

CHAPTER 7530

OFFICE OF PIPELINE SAFETY

PIPELINE SAFETY ENFORCEMENT

AND SANCTIONS

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7530.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Director.** "Director" means the director of the office of pipeline safety.

Subp. 3. **Good cause to believe.** "Good cause to believe" means grounds put forth in good faith that are not arbitrary, irrational, unreasonable, or irrelevant and that are based on at least one of the following sources:

- A. information from a person;
- B. facts supplied by the pipeline operator;
- C. facts of which the director or an agent of the director has personal knowledge; or
- D. information obtained by the office during an inspection.

Subp. 4. **Office.** "Office" means the Minnesota office of pipeline safety, a division of the Minnesota department of public safety.

Subp. 5. **Pipeline operator.** "Pipeline operator" means a person who engages in the transportation of gas or hazardous liquid or who owns or operates pipeline facilities.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.0300 INSPECTIONS.

Subpart 1. **Purpose and scope.** For determining and enforcing compliance with safety standards, the office shall conduct periodic inspections and spot checks of records and property in the possession, custody, or control of pipeline operators to determine compliance with applicable pipeline safety standards under Minnesota Statutes, section 299F.57. This chapter does not apply to interstate gas or liquid pipeline facilities subject to the enforcement jurisdiction of the federal Office of Pipeline Safety under the federal Natural Gas Pipeline Safety Act or the federal Hazardous Liquids Pipeline Safety Act.

Subp. 2. **Reasons.** Inspections will be conducted pursuant to item A, B, C, D, or E:

- A. routine scheduling by the director;
- B. a complaint received from a member of the public;
- C. information obtained from a previous inspection;
- D. an accident or reportable incident; or
- E. when there is good cause to believe that a threat to public safety may exist.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.0400 INSPECTION RESULTS.

Subpart 1. **Requests for specific information.** After a complaint, report, or inspection, the office shall send the pipeline operator a request for specific information (1) if further information is necessary to determine appropriate action, (2) when further information is necessary to determine if the office has jurisdiction to act, or (3) when necessary to determine compliance with applicable pipeline safety standards. The pipeline operator has five days to respond to a request for information that is necessary to determine if a reportable incident has taken place or that arises from a reportable incident. The pipeline operator has 30 days to respond to all other requests for specific information. The office may allow more than 30 days to respond based on the quantity of information requested, the difficulty in obtaining the requested information, and the potential hazard to public safety.

Subp. 2. **Warning letters; response.** The office shall issue a warning letter when (1) the office has good cause to believe a violation of the federal Natural Gas Pipeline Safety Act; the federal Hazardous Liquid Pipeline Safety Act; Minnesota Statutes, sections 299F.56 to 299F.641 and 299J.01 to 299J.09; or a rule, regulation, or order issued under any of these laws, has occurred and (2) the office determines that no immediate threat to public safety exists but that a threat to public safety will develop if the violation is not corrected within a reasonable time. The letter must indicate the nature of the probable violation and advise that the pipeline operator must correct the violation or be subject to further enforcement action by the office.

The pipeline operator has 30 days to respond to the warning letter. The office may allow more than 30 days to respond based on the quantity of information requested, the difficulty in obtaining the requested information, and the potential hazard to public safety. If more than 30 days is required to respond, the operator must request a time extension in writing to the office.

Subp. 3. **Notice of probable violation; response.** The office shall issue a notice of probable violation when (1) the office has good cause to believe a violation of the federal Natural Gas Pipeline Safety Act; the federal Hazardous Liquid Pipeline Safety Act; Minnesota Statutes, sections 299F.56 to 299F.641 and 299J.01 to 299J.09; or a rule, regulation, or order issued under any of these laws, has occurred and (2) the office determines that a warning letter issued under subpart 2 will not be effective or will not adequately address public safety issues. The notice must contain a proposed compliance order or proposed civil penalty.

The pipeline operator has 30 days to respond to the notice of probable violation. The office may allow more than 30 days to respond based on the quantity of information requested, the difficulty in obtaining the requested information, and the potential hazard to public safety. If more than 30 days is required to respond, the operator must request a time extension in writing to the office.

Subp. 4. **Contents of warning letter or notice.** A warning letter or notice of probable violation must include:

- A. a statement of the statute, regulation, or rule allegedly violated by the pipeline operator and a description of the evidence on which the allegation is based;
- B. notice of response options available to the pipeline operator;
- C. if a civil penalty is proposed, the amount of the proposed civil penalty and the maximum civil penalty applicable under law; and
- D. if a compliance order is proposed, a statement of the remedial action being sought in the form of a proposed compliance order.

Subp. 5. **Response options.** The pipeline operator shall respond to the warning letter or notice of probable violation in the following way:

A. When the warning letter or notice of probable violation contains a proposed compliance order, the pipeline operator shall:

- (1) agree to the proposed compliance order;
- (2) request the execution of a consent order;

(3) object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice; or

(4) request the office to initiate a hearing under Minnesota Statutes, sections 14.50 to 14.69.

B. When the warning letter or notice of probable violation contains a proposed civil penalty, the pipeline operator shall:

(1) pay the penalty and close the case;

(2) submit an offer in compromise of the proposed civil penalty;

(3) submit a written explanation, information, or other material in answer to the allegations or in mitigation of the proposed civil penalty; or

(4) request the office to initiate a hearing under Minnesota Statutes, sections 14.50 to 14.69.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.0500 DIRECTOR REVIEW.

If the pipeline operator objects to the proposed compliance order or civil penalty and submits written explanations, information, or other materials in response to a warning letter or notice of probable violation, the director shall review the submissions and determine whether to negotiate further, modify, or withdraw the warning letter or notice of probable violation, or initiate a hearing under Minnesota Statutes, sections 14.50 to 14.69.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.0800 CONSENT ORDER.

An executed consent order must contain:

A. admission by the pipeline operator of all jurisdictional facts;

B. waiver of further procedural steps and of all right to seek judicial or administrative review or otherwise challenge or contest the validity of the consent order;

C. agreement that the warning letter or notice of probable violation may be used to construe the terms of the consent order; and

D. a description of the actions required of the pipeline operator and the time by which the actions must be accomplished.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.1000 CIVIL PENALTIES.

Subpart 1. **Proceedings.** When the office has good cause to believe that a pipeline operator is engaging or has engaged in conduct that involves a violation of minimum pipeline safety requirements, the office shall conduct proceedings under parts 7530.0100 to 7530.1100 to determine the nature and extent of the violation and assess and, if appropriate, negotiate a civil penalty under Minnesota Statutes, section 299F.60.

Subp. 2. **Assessment considerations.** In assessing a civil penalty under this part, the office shall consider the following factors:

A. the nature, circumstances, and gravity of the violation;

B. the degree of the pipeline operator's culpability;

C. the pipeline operator's history of previous offenses;

D. the pipeline operator's ability to pay;

E. good faith on the part of the pipeline operator in attempting to achieve compliance;

F. the effect of the penalty on the pipeline operator's ability to continue in business; and

G. whether the pipeline is a hazardous liquid pipeline or a gas or other pipeline.

Subp. 3. **Payment procedures.** The pipeline operator shall pay a civil penalty that has been proposed, assessed, or compromised by submitting to the office a certified check or money order in the correct amount, payable to the commissioner of public safety.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.1200 HAZARDOUS FACILITY ORDERS.

Subpart 1. **In general.** After an inspection, report, or complaint, the office shall find a particular facility to be hazardous to life or property under Minnesota Statutes, section 299F.57, subdivision 4, if under the facts and circumstances:

A. the office determines the particular facility is hazardous to life or property; or

B. the pipeline facility, or a component, has been constructed with equipment, material, or technique that is hazardous to life or property, unless the pipeline operator demonstrates that the equipment, material, or technique is not hazardous to life or property.

Subp. 2. **Determination factors.** In considering whether a facility will be determined to be hazardous to life or property, the office shall consider:

A. the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties, resistance to corrosion and deterioration, and methods of manufacture, construction, and assembly;

B. the nature of the materials transported by the facility, including their corrosive and deteriorative qualities, and the sequence in which the materials are transported;

C. the area in which the pipeline facility is located, the climatic and geologic conditions associated with the area, and the population, population density, and growth patterns of the area; and

D. the adequacy of the pipeline operator's records to show the absence of hazardous conditions.

Subp. 3. **Order.** If the office finds a particular pipeline facility to be hazardous to life or property, the director shall issue a hazardous facility order if failure to do so would result in the likelihood of serious harm to life or property. The hazardous facility order shall provide an opportunity for a contested case hearing as soon as practical.

Subp. 4. **Order contents.** The order must contain:

A. a finding that the pipeline facility is hazardous to life or property;

B. the facts on which the finding is based;

C. the legal basis of the order;

D. the nature and description of the particular corrective action required of the respondent;

E. the date by which the required action must be taken or completed and, when appropriate, the duration of the order; and

F. if a hearing has been waived under this part, a statement that an opportunity for a hearing is provided as soon as practical.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

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7530.1400 REPORTABLE INCIDENT INVESTIGATION.

After a reportable incident, the office may interview personnel, view failed equipment or pipe, issue a subpoena for failed equipment or pipe relating to the incident, for independent preservation, order independent laboratory tests of failed pipe or equipment, view related documents, and take other investigatory measures as needed to complete a comprehensive independent investigation.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.1500 TESTING AND TEST RESULTS.

Subpart 1. **Applicability.** This part applies to tests following reportable incidents in preparation to returning the pipeline to service. For purposes of this part, pipeline has the meaning given it in Minnesota Statutes, section 299J.02, subdivision 11.

Subp. 2. **Notice.** At least 48 hours before conducting pressure testing, including hydrostatic, air, nitrogen, or other test medium, the pipeline operator shall give notice of the test to the office and to the local governmental units traversed by the portion of pipeline to be tested, unless the operator determines that an emergency exists requiring immediate testing of the pipeline.

For an emergency requiring immediate testing, the pipeline operator shall notify the office before initiating the test.

Subp. 3. **Notice contents.** The notice of the test must include:

- A. a statement of the purpose of the test with supporting documents;
- B. the name, address, and telephone number of the pipeline operator;
- C. 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;
- D. the date and time the test is to be conducted;
- E. the method by which the test will be accomplished and the type of test medium to be used; and
- F. the name and telephone number of an independent testing firm or other person responsible for certification of results.

Subp. 4. **Observation.** Authorized representatives of the director and affected local governmental units may observe the test.

Subp. 5. **Results reported.** The results of a hydrostatic test conducted by the pipeline operator or by an independent testing company must be sent to the office and if requested, every local governmental unit traversed by the tested portion of the pipeline within ten days of the completion of the test. The test results must include:

- A. the date of the test;
- B. the specific location of the pipeline or pipeline section to be tested, including a suitable map of the route of the pipeline; and
- C. the results of the test.

Statutory Authority: *MS s 299F.57; 299J.04*

History: *15 SR 83*

7530.5010 GENERAL.

Parts 7530.5010 to 7530.5060 set the standards and procedures necessary to implement Minnesota Statutes, sections 299F.631 and 299J.12. Parts 7530.5010 to 7530.5060 only apply to pipeline operators subject to the jurisdiction of the Minnesota Office of Pipeline Safety under Minnesota Statutes, sections 299F.56 to 299F.641 and, for federal pipeline safety inspection purposes only, interstate pipeline operators

subject to inspection by the office acting in its capacity as an interstate agent under Minnesota Statutes, chapter 299J.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*

7530.5020 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 7530.5010 to 7530.5060, the following terms have the meanings given them in this part.

Subp. 2. **Director.** "Director" means the Director of the Minnesota Office of Pipeline Safety, acting directly or through an authorized agent.

Subp. 3. **Inspection expenses.** "Inspection expenses" means salary, fringe benefit, and travel expenses of pipeline safety inspectors in conducting an inspection, preparing to conduct an inspection, preparing reports or orders to document an inspection, and reviewing operator responses.

Subp. 4. **Investigation expenses.** "Investigation expenses" means salary, fringe benefit, and travel expenses of pipeline safety inspectors in conducting an investigation, preparing to conduct an investigation, preparing reports or orders to document an investigation, and reviewing operator responses.

Subp. 5. **Office.** "Office" means the Minnesota Office of Pipeline Safety, acting directly or through authorized agents.

Subp. 6. **Per meter assessments.** "Per meter assessments" means the assessments of intrastate gas distribution operators and of intrastate liquefied petroleum gas distribution operators made under Minnesota Statutes, section 299F.631, subdivision 2, paragraph (b), by the office.

Subp. 7. **Quarter.** "Quarter" means the three-month period ending March 31, June 30, September 30, or December 31.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*

7530.5030 PER METER ASSESSMENTS.

Subpart 1. **Calculation of total expenses; limitation.** To calculate per meter assessments for a quarter, the office shall first calculate the total inspection expenses incurred during that quarter in conducting routine maintenance and operation inspections of pipeline facilities of intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators. This total may not include inspection or investigation expenses incurred by the office in conducting inspections or investigations of interstate pipeline facilities or inspections or investigations listed in Minnesota Statutes, section 299F.631, subdivision 2, paragraph (a), clauses (2) to (6).

Subp. 2. **Method of assessment.** The office shall assess intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators a pro rata share of the total inspection expenses calculated under subpart 1. The pro rata share for an operator must be based on the number of meters in service by that operator on the preceding December 31. A liquefied petroleum gas operator is considered to have one meter in service for each unmetered individual service line on the preceding December 31.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*

7530.5040 DIRECT CHARGES.

This part applies to both intrastate and interstate pipeline operators. The office shall directly charge a pipeline operator for inspection or investigation expenses incurred in performing an inspection or investigation of a pipeline facility of the operator, unless the inspection or investigation expenses are included in the calcula-

tions for intrastate operators under part 7530.5030, subpart 1. The office shall assess these charges each quarter.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*

7530.5050 SUPPORT COSTS.

Subpart 1. **Definition.** "Support costs" means the expenses, including indirect costs, incurred by the office for operating the office that are not recovered as per meter assessments under part 7530.5030, or as direct charges under part 7530.5040.

Subp. 2. **Reductions.** Support costs must be reduced by the amounts listed in items A and B. This reduction must be done before the distribution under subpart 3 is made.

A. Support costs must be reduced by the amount of federal reimbursements received by the office.

B. Support costs must be reduced by the amount of civil penalties collected under Minnesota Statutes, section 216D.08.

Subp. 3. **Support cost split.** Support costs not distributed or reduced by the operation of subparts 1 and 2 must be proportionately distributed among six categories: intrastate gas distribution and intrastate liquefied petroleum gas distribution operators, liquefied natural gas operators, intrastate hazardous liquid operators, intrastate gas transmission operators, interstate hazardous liquid operators, and interstate natural gas operators. The proportion must be based on inspector hours spent that quarter on each category of operator by the office.

Subp. 4. **Method of assessment.** Support costs for a quarter must be assessed against pipeline operators in a category according to items A to G.

A. An intrastate gas distribution operator or an intrastate liquefied petroleum gas distribution operator must be assessed a pro rata share of the support costs for this category based on the number of meters in service by that operator on the preceding December 31. An operator is considered to have one meter in service for each unmetered individual service line on the preceding December 31.

B. The support costs for this category must be divided into equal shares so there is one share for each liquefied natural gas pipeline operator. A liquefied natural gas pipeline operator must be assessed one share.

C. An intrastate hazardous liquid pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of intrastate hazardous liquid pipeline operated by the pipeline operator.

D. An intrastate gas transmission operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of intrastate gas transmission pipeline operated by the pipeline operator.

E. An interstate hazardous liquid pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of interstate hazardous liquid pipeline operated by the pipeline operator.

F. An interstate natural gas pipeline operator must be assessed a portion of the support costs for this category equal to the percentage of the total miles of interstate natural gas pipeline operated by the pipeline operator.

G. A pipeline measurement used for calculating an assessment under this subpart must be the measurement on the preceding December 31. The pipeline measurement must include only miles of pipeline in Minnesota and must be rounded up to the next whole mile.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*

7530.5060 PROCEDURE.

Subpart 1. **Assessment form.** No fewer than 30 days after the end of each quarter, the office shall mail to each pipeline operator an assessment indicating the support costs, per meter assessments, and direct charges assessed against that pipeline operator.

Subp. 2. **Delinquency fee and interest.** If an operator does not pay an assessment within 60 days after the assessment was mailed, the office shall impose a delinquency fee of not more than ten percent of the assessment and interest at the rate of not more than 15 percent per year on the portion of the assessment not paid. In determining the amount of the delinquency fee and interest imposed by the office under this subpart, the director shall consider the following factors:

- A. the pipeline operator's ability to pay;
- B. good faith on the part of the pipeline operator in attempting to pay; and
- C. the effect of the delinquency fee and interest on the pipeline operator's ability to continue in business.

Subp. 3. **Complaint procedure.** A pipeline operator that disagrees with an assessment may file a written complaint with the office within 15 days of the receipt of the assessment. The director shall review each complaint and issue a written determination within a reasonable time affirming, amending, or rescinding the assessment. The pipeline operator may appeal the determination of the director to the commissioner of public safety.

A pipeline operator may withhold the amount of assessed charges in dispute while a complaint or appeal is pending. The office shall not assess a delinquency fee or interest on the amount in dispute unless the director determines that the complaint or appeal is solely for the purpose of delay.

Statutory Authority: *MS s 299F.631; 299J.04*

History: *16 SR 2116*