

CHAPTER 244—H.F.No. 907

An act relating to public safety; providing for authority to regulate pipelines; imposing penalties; amending Minnesota Statutes 1988, sections 116I.01, subdivision 3; 116I.05; 216D.01, subdivisions 9, 10, and by adding a subdivision; 299F.56, subdivisions 5 and 6a; 299F.57; 299F.59, subdivision 1; 299F.60; 299F.61; 299F.62; 299F.63; 299F.631; 299F.641; 299J.01; 299J.03, subdivision 2; 299J.04; 299J.05; 299J.06, subdivision 2; 299J.08; 299J.10; 299J.11; 299J.12; and 299J.16; proposing coding for new law in Minnesota Statutes, chapter 216D; repealing Minnesota Statutes 1988, section 299J.09.

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

Section 1. Minnesota Statutes 1988, section 116I.01, subdivision 3, is amended to read:

Subd. 3. "Pipeline" means ~~pipe~~ a pipeline located in this state which is used to transport natural or synthetic gas at a pressure of more than 90 pounds per square inch, or to transport crude petroleum or petroleum fuels or oil or their derivatives, coal, anhydrous ammonia or any mineral slurry to a distribution center or storage facility which is located within or outside of this state. "Pipeline" does not include a pipeline owned or operated by a natural gas public utility as defined in section 216B.02, subdivision 4.

Sec. 2. Minnesota Statutes 1988, section 116I.05, is amended to read:

116I.05 INTERSTATE GAS PIPELINES; FEDERAL EMINENT DOMAIN; CONDITIONS NOT APPLICABLE.

Any person that proposes to construct or operate an interstate natural gas pipeline and that has power to acquire an easement or right-of-way agreement for that pipeline by an action in eminent domain under the authority of the federal Natural Gas Act, United States Code, title 15, chapter 15B, shall not be required to comply with the provisions of sections ~~446I.02~~ 116I.015 to 116I.04 as a condition of acquiring the easement ~~or~~, right-of-way pursuant to that action, or route.

Sec. 3. Minnesota Statutes 1988, section 216D.01, is amended by adding a subdivision to read:

Subd. 1a. COMMISSIONER. "Commissioner" means the commissioner of public safety.

Sec. 4. Minnesota Statutes 1988, section 216D.01, subdivision 9, is amended to read:

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, unless the person is the state, a state agency, or a local governmental unit.

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Sec. 5. Minnesota Statutes 1988, section 216D.01, subdivision 10, is amended to read:

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

Sec. 6. **[216D.08] CIVIL PENALTIES.**

Subdivision 1. PENALTY. A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 11 who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$500 for each violation per day of violation. An operator subject to section 11 who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60.

Subd. 2. SETTLEMENT. The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of the penalty, or the amount of the compromise settlement, the commissioner shall consider the appropriateness of the 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 apply to the orders of the commissioner imposing a penalty under sections 216D.01 to 216D.07. The amount of the penalty, when finally determined, may be deducted from sums owing by the state of Minnesota to the person charged.

Subd. 3. CREDITED TO PIPELINE SAFETY ACCOUNT. Penalties collected under this section must be deposited in the state treasury and credited to the pipeline safety account to be applied to the reduction of expenses or costs assessed by the commissioner against persons regulated under this chapter.

Subd. 4. RULES. The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must provide for notice that a penalty is assessed and may exempt activities from penalties unless the excavator or operator as defined in this section has evidenced a course of action in disregard of this chapter.

Sec. 7. **[216D.09] INJUNCTIVE RELIEF.**

Subdivision 1. JURISDICTION. The district courts of the state of Minnesota 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 216D.01 to 216D.07, on petition by the attorney general on behalf of the state of Minnesota. When practicable, the commissioner shall give notice to a 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 reasonable opportunity to achieve compliance. However, the failure to

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give the notice and afford an opportunity to present views does not preclude the granting of appropriate relief.

Subd. 2. VENUE. Actions under this section must be brought in district court in the district where the defendant's principal place of business in the state is located, and process in these cases may be served in any other district in the state of Minnesota where the defendant may be found or in which the defendant is an inhabitant or transacts business.

Sec. 8. Minnesota Statutes 1988, section 299F.56, subdivision 5, is amended to read:

Subd. 5. "Transportation of gas" means the gathering, transmission, or distribution of gas or hazardous liquid by pipeline or its storage; except that it shall not include any such transportation of gas or hazardous liquid which is subject to the jurisdiction of the Federal Power Energy Regulatory Commission under the Natural Gas Act of the United States and the federal Hazardous Liquid Pipeline Safety Act, or the gathering of gas or hazardous liquid in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development or any similar populated area which the ~~state fire marshal~~ office of pipeline safety may define as a nonrural area.

Sec. 9. Minnesota Statutes 1988, section 299F.56, subdivision 6a, is amended 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 including transportation by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

Sec. 10. Minnesota Statutes 1988, section 299F.57, is amended to read:

299F.57 ~~MINIMUM SAFETY STANDARDS; GAS PIPELINES.~~

Subdivision 1. The commissioner ~~shall, by order,~~ may by rule establish ~~minimum~~ additional or more stringent 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. These standards may include a requirement that individuals responsible for the operation and maintenance of gas pipeline facilities be tested for qualifications and certified to perform these functions. The standards may not prescribe the location or routing of a pipeline facility. 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:

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- (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.

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

Subd. 1a. ADOPTION OF FEDERAL STANDARDS. The federal safety standards adopted as Code of Federal Regulations, title 49, parts 191, 192, and 193, and standards that may be adopted that amend parts 191, 192, and 193, are adopted as minimum safety standards.

~~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 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 rules and orders establishing, amending, revoking, or waiving compliance with, any standard established under sections 299F.56 and ~~299F.64~~ 299F.641 or any penalty imposed under sections 299F.56 to ~~299F.64~~ 299F.641. The 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 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 commissioner may, after notice and opportunity for hearing and under such terms and conditions and to such extent as the 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 commissioner shall state the reasons for any such waiver.

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Sec. 11. Minnesota Statutes 1988, section 299F.59, subdivision 1, is amended to read:

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:

(a) (1) at all times after the date any applicable safety standard established under sections 299F.56 to 299F.641 takes effect comply with the requirements of such standard;

(b) (2) file and comply with a plan ~~of inspection~~ for operation and maintenance required by sections 299F.56 to 299F.641; ~~and~~

(c) (3) 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.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641; and

(4) comply with sections 216D.01 to 216D.07, the one call excavation notice system.

Sec. 12. Minnesota Statutes 1988, 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~~ 299F.641, or any rule issued thereunder, shall be subject to a civil penalty to be imposed by the commissioner not to exceed \$10,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed ~~\$200,000~~ \$500,000 for any related series of violations.

Subd. 2. The 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 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 commissioner imposing any penalty ~~under for violations~~ of sections 299F.56 to ~~299F.64~~ 299F.641 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~~ 299F.641 and under ~~Public Law Number 90-481, Statutes at Large, volume 82, page 720, 90th Congress, S. 1166, approved August 12, 1968~~ the federal Natural Gas Pipeline Safety Act or the federal Hazardous Liquid Pipeline Safety Act, for conduct which may give rise to a violation of both acts.

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Subd. 4. All penalties collected under sections 299F.56 to ~~299F.64~~ 299F.641 shall be paid over to the state treasurer for deposit in the state treasury to the credit of the pipeline safety account.

Subd. 5. RULES. The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must treat separately and distinguish between violations that relate to hazardous liquid pipelines, gas pipelines, and other pipelines; must provide for notice that a penalty is assessed; and may exempt activities from penalties unless the person has evidenced a course of action in disregard of this chapter.

Sec. 13. Minnesota Statutes 1988, 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~~ 299F.641, including the restraint of transportation of gas or hazardous liquid or the operation of a pipeline facility, or to enforce standards established ~~hereunder~~ under sections 299F.56 to 299F.641 upon petition by the attorney general on behalf of the state of Minnesota. Whenever practicable, the 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 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~~ 299F.641 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. 14. Minnesota Statutes 1988, section 299F.62, is amended to read:

299F.62 PLAN FOR INSPECTION OPERATION AND MAINTENANCE; GAS PIPELINES.

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~~ 299F.641 shall prepare, maintain, carry out, and file with the commissioner a plan for inspection operation 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

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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. 15. Minnesota Statutes 1988, section 299F.63, is amended to read:

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

Subdivision 1. (a) The commissioner may, to the extent necessary to carry out the enforcement responsibilities of sections 299F.56 to 299F.641, conduct investigations, make reports, issue subpoenas, 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 gas or hazardous liquid or who owns or operates gas pipeline facilities shall to establish and maintain such records, and to make such reports; and provide such information as to the commissioner may reasonably require. The records and other information must be made available as the commissioner orders to enable the commissioner to determine whether such the person has acted or is acting in compliance with sections 299F.56 to 299F.64 299F.641 and the standards established adopted or orders issued under sections 299F.56 to 299F.64 299F.641. Each such person shall, upon request of an officer, employee, or agent authorized by the commissioner, permit such officer, employee, or agent to inspect books, papers, records and documents relevant to determining

(c) Officers, employees, and 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 a person subject to regulation under sections 299F.56 to 299F.641 to the extent the records and properties are relevant to determine whether such the person has acted or is acting in compliance with those sections 299F.56 to 299F.64 and the standards established pursuant to adopted under those 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.

(d) An accident report made by an officer, employee, or agent of the office of

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pipeline safety is available for use in a 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. Reports on research projects, demonstration projects, and other related activities are public information.

(e) All information reported to or otherwise obtained by the commissioner under sections 299F.56 to 299F.641 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, and is private or nonpublic data as defined in section 13.02. However, the information may be disclosed to other officers or employees authorized to enforce sections 299F.56 to 299F.641. Nothing in this section authorizes the withholding of information by the commissioner from a duly authorized committee of the legislature or the United States Congress.

Subd. 2. The commissioner must establish and implement an inspection program to enforce the standards adopted under section 299F.57. The program must be established and implemented in a manner that complies with requirements for state certification under United States Code, title 49, section 1674. In the course of the exercise of duties and responsibilities under sections 299F.56 to 299F.64 299F.641, the 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 299F.641.

Subd. 3. All information reported to or otherwise obtained by the 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, 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.

Sec. 16. Minnesota Statutes 1988, section 299F.631, is amended to read:

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.641, 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.

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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.641. 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; and
- (7) expenses attributable to seeking and maintaining federal interstate agent status.

(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.

(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~~ shall adopt ~~emer-~~
~~gency~~ 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.641 with respect to that type of pipeline operator facility.

Sec. 17. Minnesota Statutes 1988, section 299F.641, is amended to read:

299F.641 INTRASTATE HAZARDOUS LIQUID PIPELINES.

Subdivision 1. **JURISDICTION.** The commissioner has regulatory jurisdiction over the safety standards and practices of intrastate hazardous liquid

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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, and standards that may be adopted that amend part 195, are adopted as minimum safety standards. The commissioner may by rule adopt additional or more stringent safety standards for intrastate hazardous liquid 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 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

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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. 5a. WAIVER. On application of a person engaged in the transportation of hazardous liquid or the operation of hazardous liquid pipeline facilities, the commissioner may, after notice and opportunity for hearing and under terms and conditions and to the extent the commissioner considers appropriate, waive in whole or in part compliance with standards established under this section, on determining that a waiver of compliance with a standard is consistent with hazardous liquid pipeline safety. The commissioner shall state the reason for a waiver.

Subd. 6. ~~INSPECTION OPERATION 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 current written plan for ~~inspection operation~~ 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.

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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. is authorized to make certifications and reports to the United States Secretary of Transportation as may be required from time to time under the federal Hazardous Liquid Pipeline Safety Act.

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. 18. Minnesota Statutes 1988, section 299J.01, is amended to read:

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 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 299J.01 to 299J.17 and 299F.56 to ~~299F.64~~ 299F.641.

Sec. 19. Minnesota Statutes 1988, section 299J.03, subdivision 2, is amended to read:

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

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(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.

(d) Inspectors shall meet the qualifications established by the federal government in order for the state to participate in the pipeline safety grant programs under the federal Natural Gas Pipeline Safety Act and the federal Hazardous Liquid Pipeline Safety Act.

Sec. 20. Minnesota Statutes 1988, section 299J.04, is amended to read:

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;~~

(5) enforce sections 216D.01 to 216D.09, as provided in sections 216D.08 and 216D.09;

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

(6) (3) ~~inspect, as necessary, any record, map, or written procedure required by sections 299J.01 to 299J.17 to be kept by a pipeline operator concerning the reporting of emergency releases, and the design, construction, testing, or operation and maintenance of pipelines; and~~

(7) (4) ~~adopt rules to implement sections 299J.01 to 299J.17.~~

The rules adopted under clause (7) (4) must treat separately and distinguish

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between hazardous liquid and gas pipelines and must be compatible with federal laws and regulations.

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. The commissioner shall establish and submit to the United States Secretary of Transportation an inspection program that complies with requirements for delegated interstate agent inspection authority. To the extent that federal delegation of interstate agent inspection authority permits, the inspection program for interstate pipelines must be the same as the inspection program for intrastate pipelines. If the United States Secretary of Transportation delegates inspection authority to the state as provided in this subdivision, the commissioner, at a minimum, shall do the following to carry out the delegated federal authority:

(1) inspect pipelines periodically ~~at times determined by rules of the commissioner as specified in the inspection program;~~

(2) collect inspection fees; ~~and~~

(3) order and oversee the testing of pipelines as ~~provided in rules adopted under this section~~ authorized by federal law and regulations; ~~and~~

(4) file reports with the United States Secretary of Transportation as required to maintain the delegated inspection authority.

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 shutoff valves 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 299J.01 to 299J.17 must be consistent with sections 299F.56 to 299F.64 to the extent that the rules deal with pipelines governed by those sections.

Sec. 21. Minnesota Statutes 1988, section 299J.05, is amended to read:

299J.05 PIPELINE SETBACK ORDINANCE.

(a) The commissioner shall adopt, by December 31, 1990, 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~~ 1991, 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~~ 1991.

Sec. 22. Minnesota Statutes 1988, section 299J.06, subdivision 2, is amended to read:

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 116I.015 and 116I.02, subdivisions 2 and 3, and the director and commissioner on the implementation of sections 216D.01 to 216D.07, 299F.56 to ~~299F.64~~ 299F.641, and 299J.01 to 299J.17, and shall review and comment on proposed rules and on the operation of the office of pipeline safety.

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Sec. 23. Minnesota Statutes 1988, section 299J.08, is amended to read:

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~~ governmental 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. The commissioner shall also coordinate responses to pipeline accidents with the federal government according to procedures established by the United States Secretary of Transportation.

Sec. 24. Minnesota Statutes 1988, section 299J.10, is amended to read:

299J.10 LOCAL GOVERNMENT EMERGENCY RESPONSE OPERATIONS PLAN.

(a) A local ~~governmental unit~~ county or statutory or home rule charter city having a pipeline within its jurisdiction shall prepare a ~~pipeline release an emergency response operations plan and supporting documents that will include appropriate pipeline safety information.~~ The format and content of the plan and supporting documents must be in agreement with the guidance and prototype planning documents provided by the department of public safety, division of emergency management. The ~~local governmental unit~~ county or statutory or home rule charter city 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 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~~ county or statutory or home rule charter city shall review and update its plan and supporting documents annually ~~and amend it to reflect changes in the operation of the local governmental unit~~ its operations, in the operation of the pipeline, or other matters relating to ~~pipeline public safety.~~ The annual review, update, and approval of the plan and supporting documents must be in accord with the guidance provided by the department of public safety, division of emergency management. The director may at any reasonable time examine a ~~response an~~ emergency operations plan required by this section.

Sec. 25. Minnesota Statutes 1988, section 299J.11, is amended to read:

299J.11 ADOPTION OF FEDERAL PIPELINE INSPECTION RULES.

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To enable the state to act as an agent of the United States Secretary of Transportation and 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, and regulations and standards that may be adopted that amend them, are adopted.

Sec. 26. Minnesota Statutes 1988, section 299J.12, is amended to read:

299J.12 INTERSTATE PIPELINE INSPECTION FEE.

Subdivision 1. **ASSESSMENT AND DEPOSIT OF FEE.** For each year quarter following the delegation to the state of the inspection authority described in section 299J.04, the commissioner shall assess and collect from every interstate pipeline operator an inspection fee in an amount calculated under subdivision subdivisions 2 and 3. 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 quarterly 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 INSPECTION FEE.** For 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 the expenses attributable to the inspection of each pipeline facility must be directly charged to the appropriate pipeline operators on a quarterly basis. The expenses must not include expenses that will be reimbursed by the federal government.

Subd. 3. **SUPPORT COSTS.** The commissioner shall calculate the amount of the general support costs of the office of pipeline safety for the preceding quarter that is proportionate to the amount of time spent by the office in implementing sections 299J.01 to 299J.18 and maintaining interstate agent status, including the costs incurred in seeking federal interstate agent status in the first quarter's calculations. The costs incurred in seeking federal interstate agent status must include the costs directly attributable to salaries, training, and other activities and costs related to obtaining interstate agent status, from the time that the request for interstate agent status is submitted by the commissioner to the United States Department of Transportation, to the time that approval of interstate agent status is granted. The calculated support cost must not include expenses that will be reimbursed by the federal government. Each interstate

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pipeline operator must be assessed on a quarterly basis a portion of the calculated support costs equal to the percentage of the total miles of pipeline operated by the pipeline operator in Minnesota.

Sec. 27. Minnesota Statutes 1988, section 299J.16, is amended to read:

299J.16 CIVIL PENALTY; INJUNCTIVE RELIEF.

Subdivision 1. **CIVIL PENALTY.** (a) A pipeline operator who violates section 299J.07, subdivision 1, ~~299J.09~~, or 299J.15, 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 299J.09~~, up to \$10,000 for each day that the operator remains in violation; ~~and~~

(2) ~~for a violation of section 299J.07, subdivision 1, or 299J.15, up to \$100,000, subject to a maximum of \$500,000 for each violation a related series of violations.~~

(b) The penalty provided under this subdivision may be recovered by an action brought by the attorney general at the request of the commissioner, in the name of the state, in connection with an action to recover expenses of the director under section 299J.13, subdivision 4, ~~or by a separate action:~~

(1) in the district court of Ramsey county; or

(2) 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 ~~299J.09~~, 299J.13, or 299J.15, 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 at the request of the commissioner, in the name of the state.

Sec. 28. **REPEALER.**

Minnesota Statutes 1988, section 299J.09, is repealed.

Presented to the governor May 22, 1989

Signed by the governor May 23, 1989, 7:05 a.m.

CHAPTER 245—H.F.No. 1448

An act relating to Hennepin county; permitting the issuance of obligations by the county board of Hennepin county for a public safety building.

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