

CHAPTER 299J

OFFICE OF PIPELINE SAFETY

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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.

History: 1987 c 353 s 22

299J.02 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 299J.01 to 299J.17.

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

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

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

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

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

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

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

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

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

Subd. 11. Pipeline. "Pipeline" means:

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

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

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

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

History: 1987 c 71 s 2; 1987 c 353 s 23

299J.03 OFFICE OF PIPELINE SAFETY.

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

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

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

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

History: 1987 c 353 s 24

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

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

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

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

Subd. 2. Delegated duties. The commissioner shall seek and accept federal designation of the office's pipeline inspectors as federal agents for the purposes of

enforcement of the federal Hazardous Liquid Pipeline Safety Act, United States Code, title 49, sections 2001 to 2014, the federal Natural Gas Pipeline Safety Act, United States Code, title 49, sections 1671 to 1686, and federal rules adopted to implement those acts. If the United States Secretary of Transportation delegates inspection authority to the state as provided in this subdivision, the commissioner shall do the following to carry out the delegated federal authority:

- (1) inspect pipelines periodically at times determined by rules of the commissioner;
- (2) collect inspection fees; and
- (3) order and oversee the testing of pipelines as provided in rules adopted under this section.

Subd. 3. Rulemaking contingent on federal authority. (a) The commissioner shall consider adoption of rules on subjects in this subdivision if federal law authorizes the state regulation. The rules must treat separately and distinguish between hazardous liquid and gas pipelines.

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

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

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

- (1) remote control 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;
- (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.

History: 1987 c 353 s 25

299J.05 PIPELINE SETBACK ORDINANCE.

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

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

History: 1987 c 353 s 26

299J.06 PIPELINE SAFETY ADVISORY COUNCIL.

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

Subd. 2. Powers and duties. The council shall advise the commissioner, director, and other appropriate federal, state, and local government agencies and officials on matters relating to pipeline safety and operation. The council shall advise the environmental quality board on implementation of sections 116L.015 and 116L.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, and 299J.01 to 299J.17, and shall review and comment on proposed rules and on the operation of the office of pipeline safety.

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

Subd. 4. Terms; compensation; removal. The terms, compensation, and removal of members are governed by section 15.0575. The council expires on June 30, 1993.

History: 1987 c 353 s 27; 1988 c 629 s 59

299J.07 PENALTIES FOR FAILING TO REPORT EMERGENCY RELEASE.

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

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

- (1) the employee knows or has reason to know that an emergency release exists;
- (2) the employee does not immediately report the release to the commissioner of public safety; and
- (3) the emergency release causes the death of an individual or great bodily harm as defined in section 609.02, subdivision 8.

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

History: 1987 c 353 s 28

299J.08 COMMISSIONER TO REPORT RELEASE; ADVICE AND COORDINATION.

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

History: 1987 c 353 s 29

299J.09 PIPELINE OPERATORS TO FILE INFORMATION AND GIVE NOTICE.

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. Notice of testing and test results. (a) At least 48 hours before conducting a hydrostatic test, whether or not the test is required by sections 299J.01 to 299J.17 or the rules of the commissioner, a pipeline operator shall give notice of the test to the director and the local governmental units traversed by the portion of pipeline to be tested. Advance notice is not required if the operator determines that an emergency exists requiring immediate testing of the pipeline. The notice must include:

(1) the name, address, and telephone numbers of the pipeline operator;

(2) the specific location of the pipeline or pipeline section to be tested, including a suitable map of the route of the pipeline, and the location of the test equipment;

(3) the date and time the test is to be conducted;

(4) the method by which the test will be accomplished and the type of test medium to be used; and

(5) the name and telephone number of any independent testing firm or other person responsible for certification of results.

(b) Authorized representatives of the director and any affected local governmental unit may observe the test.

(c) The results of a hydrostatic test conducted by the operator or by an independent testing company must be sent to the director and to every local governmental unit traversed by the tested portion of the pipeline within ten days of completion of the test. The test results must include:

(1) the date of the test;

(2) the specific location of the pipeline or pipeline section tested, including a suitable map of the route of the pipeline;

(3) the results of the test; and

(4) other information required by rule.

Subd. 5. Notice of product. (a) Within ten days after July 1, 1987, or within ten days of beginning operation of the pipeline, whichever is later, a pipeline operator shall file information with the director and the sheriff of every county traversed by a pipeline

of the types of products that will be carried in the pipeline. The operator shall include in its filing to sheriffs a material safety data sheet for each product that the operator expects to carry in the pipeline. The sheriff shall transmit copies of the material safety data sheets to the appropriate emergency responders.

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

History: 1987 c 353 s 30

299J.10 LOCAL GOVERNMENT EMERGENCY RESPONSE PLAN.

(a) A local governmental unit having a pipeline within its jurisdiction shall prepare a pipeline release emergency response plan. The local governmental unit must consult with the pipeline owner or operator when preparing the plan. Preparation of the plan must be coordinated by the county traversed by the pipeline for the other local governmental units within that county. The commissioner shall prescribe rules for the content of the plan. The plan must be completed and adopted by local governmental units within six months after the effective date of the rules prescribing the contents of the plan.

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

History: 1987 c 353 s 31

299J.11 ADOPTION OF FEDERAL PIPELINE INSPECTION RULES.

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

History: 1987 c 353 s 32

299J.12 PIPELINE INSPECTION FEE.

Subdivision 1. Assessment and deposit of fee. For each year following the delegation to the state of the inspection authority described in section 299J.04, the commissioner shall assess and collect from every pipeline operator an inspection fee in an amount calculated under subdivision 2. If an operator does not pay the fee within 60 days after the assessment was mailed, the commissioner may impose a delinquency fee of ten percent of the annual inspection fee and interest at the rate of 15 percent per year on the portion of the annual fee not paid. Fees collected by the commissioner under this section must be deposited in the pipeline safety account.

Subd. 2. Calculation of fee. 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.

History: 1987 c 353 s 33; 1988 c 624 s 20

299J.13 ACCESS TO INFORMATION; CLASSIFICATION OF DATA.

Subdivision 1. Duty to provide information. A person who the director has reason

to believe is responsible for an emergency release shall, when requested by the office or an authorized agent of the office, furnish to the director any information that the person may have or may reasonably obtain that is relevant to the emergency release.

Subd. 2. Access to information and property. The director or an authorized agent, upon presentation of credentials, may:

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

(2) enter upon any property, public or private, for the purpose of taking any action authorized by sections 299J.01 to 299J.17, including obtaining information from any person who has a duty to provide the information under subdivision 1 and conducting surveys or investigations.

Subd. 3. Classification of data. Except as otherwise provided in this subdivision, data obtained from any person under subdivision 1 or 2 is public data as defined in section 13.02. Upon certification by the subject of the data that the data relates to sales figures, processes, or methods of production unique to that person, or information that would tend to affect adversely the competitive position of that person, the director shall classify the data as private or nonpublic data as defined in section 13.02. Notwithstanding any other law to the contrary, data classified as private or nonpublic under this subdivision may be disclosed when relevant in any proceeding under sections 299J.01 to 299J.17, or to other public agencies concerned with the implementation of sections 299J.01 to 299J.17.

Subd. 4. Recovery of expenses. Reasonable and necessary expenses incurred by the director under this section, including administrative and legal expenses, may be recovered from a person who has been found liable under section 299J.07, 299J.15, or 299J.16, or any other law relating to the operation of a pipeline, in a separate action brought by the attorney general or in connection with an action under section 299J.16. The director's certification of expenses is prima facie evidence that the expenses are reasonable and necessary.

History: 1987 c 353 s 34

299J.14 LINE MARKERS REQUIRED; VANDALISM PROHIBITED; PENALTY.

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

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

History: 1987 c 353 s 35

299J.15 DISPOSAL OF PIPELINE PROHIBITED; PENALTY; ENFORCEMENT.

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

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

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

History: 1987 c 353 s 36

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 for each violation.

(b) The penalty provided under this subdivision may be recovered by an action brought by the attorney general in the name of the state in connection with an action to recover expenses of the director under section 299J.13, subdivision 4, or by a separate action in the district court of Ramsey county or in the county of the defendant's residence.

Subd. 2. **Action to compel performance; injunctive relief.** A person who fails to perform an act required by section 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 in the name of the state.

History: 1987 c 353 s 37

299J.17 OTHER REMEDIES PRESERVED.

Sections 299J.01 to 299J.17 do not abolish or diminish the right of a person to bring a legal action or use a remedy available under any other provision of state or federal law, including common law, to recover for personal injury, disease, economic loss, or other costs arising out of a release.

History: 1987 c 353 s 38

299J.18 PIPELINE SAFETY ACCOUNT.

The pipeline safety account is established as an account in the state treasury. All fees and penalties collected under sections 299J.01 to 299J.17 shall be deposited in the state treasury and credited to the pipeline safety account.

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

History: 1987 c 353 s 39