

Sec. 15. Minnesota Statutes 1986, section 253B.16, subdivision 1, is amended to read:

Subdivision 1. **DATE.** The head of a treatment facility shall discharge any patient admitted as mentally ill; ~~mentally retarded~~ or chemically dependent when certified by the head of the facility to be no longer in need of institutional care and treatment or at the conclusion of any period of time specified in the commitment order, whichever occurs first. The head of a treatment facility shall discharge any person admitted as mentally retarded when that person's screening team has determined, under section 256B.092, subdivision 8, that the person's needs can be met by services provided in the community and a plan has been developed in consultation with the interdisciplinary team to place the person in the available community services.

Sec. 16. **APPROPRIATION.**

\$60,000 is appropriated from the general fund to the commissioner of human services for the purposes of this act.

Sec. 17. **REPEALER.**

Minnesota Statutes 1986, section 253B.09, subdivision 4, is repealed.

Sec. 18. **EFFECTIVE DATE.**

This act is effective January 1, 1989.

Approved April 24, 1988

CHAPTER 624—S.F.No. 2111

An act relating to public utilities; pipeline safety; authorizing the office of pipeline safety to inspect and regulate intrastate pipeline facilities carrying liquefied natural gas, liquefied petroleum gas, and hazardous liquids; adopting federal safety regulations; removing the depth limitation for the one call excavation notice system; providing for the calculation of pipeline inspection fees; appropriating money; amending Minnesota Statutes 1986, sections 299F.56, subdivisions 1, 2, 4, 6, and by adding subdivisions; and 299F.59; Minnesota Statutes 1987 Supplement, sections 116I.015, subdivision 3; 216D.01, subdivision 5; 299F.57, subdivision 1, and by adding a subdivision; 299F.58; 299F.62; 299F.63, subdivision 1; 299F.64; and 299J.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 299F; repealing Minnesota Statutes 1987 Supplement, section 299F.63, subdivision 4.

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

Section 1. Minnesota Statutes 1987 Supplement, section 116I.015, subdivision 3, is amended to read:

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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, which may follow the board's procedures for public hearings on proposed power line routes and electrical generating plant sites;

(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 299J.05, 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;

(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 July 1, 1988, or in a right-of-way that has been

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approved by the board after July 1, 1988, 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.

Sec. 2. Minnesota Statutes 1987 Supplement, section 216D.01, subdivision 5, is amended to read:

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; or

(6) landscaping or gardening unless one of the activities disturbs the soil to a depth of 12 inches or more.

Sec. 3. Minnesota Statutes 1986, section 299F.56, subdivision 1, is amended to read:

Subdivision 1. As used in sections 299F.56 to 299F.64 and section 19, the terms defined in this section shall have the meanings given them.

Sec. 4. Minnesota Statutes 1986, section 299F.56, subdivision 2, is amended to read:

Subd. 2. "The ~~federal~~ Natural Gas Pipeline Safety Act ~~of 1968 of the United States~~" shall mean Public Law Number 90-481, Statutes at Large, volume 82, page 720, 90th Congress, S. 1166, approved August 12, 1968 means United States Code, title 49, sections 1671 to 1686.

Sec. 5. Minnesota Statutes 1986, section 299F.56, is amended by adding a subdivision to read:

Subd. 2a. "The federal Hazardous Liquid Pipeline Safety Act" means United States Code, title 49, sections 2001 to 2014.

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Sec. 6. Minnesota Statutes 1986, section 299F.56, subdivision 4, is amended to read:

Subd. 4. "Gas" means natural gas, liquefied natural gas, flammable gas, or gas which is toxic or corrosive; ~~except that, "Gas" shall not include also includes~~ liquefied petroleum gas in distribution systems.

Sec. 7. Minnesota Statutes 1986, section 299F.56, is amended by adding a subdivision to read:

Subd. 4a. "Hazardous liquid" means "hazardous liquid" and "highly volatile liquid" as defined in Code of Federal Regulations, title 49, section 195.2.

Sec. 8. Minnesota Statutes 1986, section 299F.56, is amended by adding a subdivision to read:

Subd. 4b. "Liquefied natural gas" means natural gas or synthetic gas having methane (CH₄) as its major constituent that has been changed to a liquid or semisolid.

Sec. 9. Minnesota Statutes 1986, section 299F.56, subdivision 6, is amended to read:

Subd. 6. "Gas pipeline facilities" includes, without limitation, new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation; ~~but "rights of way" as used in sections 299F.56 to 299F.64 does not authorize the state fire marshal to prescribe the location or routing of any pipeline facility.~~ "Pipeline facilities" shall not include any facilities subject to the jurisdiction of the Federal ~~Power~~ Energy Regulatory Commission under the Natural Gas Act of the United States.

Sec. 10. Minnesota Statutes 1986, section 299F.56, is amended by adding a subdivision to read:

Subd. 6a. "Hazardous liquid pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids.

Sec. 11. Minnesota Statutes 1987 Supplement, section 299F.57, subdivision 1, is amended to read:

299F.57 MINIMUM SAFETY STANDARDS; GAS PIPELINES.

Subdivision 1. The commissioner shall, by order, establish minimum safety standards for the transportation of gas and gas pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of gas pipeline facilities. The standards may not prescribe the location or routing of a pipeline facility.

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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 commissioner shall consider:

- (a) relevant available pipeline safety data;
- (b) whether such standards are appropriate for the particular type of pipeline transportation;
- (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 federal Natural Gas Pipeline Safety Act of 1968 of the United States.

Provided, however, that the 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~~ Energy Regulatory Commission under the Natural Gas Act of the United States, except as provided in sections 299J.01 to 299J.17.

Sec. 12. Minnesota Statutes 1987 Supplement, section 299F.57, is amended by adding a subdivision to read:

Subd. 1a. ADOPTION OF FEDERAL STANDARDS. The federal safety standards adopted as Code of Federal Regulations, title 49, parts 192 and 193, are adopted.

Sec. 13. Minnesota Statutes 1987 Supplement, section 299F.58, is amended to read:

299F.58 CERTIFICATIONS AND REPORTS.

The commissioner is authorized to make ~~such~~ certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Natural Gas Pipeline Safety Act of ~~1968~~ of the United States.

Sec. 14. Minnesota Statutes 1986, section 299F.59, is amended to read:

299F.59 COMPLIANCE WITH STANDARDS.

Subdivision 1. Each person who engages in the transportation of gas or hazardous liquids or who owns or operates gas or hazardous liquid pipeline facilities shall:

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(a) at all times after the date any applicable safety standard established under sections 299F.56 to 299F.64 and section 19 takes effect comply with the requirements of such standard;

(b) file and comply with a plan of inspection and maintenance required by sections 299F.56 to 299F.64 and section 19; and

(c) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required by sections 299F.56 to 299F.64 and section 19.

Subd. 2. Nothing in sections 299F.56 to 299F.64 and section 19 shall affect the common law or statutory tort liability of any person.

Sec. 15. Minnesota Statutes 1987 Supplement, section 299F.62, is amended to read:

**299F.62 PLAN FOR INSPECTION AND MAINTENANCE; GAS PIPE-
LINES.**

Each person who engages in the transportation of gas or who owns or operates gas pipeline facilities subject to sections 299F.56 to 299F.64 shall file with the 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 commissioner. On finding that such plan is inadequate to achieve safe operation, the commissioner shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the commissioner shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the 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. 16. Minnesota Statutes 1987 Supplement, section 299F.63, subdivision 1, is amended to read:

Subdivision 1. Each person who engages in the transportation of gas or who owns or operates gas pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the 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 commissioner, permit such officer,

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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 enforcement of sections 299F.56 to 299F.64, officers, employees, or agents authorized by the commissioner, upon presenting appropriate credentials to the individual in charge, are authorized to enter upon, at reasonable times, gas 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.

Sec. 17. **[299F.631] INSPECTION FEE.**

Subdivision 1. ASSESSMENT AND DEPOSIT OF FEE. From each pipeline operator subject to the intrastate pipeline inspection authority under sections 299F.56 to 299F.64 and section 19, the commissioner shall assess and collect an inspection fee in an amount calculated under subdivisions 2 and 4. The assessment of the inspection fee must be made no fewer than 30 days after the end of the quarter. 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 quarterly inspection fee and interest at the rate of 15 percent per year on the portion of the fee not paid. Fees collected under this section must be credited to the pipeline safety account.

Subd. 2. CALCULATION OF FEE. (a) For each quarter that an inspection fee is to be assessed, the commissioner shall calculate the total actual expenses and obligations incurred by the office of pipeline safety in implementing sections 299F.56 to 299F.64 and section 19. The calculation must not include:

- (1) expenses that will be reimbursed by the federal government;
- (2) expenses attributable to follow-up inspections necessitated by the failure of a pipeline facility to comply with safety standards;
- (3) expenses attributable to investigations of specific pipeline facilities;
- (4) expenses attributable to inspections of newly constructed pipelines over 2,000 feet in length;
- (5) expenses attributable to the inspection of facilities carrying liquefied natural gas, and hazardous liquids; and
- (6) expenses attributable to the inspection of facilities carrying liquefied petroleum gas, until the commissioner adopts a rule providing for metered billing of these facilities.

(b) The commissioner shall assess each pipeline operator for a pro rata share of the expenses and obligations calculated under paragraph (a), based on the number of meters in service on the preceding December 31.

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(c) The expenses and obligations described in paragraph (a), clauses (2), (3), (4), and (5) must be directly charged to the appropriate pipeline operators on a quarterly basis. The expenses and obligations described in paragraph (a), clause (6), must be directly charged to the appropriate pipeline operators on a quarterly basis until the commissioner adopts a rule providing for metered billing of facilities carrying liquefied petroleum gas.

Subd. 3. EMERGENCY RULES. The commissioner may adopt emergency rules to implement this section.

Subd. 4. SUPPORT COSTS. The commissioner shall calculate the general support costs of the office of pipeline safety for the preceding quarter, and add to the inspection fee calculated under subdivision 2 the share of those costs that is proportionate to the amount of time spent by the office in implementing sections 299F.56 to 299F.64 and section 19 with respect to that pipeline operator.

Sec. 18. Minnesota Statutes 1987 Supplement, section 299F.64, is amended to read:

299F.64 FEDERAL MONEY.

The 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, and hazardous liquids, by pipelines in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and the 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 money.

Sec. 19. [299F.641] INTRASTATE HAZARDOUS LIQUID PIPELINES.

Subdivision 1. JURISDICTION. The commissioner has regulatory jurisdiction over the safety standards and practices of intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities.

Subd. 2. FEDERAL STANDARDS ADOPTED. The federal safety standards adopted as Code of Federal Regulations, title 49, part 195, are adopted. The commissioner may adopt additional or more stringent safety standards for intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities, if the state standards are compatible with the federal standards. The standards may not prescribe the location or routing of a pipeline facility.

Subd. 3. ENFORCEMENT. The commissioner must establish and implement an inspection program to enforce the standards adopted under subdivision 2. The program must be established and implemented in a manner that fully

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complies with requirements for state certification under United States Code, title 49, section 2004.

Subd. 4. PROTECTION OF PIPELINE FACILITIES. The commissioner must encourage and promote programs designed to prevent damage to hazardous liquid pipeline facilities as a consequence of demolition, excavation, tunneling, or construction activity.

Subd. 5. INVESTIGATIONS; RECORD KEEPING. (a) The commissioner may, to the extent necessary to carry out the enforcement responsibilities of this section, conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct research, testing, development, demonstration, and training activities.

(b) The commissioner may require each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities to establish and maintain records, and to make reports and provide information to the commissioner. The records and other information must be made available as the commissioner orders to enable the commissioner to determine whether the person has acted or is acting in compliance with this section and the standards or orders adopted under this section.

(c) Officers, employees, or agents authorized by the commissioner, on presenting appropriate credentials to the person in charge, may enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent the records and properties are relevant to determine whether the persons have acted or are acting in compliance with this section and the standards adopted under this section.

(d) An accident report made by an officer, employee, or agent of the office of pipeline safety is available for use in any civil, criminal, or other judicial proceeding arising out of the accident. The officer, employee, or agent may be required to testify in the proceedings as to the facts developed in the investigation. A report made available to the public need not identify individuals. All reports on research projects, demonstration projects, and other related activities are public information.

(e) All information reported to or obtained by the commissioner under this subdivision that contains or relates to a trade secret referred to in United States Code, title 18, section 1905, is confidential for the purpose of that section, except that the information may be disclosed to other officers or employees concerned with enforcing this section. Nothing in this section authorizes the withholding of information by the commissioner from a duly authorized committee of the legislature.

Subd. 6. INSPECTION AND MAINTENANCE PLAN. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates hazardous liquid pipeline facilities must prepare, maintain, and carry out a

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current written plan for inspection and maintenance of each facility used in that transportation and owned or operated by that person as prescribed by the commissioner. The commissioner may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to this section to file the plans for approval. A plan required by this subdivision must be practicable, designed to meet the need for pipeline safety, and available to the commissioner on request. The plan must enhance the commissioner's ability to discover a condition that causes a significant change or restriction in the operation of the pipeline facilities or constitutes a hazard to life or property.

(b) If the commissioner finds that a plan required under this subdivision is inadequate to achieve safe operation of pipeline facilities, the commissioner may, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the commissioner shall consider:

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of the plan; and

(4) the extent to which the plan will contribute to public safety.

Subd. 7. ANNUAL CERTIFICATION REPORT. The commissioner must file an annual certification report with the secretary of the federal Department of Transportation. The report must include:

(1) the name and address of each person subject to the safety jurisdiction of the commissioner under this section;

(2) all accidents or incidents reported during the preceding 12 months by each person that involved personal injury requiring hospitalization, fatality, or property damage exceeding \$5,000 (whether or not sustained by a person subject to the safety jurisdiction of the office), and all other significant accidents, together with a summary of the commissioner's investigation as to the cause and circumstances surrounding the accident or incident;

(3) the record maintenance, reporting, and inspection program carried out by the commissioner to enforce compliance with the federal safety standards, including a detailed description of the number of inspections made of pipeline facilities during the preceding 12 months; and

(4) other information as the commissioner or federal law or rule may require. The report included with the first annual certification need not show information unavailable at that time.

Subd. 8. CIVIL RELIEF. The safety standards adopted under this section may be enforced as is provided for gas pipeline facilities under sections 299F.60 and 299F.61, and penalties collected must be paid to the commissioner for deposit in the state treasury and credit to the pipeline safety account.

Sec. 20. Minnesota Statutes 1987 Supplement, section 299J.12, subdivision 2, is amended to read:

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 interstate pipelines subject to the inspection authority granted under sections 299J.01 to 299J.11, 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. 21. **HAZARDOUS MATERIALS RESPONSE TEAMS; STUDY.**

The commissioner of the department of public safety shall conduct a study to determine the need for hazardous materials response teams, training standards for and equipment needs of such teams, and potential implementation of teams including locating, directing and coordinating them. The study must take into account the hazardous materials response and reporting requirements of the Superfund Amendments and Reauthorization Act, Public Law Number 99-499, 100 Stat. 1613 (1986). The commissioner shall report the results of the study to the committee on regulated industries and the committee on environment and natural resources in the house of representatives and the committee on public utilities and energy and the committee on environment and natural resources in the senate by December 31, 1988.

Sec. 22. **APPROPRIATION.**

The unexpended balance of funds appropriated to the commissioner of public safety by Laws 1987, chapter 353, section 41, for fiscal year 1988 does not cancel but is available for fiscal year 1989.

Sec. 23. **REPEALER.**

Minnesota Statutes 1987 Supplement, section 299F.63, subdivision 4, is repealed.

Sec. 24. **EFFECTIVE DATE.**

Section 6 is effective July 1, 1989, with respect to the extension of the jurisdiction of the commissioner of public safety to intrastate liquefied petroleum gas facilities and the transportation of liquefied petroleum gas associated with these facilities. Section 23 is effective January 1, 1989.

Approved April 24, 1988

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