

Sec. 11. Minnesota Statutes 1986, section 626.557, subdivision 9, is amended to read:

Subd. 9. **MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER.** A person required to report under the provisions of subdivision 3 who has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect shall report that information to the appropriate medical examiner or coroner in addition to the local welfare agency, police department, or county sheriff for appropriate licensing agency or agencies. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff, the local welfare agency, and, if applicable, each licensing agency. A person or agency that receives a report under this subdivision concerning a vulnerable adult who was receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance from a mental health or mental retardation agency or facility as defined in section 2, shall also report the information and findings to the ombudsman for mental health and mental retardation.

Sec. 12. **INITIAL APPOINTMENTS.**

Notwithstanding section 8, the governor shall appoint the initial members of the ombudsman committee as follows:

- (1) five members to one-year terms;
- (2) five members to two-year terms; and
- (3) five members to three-year terms.

Sec. 13. **APPROPRIATIONS.**

\$39,000 is appropriated from the general fund to the ombudsman for mental health and mental retardation.

Approved June 2, 1987

CHAPTER 353—S.F.No. 90

An act relating to public safety; pipelines and underground facilities; requiring a routing permit to construct a new pipeline; creating the office of pipeline safety and providing for its powers and duties; authorizing rulemaking for purposes of delegation of federal authority; creating the pipeline safety advisory commission; regulating the operation of certain pipelines; requiring the adoption of pipeline setback ordinances; providing for notification of excavation in the area of underground facilities; providing for a pipeline inspection fee; providing penalties; appropriating money; amending Minnesota Statutes 1986, sections 116I.02, subdivisions 2 and 3; 117.48; 117.49; 216B.16, by adding a subdivision; 299F.56, by adding

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a subdivision; 299F.57; 299F.58; 299F.60; 299F.61; 299F.62; 299F.63; and 299F.64; proposing coding for new law in Minnesota Statutes, chapter 116I; proposing coding for new law as Minnesota Statutes, chapters 216C and 299J.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

PIPELINE ROUTING

Section 1. **[116I.015] ROUTING OF CERTAIN PIPELINES.**

Subdivision 1. DEFINITION. For purposes of this section and notwithstanding section 116I.01, subdivision 3, "pipeline" means:

(1) pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity, and pipe designed to transport or store a hazardous liquid within a refining, storage, or manufacturing facility; or

(2) pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas.

Subd. 2. PROHIBITION. A person may not construct a pipeline without a pipeline routing permit issued by the environmental quality board unless the pipeline is exempted from the board's routing authority under this section or rules adopted under this section. A pipeline requiring a permit may only be constructed on a route designated by the board.

Subd. 3. RULES. (a) The environmental quality board shall adopt rules governing the routing of pipelines. The rules apply only to the route of pipelines and may not set safety standards for the construction of pipelines.

(b) The rules must:

(1) require that a person proposing construction of a pipeline submit to the board one preferred route for the pipeline and evidence of consideration of alternatives;

(2) provide for notice of proposed pipeline routes to local units of government and to owners and lessees of property along the routes being considered;

(3) provide for public hearings on proposed pipeline routes;

(4) provide criteria that the board will use in determining pipeline routes, which must include the existence of populated areas, consideration of local government land use laws including ordinances adopted under section 26, and the impact of the proposed pipeline on the natural environment;

(5) provide a procedure that the board will follow in issuing pipeline routing permits and require the board to issue the permits within nine months after the permit application is received by the board, unless the board extends this deadline for cause;

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(6) provide for the payment of fees by persons proposing to construct pipelines to cover the costs of the board in implementing this section;

(7) allow the board to provide exemptions from all or part of the pipeline routing permit application process in emergencies or if the board determines that the proposed pipeline will not have a significant impact on humans or the environment;

(8) require exemption determinations to be made within 90 days after an application; and

(9) require that a person who has constructed a pipeline, to the extent possible, restore the area affected by the pipeline to the natural conditions that existed immediately before construction of the pipeline, provided that this restoration is compatible with the safe operation, maintenance, and inspection of the pipeline.

(c) The rules do not apply to temporary use of a route for purposes other than installation of a pipeline, to securing survey or geological data, to repair or replacement of an existing pipeline within the existing right-of-way, or to minor relocation of less than three-quarters of a mile of an existing pipeline. The rules do not apply to construction of new pipeline in a right-of-way in which pipeline has been constructed before the effective date of subdivision 2 or in a right-of-way that has been approved by the board after the effective date of subdivision 2, except when the board determines that there is a significant chance of an adverse effect on the environment or that there has been a significant change in land use or population density in or near the right-of-way since the first construction of pipeline in the right-of-way, or since the board first approved the right-of-way.

Subd. 4. PRIMARY RESPONSIBILITY AND REGULATION OF ROUTE DESIGNATION. The issuance of a pipeline routing permit under this section and subsequent purchase and use of the route locations is the only site approval required to be obtained by the person owning or constructing the pipeline. The pipeline routing permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local, and special purpose governments.

Sec. 2. Minnesota Statutes 1986, section 116I.02, subdivision 2, is amended to read:

Subd. 2. Any person proposing to construct or operate a pipeline for which a pipeline routing permit is not required under section 1, shall so notify the environmental quality board and the county board of each county through which the pipeline will be constructed. The notice shall include a description of the route on which the pipeline is proposed to be located, the size and type of pipeline to be constructed, the types of commodities to be carried and the construction and operational characteristics of the pipeline. The proposed route shall be described in sufficient detail so that the owners or lessees of property on

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which the route is located can be identified. Notice to the environmental quality board shall be accompanied by a fee of \$25,000 for preparation of an information book as provided in section 116I.03 and for expenses incurred by state agencies to participate in public meetings as provided in section 116I.04. All fees received are appropriated to the environmental quality board for its own use and for distribution to state agencies for these purposes. The environmental quality board shall refund any amount that exceeds the actual cost to the board of preparing the information book, including necessary revisions, and to state agencies for participating in the public meetings.

If the pipeline route described in the notice is changed to the extent that, in any county, 20 percent or more of the owners or lessees of property on which the new route is located were not owners or lessees of property on which the other route was located, the person proposing to construct and operate the pipeline shall notify the environmental quality board and the county board of that county of the change in the proposed route. No additional fee shall be required for a notice of change of a proposed route.

Sec. 3. Minnesota Statutes 1986, section 116I.02, subdivision 3, is amended to read:

Subd. 3. ~~No (a) If a pipeline routing permit is not required for construction of a pipeline under section 1, a person shall~~ may not negotiate or acquire an easement or right-of-way agreement for the purpose of constructing and operating a pipeline until 30 days after:

(a) (1) a public meeting has been held as provided in section 116I.04 in the county in which the right-of-way in question is located; and

(b) (2) that person has provided to the owner or lessee from whom the easement or agreement is acquired a copy of the information book prepared pursuant to section 116I.03.

(b) If the original information book is revised pursuant to section 116I.03, each owner or lessee of property which the original route did not affect shall be provided with a copy of the revised book.

Sec. 4. Minnesota Statutes 1986, section 117.48, is amended to read:

117.48 CRUDE OIL PIPELINE COMPANIES, EMINENT DOMAIN.

The business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is declared to be in the public interest and necessary to the public welfare, and the taking of private property therefor is declared to be for a public use and purpose. Any corporation or association qualified to do business in the state of Minnesota engaged in or preparing to engage in the business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is

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authorized to acquire, for the purpose of such business, easements or rights of way, over, through, under or across any lands, not owned by the state or devoted to a public purpose for the construction, erection, laying, maintaining, operating, altering, repairing, renewing and removing in whole or in part, a pipeline for the transportation of crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas. To such end it shall have and enjoy the right of eminent domain to be exercised in accordance with this chapter, and acts amendatory thereof, all of which provisions shall govern insofar as they may be applicable hereto. Nothing herein shall be construed as authorizing the taking of any property owned by the state, or any municipal subdivision thereof, or the acquisition of any rights in public waters except after permit, lease, license or authorization issued pursuant to law.

Sec. 5. Minnesota Statutes 1986, section 117.49, is amended to read:

117.49 APPROVAL OF PROCEEDINGS BY COMMISSIONER OF NATURAL RESOURCES.

In the event that the right to exercise the power of eminent domain in accordance with this chapter, is granted by law to any person, corporation or association qualified to do business in the state of Minnesota engaged in or preparing to engage in the business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, the right shall not be exercised by such person, corporation, or association until the plans of the project for which the exercise of the power of eminent domain is proposed shall have first been submitted to and approved by the commissioner of natural resources. The plans shall be submitted in sufficient detail so that the commissioner can make a determination as to the impact that the proposed project will have on the environment. The commissioner of natural resources shall make a comprehensive review of such plans and make detailed comments on the effect that such project, if pursued, would have on the environment, including recommendations for changes or alterations, if any, that would be required before such project would be approved by the commissioner. Failure of the commissioner to approve or disapprove the plans so submitted within 90 days after submission shall be deemed approval of the plans and the power of eminent domain may thereupon be exercised for such project. This section does not apply to use of eminent domain in regard to a pipeline for which a routing permit is required by section 1.

Sec. 6. Minnesota Statutes 1986, section 216B.16, is amended by adding a subdivision to read:

Subd. 11. PIPELINE SAFETY PROGRAMS. All costs of a public utility that are necessary to comply with state pipeline safety programs under sections 7 to 13, sections 299F.56 to 299F.64, or sections 22 to 38 must be recognized and included by the commission in the determination of just and reasonable rates as if the costs were directly incurred by the utility in furnishing utility service.

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ONE CALL EXCAVATION NOTICE SYSTEM

Sec. 7. [216D.01] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 7 to 13.

Subd. 2. DAMAGE. "Damage" means:

(1) the substantial weakening of structural or lateral support of an underground facility;

(2) penetration, impairment, or destruction of any underground protective coating, housing, or other protective device; or

(3) impact with or the partial or complete severance of an underground facility to the extent that the facility operator determines that repairs are required.

Subd. 3. EMERGENCY. "Emergency" means a condition that poses a clear and immediate danger to life or health, or a significant loss of property.

Subd. 4. EMERGENCY RESPONDER. "Emergency responder" means a fire department or company, a law enforcement official or office, an ambulance or other emergency rescue service, or the division of emergency services created by section 12.04, subdivision 1.

Subd. 5. EXCAVATION. "Excavation" means an activity that moves, removes, or otherwise disturbs the soil at a depth of 18 inches or greater by use of a motor, engine, hydraulic or pneumatically-powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

(1) the repair or installation of agricultural drainage tile for which notice has been given as provided by section 116I.07, subdivision 2;

(2) the extraction of minerals;

(3) the opening of a grave in a cemetery;

(4) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch; or

(5) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, landscaping, or gardening, unless any of these activities disturbs the soil to a depth of 18 inches or more.

Subd. 6. EXCAVATOR. "Excavator" means a person who conducts excavation in the state.

Subd. 7. LOCAL GOVERNMENTAL UNIT. "Local governmental unit" means a county, town, or statutory or home rule charter city.

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Subd. 8. NOTIFICATION CENTER. "Notification center" means a center that receives notice from excavators of planned excavation and transmits this notice to participating operators.

Subd. 9. OPERATOR. "Operator" means a person who owns or operates an underground facility. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property.

Subd. 10. PERSON. "Person" means the state, a public agency, an individual, corporation, partnership, association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any of them.

Subd. 11. UNDERGROUND FACILITY. "Underground facility" means an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water including storm water, steam, sewage, and other similar substances.

Sec. 8. [216D.02] NOTICE TO EXCAVATORS AND UNDERGROUND FACILITY OPERATORS.

Subdivision 1. DISPLAY AND DISTRIBUTION. Local governmental units that issue permits for an activity involving excavation must continuously display an excavator's and operator's notice at the location where permits are applied for and obtained. An excavator and operator's notice and a copy of sections 9 to 13 must be furnished to each person obtaining a permit for excavation.

Subd. 2. FORM. The notification center shall prescribe an excavator and operator's notice. The notice must inform excavators and operators of their obligations to comply with sections 9 to 13. The center shall furnish to local governmental units:

(1) a copy of the notice and sections 9 to 13 in a form suitable for photocopying;

(2) a copy of the display and distribution requirements under subdivision 1; and

(3) the telephone number and mailing address of the notification center.

Sec. 9. [216D.03] NOTIFICATION CENTER.

Subdivision 1. PARTICIPATION. An operator shall participate in and share in the costs of one statewide notification center operated by a vendor selected under subdivision 2.

Subd. 2. ESTABLISHMENT OF NOTIFICATION CENTER. (a) The notification center services must be provided by a nonprofit corporation approved

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in writing by the commissioner. A group or nonprofit corporation that intends to seek approval under this paragraph shall notify the commissioner by September 1, 1987, of the date, time, and location of its first meeting. The commissioner shall provide advance notice of the first organizational meeting by publication in qualified legal newspapers and in appropriate trade journals, and by written notice to all appropriate trade associations.

The nonprofit corporation must be governed by a board of directors of up to 20 members, one of whom is the director of the office of pipeline safety. The other board members must represent and be elected by operators, excavators, and other persons eligible to participate in the center. By November 1, 1987, the board shall, with input from all interested parties, determine the operating procedures and technology needed for a single statewide notification center and establish a notification process and competitive bidding procedure to select a vendor to provide the notification service. In deciding to approve a nonprofit corporation, the commissioner shall consider whether it meets the requirements of this paragraph and whether it demonstrates that it has the ability to contract for and implement the notification center service.

(b) If the commissioner has not approved a nonprofit corporation under paragraph (a) by January 1, 1988, the commissioner shall follow the procedure in this paragraph. The commissioner shall prepare a preliminary draft of operating procedures and technology needed for a statewide notification center and the method for assessing the cost of the service among operators. After holding at least one public hearing on the preliminary draft following notice given in the manner required by paragraph (a), the commissioner shall adopt final operating procedures, technology, and assessment methods. The preliminary draft, public hearings, and final adoption are not subject to chapter 14. By June 1, 1988, the commissioner shall select a vendor to provide the notification center service. The commissioner shall advertise for bids as provided in section 16B.07, subdivision 3, and base the selection of a vendor on an identification of the lowest responsible bidder as provided in section 16B.09, subdivision 1. The commissioner shall select and contract with the vendor to provide the notification center service, but all costs of the center must be paid by the operators. The commissioner may at any time appoint a task force to advise on the renewal of the contract or any other matter involving the center's operations.

(c) The notification center must be in operation by October 1, 1988. An operator may submit a bid and be selected to contract to provide the notification center service under paragraph (a) or (b). The commissioner shall annually review the services provided by the nonprofit corporation approved under paragraph (a) or the vendor selected under paragraph (b).

Subd. 3. COOPERATION WITH LOCAL GOVERNMENT. In establishing operating procedures and technology for the statewide notification center, the board of directors or the commissioner must work in cooperation with the league of Minnesota cities, the association of Minnesota counties, and the township officers' association. The purpose of this cooperation is to maximize the

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participation of local governmental units that issue permits for activities involving excavation to assure that excavators receive notice of and comply with the requirements of sections 7 to 13.

Subd. 4. NOTICE TO LOCAL GOVERNMENTAL UNITS. The notification center shall provide local governmental units with a master list, by county, of the operators in the county who are participants in the notification center, and the telephone number and mailing address of the notification center.

Sec. 10. [216D.04] EXCAVATION.

Subdivision 1. NOTICE OF EXCAVATION REQUIRED; CONTENTS.

(a) Except in an emergency, an excavator shall contact the notification center and provide an excavation notice at least 48 hours before beginning any excavation, excluding Saturdays, Sundays, and holidays. An excavation begins, for purposes of this requirement, the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

(b) The excavation notice may be oral or written, and must contain the following information:

- (1) the name of the individual providing the excavation notice;
- (2) the precise location of the proposed area of excavation;
- (3) the name, address, and telephone number of the excavator or excavator's company;
- (4) the excavator's field telephone number, if one is available;
- (5) the type and the extent of the proposed excavation work;
- (6) whether or not the discharge of explosives is anticipated; and
- (7) the date and time when excavation is to commence.

Subd. 2. DUTIES OF NOTIFICATION CENTER. The notification center shall assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years. The center shall immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.

Subd. 3. LOCATING UNDERGROUND FACILITIES. (a) An operator shall, within 48 hours after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the excavator. The excavator shall determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility.

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(b) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities.

(c) Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American Public Works Association.

(d) If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator. If the excavator postpones the excavation commencement time stated in the excavation notice by more than 48 hours, or cancels the excavation, the excavator shall notify the notification center.

Sec. 11. [216D.05] PRECAUTIONS TO AVOID DAMAGE.

An excavator shall:

(1) plan the excavation to avoid damage to and minimize interference with underground facilities in and near the construction area;

(2) maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility;

(3) provide support for underground facilities in and near the construction area, including during backfill operations, to protect the facilities; and

(4) conduct the excavation in a careful and prudent manner.

Sec. 12. [216D.06] DAMAGE TO FACILITIES.

Subdivision 1. NOTICE; REPAIRS. (a) If any damage occurs to an underground facility or its protective covering, the excavator shall notify the operator as soon as reasonably possible. When the operator receives a damage notice, the operator shall promptly dispatch personnel to the damage area to investigate. If the damage endangers life, health, or property, the excavator responsible for the work shall take immediate action to protect the public and property and to minimize the hazard until arrival of the operator's personnel or until emergency responders have arrived and taken charge of the damaged area.

(b) An excavator shall delay backfilling in the immediate area of the damaged underground facilities until the damage has been investigated by the operator, unless the operator authorizes otherwise. The repair of damage must be performed by the operator or by qualified personnel authorized by the operator.

(c) An excavator who knowingly damages an underground facility, and who does not notify the operator as soon as reasonably possible or who backfills in violation of paragraph (b), is guilty of a misdemeanor.

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Subd. 2. COST REIMBURSEMENT. (a) If an excavator damages an underground facility, the excavator shall reimburse the operator for the cost of necessary repairs, and for a pipeline the cost of the product that was being carried in the pipeline and was lost as a direct result of the damage.

(b) Reimbursement is not required if the damage to the underground facility was caused by the sole negligence of the operator or the operator failed to comply with section 10, subdivision 3.

Subd. 3. PRIMA FACIE EVIDENCE OF NEGLIGENCE. It is prima facie evidence of the excavator's negligence in a civil court action if damage to the underground facilities of an operator resulted from excavation, and the excavator failed to give an excavation notice under section 10 or provide support as required by section 11.

Sec. 13. [216D.07] EFFECT ON LOCAL ORDINANCES.

(a) Sections 7 to 13 do not affect or impair local ordinances, charters, or other provisions of law requiring permits to be obtained before excavating.

(b) A person with a permit for excavation from the state or a public agency is subject to sections 7 to 13. The state or public agency that issued a permit for excavation is not liable for the actions of an excavator who fails to comply with sections 7 to 13.

INTRASTATE GAS PIPELINE SAFETY

Sec. 14. Minnesota Statutes 1986, section 299F.56, is amended by adding a subdivision to read:

Subd. 7. "Commissioner" means the commissioner of public safety, acting through the director of pipeline safety.

Sec. 15. Minnesota Statutes 1986, section 299F.57, is amended to read:

299F.57 MINIMUM SAFETY STANDARDS.

Subdivision 1. The ~~state fire marshal~~ commissioner shall, by order, establish minimum safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Such safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the ~~state fire marshal~~ commissioner shall consider:

- (a) relevant available pipeline safety data;
- (b) whether such standards are appropriate for the particular type of pipeline transportation;

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- (c) the reasonableness of any proposed standards;
 - (d) the extent to which any such standards will contribute to public safety;
- and
- (e) the existing standards established by the Secretary of Transportation of the United States pursuant to the Natural Gas Pipeline Safety Act of 1968 of the United States.

Provided, however, that the ~~state fire marshal~~ commissioner shall not be empowered to adopt any such standards as to the transportation of gas or to pipeline facilities which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States, except as provided in sections 22 to 38.

Subd. 2. Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the ~~state fire marshal~~ commissioner, for good cause recited, determines an earlier or later effective date is required as the result of the period reasonably necessary for compliance.

Subd. 3. The rulemaking, contested case and judicial review provisions of chapter 14, shall apply to all orders establishing, amending, revoking, or waiving compliance with, any standard established under sections 299F.56 to 299F.64 or any penalty imposed under sections 299F.56 to 299F.64. The ~~state fire marshal~~ commissioner shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views or arguments, with opportunity to present oral testimony and argument.

Subd. 4. The ~~state fire marshal~~ commissioner, on finding a particular facility to be hazardous to life or property, shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards.

Subd. 5. Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the ~~state fire marshal~~ commissioner may, after notice and opportunity for hearing and under such terms and conditions and to such extent as the ~~state fire marshal~~ commissioner deems appropriate, waive in whole or in part compliance with any standards established under sections 299F.56 to 299F.64, on determining that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The ~~state fire marshal~~ commissioner shall state the reasons for any such waiver.

Sec. 16. Minnesota Statutes 1986, section 299F.58, is amended to read:

299F.58 CERTIFICATIONS AND REPORTS.

The ~~state fire marshal~~ commissioner is authorized to make such certifications and reports to the United States Secretary of Transportation as may be

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required from time to time under the Natural Gas Pipeline Safety Act of 1968 of the United States.

Sec. 17. Minnesota Statutes 1986, section 299F.60, is amended to read:

299F.60 CIVIL PENALTIES.

Subdivision 1. Any person who violates any provision of sections 299F.56 to 299F.64, or any rule issued thereunder, shall be subject to a civil penalty to be imposed by the ~~state fire marshal~~ commissioner not to exceed ~~\$1,000~~ \$10,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

Subd. 2. The ~~state fire marshal~~ commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of such penalty, or the amount of the compromise settlement, the ~~state fire marshal~~ commissioner shall consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The contested case and judicial review provisions of chapter 14 shall apply to all orders of the ~~state fire marshal~~ commissioner imposing any penalty under sections 299F.56 to 299F.64 or under any rule promulgated thereunder. The amount of such penalty, when finally determined, may be deducted from any sums owing by the state of Minnesota to the person charged.

Subd. 3. No person shall be subjected to civil penalties under both sections 299F.56 to 299F.64 and under Public Law Number 90-481, Statutes at Large, volume 82, page 720, 90th Congress, S. 1166, approved August 12, 1968, for conduct which may give rise to a violation of both acts.

Subd. 4. All penalties collected under sections 299F.56 to 299F.64 shall be paid over to the state treasurer for deposit in the state treasury to the credit of the ~~general fund~~ pipeline safety account.

Sec. 18. Minnesota Statutes 1986, section 299F.61, is amended to read:

299F.61 INJUNCTIVE RELIEF.

Subdivision 1. The district courts of the state of Minnesota shall have jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the state of Minnesota relative to civil actions in the district courts, to restrain violations of sections 299F.56 to 299F.64, including the restraint of transportation of gas or the operation of a pipeline facility, or to enforce standards established hereunder upon petition by the attorney general on behalf of the state of Minnesota. Whenever practicable, the ~~state fire marshal~~ commissioner shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present views, and, except in the case of a knowing and willful violation, shall afford the person

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reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

Subd. 2. Actions under sections 299F.56 to 299F.64 shall be brought in the district in the state of Minnesota wherein the defendant's principal place of business is located, and process in such cases may be served in any other district in the state of Minnesota where the defendant may be found or of which the defendant is an inhabitant or transacts business.

Sec. 19. Minnesota Statutes 1986, section 299F.62, is amended to read:

299F.62 PLAN FOR INSPECTION AND MAINTENANCE.

Each person who engages in the transportation of gas or who owns or operates pipeline facilities subject to sections 299F.56 to 299F.64 shall file with the ~~state fire marshal~~ commissioner a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the rules prescribed by the ~~state fire marshal~~ commissioner. On finding that such plan is inadequate to achieve safe operation, the ~~state fire marshal~~ commissioner shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the ~~state fire marshal~~ commissioner shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the ~~state fire marshal~~ commissioner shall consider the following:

- (a) relevant available pipeline safety data;
- (b) whether the plan is appropriate for the particular type of pipeline transportation;
- (c) the reasonableness of the plan; and
- (d) the extent to which such plan will contribute to public safety.

Sec. 20. Minnesota Statutes 1986, section 299F.63, is amended to read:

299F.63 RECORDS AND REPORTS; INSPECTIONS; TRADE SECRETS.

Subdivision 1. Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the ~~state fire marshal~~ commissioner may reasonably require to determine whether such person has acted or is acting in compliance with sections 299F.56 to 299F.64 and the standards established under sections 299F.56 to 299F.64. Each such person shall, upon request of an officer, employee, or agent authorized by the ~~state fire marshal~~ commissioner, permit such officer, employee, or agent to inspect books, papers, records and documents relevant to determining whether such person has acted or is acting in compliance with sections 299F.56 to 299F.64 and the standards established pursuant to sections 299F.56 to 299F.64. For purposes of

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enforcement of sections 299F.56 to 299F.64, officers, employees, or agents authorized by the ~~state fire marshal~~ commissioner, upon presenting appropriate credentials to the individual in charge, are authorized to enter upon, at reasonable times, pipeline facilities, and to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

Subd. 2. In the course of the exercise of duties and responsibilities under sections 299F.56 to 299F.64, the ~~state fire marshal~~ commissioner shall wherever practicable employ a practice of spot checking and issuance of certificates of compliance, with respect to persons subject to sections 299F.56 to 299F.64, to limit costs of enforcement of the safety standards established pursuant to sections 299F.56 to 299F.64.

Subd. 3. All information reported to or otherwise obtained by the ~~state fire marshal~~ commissioner or a representative, which contains or relates to a trade secret, as referred to in section 1905 of title 18 of the United States Code, or otherwise constitutes a trade secret under law, shall be considered confidential for the purpose of such laws, ~~except that such information and is private or nonpublic data as defined in section 13.02.~~ This data may be disclosed to other officers or employees concerned with carrying out sections 299F.56 to 299F.64 or when relevant in any proceeding under sections 299F.56 to 299F.64.

Subd. 4. **COST OF INSPECTION AND REVIEW.** The ~~state fire marshal~~ commissioner shall establish, by rule under section 16A.128, a fee to recover the state share of all costs related to field inspections, investigations of pipeline facilities, plan review, and other duties as provided by sections 299F.56 to 299F.63. Fees collected under this subdivision shall be credited to the ~~general fund~~ pipeline safety account.

Sec. 21. Minnesota Statutes 1986, section 299F.64, is amended to read:

299F.64 **FEDERAL MONEYS.**

The ~~state fire marshal~~ commissioner may accept any and all moneys provided for or made available to this state by the United States of America or any department or agency thereof with respect to prescribing, setting, and enforcing rules and safety standards for the transportation of natural and other gas by pipelines in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and the ~~state fire marshal~~ commissioner is further authorized to do any and all things, not contrary to the laws of this state, required of this state by such federal law and the rules and regulations promulgated thereunder in order to obtain such federal moneys.

OFFICE OF PIPELINE SAFETY

Sec. 22. [299J.01] **AUTHORITY OF OFFICE OF PIPELINE SAFETY.**

The commissioner of public safety shall, to the extent authorized by agreement with the United States Secretary of Transportation, act as agent for the United States Secretary of Transportation to implement the federal Hazardous

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Liquid Pipeline Safety Act, United States Code, title 49, sections 2001 to 2014, the federal Natural Gas Pipeline Safety Act, United States Code, title 49, sections 1671 to 1686, and federal pipeline safety regulations with respect to interstate pipelines located within this state, as necessary to obtain annual federal certification. The commissioner shall, to the extent authorized by federal law, regulate pipelines in the state as authorized by sections 22 to 38, and sections 299F.56 to 299F.64.

Sec. 23. [299J.02] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 22 to 38.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of public safety.

Subd. 3. DIRECTOR. "Director" means the director of the office of pipeline safety.

Subd. 4. EMERGENCY. "Emergency" means a condition that poses a clear and immediate danger to life or health or that threatens a significant loss of property.

Subd. 5. EMERGENCY RELEASE. "Emergency release" means a release that poses a clear and immediate danger to life or health or that threatens a significant loss of property.

Subd. 6. EMERGENCY RESPONDER. "Emergency responder" means a fire department or company, a law enforcement official or office, an ambulance or other emergency rescue service, or the division of emergency services created by section 12.04, subdivision 1.

Subd. 7. GAS. "Gas" has the meaning given it in Code of Federal Regulations, title 49, section 192.3.

Subd. 8. HAZARDOUS LIQUID. "Hazardous liquid" means "hazardous liquid" and "highly volatile liquid" as defined in Code of Federal Regulations, title 49, section 195.2.

Subd. 9. LOCAL GOVERNMENTAL UNIT. "Local governmental unit" means a county, town, or statutory or home rule charter city.

Subd. 10. PERSON. "Person" means an individual, corporation, partnership, association, or other business entity or a trustee, receiver, assignee, or personal representative of any of them.

Subd. 11. PIPELINE. "Pipeline" means:

(1) pipe with a nominal diameter of six inches or more, located in the state, that is used to transport hazardous liquids, but does not include pipe used to transport a hazardous liquid by gravity, and pipe used to transport or store a hazardous liquid within a refining, storage, or manufacturing facility; or

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(2) pipe operated at a pressure of more than 275 pounds per square inch that carries gas.

Subd. 12. PIPELINE OPERATOR. "Pipeline operator" means a person who owns or operates a pipeline.

Subd. 13. RELEASE. "Release" means a spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, disposing, flowing, or any other uncontrolled escape of a hazardous liquid or gas from a pipeline.

Sec. 24. [299J.03] OFFICE OF PIPELINE SAFETY.

Subdivision 1. ESTABLISHMENT. The office of pipeline safety is under the control of a director appointed by the commissioner and serving at the commissioner's pleasure in the unclassified service. The commissioner shall employ in the office of pipeline safety inspectors and other professional and clerical staff who serve in the classified service.

Subd. 2. QUALIFICATIONS. (a) The director of the office must be knowledgeable in the operation and safety aspects of pipelines.

(b) Inspectors must have scientific or technical training or experience that demonstrates in-depth knowledge of pipeline engineering technology and pipeline safety.

(c) Inspectors shall complete courses at the transportation safety institute and be certified by the institute as soon as possible following appointment.

Sec. 25. [299J.04] DUTIES OF THE OFFICE OF PIPELINE SAFETY.

Subdivision 1. GENERAL DUTIES. The commissioner shall:

(1) promote the use of the 911 emergency telephone system as an appropriate method for the public to notify emergency responders of an emergency release;

(2) provide training on a regular basis to all potentially affected local governmental units in pipeline incident contingency planning and emergency response by itself or in cooperation with pipeline operators, other state offices, or local governmental units;

(3) require local governmental units to work with pipeline owners to provide a program of continuing public education on the subject of pipeline operation and safety;

(4) monitor and gather information on the development of reliable pipeline technologies capable of detecting and geographically locating pipeline releases, use the information gathered in the development of rules as provided in this section, and report to the legislature every two years in the manner provided by section 3.195 on the activities of the office under this clause;

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(5) maintain a data base of all pipeline releases, which must be based on annual reports from all pipeline operators;

(6) inspect, as necessary, any record, map, or written procedure required by sections 22 to 38 to be kept by a pipeline operator concerning the reporting of releases, and the design, construction, testing, or operation and maintenance of pipelines; and

(7) adopt rules to implement sections 22 to 38.

The rules adopted under clause (7) must treat separately and distinguish between hazardous liquid and gas pipelines.

Subd. 2. DELEGATED DUTIES. The commissioner shall seek and accept federal designation of the office's pipeline inspectors as federal agents for the purposes of enforcement of the federal Hazardous Liquid Pipeline Safety Act, United States Code, title 49, sections 2001 to 2014, the federal Natural Gas Pipeline Safety Act, United States Code, title 49, sections 1671 to 1686, and federal rules adopted to implement those acts. If the United States secretary of transportation delegates inspection authority to the state as provided in this subdivision, the commissioner shall do the following to carry out the delegated federal authority:

(1) inspect pipelines periodically at times determined by rules of the commissioner;

(2) collect inspection fees; and

(3) order and oversee the testing of pipelines as provided in rules adopted under this section.

Subd. 3. RULEMAKING CONTINGENT ON FEDERAL AUTHORITY.

(a) The commissioner shall consider adoption of rules on subjects in this subdivision if federal law authorizes the state regulation. The rules must treat separately and distinguish between hazardous liquid and gas pipelines.

(b) The commissioner shall consider higher safety margin requirements for operating pressures on pipelines located in populated or environmentally sensitive areas.

(c) The commissioner shall consider having pipeline operators periodically submit comprehensive reports to the office on the condition of their pipelines, and requiring appropriate pipeline testing based on concerns identified in these reports. The testing requirements must apply more strictly to pipelines in populated or environmentally sensitive areas.

(d) The commissioner shall consider methods for pipeline operators to improve their ability to rapidly locate and isolate releases. The methods must include:

(1) remote control shutoffvalves on all new pipelines, with the distance between the valves dependent on the type and density of development, the presence of environmentally sensitive areas, and the application of appropriate engineering standards;

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(2) remotely monitored pressure gauges and flow meters installed at each pump station and remote valve location;

(3) specific emergency response procedures and training requirements for shutting down pumps; and

(4) use of reliable technology for detecting and geographically locating releases, and for shutting appropriate valves as rapidly as possible.

(e) The commissioner shall consider standards for the manufacture of pipe used in pipelines, pipeline construction, and pipeline operation. Best available technology in pipe manufacture, pipeline construction, and pipeline reconstruction must be required and developed in consultation with the commissioner of labor and industry.

Subd. 4. RELATION TO OTHER LAW. Rules adopted to implement sections 22 to 38 must be consistent with sections 299F.56 to 299F.64 to the extent that the rules deal with pipelines governed by those sections.

Sec. 26. [299J.05] PIPELINE SETBACK ORDINANCE.

(a) The commissioner shall adopt a model ordinance under chapter 14 requiring a setback from pipelines in areas where residential or other development is allowed. The model ordinance must apply only to new development and not to development that has occurred, or for which development permits have been issued, before the effective date of the ordinance.

(b) By August 1, 1989, each statutory or home rule charter city, town, or county that has planning and zoning authority under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365, and in which a pipeline is located, shall adopt a pipeline setback ordinance that meets or exceeds the minimum standards of the model ordinance and is approved by the commissioner. The model ordinance applies in a jurisdiction where the local governmental unit does not adopt a setback ordinance that is approved by the commissioner by August 1, 1989.

Sec. 27. [299J.06] PIPELINE SAFETY ADVISORY COUNCIL.

Subdivision 1. MEMBERSHIP. The pipeline safety advisory council consists of nine members appointed by the commissioner. One member must be chosen from the hazardous liquid pipeline industry, one from the gas pipeline industry, and one from personnel who design or construct pipelines. Three members must be state or local government employees and three members must be state residents unaffiliated with state or local government or the pipeline or utility industries. The members serve on a part-time basis.

Subd. 2. POWERS AND DUTIES. The council shall advise the commissioner, director and other appropriate federal, state, and local government agencies and officials on matters relating to pipeline safety and operation. The council shall advise the environmental quality board on implementation of sections 1 to 3, and the director and commissioner on the implementation of sections 7 to 13, 299F.56 to 299F.64, and 22 to 38, and shall review and comment on proposed rules and on the operation of the office of pipeline safety.

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Subd. 3. ADMINISTRATIVE ASSISTANCE. The commissioner shall provide offices and administrative assistance necessary for the performance of the council's duties.

Subd. 4. TERMS; COMPENSATION; REMOVAL. The terms, compensation, and removal of members are governed by section 15.0575.

Sec. 28. [299J.07] PENALTIES FOR FAILING TO REPORT EMERGENCY RELEASE.

Subdivision 1. DUTY TO REPORT. A pipeline operator shall immediately report by telephone to the emergency response center established by the commissioner of public safety an emergency release from the operator's pipeline.

Subd. 2. CRIMINAL LIABILITY. (a) An employee of a pipeline operator who has responsibility to make the report under subdivision 1 is guilty of a felony if:

(1) the employee knows or has reason to know that an emergency release exists;

(2) the employee does not immediately report the release to the commissioner of public safety; and

(3) the emergency release causes the death of an individual or great bodily harm as defined in section 609.02, subdivision 8.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than seven years or payment of a fine of not more than \$14,000, or both.

Sec. 29. [299J.08] COMMISSIONER TO REPORT RELEASE; ADVICE AND COORDINATION.

Upon receiving notice of an emergency release, the commissioner or a designee shall immediately report the emergency release to the emergency responder of the appropriate local government unit, to the pollution control agency if the notice of the release is required by section 115.061, and to any other person or office, as provided by the rules or procedures of the office of pipeline safety. A pipeline operator's report of an emergency release to the commissioner satisfies the notification requirements of section 115.061. The commissioner shall advise the emergency responder concerning appropriate emergency procedures and coordinate the procedures.

Sec. 30. [299J.09] PIPELINE OPERATORS TO FILE INFORMATION AND GIVE NOTICE.

Subdivision 1. MAP REQUIRED. (a) The operator of every pipeline in operation shall file a detailed pipeline map in the scale required by the rules:

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(1) with the director and the commissioner of transportation, showing the location and approximate depth of the pipelines and appurtenances operated by that operator within the state; and

(2) with the recorder and with the director of emergency services or the sheriff of every county traversed by the pipeline, showing the location and approximate depth of the pipelines and appurtenances operated by that operator within the county.

(b) The maps required under paragraph (a) must be filed by the operator of a newly constructed pipeline before it is operational, and by the operator of a pipeline for which the route has been changed after the original filing of a map under this section. The maps required by this paragraph must be filed at least 30 days before a hazardous liquid or gas is first pumped into the pipeline.

Subd. 2. EMERGENCY RESPONSE PLAN. (a) At least 30 days before a hazardous liquid or gas is pumped into a pipeline, the pipeline operator shall file an emergency response plan with the director and with the director of emergency services or the sheriff of every county traversed by the pipeline. The emergency response plan must describe the operator's procedures for responding to and containing releases, including:

(1) an identification of specific actions that will be taken by the operator on discovery of a release;

(2) the operator's liaison procedure with emergency responders;

(3) the operator's means of communication with the responders; and

(4) the operator's means of preventing ignition of vapors resulting from a release.

(b) An operator must file significant changes made to an emergency response plan in the same manner as the original response plan within ten days of the effective date of the change.

Subd. 3. PROCEDURAL MANUAL. At least 30 days before a hazardous liquid or gas is pumped into a pipeline, the pipeline operator must file with the director its procedural manual as required under Code of Federal Regulations, title 49, part 192, subparts L and M, and part 195, subpart F, as may be required by rules of the commissioner.

Subd. 4. NOTICE OF TESTING AND TEST RESULTS. (a) At least 48 hours before conducting a hydrostatic test, whether or not the test is required by sections 22 to 38 or the rules of the commissioner, a pipeline operator shall give notice of the test to the director and the local governmental units traversed by the portion of pipeline to be tested. Advance notice is not required if the operator determines that an emergency exists requiring immediate testing of the pipeline. The notice must include:

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- (1) the name, address, and telephone numbers of the pipeline operator;
 - (2) the specific location of the pipeline or pipeline section to be tested, including a suitable map of the route of the pipeline, and the location of the test equipment;
 - (3) the date and time the test is to be conducted;
 - (4) the method by which the test will be accomplished and the type of test medium to be used; and
 - (5) the name and telephone number of any independent testing firm or other person responsible for certification of results.
- (b) Authorized representatives of the director and any affected local governmental unit may observe the test.
- (c) The results of a hydrostatic test conducted by the operator or by an independent testing company must be sent to the director and to every local governmental unit traversed by the tested portion of the pipeline within ten days of completion of the test. The test results must include:

- (1) the date of the test;
- (2) the specific location of the pipeline or pipeline section tested, including a suitable map of the route of the pipeline;
- (3) the results of the test; and
- (4) other information required by rule.

Subd. 5. NOTICE OF PRODUCT. (a) Within ten days after the effective date of this section or within ten days of beginning operation of the pipeline, whichever is later, a pipeline operator shall file information with the director and the sheriff of every county traversed by a pipeline of the types of products that will be carried in the pipeline. The operator shall include in its filing to sheriffs a material safety data sheet for each product that the operator expects to carry in the pipeline. The sheriff shall transmit copies of the material safety data sheets to the appropriate emergency responders.

(b) After filing the information required by paragraph (a), the pipeline operator shall file information in the same manner of any additional types of substances that will be carried in the pipeline at least three days before the change.

Sec. 31. [299J.10] LOCAL GOVERNMENT EMERGENCY RESPONSE PLAN.

(a) A local governmental unit having a pipeline within its jurisdiction shall prepare a pipeline release emergency response plan. The local governmental unit must consult with the pipeline owner or operator when preparing the plan. Preparation of the plan must be coordinated by the county traversed by the

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pipeline for the other local governmental units within that county. The commissioner shall prescribe rules for the content of the plan. The plan must be completed and adopted by local governmental units within six months after the effective date of the rules prescribing the contents of the plan.

(b) A local governmental unit shall review its plan annually and amend it to reflect changes in the operation of the local governmental unit, in the operation of the pipeline, or other matters relating to pipeline safety. The director may at any reasonable time examine a response plan required by this section.

Sec. 32. [299J.11] ADOPTION OF FEDERAL PIPELINE INSPECTION RULES.

To enable the state to qualify for annual federal certification to enforce the federal pipeline inspection program authorized by the Hazardous Liquid Pipeline Safety Act, United States Code, title 49, sections 2001 to 2014, the federal Natural Gas Pipeline Safety Act, United States Code, title 49, sections 1671 to 1686, and the rules implementing those acts, the federal pipeline inspection rules and safety standards are adopted.

Sec. 33. [299J.12] PIPELINE INSPECTION FEE.

Subdivision 1. ASSESSMENT AND DEPOSIT OF FEE. For each year following the delegation to the state of the inspection authority described in section 25, the commissioner shall assess and collect from every pipeline operator an inspection fee in an amount calculated under subdivision 2. If an operator does not pay the fee within 60 days after the assessment was mailed, the commissioner may impose a delinquency fee of ten percent of the annual inspection fee and interest at the rate of 15 percent per year on the portion of the annual fee not paid. Fees collected by the commissioner under this section must be deposited in the pipeline safety account.

Subd. 2. CALCULATION OF FEE. Fees for pipelines governed by section 299F.63, subdivision 4 must be established as provided in the rules adopted under that section. For other pipelines, for each calendar year that an inspection fee is to be assessed, the commissioner shall calculate the total number of miles of pipeline to be inspected, the total cost of inspection, and the percentage of the total miles to be inspected that are or will be operated by each pipeline operator. Each pipeline operator must be assessed a portion of the total inspection costs equal to the percentage of the total miles of pipeline to be operated by the pipeline operator, but the total fee may not exceed \$5 for each mile of the operator's pipeline.

Sec. 34. [299J.13] ACCESS TO INFORMATION; CLASSIFICATION OF DATA.

Subdivision 1. DUTY TO PROVIDE INFORMATION. A person who the director has reason to believe is responsible for an emergency release shall, when requested by the office or an authorized agent of the office, furnish to the director any information that the person may have or may reasonably obtain that is relevant to the emergency release.

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Subd. 2. ACCESS TO INFORMATION AND PROPERTY. The director or an authorized agent, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information under subdivision 1; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized by sections 22 to 38, including obtaining information from any person who has a duty to provide the information under subdivision 1 and conducting surveys or investigations.

Subd. 3. CLASSIFICATION OF DATA. Except as otherwise provided in this subdivision, data obtained from any person under subdivision 1 or 2 is public data as defined in section 13.02. Upon certification by the subject of the data that the data relates to sales figures, processes or methods of production unique to that person, or information that would tend to affect adversely the competitive position of that person, the director shall classify the data as private or nonpublic data as defined in section 13.02. Notwithstanding any other law to the contrary, data classified as private or nonpublic under this subdivision may be disclosed when relevant in any proceeding under sections 22 to 38, or to other public agencies concerned with the implementation of sections 22 to 38.

Subd. 4. RECOVERY OF EXPENSES. Reasonable and necessary expenses incurred by the director under this section, including administrative and legal expenses, may be recovered from a person who has been found liable under section 28, 36, or 37, or any other law relating to the operation of a pipeline, in a separate action brought by the attorney general or in connection with an action under section 37. The director's certification of expenses is prima facie evidence that the expenses are reasonable and necessary.

Sec. 35. [299J.14] LINE MARKERS REQUIRED; VANDALISM PROHIBITED; PENALTY.

Subdivision 1. LINE MARKERS REQUIRED. A pipeline operator shall place and maintain line markers over each pipeline as required by Code of Federal Regulations, title 49, parts 192.707 and 195.410.

Subd. 2. VANDALISM PROHIBITED; PENALTY. A person may not deface, mar, damage, remove, injure, displace, destroy, or tamper with any sign or line marker marking the location of a pipeline. A person violating this subdivision is guilty of a misdemeanor.

Sec. 36. [299J.15] DISPOSAL OF PIPELINE PROHIBITED; PENALTY; ENFORCEMENT.

Subdivision 1. DISPOSAL PROHIBITED. (a) After an emergency release has occurred, a pipeline operator, or its employee or agent, may not dispose of, destroy, or alter the part of a pipeline that was involved in the emergency release until approval is granted by the commissioner. The authority of the commissioner to grant approval may not be delegated.

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(b) This subdivision does not prevent the repair of a pipeline in the ground without the approval of the commissioner, or the excavation and removal from the ground of a pipeline or part of a pipeline without the approval of the commissioner. However, the pipeline may not be altered with the intent to prevent or hinder a determination of the cause of the emergency release.

Subd. 2. CRIMINAL PENALTY. A person who knowingly violates subdivision 1, or who denies the director or the director's designee access to the pipeline for the purposes of inspection, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 37. [299J.16] CIVIL PENALTY; INJUNCTIVE RELIEF.

Subdivision 1. CIVIL PENALTY. (a) A pipeline operator who violates section 28, subdivision 1, 30, or 36, or the rules of the commissioner implementing those sections, shall forfeit and pay to the state a civil penalty in an amount to be determined by the court as follows:

(1) for a violation of section 30, up to \$10,000 for each day that the operator remains in violation; and

(2) for a violation of section 28, subdivision 1, or 36, up to \$100,000 for each violation.

(b) The penalty provided under this subdivision may be recovered by an action brought by the attorney general in the name of the state in connection with an action to recover expenses of the director under section 34, subdivision 4, or by a separate action in the district court of Ramsey county or in the county of the defendant's residence.

Subd. 2. ACTION TO COMPEL PERFORMANCE; INJUNCTIVE RELIEF. A person who fails to perform an act required by section 30, 34, or 36, or the rules of the commissioner implementing those sections, may be compelled to do so by an action in district court brought by the attorney general in the name of the state.

Sec. 38. [299J.17] OTHER REMEDIES PRESERVED.

Sections 22 to 38 do not abolish or diminish the right of a person to bring a legal action or use a remedy available under any other provision of state or federal law, including common law, to recover for personal injury, disease, economic loss, or other costs arising out of a release.

Sec. 39. [299J.18] PIPELINE SAFETY ACCOUNT.

The pipeline safety account is established as an account in the state treasury. All fees and penalties collected under sections 22 to 38 shall be deposited in the state treasury and credited to the pipeline safety account.

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Money received by the office in the form of gifts, grants, reimbursements, or appropriations from any source shall be credited to the pipeline safety account.

Sec. 40. TRAINING FOR PIPELINE INSPECTORS.

Persons holding positions as inspectors with the state fire marshal on January 1, 1987, may be transferred or appointed to positions as inspectors with the office of pipeline safety without complying with the training requirements of section 24, subdivision 2, paragraph (b).

Sec. 41. APPROPRIATION.

\$418,300 is appropriated from the general fund to the agencies indicated in this section for the purposes of this act, to be available for the fiscal year ending June 30 in the years indicated.

	1988	1989
(a) <u>State planning director</u>	\$ 73,000	-0-
<u>Any unencumbered balance remaining in the first year does not cancel and is available for the second year.</u>		
(b) <u>Commissioner of public safety</u>	\$184,400	\$160,900
<u>The approved complement of the department of public safety is increased by three positions.</u>		

Sec. 42. EFFECTIVE DATE.

Sections 1, subdivisions 1 and 3; 4; 7; 9, subdivision 2; and 27 are effective the day following final enactment. Sections 1, subdivisions 2 and 4; 2; and 3 are effective July 1, 1988. Sections 8; 9, subdivisions 1 and 3; 10; 11; 12; and 13 are effective October 1, 1988, and section 12, subdivision 1, paragraph (c) applies to crimes committed on or after that date. Sections 28, 35, and 36 are effective August 1, 1987, and apply to crimes committed on or after that date.

Approved June 2, 1987

CHAPTER 354—S.F.No. 377

An act relating to state government; regulating the state council for the handicapped; extending the time for appeals by the council from state building code decisions affecting the interests of handicapped persons; changing the name of the council; amending the duties and responsibilities of the council; authorizing the council to initiate or intervene in proceedings affecting handicapped persons; providing reimbursement for certain child care expenses incurred in connection with service on state boards, councils, committees, and task forces; appropriating money; amending Minnesota Statutes 1986, sections 15.0575, subdivision 3; 15.059, subdivisions 3 and 6; 16B.67; 214.09, subdivision 3; and 256.482.

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