the result of significant emissions decreases in blowdowns, graded pipeline leaks and pipeline damages, offset by minor increases in other categories. The total natural gas emissions of 5,971 MMscf equate to 2.67 million metric tons of carbon dioxide using the Intergovernmental Panel on Climate Change Fourth Assessment Report 100-year methane global warming potential of 25.

As explained in the report, a "leak" is defined broadly and includes "any breach, whether intentional or unintentional, whether hazardous or non-hazardous, of the pressure boundary of the gas system that allows natural gas to leak into the atmosphere." Any vented or fugitive emission to the atmosphere is considered a "leak" for the purposes of the analysis. Consequently, as the agencies acknowledge in their report, this leak definition is broader than the federal pipeline-safety definition.

The report focuses heavily on emissions data, but there is almost no discussion of safety improvements from the SB 1371 regulatory effort. Indeed, the report's conclusions focus entirely on emissions reductions without addressing hazardous-leak reductions at all. This suggests that the safety goal of the enactment and CPUC implementation has been eclipsed by the state's GHG emissions-reduction goals. The focus of CPUC regulatory efforts to abate all leaks from pipeline infrastructure, regardless of hazard or safety risk posed to persons or property, indicates the sweeping nature of the program and is arguably inconsistent with the statutory directive that nothing in SB 1371 "shall compromise or deprioritize safety as a top consideration."

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