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[REVISOR ] RR/LY AR1501

1 Department of Public Safety

2 Office of Pipeline Safety

3

4 Adopted Permanent Rules Relating to Pipeline Safety Enforcement  
5 and Sanctions

6

7 Rules as Adopted

8 7530.0100 DEFINITIONS.

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

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

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

17 A. information from a person;

18 B. facts supplied by the pipeline operator;

19 C. facts of which the director or an agent of the  
20 director has personal knowledge; or

21 D. information obtained by the office during an  
22 inspection.

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

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

29 7530.0300 INSPECTIONS.

30 Subpart 1. **Purpose and scope.** For determining and  
31 enforcing compliance with safety standards, the office shall  
32 conduct periodic inspections and spot checks of records and  
33 property in the possession, custody, or control of pipeline  
34 operators to determine compliance with applicable pipeline  
35 safety standards under Minnesota Statutes, section 299F.57.

1 This chapter does not apply to interstate gas or liquid pipeline  
 2 facilities subject to the enforcement jurisdiction of the  
 3 federal Office of Pipeline Safety under the federal Natural Gas  
 4 Pipeline Safety Act or the federal Hazardous Liquids Pipeline  
 5 Safety Act.

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

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

14 7530.0400 INSPECTION RESULTS.

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

30 Subp. 2. **Warning letters; response.** The office shall  
 31 issue a warning letter when (1) the office has good cause to  
 32 believe a violation of the federal Natural Gas Pipeline Safety  
 33 Act; the federal Hazardous Liquid Pipeline Safety Act; Minnesota  
 34 Statutes, sections 299F.56 to 299F.641 and 299J.01 to 299J.09;  
 35 or a rule, regulation, or order issued under any of these laws,

1 has occurred and (2) the office determines that no immediate  
2 threat to public safety exists but that a threat to public  
3 safety will develop if the violation is not corrected within a  
4 reasonable time. The letter must indicate the nature of the  
5 probable violation and advise that the pipeline operator must  
6 correct the violation or be subject to further enforcement  
7 action by the office.

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

14 Subp. 3. **Notice of probable violation; response.** The  
15 office shall issue a notice of probable violation when (1) the  
16 office has good cause to believe a violation of the federal  
17 Natural Gas Pipeline Safety Act; the federal Hazardous Liquid  
18 Pipeline Safety Act; Minnesota Statutes, sections 299F.56 to  
19 299F.641 and 299J.01 to 299J.09; or a rule, regulation, or order  
20 issued under any of these laws, has occurred and (2) the office  
21 determines that a warning letter issued under subpart 2 will not  
22 be effective or will not adequately address public safety issues.  
23 The notice must contain a proposed compliance order or proposed  
24 civil penalty.

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

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

34 A. a statement of the statute, regulation, or rule  
35 allegedly violated by the pipeline operator and a description of  
36 the evidence on which the allegation is based;

1 B. notice of response options available to the  
2 pipeline operator;

3 C. if a civil penalty is proposed, the amount of the  
4 proposed civil penalty and the maximum civil penalty applicable  
5 under law; and

6 D. if a compliance order is proposed, a statement of  
7 the remedial action being sought in the form of a proposed  
8 compliance order.

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

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

- 15 (1) agree to the proposed compliance order;  
16 (2) request the execution of a consent order;  
17 (3) object to the proposed compliance order and  
18 submit written explanations, information, or other materials in  
19 answer to the allegations in the notice; or  
20 (4) request the office to initiate a hearing  
21 under Minnesota Statutes, sections 14.50 to 14.69.

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

- 25 (1) pay the penalty and close the case;  
26 (2) submit an offer in compromise of the proposed  
27 civil penalty;  
28 (3) submit a written explanation, information, or  
29 other material in answer to the allegations or in mitigation of  
30 the proposed civil penalty; or  
31 (4) request the office to initiate a hearing  
32 under Minnesota Statutes, sections 14.50 to 14.69.

33 7530.0500 DIRECTOR REVIEW.

34 If the pipeline operator objects to the proposed compliance  
35 order or civil penalty and submits written explanations,

1 information, or other materials in response to a warning letter  
2 or notice of probable violation, the director shall review the  
3 submissions and determine whether to negotiate further, modify,  
4 or withdraw the warning letter or notice of probable violation,  
5 or initiate a hearing under Minnesota Statutes, sections 14.50  
6 to 14.69.

7 7530.0800 CONSENT ORDER.

8 An executed consent order must contain:

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

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

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

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

20 7530.1000 CIVIL PENALTIES.

21 Subpart 1. Proceedings. When the office has good cause to  
22 believe that a pipeline operator is engaging or has engaged in  
23 conduct that involves a violation of minimum pipeline safety  
24 requirements, the office shall conduct proceedings under parts  
25 7530.0100 to 7530.1100 to determine the nature and extent of the  
26 violation and assess and, if appropriate, negotiate a civil  
27 penalty under Minnesota Statutes, section 299F.60.

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

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

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

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

- 1 D. the pipeline operator's ability to pay;
- 2 E. good faith on the part of the pipeline operator in  
3 attempting to achieve compliance;
- 4 F. the effect of the penalty on the pipeline  
5 operator's ability to continue in business; and
- 6 G. whether the pipeline is a hazardous liquid  
7 pipeline or a gas or other pipeline.

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

13 7530.1200 HAZARDOUS FACILITY ORDERS.

14 Subpart 1. In general. After an inspection, report, or  
15 complaint, the office shall find a particular facility to be  
16 hazardous to life or property under Minnesota Statutes, section  
17 299F.57, subdivision 4, if under the facts and circumstances:

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

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

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

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

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

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

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

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

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

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

16 B. the facts on which the finding is based;

17 C. the legal basis of the order;

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

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

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

26 7530.1400 REPORTABLE INCIDENT INVESTIGATION.

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

34 7530.1500 TESTING AND TEST RESULTS.

35 Subpart 1. **Applicability.** This part applies to tests

1 following reportable incidents in preparation to returning the  
2 pipeline to service. For purposes of this part, pipeline has  
3 the meaning given it in Minnesota Statutes, section 299J.02,  
4 subdivision 11.

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

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

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

16 A. a statement of the purpose of the test with  
17 supporting documents;

18 B. the name, address, and telephone number of the  
19 pipeline operator;

20 C. the specific location of the pipeline or pipeline  
21 section to be tested, including a suitable map of the route of  
22 the pipeline and the location of the test;

23 D. the date and time the test is to be conducted;

24 E. the method by which the test will be accomplished  
25 and the type of test medium to be used; and

26 F. the name and telephone number of an independent  
27 testing firm or other person responsible for certification of  
28 results.

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

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



1 test results must include:

2           A. the date of the test;

3           B. the specific location of the pipeline or pipeline  
4 section to be tested, including a suitable map of the route of  
5 the pipeline; and

6           C. the results of the test.