

## CHAPTER 299F

### STATE FIRE MARSHAL

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#### **299F.035 FIRE DEPARTMENT ACCESS TO AND USE OF CRIMINAL HISTORY DATA.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Criminal history data" has the meaning given in section 13.87.

(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.

(d) "Fire department" has the meaning given in section 299F.092, subdivision 6.

(e) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd. 2. **Access to data.** The superintendent of the bureau of criminal apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data. The plan must include:

(1) security procedures to prevent unauthorized use or disclosure of private data; and

(2) a procedure for the hiring authority in each fire protection agency to fingerprint job applicants, submit requests to the bureau of criminal apprehension, and obtain state and federal criminal history data reports for a nominal fee.

Subd. 3. **Relation of conviction to fire protection.** Criminal history data may be used in assessing fire protection agency job applicants only if the criminal history data are directly related to the position of employment sought.

Subd. 4. **Determination of relationship.** In determining if criminal history data are directly related to the position of employment sought, the hiring authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment sought; and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment sought.

**History:** 1989 c 290 art 8 s 1

#### **299F.362 SMOKE DETECTION DEVICES; INSTALLATION; PENALTY.**

*[For text of subds 1 to 3, see M.S.1988]*

Subd. 3a. **New construction; dwellings.** In construction of a new dwelling, each smoke detector must be attached to a centralized power source.

*[For text of subds 4 to 5a, see M.S.1988]*

Subd. 6. **Penalties.** (a) Any person who violates any provision of this section shall be subject to the same penalty and the enforcement mechanism that is provided for violation of the uniform fire code, as specified in section 299F.011, subdivision 6.

(b) An occupant who willfully disables a smoke detector or causes it to be nonfunctioning, resulting in damage or injury to persons or property, is guilty of a misdemeanor.

Subd. 7. **Local units of government; variances.** This section prohibits a local unit of government from adopting standards different from those provided in this section.

*[For text of subd 8, see M.S.1988]*

Subd. 9. Notwithstanding subdivision 7, or other law, a local governing body may adopt, by ordinance, rules for the installation of a smoke detector in single-family homes in the city that are more restrictive than the standards provided by this section. Rules adopted pursuant to this subdivision may be enforced through a truth-in-housing inspection.

Subd. 10. **Public fire safety educator.** The position of Minnesota public fire safety educator is established in the department of public safety.

**History:** 1989 c 322 s 1-5

**NOTE:** Subdivision 10, as added by Laws 1989, chapter 322, section 5, is repealed June 30, 1991. See Laws 1989, chapter 322, section 7.

## 299F.56 DEFINITIONS; NATURAL GAS PIPELINE SAFETY.

*[For text of subds 1 to 4b, see M.S.1988]*

Subd. 5. "Transportation" 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 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 office of pipeline safety may define as a nonrural area.

*[For text of subd 6, see M.S.1988]*

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.

*[For text of subd 7, see M.S.1988]*

**History:** 1989 c 244 s 8,9

## 299F.57 SAFETY STANDARDS; GAS PIPELINES.

Subdivision 1. The commissioner may by rule establish 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:

(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.** [Repealed by amendment, 1989 c 244 s 10]

**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 to 299F.641 or any penalty imposed under sections 299F.56 to 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.

**History:** 1989 c 244 s 10

## **299F.59 COMPLIANCE WITH STANDARDS.**

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

(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;

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

(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.

*[For text of subd 2, see M.S.1988]*

**History:** 1989 c 244 s 11

## **299F.60 CIVIL PENALTIES.**

**Subdivision 1.** Any person who violates any provision of sections 299F.56 to 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 \$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 for violations of sections 299F.56 to 299F.641 or 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.641 and under 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.

Subd. 4. All penalties collected under sections 299F.56 to 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.

**History:** 1989 c 244 s 12

## **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.641, including the restraint of transportation of gas or hazardous liquid or the operation of a pipeline facility, or to enforce standards established 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.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.

**History:** 1989 c 244 s 13

## **299F.62 PLAN FOR 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.641 shall prepare, maintain, carry out, and file with the commissioner a plan for 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 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.

**History:** 1989 c 244 s 14

### **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 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 sections 299F.56 to 299F.641 and the standards adopted or orders issued under sections 299F.56 to 299F.641.

(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 the person has acted or is acting in compliance with those sections and the standards adopted under those sections.

(d) An accident report made by an officer, employee, or agent of the office of 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.641, the commissioner shall wherever practicable employ a practice of spot checking, with respect to persons subject to sections 299F.56 to 299F.641.

Subd. 3. [Repealed by amendment, 1989 c 244 s 15]

**History:** 1989 c 244 s 15

**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.

**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;
  - (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. Rules.** The commissioner shall adopt 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 facility.

**History:** 1989 c 244 s 16

**299F.641 INTRASTATE HAZARDOUS LIQUID PIPELINES.**

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

**Subd. 2. Federal standards adopted.** The federal safety standards adopted as Code of Federal Regulations, title 49, part 195, 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 complies with requirements for state certification under United States Code, title 49, section 2004.

Subd. 4. [Repealed by amendment, 1989 c 244 s 17]

Subd. 5. [Repealed by amendment, 1989 c 244 s 17]

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. **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 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.

Subd. 7. **Annual certification report.** The commissioner 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.

**History:** 1989 c 244 s 17

## **299F.80 POSSESSION WITHOUT A PERMIT.**

Subdivision 1. Except as provided in subdivision 2, whoever possesses explosives without a valid license or permit may be sentenced to imprisonment for not more than five years.

*[For text of subd 2, see M.S.1988]*

**History:** 1989 c 290 art 6 s 3