

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Rules Of The Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

STATEMENT OF NEED AND REASONABLENESS

GENERAL STATEMENT

Prior to 1987, the pipeline safety inspection program in Minnesota was under the State Fire Marshal. In 1987, the Legislature created the Office of Pipeline Safety and transferred all pipeline safety inspection functions to this Office.

The Office of Pipeline Safety is responsible for inspecting intrastate pipelines and facilities that carry or process gas or hazardous liquids. In addition, Minnesota Statutes, section 299J.01, required the Office to take the steps necessary to be appointed as an interstate agent. In July of 1991, the Office was appointed an interstate agent of the United States Secretary of Transportation for the purposes of inspecting the Minnesota portion of interstate pipelines and facilities that carry or process natural gas or hazardous liquids.

The administration of the pipeline safety inspection program is a vital component of providing for the general safety of the public. It is expensive to ensure that a qualified staff is retained to administer the comprehensive inspection program.

Important to this inspection function is a constant, stable source of financial support. During the first years of the Office's existence, it was funded by the Legislature using general revenues. The Legislature found that this funding mechanism was unable to ensure enforcement of safety codes and investigations of accidents. It is abundantly clear throughout the "start-up" stages of the stand-alone Office that a stable source of revenue was necessary to meet the minimum requirements of Federal 5(a) (interstate agent) Certification and Minnesota Statutes, chapter 299J.

The requirements to become an interstate agent of the federal government include significant expansion of the pipeline safety program through legislative policy and budget expansion. In order to affirm the program objectives, it was imperative that a stable funding method be found. The two primary methods for funding state programs are the general revenue method and a dedicated fund method.

General revenue method is the method in which the Legislature funds the Office out of general tax revenues. The dedicated fund method is the method in which costs of a program are paid for by the individuals who are regulated by the program.

During the 1988 Legislative Session, the decision for the method of funding the pipeline safety program was a dedicated account. This funding mechanism mandated that the businesses responsible for pipeline safety would cover the costs of the safety program. The Legislature determined that this method was the most fair and direct.

It is apparent that the Legislature determined that all costs of the inspection program should be borne by the pipeline operators. Since no general revenue was granted after

1990 to the pipeline safety program, it was imperative that a continuing funding source be created.

In the past, a grant from the general revenue process of the Legislature was applied to the program; the remaining program costs were recovered by charges to pipeline operators. The pipeline operators were paying for direct inspection costs but not the costs of operating or maintaining the Office. General revenue funds were utilized for such support costs. The direct inspection fee ranged from a low hourly rate of $45.00 to over $90.00 an hour based on which inspector did the inspection. The intent of the original plan to recover the costs of the program in the State Fire Marshal's Office was that inspection costs would recoup such costs. The evidence shows that the costs were not being fully recovered. The Legislature's decision then, to make it clear that all costs of the Office shall be borne by the operators, is important.

The Legislature considered various methods for recovering costs through this fee program. The large operators wanted direct charges for all costs. The small operators wanted an annual meter or volume charge. The Legislature balanced the competing operator methods by charging for standard inspections (actual expenses) through a per meter charge and by charging for specific inspections (construction, follow-up, accident, etc.) through a direct charge. This dual mechanism allowed for a fairer distinction and distribution of costs based on actual experience. The larger companies underwriting of standard inspections would be offset by the direct charge for "problem" operators. This balance appeared appropriate because all operators endorsed the legislation.

The Legislature also specified the method of recouping the costs of inspecting interstate natural gas and hazardous liquid operators as direct charges. In addition, the Legislature specified that interstate natural gas and hazardous liquid operators would pay a share of the support costs associated with operating the Office Of Pipeline Safety by charging fees relative to the length of pipeline each operator has in service. This dual mechanism also allows for a fairer distinction and distribution of costs among the interstate operators. The ability to collect fees from interstate operators has been demonstrated through a federal court case in West Virginia. See, Tenneco Inc. v. Public Service Commission of West Virginia, 489 F.2d 334 (1973).

The Office of Pipeline Safety breaks down the cost recovery into three areas: actual expenses (hereafter referred to as per meter assessments), direct costs, and support (administrative) costs.

Per meter assessments recover the total cost of the standard inspections (actual expenses), as defined under Minnesota Statutes, section 299F.631, subdivision 2, paragraph (a). Actual expenses (per meter assessments) are distributed on a per meter basis. This method gives consideration to the size of the operation.

Direct expenses include, but are not limited to, spot, construction, follow-up, and specialized inspections, and accident investigations. The direct cost is recovered by direct charging the operators for direct expenses associated with that particular operator.

Support (administrative) costs are the remaining costs of the operation and maintenance of the Office of Pipeline Safety. Federal grants and the civil penalties collected for One-Call violations offset the support costs. (Note that legislation has not addressed where civil penalties for chapter 299F or 299J violations may be used.) The balance is divided among six categories of operators proportional to the inspector hours spent on each category.

The costs allocated to each of these categories is then distributed among the operators which fall into the category based on the following methods:

Intrastate Gas and L.P. Distribution	number of meters
Liquefied Natural Gas	equal shares
Intrastate Hazardous Liquid	miles of line
Intrastate Gas Transmission	miles of line
Interstate Hazardous Liquid	miles of line
Interstate Natural Gas	miles of line

A diagram showing the assessment method has been prepared and is attached to this Statement.

In addition, efforts at the federal level are being directed toward increasing the level of federal reimbursement of state pipeline safety programs to the full 50% funding level. These efforts are in response to the increasing federal mandates for state pipeline safety programs and the reduced federal capacity for inspections. (Note that the federal formula for calculating the federal reimbursement will be changed by 1993 to put more emphasis on the Office's performance in conduct of inspections rather than the Office's planning of inspections.)

In summary, the Office is funded through specific choices addressed in Statute. The Statute was aimed at balancing competing economic interests for a fair and equitable cost recovery program. In essence, the following conclusions can be made:

1. The Legislature determined that a stable and constant funding source was necessary for implementing the pipeline safety program through Minnesota Statutes, chapter 299J; Minnesota Statutes, sections 299F.56 to 299F.641; and Minnesota Statutes, chapter 216D.

2. The Legislature determined that a dedicated funding mechanism was the fairest and most equitable method for achieving a stable and constant funding source.

3. The Legislature determined that all costs of the program, including support costs, should be recovered by the funding mechanism.

4. The Legislature recognized the various needs and issues of fairness between large and small operators by creating a two-tier method of cost recovery.

STATUTORY AUTHORITY

The Commissioner of Public Safety is directed to assess pipeline operators for inspection fees under Minnesota Statutes, sections 299F.631 and 299J.12. Subdivision 3 of section 299F.631 requires the Commissioner to adopt rules to implement this section. Minnesota Statutes, section 299J.04, subdivision 1, clause (4), requires the commissioner to adopt rules to implement sections 299J.01 to 299J.17.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, requires the Department of Public Safety to consider the effect on small businesses when it adopts rules. The rules will have a direct effect on

small businesses engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas.

Section 14.115, subdivision 2, states in part:

"When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses . . ., the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule."

Specific methods for reducing the impact of the rules on small businesses have been considered. The impact of the rules on small businesses has been reduced as follows:

a. Less stringent requirements. The main way that the impact of the rules has been reduced for small businesses is in the method chosen for assessing the costs of routine inspections of intrastate gas distribution operators and intrastate liquefied petroleum gas distribution operators. Two main methods were considered for assessing these costs. One method would assess an operator for all costs of routine inspections of that operator's facilities. The second method would calculate the total costs of all routine inspections of these types of operators and then assess a portion of the costs to each operator based on the operator's size. Of the two methods, the second would result in lower fees for small businesses. The second method was mandated by the Legislature in Minnesota Statutes, section 299F.631, subdivision 2, paragraph (b).

   The department has reduced the burden of the rules by allowing for the reduction of the interest and delinquency fee charged on late payments when an operator is unable to pay the assessment. This will reduce the burden of the rules on all businesses, not just small businesses.

b. Less stringent schedules. The compliance schedules for paying assessments are set by statute. The department is unable to supersede the statute by establishing less stringent schedules for paying assessments.

c. Consolidation or simplification of requirements. The department has made an effort to simplify all requirements so that is easy for operators to understand what is expected of an operator and how assessments are calculated.

d. Performance standards. The rules contain no operational or performance standards.

e. Exemption. The statutory mandate to assess pipeline operators for the costs of the Office does not permit the Office to exempt any operators from the assessments made by the rules. The statutory mandate does, however, give the Office discretion to exempt operators from the interest and delinquency fee charged on late payments. As discussed above, the rules allow for the reduction of this interest or fee when an operator is unable to pay the assessment.

FEES IMPOSED BY THE RULES

In accordance with Minnesota Statutes, section 16A.128, subdivision 1a, pertaining to fees, the Department has received approval from the Commissioner of Finance for the fees set by these rules. A copy of the approval is attached to this Statement. The approval is based on the rules draft dated 12/11/91. Four changes were made to the 12/11/91 rules draft to arrive at the final draft of the rules dated 01/07/92. Three of the changes were minor language clarifications. One change was made to the timing of the assessment to conform with statute. None of the changes affected the fees calculations upon which the Department of Finance approval was based.

In accordance with Minnesota Statutes, section 16A.128, subdivision 2a, the Department has sent a copy of the Notice of Intent to Adopt Rules and a copy of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting the notice to the State Register.

FISCAL IMPACT

Adoption of these rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under Minnesota Statutes, section 14.11, subdivision 1. The Office has identified 19 pipeline operators as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total about $25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities has serious safety violations or has a pipeline accident that requires special inspections or investigations by the Office.

AGRICULTURAL LAND IMPACT

Minnesota Statutes, section 14.11, subdivision 2, is inapplicable, because these rules will not have any direct or substantial adverse impact on agricultural land.

REVIEW BY PIPELINE SAFETY ADVISORY COUNCIL

Minnesota Statutes, section 299J.06, subdivision 2, requires that the pipeline safety advisory council "shall review and comment on proposed rules . . . of the office of pipeline safety." Copies of rules drafts have been distributed to and discussed with members of the advisory council during the process of developing the rules. The Notice of Intent to Adopt the Rules along with the draft of the rules approved for publication will be sent to members of the advisory council.

OTHER STATUTORY REQUIREMENTS

Minnesota Statutes, sections 115.43, subdivision 1, 116.07, subdivision 6, and 144A.29, subdivision 4, do not apply to these rules.

WITNESSES

If these rules go to a public hearing, it is anticipated that there will be no expert witnesses called to testify on behalf of the agency. If testimony is needed as to the development of the rules, testimony may be provided by Walt Kelly, Director of the Office of Pipeline Safety, by Rose Keller, Assistant to the Director of the Office of Pipeline Safety, or by any other employee of the Department of Public Safety.

RULE BY RULE ANALYSIS

7530.5010 GENERAL.

This part sets out the purpose, scope, and authority of the rules. This is reasonable so that persons who read the rules know why the rules were adopted, what the rules cover, and the statutory authority for the rules.

7530.5020 DEFINITIONS.

Subpart 1. Scope. It is necessary to limit the rule parts to which the definitions apply. This is reasonable because the same terms may have different meanings under different rules.

Subpart 2. Director. The term "Director" is defined because the term is used throughout the rules and is not defined elsewhere.

Subpart 3. Inspection expenses. It is necessary to clearly define inspection expenses because the operators must be fairly and consistently billed the appropriate expenses. The salary, fringe benefits, and travel expenses of pipeline safety inspectors are included because it is necessary to recover all expenses associated with the work done as stated in Minnesota Statutes, sections 299J.12 (for interstate operators) and 299F.631 (for intrastate operators). It is reasonable to include the preparation and follow up work to an inspection in the inspection expenses because this work needs to be done to ensure successful results.

Subpart 4. Investigation expenses. It is necessary to clearly define investigation expenses because the operators must be fairly and consistently billed the appropriate expenses. The salary, fringe benefits, and travel expenses of pipeline safety inspectors are included because it is necessary to recover all expenses associated with the work done as stated in Minnesota Statutes, sections 299J.12 (for interstate operators) and 299F.631 (for intrastate operators). It is reasonable to include the preparation and follow up work to an investigation in the investigation expenses because this work needs to be done to ensure successful results.

Subpart 5. Office. The term "Office" is defined because the term is used throughout the rules and is not defined elsewhere.

Subpart 6. Per meter assessments. It is necessary to clearly define per meter assessments because the term is used throughout the rules, but not defined throughout the rules or

statutes, nor is the meaning commonly understood. Under Minnesota Statutes, section 299F.631, the Office of Pipeline Safety is required to assess and collect fees from gas pipeline operators for actual expenses. Actual expenses is determined to mean those expenses related to standard inspections and standard periodic inspections. The calculation of the per meter assessment is set out in Minnesota Statutes, section 299F.631, subdivision 2, paragraph (b). There is no descriptive term to accurately describe these expenses. It is decided to refer to them by the method in which the expenses are recovered. It is reasonable to use this term for these expenses because it is as descriptive as any other term.

Subpart 7. Quarter. It is necessary to define the exact time period of a quarter to avoid any misunderstanding. The quarters specified are reasonable and correspond to standard practice.

7530.5030 PER METER ASSESSMENTS.

Subpart 1. Calculation of total expenses; limitation. According to statute, the total expenses of the Office of Pipeline Safety must be recovered. To accomplish this, the expenses have been divided into three categories: per meter assessments, direct charges, and support costs. This subpart deals with the per meter assessments. Expenses which are included in the per meter assessments are those related to standard periodic inspections. These expenses are billed on a per meter basis because they are the most costly inspections and are, therefore, the most burdensome to the small business operators. It is reasonable to offer relief to the small business operators through this method of cost distribution because of the small business consideration.

The Legislature determined that all costs of the program, including support costs, should be recovered by the funding mechanism. The Legislature also recognized the various needs and issues of fairness between large and small operators by creating a two-tier method of cost recovery. One of those tiers is the method in which standard inspection costs are recovered. Standard inspections are more time consuming and more costly than the others. Subsequently, it would put undue hardship upon the smaller operators to pay for the entire cost of the standard inspection. Therefore, the expenses associated with standard inspections are recovered on a pro rata share based on meters.

The term "per meter assessments" refers to the inspection expenses to be recovered under Minnesota Statutes, section 299F.631, subdivision 2, paragraph (b), by the Office Of Pipeline Safety from pipeline operators providing metered service and from liquefied petroleum gas distribution system operators that do not meter fuel delivery.

This rule is necessary because liquid petroleum operators cannot be billed on a metered basis unless the rule is in place. It is reasonable to promulgate this rule because liquid petroleum operators would not be able to survive if the Office Of Pipeline Safety continued to bill on a direct charge basis.

It is also necessary to have this rule because the statute needs to be clarified. The statute states what is not included in the per meter assessments. This rule delineates what is to be included in actual expenses for per meter assessments. The statute requires the calculation of support costs, but does not set out how to tell whether a cost is an actual cost (per meter assessment) or a support cost.

The types of expenses included in per meter assessments are limited to those associated with standard inspections of intrastate metered gas operators and intrastate liquid

petroleum distribution systems, in accordance with Minnesota Statutes, section 299F.631, subdivision 2, paragraph (b).

Per meter assessments include only those inspection expenses incurred by the Office Of Pipeline Safety in conducting periodic maintenance and operation inspections of pipeline operators providing metered service and liquefied petroleum gas distribution system operators that do not meter fuel delivery. Per meter assessments do not include inspection expenses incurred by the Office Of Pipeline Safety in conducting inspections of interstate natural gas or hazardous liquid operators or inspections or investigations listed in Minnesota Statutes, section 299F.631, subdivision 2, paragraph (a), clauses (2) to (6).

Subpart 2. Method of Assessment. As stated in Minnesota Statutes, section 299F.631, paragraph (a), each quarter, intrastate gas distribution pipeline operators providing metered service and distribution system operators providing liquefied petroleum gas will be assessed a pro rata share of the total standard inspection expenses incurred that quarter. Assessments must be based on the number of meters in service on the preceding December 31. For liquefied petroleum gas distribution systems that do not meter fuel delivery, the operator is deemed to have the same number of meters as the number of individual service lines on the preceding December 31. In order for operators to plan and budget for actual expenses, and to provide a clear, definitive, and objective distribution of expenses, it is necessary to specify the method of assessment for operators subject to this part.

The rule specifies that assessments for natural gas operators providing metered service will be based on the number of meters in service on the preceding December 31. This distributes per meter assessments among these operators based on the relative size of their operation which is a reasonable method of assuring an equitable distribution of expenses.

The rule specifies assessments for operators providing liquefied petroleum gas will be based on number of meters, or number of service lines if unmetered, in the preceding calendar year. This is required by Minnesota Statutes, section 299F.631, subdivision 2, paragraph (a), clause (6), before these operators can be billed on a per meter basis. It is reasonable to provide for metered billing of liquefied petroleum gas operators based on the number of meters or unmetered service lines during the previous year because it distributes per meter assessments based on the relative size of their operation, and because not all operators use meters in providing their service.

7530.5040 DIRECT CHARGES.

It is necessary to identify those costs incurred by the Office that will be directly attributed (billed) to the operator for which a given service has been performed. In order for operators to understand what they will be billed for, it is necessary to explicitly state the activities that will be directly charged to them.

Minnesota Statutes, section 299F.631, subdivision 2, paragraph (c), requires the following types of inspections and investigations to be direct charged:

Specialized inspections conducted in order to address a variety of issues, including: particular conditions or situations that can only be addressed by inspecting specially for that condition or situation; a history of problems indicating the need to inspect specially for a particular condition related to a pipeline operator's activities; or a potential danger to the public that is best addressed by inspecting specially for that potential danger. In order to provide for a fair and equitable assessment of expenses, it is reasonable that the expenses associated with specialized inspections be borne solely by the pipeline operator involved.

Standard inspections (of pipelines/facilities carrying liquefied natural gas or hazardous liquids on an interstate basis) are necessary to assure that pipeline operators continually comply with applicable codes and regulations. It is necessary to specify that these standard inspections include pipeline operators except those intrastate operators for which per meter assessments for annual inspections are determined in part 7530.5030. Because liquified natural gas and hazardous liquid pipeline operators vary greatly in their size and type of operations, it is reasonable to directly charge for their standard inspections, as specified in Minnesota Statutes, section 299F.631, subdivision 2, paragraph (c).

It is necessary, at times, to investigate complaints regarding activities of a specific pipeline operator. It is reasonable, therefore, that the expenses associated with that investigation be borne solely by the pipeline operator involved.

In the event of a pipeline accident or incident, it is necessary to investigate the facts and circumstances attributable to the cause of the accident, and to determine whether violations of applicable laws or regulations took place. Under these circumstances it is reasonable that the expenses attributable to these investigations be borne solely by the pipeline operator involved.

It may be necessary to conduct follow up inspections related to previously issued orders to assure that a pipeline operator is prudently pursuing compliance with the order. Under these circumstances, it reasonable that the pipeline operator involved be assessed all of the costs associated with that follow up inspection.

In order for pipeline operators to be aware of how they will be billed for expenses applicable to this part, it is necessary to specify the method of assessment for direct charges. Because the nature of the investigations and inspections identified in this part apply directly to a specific pipeline operator, for a specific function, it is reasonable to bill the specific pipeline operator for its direct charges.

7530.5050 SUPPORT COSTS.

Subpart 1. Definition. It is required by Minnesota Statutes, sections 299F.631, subdivision 4, and 299J.12, subdivision 3, to assess operators for support costs associated with operating the Office Of Pipeline Safety. Since support costs are not defined elsewhere, it is necessary to define them in the rules. This subpart defines support costs as those costs that are not determined to be actual expenses (per meter assessments) or direct charges. It is reasonable to classify as support costs those costs that cannot be equitably attributed to a specific investigation or inspection.

Subpart 2. Reductions. The support costs balance is reduced by the federal reimbursements the Office receives. It is necessary to state where we apply the federal reimbursements. It is reasonable to apply them to support costs because they are not directly related to any specific inspection or investigation.

Support costs are also reduced by the amount of civil penalties collected under Minnesota Statutes, section 216D.08. The penalties collected for violation of the One Call Excavation Notification System are deposited in the state treasury and credited to the pipeline safety account. The Office of Pipeline Safety is responsible for the enforcement of the One Call System. Expenses are incurred in this process. Legislation mandates that the Office recover its expenses. Applying the penalties collected is in keeping with the legislative mandates. The One Call System applies to interstate and intrastate pipelines and facilities.

Therefore it is appropriate to reduce the support costs of both programs with collected civil penalties.

Subpart 3. Support cost split. It is necessary to specify the procedures for determining a fair and equitable distribution of support costs in order for pipeline operators to be aware of how they will be assessed the costs associated with the operation of the Office Of Pipeline Safety. It is reasonable to apportion the total support costs of the Office in proportion to the inspector hours spent in each quarter for each type of pipeline operator because this provides for a fair and equitable distribution of the cost of operations.

Subpart 4. Method of assessment. Items A through G state how support costs will be assessed among the operators in each category.

Item A. The support costs attributable to intrastate natural gas distribution operators providing metered service are assessed based on the number of meters in service on the preceding December 31. This distributes support costs according to the relative size of operations, which is a reasonable approach to assuring a fair and equitable distribution of support costs. This method of distribution is the same as the method used for per meter assessments.

The support costs attributable to pipeline operators providing liquefied petroleum gas are assessed based on number of meters, or, if unmetered, on the number of unmetered service lines as of December 31 of the preceding calendar year. This distributes support costs according to the relative size of operations, which is a reasonable approach to assuring a fair and equitable distribution of support costs. This method of distribution is the same as the method used for per meter assessments.

Item B. Liquefied natural gas pipeline facilities have no means to be measured by meters, service lines, or miles. Therefore, the costs attributed to liquefied natural gas pipeline facilities will be distributed into equal shares, which is a reasonable approach to assuring a fair and equitable distribution of support costs. This is a reasonable approach to distributing support costs among these pipeline operators because they are few in number, and the amount of inspector time spent in these functions will be relatively small.

Item C. The support costs attributable to intrastate hazardous liquid pipeline operators are assessed against individual operators in proportion to their total miles of pipeline in service in Minnesota. This procedure provides for a reasonable distribution of support costs among all intrastate hazardous liquid pipeline operators because miles of pipeline indicates size of operator, which relates to ability to pay.

Item D. The support costs attributable to intrastate gas transmission operators are assessed against individual operators in proportion to their total miles of pipeline in service in Minnesota. This procedure provides for a reasonable distribution of support costs among all intrastate gas transmission pipeline operators because miles of pipeline relates to size of operator, which indicates ability to pay.

Item E. The support costs attributable to interstate hazardous liquid pipeline operators are assessed against individual operators in proportion to their total miles of pipeline in service in Minnesota, as required by Minnesota Statutes, section 299J.12, subdivision 3. This procedure provides for a reasonable distribution of support costs among all interstate hazardous liquid pipeline operators because miles of pipeline relates to size of operator, which indicates ability to pay.

Item F. The support costs attributable to interstate natural gas pipeline operators are assessed against individual operators in proportion to their total miles of pipeline in service in Minnesota, as required by the Minnesota Statutes, section 299J.12, subdivision 3. This procedure provides for a reasonable distribution of support costs among all interstate natural gas pipeline operators because miles of pipeline relates to size of operator, which indicates ability to pay.

Item G. To ensure that the operators are all treated equally, it is necessary to determine a particular date to measure the length of their system. The federal grant operates on a calendar year. Therefore, December 31 was chosen as the effective date for the calculation.

The Office of Pipeline Safety has jurisdiction over those pipelines and facilities in Minnesota only. Therefore, the pipeline measurements must be for those pipelines in Minnesota. Fractions are cumbersome to deal with, so it has been decided to round the numbers for ease of computations. Fractions are rounded up because some pipelines are less than a mile in length.

7530.5060 PROCEDURE.

Subpart 1. Assessment form. This subpart specifies the content of the assessment form and the timing for the Office Of Pipeline Safety to provide the assessment to the operator. It is necessary in order for the pipeline operators to plan and budget their expenditures, as well as for the pipeline operators to see the breakdown of the various expenses for which they are being assessed. It is reasonable to require a timely provision of assessments, as well as sufficient detail as to their nature. The timing of the assessments for intrastate operators reflects the requirements of Minnesota Statutes, section 299F.631, subdivision 1. The rules set the timing of the assessments for interstate operators the same as for intrastate operators in order to be consistent.

Subpart 2. Delinquency fee and interest. This subpart states that the Office must impose a delinquency fee of not more than ten percent and interest at the rate of not more than 15 percent if an operator does not pay an assessment within 60 days. The actual amount of the delinquency fee and interest rate are to be determined by the Director after consideration of three factors listed in this subpart. The authority for assessing the delinquency fee and interest rate comes from Minnesota Statutes, sections 299F.631, subdivision 1, and 299J.12, subdivision 1, which state in identical language: "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." Through this subpart, the Commissioner is delegating to the Director the authority to determine the amount of the delinquency fee and interest rate. It is reasonable to allow reduction of the delinquency fee and interest if the operator is unable to pay because it gives the Office flexibility with the operator in working out a payment plan. Listing factors for the Director to consider when determining these amounts is reasonable because it ensures that the Director will be consistent.

Subpart 3. Complaint procedure. This subpart details the procedures an operator may follow in the event of a disagreement regarding an assessment. It is necessary to allow pipeline operators the ability to disagree with the expenses for which they are being billed. It is reasonable to require that the disagreement be submitted in the form of a written complaint, upon which the Director can take appropriate action.

It is also necessary to specify the procedures for review and resolution of a written complaint. It is reasonable to require that the Director of the Office Of Pipeline Safety issue a written determination within a reasonable period of time.

It is necessary to allow the pipeline operator to withhold assessed charges without penalty during the time that a complaint is pending, unless the Director determines that the complaint or appeal is solely for the purpose of delay, because of the potential for modification of the assessment. If the Director determines that the procedure is being used solely to delay payment, it is reasonable to allow for commensurate penalty and interest charges.

CONCLUSION

Based on the foregoing, the Department's proposed rules are both necessary and reasonable.

1/22/92
Date

Richard J. Culgrant
Deputy Commissioner for:
Thomas H. Frost, Commissioner
Department of Public Safety

MJC
3/2/92

RULE REVIEW CHECKLIST

File No. 1901 Docket No. 05 00090709
DATE RECEIVED 2-27-92 ADOPTED W/O HEARING
REVIEW DATE 3-9-92 EMERGENCY RULE
DUE DATE 3-12-92 TO REVISOR ON 3-2-92
(DIS)APPROVED REVISOR (DIS)APPROVED 3-4-92
WITHDRAWN FILED W/SEC. OF STATE 3/4/92 & 3/10/92
RETURNED TO AGENCY

Public Safety requests this rule be approved by our office as soon as possible.

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Nov 21, 1988 Date published in State Register Sept 16, 1991
✓ Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
299F.631 299J.04 Statutory Authority
Small Business Statement
NA Expenditure of public money statement
1-9-92 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
✓ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Jan 22, 1992 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register Nov 28, 1988 Jan 3, 1989
✓ Date 30/25 days before adoption

see note
180-day deadline from:
missed deadline Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

send letters to LCRAR, Gov and appropriate committees

Resolution Adopting
Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Feb 27, 1992 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Jeff Sikorski Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Rules ...1

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: March 10, 1992

TO: DAVE ORREN
Rules Coordinator
Office of the Commissioner
Department of Public Safety
211 Transportation Building

FROM: MARTHA J. CASSERLY MC/PN
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Pipeline Safety Funding

The above-referenced rule has been approved as to its legality by the Attorney General on March 9, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:jj

cc: Jeff Lebowski
William Brown, Chief Judge
MaryAnn Hruby

Department of Public Safety

Office of Pipeline Safety

Adopted Permanent Rules Relating to Pipeline Safety Funding

Rules as Adopted

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.

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.

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.

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

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.

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.

APPROVED AS TO FORM AND LEGALITY

March 9 1992

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 10 1992

Joan Anderson Growe
Secretary of State

pc
2.58

Stat 299F.631 subd 3

The commissioner shall adopt rules to implement thes section

299J.04

The commissioner shall

(4) adopt rules to impliment sections 299J.01 to 299J.17

end of comment period Feb 26, 1992

Read letter of 2-27-92 explains why there are 2 Notices of Solicitation - had emergency rules but authority expired so published new ~~rules~~ permanent rules

- related 14.10 - sent a letter to pipeline operators prior to publishing Notice of ~~Intent~~ Solicitation in 1988
- republished Notice of Solicitation in 1991

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

Rec 2-27-92

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

February 27, 1992

Ms. Patty Nolte
Legal Assistant
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, Minnesota 55103

Re: In The Matter Of The Adopted Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

Dear Ms. Nolte:

On February 27, 1992, the Minnesota Department of Public Safety adopted the above-captioned rules related to the funding of the Office of Pipeline Safety. Enclosed for your review are the documents required by Attorney General Rules, part 2010.0300.

There were problems with the Department's Notice of Solicitation of Outside Information or Opinions (Solicitation) for this rules project. A narrative of events will inform you of the problems and of the Department's efforts to cure them.

During the 1988 legislative session, legislation was enacted that permitted the Department to adopt emergency rules governing the funding of the Office of Pipeline Safety (OPS). OPS and many pipeline operators actively participated in the process that shaped the legislation. Shortly after the passage of the legislation, OPS began work on the proposed rules. On October 26, 1988, OPS sent a letter to pipeline operators with a discussion draft of the rules. This was in violation of Minnesota Statutes, section 14.10, since a Solicitation had not yet been published in the State Register.

On November 21, 1988, a Solicitation was published. This Solicitation contained two errors. The title of the Solicitation incorrectly identified the topic of the proposed rules as governing "Pipeline Safety Design." The body of the Solicitation, however, correctly referred to the rules as "governing funding of the Office of Pipeline Safety." The statutory authority for the rules was incorrectly given as Minnesota Statutes, section 299F.63, instead of section 299F.631. The Solicitation did, however, correctly state that

the statutory authority "authorizes the agency to assess and collect an inspection fee."

On November 28, 1988, the Department published Notice of Intent to Adopt Emergency Rules Relating to Public Safety Funding. On January 3, 1989, the Department republished its Notice of Intent to Adopt Emergency Rules. The Emergency Rules were not adopted and the emergency rulemaking authority expired.

The 1989 legislature changed the Department's emergency rulemaking authority to regular rulemaking authority and made the rulemaking mandatory instead of discretionary. The 1989 legislature also amended Minnesota Statutes, sections 299F.631 and 299J.12, to clarify certain aspects of how intrastate and interstate pipeline operators were to be billed.

After the 1989 legislative session, the Department continued its work on the development of the rules. On September 16, 1991, a Solicitation was again published in the State Register. Shortly thereafter, OPS sent copies of the proposed rules to all pipeline operators affected by the rules. On January 27, 1992, the Department published its Notice of Intent to Adopt the rules. This was more than four months after the republished Solicitation.

The Department regrets any noncompliance with the statutory requirement to publish a Solicitation before discussing the proposed rules with persons outside the agency. The Department feels it has cured any defects related to the Solicitation by republishing the Solicitation, by making an extra effort to inform persons affected by the rules, and by giving an adequate amount of time for comment after republishing the Solicitation.

The documents enclosed for your review are listed in paragraphs A through R of this letter. Note that paragraphs A through O are keyed to items A through O of the Attorney General Rules, part 2010.0300. Paragraphs P, Q, and R list documents which show compliance with certain statutory rulemaking mandates and which would be required under a discussion draft of possible Attorney General Rules changes enclosed with a memo from your office dated January 24, 1991.

A. Photocopies of the Notices Of Solicitation Of Outside Information Or Opinions as published in the State Register on November 21, 1988, and September 16, 1991.. Also enclosed are photocopies of the Notices of Intent to Adopt Emergency Rules as published in the State Register on November 28, 1988, and January 3, 1989. Also enclosed are photocopies of comments received prior to the Solicitations and comments received in

response to the Solicitations and Notices of Intent to Adopt Emergency Rules.

B. No copy of a rulemaking petition is enclosed because no such petition was filed regarding these rules.

C. No certificate of an authorizing resolution or copy of a delegation of authority is enclosed because the Department of Public Safety is not a multi-member agency.

D. A copy of the proposed rules with a certificate of approval as to form by the Revisor of Statutes attached.

E. A copy of the Notice Of Intent To Adopt Rules Without A Public Hearing, as mailed.

F. The Statement Of Need And Reasonableness in support of the proposed rules.

G. A copy of the Affidavit Of Mailing The Notice Of Intent To Adopt Rules Without A Public Hearing. Also enclosed is a copy of the Affidavit Of Certificate Of Mailing List. Also enclosed is a copy of the Affidavit Of Mailing Discretionary Notice Of Intent To Adopt Rules.

H. A photocopy of the Notice Of Intent To Adopt Rules Without A Public Hearing, as published in the State Register.

I. Four copies of the rules as adopted.

J. No certificate of a resolution adopting the rules is enclosed because the Department of Public Safety is not a multi-member agency.

K. A copy of the Findings Of Fact, Conclusions Of Law, And Order Adopting Rules.

L. Copies of all written requests, withdrawals of requests for a hearing, submissions, or comments on the rules received by the Department except for requests solely for copies of the rules or of the Statement Of Need And Reasonableness.

M. A copy of the Declaration Of Counsel signed by Special Assistant Attorney General Jeff Lebowski.

N. No notice of submission of the rules to the Attorney General is enclosed because no persons requested

notification of the date of submission of the rules to the Attorney General.

O. No affidavit of mailing of notice of submission of the rules to the Attorney General is enclosed because no such notices were given.

P. A copy of the Affidavit Of Mailing The Statement Of Need And Reasonableness To The Legislative Commission To Review Administrative Rules.

Q. A copy of the January 10, 1992, letter to the Chairs of the House Appropriations and Senate Finance Committees documenting that the Department has complied with Minnesota Statutes, section 16A.128, subdivision 2a.

R. Copies of letters to the Legislative Commission To Review Administrative Rules, other appropriate Committees of the Legislature, and the Governor, pursuant to Minnesota Statutes, section 14.12. The letters dated June 28, 1990, November 21, 1990, and June 20, 1991 are photocopies. The letter dated February 12, 1991, is printed from computer disk.

If you have any questions about the enclosed documents or if you wish to discuss anything about the rules with me, please contact me at 296-2631. After you complete your review, please send any correspondence regarding the rules to me, Dave Orren, at 208 Transportation Building.

Yours very truly,

Dave Orren

Dave Orren
Rules Coordinator

enclosures

Board of Animal Health

Meeting Notice

A meeting of the Board of Animal Health has been scheduled for Thursday, December 15, 1988 at the Board offices at 9:30 a.m. The Board offices are located at 90 W. Plato Blvd., St. Paul, Minnesota.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Thomas J. Hagerty, DVM.
Executive Secretary

Minnesota Comprehensive Health Association Legislative and Public Policy Committee

Meeting Notice

NOTICE IS HEREBY GIVEN that a meeting of the Legislative and Public Policy Committee of the Minnesota Comprehensive Health Association will be held at 2:00 p.m. on Monday, November 28, 1988, at Group Health, Inc., 2829 University Avenue Southeast, Minneapolis, in the sixth floor large conference room. For additional information, please call Mr. Brian Osberg at (612) 623-8464.

Office of the Ombudsman for Mental Health and Mental Retardation

Meeting Notice

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will conduct a general meeting at 9:00 a.m. on Friday, December 9, 1988. The meeting will be held at the Capitol Holiday Inn, Sibley Room A & B, second floor.

Board of Water and Soil Resources

Meeting Notice

The Board of Water and Soil Resources has changed the date of their regularly scheduled monthly meeting date from November 23, 1988 to November 30, 1988. The meeting will start at 9:00 a.m. in Conference Room A of the Department of Agriculture Building, 90 W. Plato Blvd., St. Paul, Minnesota. The Board will resume their regularly scheduled meeting in December.

Department of Public Safety Office of Pipeline Safety

Notice of Intent to Solicit Outside Opinion Regarding Proposed Emergency Rules of the State Department of Public Safety Governing Pipeline Safety Design

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate emergency rules governing funding of the Office of Pipeline Safety.

The promulgation of these rules is authorized by *Minnesota Statutes* section 299E63, which authorizes the agency to assess and collect an inspection fee from pipeline operators.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

William C. Barbeau, Director
Office of Pipeline Safety
289 E. 5th Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-9638 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record in the event that the rules are promulgated.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Metallurgical specimen
Contact: Joseph Gibbs 612-296-3750
Bid due date at 2pm: November 28
Agency: State University
Deliver to: Mankato
Requisition #: 26871 18252

Commodity: Automated power file
Contact: Linda Parks 612-296-3725
Bid due date at 2pm: November 28
Agency: Human Services
Deliver to: St. Paul
Requisition #: 55000 95470

Commodity: State patrol automboiles
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: November 28
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Rotary two-stage snow plow attachments
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: November 28
Agency: Transportation
Deliver to: Oakdale
Requisition #: 79382 01517

Commodity: Press
Contact: Doug Thompson 612-296-3775
Bid due date at 2pm: November 23
Agency: MCF
Deliver to: Oak Park Heights, MN
Requisition #: 78630 08382

Commodity: Van conversion
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: November 23
Agency: Jobs & Training
Deliver to: Minneapolis, MN
Requisition #: 21607 72627

Commodity: 79500 RM ready mix concrete
Contact: Joan Breisler 612-297-2729
Bid due date at 2pm: November 23
Agency: MN Department of Transportation
Deliver to: Golden Valley
Requisition #: 79500 RM

Commodity: Aggregates
Contact: Joan Breisler 612-297-2729
Bid due date at 2pm: November 23
Agency: Transportation
Deliver to: Oakdale, MN
Requisition #: 79900 A

Commodity: Portland cement
Contact: Joan Breisler 612-297-2729
Bid due date at 2pm: November 23
Agency: Transportation
Deliver to: Golden Valley, MN
Requisition #: 79500 PC

Inver Hills Community College Library, 8445 E. College Trail, Inver Grove Heights

Metropolitan Council Library, 230 E. 5th St., St. Paul

Copies of an DEIS Summary and the CON report are available free of charge, and copies of the DEIS and three technical reports are available at cost. To request copies of the documents, please call the Metropolitan Council's Data Center at 291-8140.

Department Of Public Safety

Office of Pipeline Safety

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Related to Pipeline Safety Funding

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the assessment of pipeline operators to cover the costs of operation of the Office of Pipeline Safety. The Commissioner of Public Safety has authority to asssess pipeline operators for these costs under *Minnesota Statutes*, sections 299F.631 and 299J.12. The adoption of the rules is authorized by *Minnesota Statutes*, sections 299F.631 and 299J.04.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written statements should be addressed to:

Rose Keller
Office of Pipeline Safety
175 Aurora Avenue
St. Paul, Minnesota 55103

Oral statements will be received during regular business hours over the telephone at (612) 296-0649 and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rules. Any written material received by the State Department of Public Safety will become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rules are adopted.

Dated: 5 September 1991

Ralph Church, Commissioner
Department of Public Safety

Department of Revenue

Notice of Meeting of Advisory Commission on Intergovernmental Relations

The Advisory Commission on Intergovernmental Relations will hold its first general meeting from 9:00-12:00 a.m. on September 20, 1991. The meeting will be held at the Association of Minnesota Counties, 125 Charles Avenue, St. Paul.

Department of Social Work

Notice of Amended Governing Laws Requiring Mandatory Licensure for School Social Workers

The Minnesota Legislature has amended the governing laws for the Board of Social Work. The amendment requires mandatory licensure for School Social Workers by the Board of Social Work. The Legislature established two mechanisms for licensure of school social workers: grandparenting and examination. Both provisions require licensure by the Board of Teaching (dates are specified). The application deadline for grandparenting is **September 30, 1991.** The application deadline for the remaining examination is **November 15, 1991** (for the February 15, 1992 examination). No other examination will be given for this provision. Please contact the Board office at 612/643-2580 for an application packet for school social worker licensure or for more information.

Minnesota State Retirement System

Notice of Regular Meeting of Board of Directors

A regular meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, September 20, 1991 at 8:30 a.m. in the office of the System, 175 W. Lafayette Frontage Rd, St. Paul, Minnesota.

to submit their final position on the ~~issues~~ items certified by the commissioner. Final positions shall be presented in the form of the contract language desired by each party to resolve the matter in dispute. Final positions must be submitted to the commissioner within 15 days of the date when the commissioner certifies the matter to the board. The deadline for submitting final positions may be extended a reasonable period of time by the commissioner upon an adequate and timely showing of good cause by a party.

If the arbitration form is a final offer variety, the final positions of the parties may not be withdrawn or amended except by mutual written consent or to correct nonsubstantive errors of a clerical-technical nature or matters solely of form.

Subp. 6. **Effect of untimely final positions.** The failure of a party to submit timely final positions on an ~~issue~~ item that has been submitted to final-offer arbitration shall be noted by the arbitration panel and shall ~~prejudice that party's interests in the issue~~ result in a default award unless the delinquent party, in the sole discretion of the panel, can demonstrate good cause for the delinquency, in which case the panel may proceed as if the delinquency had not occurred. The failure of a party to submit timely final positions in a conventional arbitration matter shall be noted by the arbitration panel and may be considered by the panel in weighing the testimony, evidence, and overall good faith behavior of that party with respect to the ~~matters~~ items before the panel.

Subp. 7. **Continued mediation.** The commissioner may continue efforts to aid the parties in resolving issues ~~even~~ after a matter has been certified for arbitration.

5510.3005 STRIKES.

Subp. 2. **Dates right to strike matures and terminates.** The dates the right to strike matures and terminates shall be determined by the commissioner ~~pursuant to the act~~ in accordance with *Minnesota Statutes*, section 179A.18, and the commissioner shall provide written notice of the dates to the parties. No strike shall commence during the first ten days after receipt of a notice of intent to strike.

Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Public Safety
Office of Pipeline Safety

Proposed Emergency Rules Relating to Pipeline Safety Funding

Notice of Intent to Adopt Emergency Rules

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Safety (Agency) intends to adopt the above-entitled emergency rules. The statutory authority to adopt the emergency rules is contained in *Minnesota Statutes* 299E631. The Agency, in adopting the rules, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules, *Minnesota Statutes* 14.29 to 14.36 (1986).

All persons have 25 days specifically until 4:30 p.m. on December 15, 1988, to submit written data and views on the proposed emergency rules or any part or subpart of the rules. Any comments must be submitted to:

Jeff Bruce
205 Transportation Building
St. Paul, MN 55155
(612) 296-2608

If adopted, the proposed emergency rules will implement *Minnesota Statutes*, section 299F.631. The proposed rules are attached. A free copy of the proposed emergency rules is available by contacting Jeff Bruce at the address and telephone number listed above.

The proposed emergency rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed emergency rules as noticed.

Upon adoption of the emergency rules by the Agency, the emergency rules as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Jeff Bruce at the above address.

The emergency rules will take effect five working days after approval by the Attorney General and be effective for 180 additional days if the Agency gives notice of continuation in accordance with *Minnesota Statutes* 14.35 (1986).

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed (all new material)

7530.0010 [Emergency] GENERAL.

This chapter sets the standards and procedures necessary for the implementation of *Minnesota Statutes*, section 299F.631.

7530.0020 [Emergency] DEFINITION.

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

7530.0030 [Emergency] ACTUAL EXPENSES.

Subpart 1. **Definition.** "Actual expenses" means the expenses incurred by the Office of Pipeline Safety while performing annual inspections of pipeline operators providng metered service. Actual expenses include the time, equipment, and travel expenses of the pipeline safety inspectors, senior engineer inspectors, and the chief inspector in conducting annual inspections, preparing to conduct annual inspections, and preparing reports to document annual inspections.

Subp. 2. **Method of assessment.** Each quarter, a pipeline operator providing metered service will be assessed a pro rata share of the actual expenses incurred that quarter based on the number of meters in service on the preceding December 31 and as recorded on the United States Department of Transportation annual report form.

7530.0040 [Emergency] DIRECT CHARGES.

Subpart 1. **Definition.** "Direct charges" means the expenses incurred by the Office of Pipeline Safety in performing the functions listed in subpart 2. Direct charges include the time, equipment, and travel expenses of the pipeline safety inspectors, senior engineer inspectors, and chief inspector in performing the functions in subpart 2.

Subp. 2. **Inspection and investigation; expenses and charges.** The office of pipeline safety shall:

A. conduct specialized inspections and charge the expenses directly to the pipeline operator, when any of the following factors exist:

(1) a particular condition that can only be adequately inspected with a specialized inspection;

(2) a history of past problems that indicates a need for continuing inspection of a particular condition related to a pipeline operator's activities; or

(3) a potential danger to the public that can best be addressed by a specialized inspection;

B. conduct annual inspection of a pipeline operator that does not provide metered service and charge the expenses directly to the pipeline operator;

C. investigate complaints regarding activities of a pipeline operator and charge the expenses directly to the pipeline operator;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

D. investigate pipeline accidents and charge the expenses directly to the pipeline operator;

E. conduct inspections necessary to follow up letters of concern, notices of probable violation, warning letters, and hazardous facility orders, and charge the expenses directly to the pipeline operator; and

F conduct inspections necessary to ensure safe pipeline construction and charge the expenses directly to the pipeline operator.

Subp. 3. **Method of assessment.** Each quarter, the direct charges related to a function in subpart 2 will be assessed against the pipeline operator for the function that was performed.

7530.0050 [Emergency] SUPPORT COSTS.

Subpart 1. **Definition.** "Support costs" means the expenses incurred by the Office of Pipeline Safety for operating the Office of Pipeline Safety that are not actual expenses defined in part 7530.0030, or direct charges defined in part 7530.0040.

Subp. 2. **Method of assessment.** Support costs are assessed as follows:

A. Support costs for each quarter must be divided between and assessed against natural gas operators, liquefied natural gas operators, hazardous liquid operators, and transmission operators that specifically transport a product for resale to another operator, in proportion to the time that will be spent by inspectors on functions related to each type of pipeline operator during the current year.

B. The portion of support costs assessed against natural gas operators must be divided between and assessed against each operator in proportion to the number of meters in service the preceding December 31 as recorded on the United States Department of Transportation annual report form.

7530.0060 [Emergency] PROCEDURE.

Subpart 1. **Assessment form.** Within 30 days of the end of each quarter, the Office of Pipeline Safety shall mail to each pipeline operator an itemized assessment indicating the amounts of support costs, actual expenses, and direct charges assessed against that pipeline operator.

Subp. 2. **Complaint procedure.** A pipeline operator that disagrees with an assessment may file a written complaint with the Office of Pipeline Safety within 15 days of the receipt of the assessment. The director of the Office of Pipeline Safety shall review each complaint and issue a written determination affirming, amending, or rescinding the assessment. The pipeline operator may appeal the determination of the director of the Office of Pipeline Safety to the commissioner of public safety.

A pipeline operator may withhold the assessed charges during the time that a complaint or appeal is pending, and the Office of Pipeline Safety shall not assess penalty and interest charges unless the director determines that the complaint or appeal is solely for the purpose of delay.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Office of the Secretary of State

Annual Compilation of State Agencies: Notice of Vacancies in Multi-Member Agencies

The Secretary of State publishes here information about multi-member state agencies pursuant to Minnesota Statutes 15.0597, subdivision 3, and gives notice to the public of scheduled vacancies in these agencies effective January 1989. Vacancies are indicated by a single asterisk (*). Application forms may be obtained from and submitted to the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul MN 55155-1299; (612) 296-2805. Requests may also be made in person at Room 174 of the State Office Building. The application deadline is December 20, 1988.

Each agency entry includes the following information: agency name, statutory authority, address, appointing authority, compensation for members, agency function, membership requirements, and additional information submitted by the agency. Agency information for this report was supplied by the various multi-member agencies on or before October 1, 1988. Member information was compiled from information provided on membership application forms. Agencies are listed in alphabetical order by the name assigned to them by statute.

Emergency Rules

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Public Safety

Office of Pipeline Safety

Proposed Emergency Rules Relating to Pipeline Safety Funding

Notice of Intent to Adopt Emergency Rules

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Safety (Agency) intends to adopt the above-entitled emergency rules. The statutory authority to adopt the emergency rules is contained in *Minnesota Statutes* 299E.631. The Agency, in adopting the rules, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules, *Minnesota Statutes* 14.29 to 14.36 (1986).

All persons have 25 days to submit written data and views on the proposed emergency rules or any part or subpart of the rules. Any comments must be submitted to:

Jeff Bruce
205 Transportation Building
St. Paul, MN 55155
(612) 296-2608

If adopted, the proposed emergency rules will implement *Minnesota Statutes*, section 299E.631. The proposed rules are attached. A free copy of the proposed emergency rules is available by contacting Jeff Bruce at the address and telephone number listed above.

The proposed emergency rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed emergency rules as noticed.

Upon adoption of the emergency rules by the Agency, the emergency rules as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Jeff Bruce at the above address.

The emergency rules will take effect five working days after approval by the Attorney General and be effective for 180 additional days if the Agency gives notice of continuation in accordance with *Minnesota Statutes* 14.35 (1986).

Paul J. Tschida
Commissioner of Public Safety

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Rules as Proposed (all new material)

7530.0010 [Emergency] GENERAL.

This chapter sets the standards and procedures necessary for the implementation of *Minnesota Statutes*, section 299E631.

7530.0020 [Emergency] DEFINITION.

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

7530.0030 [Emergency] ACTUAL EXPENSES.

Subpart 1. **Definition.** "Actual expenses" means the expenses incurred by the Office of Pipeline Safety while performing annual inspections of pipeline operators providng metered service. Actual expenses include the time, equipment, and travel expenses of the pipeline safety inspectors, senior engineer inspectors, and the chief inspector in conducting annual inspections, preparing to conduct annual inspections, and preparing reports to document annual inspections.

Subp. 2. **Method of assessment.** Each quarter, a pipeline operator providing metered service will be assessed a pro rata share of the actual expenses incurred that quarter based on the number of meters in service on the preceding December 31 and as recorded on the United States Department of Transportation annual report form.

7530.0040 [Emergency] DIRECT CHARGES.

Subpart 1. **Definition.** "Direct charges" means the expenses incurred by the Office of Pipeline Safety in performing the functions listed in subpart 2. Direct charges include the time, equipment, and travel expenses of the pipeline safety inspectors, senior engineer inspectors, and chief inspector in performing the functions in subpart 2.

Subp. 2. **Inspection and investigation; expenses and charges.** The office of pipeline safety shall:

A. conduct specialized inspections and charge the expenses directly to the pipeline operator, when any of the following factors exist:

(1) a particular condition that can only be adequately inspected with a specialized inspection;

(2) a history of past problems that indicates a need for continuing inspection of a particular condition related to a pipeline operator's activities; or

(3) a potential danger to the public that can best be addressed by a specialized inspection;

B. conduct annual inspection of a pipeline operator that does not provide metered service and charge the expenses directly to the pipeline operator;

C. investigate complaints regarding activities of a pipeline operator and charge the expenses directly to the pipeline operator;

D. investigate pipeline accidents and charge the expenses directly to the pipeline operator;

E. conduct inspections necessary to follow up letters of concern, notices of probable violation, warning letters, and hazardous facility orders, and charge the expenses directly to the pipeline operator; and

F. conduct inspections necessary to ensure safe pipeline construction and charge the expenses directly to the pipeline operator.

Subp. 3. **Method of assessment.** Each quarter, the direct charges related to a function in subpart 2 will be assessed against the pipeline operator for the function that was performed.

7530.0050 [Emergency] SUPPORT COSTS.

Subpart 1. **Definition.** "Support costs" means the expenses incurred by the Office of Pipeline Safety for operating the Office of Pipeline Safety that are not actual expenses defined in part 7530.0030, or direct charges defined in part 7530.0040.

Subp. 2. **Method of assessment.** Support costs are assessed as follows:

A. Support costs for each quarter must be divided between and assessed against natural gas operators, liquefied natural gas operators, hazardous liquid operators, and transmission operators that specifically transport a product for resale to another operator, in proportion to the time that will be spent by inspectors on functions related to each type of pipeline operator during the current year.

B. The portion of support costs assessed against natural gas operators must be divided between and assessed against each operator in proportion to the number of meters in service the preceding December 31 as recorded on the United States Department of Transportation annual report form.

7530.0060 [Emergency] PROCEDURE.

Subpart 1. **Assessment form.** Within 30 days of the end of each quarter, the Office of Pipeline Safety shall mail to each pipeline operator an itemized assessment indicating the amounts of support costs, actual expenses, and direct charges assessed against that pipeline operator.

Subp. 2. **Complaint procedure.** A pipeline operator that disagrees with an assessment may file a written complaint with the Office of Pipeline Safety within 15 days of the receipt of the assessment. The director of the Office of Pipeline Safety shall review each complaint and issue a written determination affirming, amending, or rescinding the assessment. The pipeline operator may appeal the determination of the director of the Office of Pipeline Safety to the commissioner of public safety.

A pipeline operator may withhold the assessed charges during the time that a complaint or appeal is pending, and the Office of Pipeline Safety shall not assess penalty and interest charges unless the director determines that the complaint or appeal is solely for the purpose of delay.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota State Arts Board

Notice of Regular Meeting of the Board

The next regular meeting of the Minnesota State Arts Board will take place at 9:30 a.m. on Thursday, January 19, 1989 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect.

Agenda items will include the selection of grantees for Artist Assistance fellowships in two and three dimensional visual arts, photography, and film and video.

Department of Commerce

Bulletin of Pending Applications under the Reciprocal Interstate Banking Act *Minnesota Statutes* § 48.98, Subdivision 2,(2)

The following listing of applications are pending with the Commissioner of Commerce subject to criteria for approval as set out in *Minnesota Statutes* § 48.93 and shall be disapproved if:

(1) The financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

(2) The competence, experience, integrity of any acquiring person or if any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit the person to control the bank;

(3) The acquisition will result in undue concentration of resources or substantial lessening of competition in this area;

(4) The application failed to adequately demonstrate that the acquisition proposal would bring net new funds into Minnesota;

(5) A subsidiary of the acquiring bank holding company has failed to meet the requirements set forth in the federal Community Reinvestment Act; or

(6) The acquisition will result in over 30 percent of Minnesota's total deposits in financial institutions as defined in section 13A.01, subdivision 2, being held by banks located in this state owned by reciprocating state bank holding companies. This limitation does not apply to consideration for approval pursuant to section 48.99, special acquisitions.

In addition, the Commissioner has determined by rule that applicants must describe its plan of compliance in providing an acceptable level of development loans or developmental investments in the community affected.

Current List of Pending Applications:

- **Charter 95 Corporation,** 307 Second Street, P.O. Box 187, Hudson, Wisconsin 54106, proposed to acquire the Merchants State Bank of North Branch, Seventh and Elm, P.O. Box 520, North Branch, Minnesota 55056

(E)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

(1) **NOTICE IS HEREBY GIVEN** that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, sections 299F.631 and 299J.04.

(2) All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. (4) (5) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(9) Comments or written requests for a public hearing must be submitted to: Rose Keller, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, Minnesota 55103, (612)-296-0649.

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

(11) A free copy of the rules is available upon request from Rose Keller at the address and telephone number listed above.

The rules are in response to a legislative mandate that the Office of Pipeline Safety be supported by fees from the pipeline operators who are regulated by the Office. The rules set out how these fees will be assessed against the pipeline operators.

(12) A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Rose Keller at the address and telephone number listed above.

(14) In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small

businesses. The adoption of the rules will affect small businesses which are engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas. The department has evaluated the effect of the proposed rules on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

(13) These rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under Minnesota Statutes, section 14.11, subdivision 1. The Office has identified 19 companies as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total only about $25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities committed serious safety violations or had a pipeline accident that required special inspections or investigations by the Office.

In accordance with Minnesota Statutes, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules related to the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement Of Need And Reasonableness.

In accordance with Minnesota Statutes, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the State Register.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

(9) If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Rose Keller at the address and telephone number listed above.

By: Richard J. LeGrand
Deputy Commissioner

1-9-92
Date

Thomas H. Frost, Commissioner
Department of Public Safety

100 Chevy Chase Drive,
Wayzata, Mn. 55391.

October 30, 1983.

Mr. William Barbeau, Director,
Minnesota Office of Pipeline Safety,
289 East Fifth Street, Room 130,
St. Paul, Mn. 55101.

Dear Bill:

Complying with your October 26th letter, the portion of which refers to the proposed emergency fee rules, below are my comments:

1. Under "Actual Expenses", while it is not spelled out, I am sure you are adding to each employee's rate charge such expenses as vacation and sick leave time and unemployment taxes, and any other fringe benefits.

2. On page 3, under the heading E. Follow up inspections - First line - Eliminate "Public" and add "Pipeline".

3. Remainder follows closely to the Legislation.

Yours truly,

Jim Stockton.

Jim Stockton.

NORTHERN MINNESOTA UTILITIES

910 Cloquet Avenue
Cloquet, MN 55720-1681
218-879-1571

Kenneth R. Bergstedt
Vice President—Operations

November 1, 1988

Mr. William Barbeau
Office of Pipeline Safety
Market House
289 E. 5th St., Room 130
St. Paul, MN 55101

RE: Draft - Pipeline Safety Funding Rules

Dear Bill:

I have reviewed the draft of the Pipeline Safety Funding Rules you submitted in your letter of October 26, 1988.

In response, I propose the following revisions:

1. **Section .4000, Sub-paragraph 2, C**
   The Office of Pipeline Safety will investigate complaints and, <u>if the operator is found to be in non-compliance</u>, the expenses will be charged directly to the provider.

The operator should not bear the cost of nuisance complaints where no violation is found.

2. **Section .6000, sub-paragraph 2**
   ...shall mail to each pipeline operator an itemized <u>and detailed</u> assessment...

The operators need to be given sufficient detail to ascertain what they are providing funds for.

3. **Section .6000, sub-paragraph 3, A**
   The director of the Office of Pipeline Safety shall review each complaint and issue a written determination <u>within 15 days</u> affirming, amending, or rescinding the assessment.

As it is appropriate for the operator to act in a reasonable period of time, it is likewise appropriate for OPS.

Thank you for allowing this opportunity to comment.

Sincerely,

K. R. Bergstedt

KRB/eh

Northern States Power Company
Gas Utility

825 Rice Street
Saint Paul, Minnesota 55117

15 November 1988

Mr. William Barbeau
Minnesota Office of Pipeline Safety
Market House, Suite 130
289 East Fifth Street
St. Paul, Minnesota 55101

RE: Pipeline Safety Funding Rules

Dear Bill:

Attached are NSP's comments on the proposed Pipeline Safety Funding Rules dated October 26, 1988. Again, NSP appreciates the opportunity to participate in the rulemaking process.

If you require any clarification, please call me at 229-2417.

Sincerely,

Mark B. Nelson
Manager, Gas Engineering

MBN:av

Attachments

AV:Barbeau6

Northern States Power Company
Gas Utility

825 Rice Street
Saint Paul, Minnesota 55117

NSP Comments
Pipeline Safety Funding Rules

15 November 1988

Item 1: Page 2, C. Investigation of Complaints

This rule needs to be expanded to include the criteria for what constitutes a legitimate complaint. The writer recommends that the operator not be direct charged until the actual time spent by the MnOPS staff accumulates to a pre-determined threshold. After that threshold is met, then the staff time spent on further complaints related to the subject operator be direct charged to the operator.

Item 2: .3000, Actual Expenses and .5000, Support Costs

Add as Subp. 3., Estimate of Assessments

Upon request, the Minnesota Office of Pipeline Safety will provide an operator with the cost estimate of the actual expenses for that operator for the succeeding annual period.

Reason:

This information will assist the PUC regulated utilities in preparing rate proceedings as well as annual budgets for financial planning.

Item 3: Page 4, .6000 Procedure

A procedure needs to be added stating that the Minnesota Office of Pipeline Safety will provide the operator with detailed "assessment backup data", (time sheets, etc.) in instances where the operator has a legitimate concern about an assessment.

Reason:

This data will assist the operator in determining whether or not to file a written complaint.

dlh:av

AV:barbeau7

NORTHERN MINNESOTA UTILITIES

910 Cloquet Avenue
Cloquet, MN 55720-1681
218-879-1571

Kenneth R. Bergstedt
Vice President—Operations

November 30, 1988

Mr. Jeff Bruce
205 Transportation Building
St. Paul, MN 55155

RE: Proposed emergency rule governing pipeline safety funding

Dear Sir:

I wish to submit the following comments on the above referenced proposed rules.

1. 7530.0040, Subparagraph 2., C.
Investigate complaints regarding activities of a pipeline operator and charge the expenses directly to the pipeline operator except if the complaint is found frivolous and without foundation;

If the additional language shown is not added, an operator can be financially harmed by investigation of baseless nuisance complaints totally beyond his control.

2. 7530.0060, Subparagraph 2.
The director of the Office of Pipeline Safety shall review each complaint and issue a written determination within 15 days affirming, amending, or rescinding the assessment.

It is important that complaints be handled on a timely basis both by the party filing the complaint and possibly more importantly, by the party resolving the complaint. A quick resolution would be in the best interests of all concerned.

I would appreciate your consideration of the above comments prior to adoption of the proposed rules.

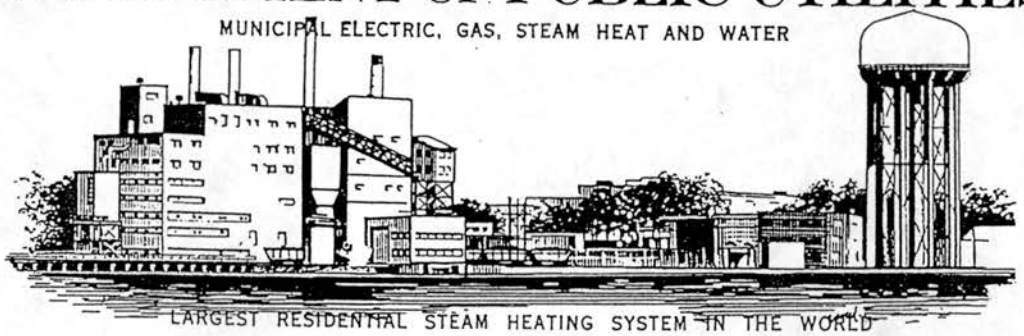
Sincerely,

K. R. Bergstedt

KRB/eh

DEPARTMENT OF PUBLIC UTILITIES

MUNICIPAL ELECTRIC, GAS, STEAM HEAT AND WATER



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618 South 2nd Street

P.O. Box 1048 VIRGINIA, MINNESOTA 55792 218-741-0740

November 30, 1988

Mr. Jeff Bruce
205 Transportation Building
St. Paul, MN 55155

Dear Mr. Bruce:

RE: Notice of Intent To Adopt Emergency Rules

After reviewing the proposed emergency rules governing pipeline safety funding I found an area of concern in Section 7530.0040, Subpart 2 (c) pertaining to the investigation of complaints regarding activities of a pipeline operator. In this subpart it states that the operator shall be charged for expenses incurred in such an investigation, apparently, regardless of the outcome of the investigation. We feel that the operator should not be responsible for any expenses for a complaint investigation where the complaint is found to be unjustified.

Sincerely,

DEPARTMENT OF PUBLIC UTILITIES

Michael Pelletier
Gas & Technical Supervisor

MP:es

PC: Jim Mahon
Rick Aaseng

Northern States Power Company
Gas Utility

825 Rice Street
Saint Paul, Minnesota 55117

December 14, 1988

Mr. Jeff Bruce
205 Transportation Building
St. Paul, Minnesota 55155

Re: Minnesota Department of Public Safety Under Their Proposed Emergency Rules Governing Pipeline Safety Funding
Notice of Intent to Adopt Emergency Rules

Dear Mr. Bruce:

In response to the notice of the Commissioner of Public Safety to establish rules to temporarily fund the Office of Pipeline Safety, Northern States Power Company submits several comments. I will discuss in this letter the reasons for the three proposed additions to your emergency rules. Attached is the specific language of those additions. These comments supersede those of December 12, 1988, which you may discard.

Rule 7530.0040 concerning direct charges provides under subp. 2 (c) that there will be a direct chargeback to investigate complaints regarding activities of a pipeline operator. NSP believes that complaints which fall in this category should be specific as to the pipeline operator, the facilities or incident involved, and should clearly identify the complaining party. When these criteria are met the pipeline operator should be notified by telephone or written communication as appropriate and given the opportunity to respond. After a response has been made if the Office of Pipeline Safety is required to spend time in the field, i.e., outside of the office to process the complaint, then a direct charge appears reasonable. Handling of other "complaints" should be part of the normal overheads of the Office.

Pipeline operators are regulated as to the cost of doing business by rate setting agencies and also operate their businesses as efficiently as they can through fairly sophisticated budgeting processes. NSP believes that it is reasonable that the Office of Pipeline Safety provide an operator with the Office's estimate of costs to be assessed on an annual basis so that the budgeting process and rate

DEC 1988
Minn. Dept. of
Public Safety
Pipeline Safety

proceedings will contain accurate data concerning the portion of its operating expenses that will be the result of the Office of Pipeline Safety's activities.

I have suggested adding a provision to 7530.0060, subp. 1, that would facilitate the review and complaint procedure related to assessments. We think that if an operator has timely access to backup information such as time sheets and expense item breakdowns, it will be able to determine whether or not to file a complaint related to an assessment. A complaint must be filed in a very short time, within 15 days of receipt of the assessment. We are suggesting that within 5 days after request. data be provided by the Office to the operator to facilitate this process and hopefully to avoid complaints. If you desire any clarification relating to these comments, please call the undersigned at 229-2417.

Very truly yours,

Mark B. Nelson
Manager, Gas Engineering

Attachment

Minnesota Office of Pipeline Safety Emergency Rules

Add to 7530.0020 [Emergency] Definitions:

"Complaint" under 7530.0040 subp. 2, C. means a written or telephonic communication to the Office of Pipeline Safety which, identifies the complaining party, the pipeline operator, the specific facilities or incidents involved, and that, after receipt of a response from the pipeline operator, requires the Office of Pipeline Safety to spend time outside the Office.

Add to 7530.0030 [Emergency] Actual Expenses and to 7530.0050 [Emergency] Support Costs:

Subp. 3. Upon request, the Office of Pipeline Safety will provide an operator with the cost estimate of the expenses for that operator for the succeeding annual period.

Add to 7530.0060 [Emergency] Procedure at the end of Subpart 1:

Detailed backup assessment data will be provided to an operator within 5 days of a request by the operator.

WILLIAMS PIPE LINE COMPANY
ONE OF THE WILLIAMS COMPANIES, INC.

VIA TELECOPIER

December 15, 1988

Mr. Paul J. Tschida,
Commissioner of Public Safety
Minnesota Department of Public Safety
205 Transportation Building
St. Paul, MN 55155

Attention: Mr. Jeff Bruce

Re: Proposed Emergency Rules Governing Pipeline Safety Funding

Gentlemen:

Williams Pipe Line Company ("WPL") files the following comments regarding the Proposed Emergency Rules Governing Pipeline Safety Funding, proposed §§ 7530.0010-7530.0050. WPL transports, via pipelines, refined petroleum products and crude oil in interstate commerce, including movements into and out of Minnesota, pursuant to tariffs filed with the Federal Energy Regulatory Commission.

WPL's primary comment is that until such time as the Minnesota Office of Pipeline Safety has been authorized to inspect interstate oil pipelines, such as WPL, on the behalf of the Federal Office of Pipeline Safety, the Minnesota OPS does not have any authority to assess user fees against interstate oil pipeline operators. As these proposed rules apply to interstate oil pipeline companies, they are unenforceable because they are preempted by the Hazardous Liquid Pipeline Safety Act ("HLPSA"), 49 U.S.C. § 2001. The Act states:

> No state agency may adopt or continue in force any safety standards applicable to interstate pipeline facilities or the transportation of hazardous liquids associated with such facilities.

In Tenneco v. Public Service Commission of West Virginia, 489 F.2d 334 (1973), the assessment of user fees against interstate natural gas pipeline companies by the West Virginia PSC was upheld because the West Virginia PSC was an authorized agent of the U.S. Department of Transportation for the inspections on interstate natural gas pipeline companies.

> Thus, it is apparent that, instead of preempting every feature of interstate gas pipeline safety, the federal government has invited the states to participate in the program by voluntarily undertaking the indispensable task of inspection. The states, of course, must obtain funds to pay for this work.
>
> ***
>
> [The Federal Office of Pipeline Safety] now acknowledges that, considering the overall objectives of the Act, there is no 'basis for implying an intent on the part of Congress to preempt the authority of States to tax, assess, or impose fees on interstate operators.'

The Federal OPS has explicitly authorized the West Virginia PSC to assess users fees to help defray the costs of the inspections which the West Virginia PSC was authorized to perform on the behalf of the U.S. DOT. To WPL's knowledge, the Minnesota OPS is not an authorized agent of the U.S. Department of Transportation to inspect interstate oil pipelines. Therefore these proposed regulations are unenforceable against interstate oil pipeline companies.

WPL, also, has some comments about specific provisions in the proposed rules.

1. Section 7530.0030 Subpart 1 does not define the terms, "pipeline operators" and "metered service". Therefore, a potentially regulated pipeline operator, such as WPL, does not know whether the regulations are intended to apply to intrastate and interstate pipeline operators and to pipelines transporting crude oil, refined petroleum products, natural gas, and anhydrous ammonia. Further, a potentially regulated pipeline operator does not know whether metered service includes meters between interconnecting pipeline operators,

mainline meters, refined product loading rack meters, other types of miscellaneous operating meters, and end-user natural gas meters.

2. Section 7530.0030 Subpart 2 should state the form name and number of the referenced United States Department of Transportation report.

3. Section 7530.0040 Subpart 2 A does not specify or define what are "particular conditions". Unless the Minnesota OPS intends to define "particular conditions" in other regulations, that phrase is ambiguous. Any specific condition, no matter how unimportant or trivial, could be the justification for conducting a specialized inspection. To avoid the expense and burden of potentially unwarranted inspections, "particular conditions" should be defined or at least examples of particular conditions should be given.

4. Section 7530.0040 Subparts 2 A-F permits the agency to charge its expenses for these types of inspections directly to pipeline operators. The Minnesota OPS can avoid potential allegations that it is unfairly singling out or capriciously selecting individual pipeline operators for specialized inspections by not assessing that pipeline operator for the costs of such inspections. The Minnesota OPS should be able to assess sufficient user fees against pipeline operators to reimburse it for its entire annual budget, including specialized inspections.

5. Section 7530.0050 Subpart A 2 does not specify how the proportional support costs among the various types of pipeline operators will be allocated among the hazardous liquid pipeline operators. We believe that an equitable method is barrel-miles which takes into account the number of miles of pipe which a pipeline operator has in Minnesota and the volume transported through those pipes. If the Minnesota OPS becomes an authorized agent of the Federal OPS to inspect interstate oil pipelines, the same methodology can be applied to the interstate pipelines.

We appreciate the opportunity to comment on these issues. If you have any questions about our comments, please call me.

Respectfully submitted,

Jason T. Huso,
Supervisor of Pipeline
Safety

cc: Steve Ball
Dean Hasseman, Esq.

801/

(K)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING

(7) Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on January 27, 1992, and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22, on January 22, 1992. (2) The Statement Of Need And Reasonableness was prepared before the Notice Of Intent To Adopt Rules was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. A copy of the Statement Of Need And Reasonableness was sent to the Legislative Commission To Review Administrative Rules when it became available to the public. (3) Before the Notice was submitted to the State Register, a copy of the Notice Of Intent To Adopt Rules and the proposed rules were sent to the chairs of the House Appropriations Committee and Senate Finance Committee.

(4) All persons were given the opportunity to submit comments on the rules for 30 days after the Notice Of Intent To Adopt Rules was published. (5) The Department received one comment and submission on the rules in response to the Notice Of Intent To Adopt Rules. (4) The Department received zero requests for notice of submission to the Attorney General. The Department received zero (5) requests for a public hearing.

Based on the comments and evidence in the record before the Department, I find the following:

(8) The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as the Rules of the State Department of Public Safety Related To The (9) Funding Of The Office Of Pipeline Safety, in the form set out in the State Register on January 27, 1992, are adopted this 27th day of February, 1992, pursuant to authority vested in me by Minnesota Statutes, sections 299F.631, subdivision 3, and 299J.04, subdivision 1, clause (4).

(9)

Thomas H. Frost, Commissioner
Department of Public Safety

GENERAL OFFICE
1000 MAIN STREET
P.O. BOX 769
DUBUQUE, IOWA 52004-0769
319-582-5421

SEP 1989
Minn. Dept. of
Public Safety
Pipeline Safety

September 8, 1989

Mr. William C. Barbeau, Director
Minnesota Office of Pipeline Safety
Market House
289 East Fifth Street Room 130
St. Paul, Minnesota 55101

RE: Proposed Permanent Rules Relating to Pipeline Safety Funding

Dear Mr. Barbeau:

Interstate Power would like to address Section 7530.5040, Direct Charges, Subpart 2, C of the subject.

In the event that MnOPS chooses to investigate an Operator, predicated upon complaints, and finds nothing relevant to the complaint, I fail to see why the expenses should be charged to the Operator. It's entirely possible that a person who's been fired from an Operator, or does not like the size of the utility bill, or is not satisfied with a final clean-up of his property (of the city right-of-way in front) or for any other reason, will make a complaint, and MnOPS may investigate that complaint. What is necessary to get MnOPS to investigate a complaint? Does MnOPS do any backup or homeowrk to verify the integrity of the complaint, and how much preparatory work would be done prior to coming to the field to investigate a complaint?

As always, we appreciate the opportunity to provide MnOPS with our thoughts on their proposals relative to pipeline safety.

Sincerely,

Ray P. Richards
Director, Gas Operations

RPR:ks

cc: R. L. Sorenson, Albert Lea
J. F. Williams

Tenneco Gas

1010 Milam Street
P.O. Box 2511
Houston, Texas 77252 - 2511
(713) 757-2131

November 7, 1991

Mr. Walter T. Kelly
Director
Minnesota Office of Pipeline Safety
175 Aurora Avenue
St. Paul, Minnesota 55103-2356

Dear Mr. Kelly:

As an operator of intrastate and interstate natural gas transmission pipelines in Minnesota, we offer the following suggestions to your draft of the Pipeline Safety Funding Rules. The intent is to add more predictability in the areas of Direct Charges and Support Costs for both the MNOPS and those being inspected:

7530.5040 DIRECT CHARGES

Page 2, after line 27, add: "A maximum of _____ hours shall be allocated or allotted for inspection of each facility. A facility shall not be inspected more than once annually without adequate cause."

7530.5050 SUPPORT COSTS

Page 2, after line 33, add: "Support costs shall not exceed ____% of direct charges."

Thank you for the opportunity to comment.

Sincerely,

Al Janezic

Albert J. Janezic

AJJ/kds
cc: J. R. Keys
R. P. Otjen
J. Edwards
D. Orren

MID-AMERICA PIPELINE COMPANY
A MAPCO COMPANY

December 12, 1991



Mr. Walter T. Kelly, Director
Minnesota Office of Pipeline Safety
175 Aurora Avenue
St. Paul, Minnesota 55103

Re: Pipeline Safety Funding Rules

Dear Mr. Kelly:

Mid-America Pipeline Company appreciates the opportunity to comment on the proposed Minnesota pipeline safety funding rules. Mid-America Pipeline Company is an interstate hazardous liquids pipeline company with facilities in the state of Minnesota.

Concerning the proposed rule, the procedure in Subpart 1 of 7530.5060 should require the Office of Pipeline Safety to provide each operator being assessed a fee with documentation of the basis for the assessment.

Interstate hazardous liquid pipelines are under the jurisdiction of the United States Department of Transportation Office of Pipeline Safety (DOT). While accidents have occurred, we in Mid-America Pipeline Company believe the safety record of hazardous liquid pipelines shows that arrangement to be effective. It is the state of Minnesota that desired interstate agency status and we think it is the state that should bear the cost of obtaining that status.

Mid-America Pipeline Company wishes to express concern over the payment of dual fees for the same service. Being subject to the DOT, we pay a fee to that agency based on the miles of pipeline including pipeline in Minnesota. Under the proposed rule we will now have to pay a fee for the same service to the state of Minnesota. We in Mid-America Pipeline Company believe an adjustment should be made for fees paid to the DOT.

Sincerely,

Howard E. Patterson

Howard E. Patterson
Safety & Regulatory Coordinator

HEP:jdf

cc: L. V. Watkins

(G)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety	**AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING**

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Pam Storms, being sworn says:

That on the twenty-second day of January, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the Department of Public Safety rulemaking mailing list. The mailing list is attached.

Pam Storms
Pam Storms

Subscribed and sworn
to before me this 23rd day
of January, 19 92.
David E Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, sections 299F.631 and 299J.04.

All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Rose Keller, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, Minnesota 55103, (612)-296-0649.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of the rules is available upon request from Rose Keller at the address and telephone number listed above.

The rules are in response to a legislative mandate that the Office of Pipeline Safety be supported by fees from the pipeline operators who are regulated by the Office. The rules set out how these fees will be assessed against the pipeline operators.

A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Rose Keller at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small

businesses. The adoption of the rules will affect small businesses which are engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas. The department has evaluated the effect of the proposed rules on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

These rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under Minnesota Statutes, section 14.11, subdivision 1. The Office has identified 19 companies as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total only about $25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities committed serious safety violations or had a pipeline accident that required special inspections or investigations by the Office.

In accordance with Minnesota Statutes, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules related to the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement Of Need And Reasonableness.

In accordance with Minnesota Statutes, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the State Register.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Rose Keller at the address and telephone number listed above.

By: Roland J. LeGrand
Deputy Commissioner

1-9-92
Date

Thomas H. Frost, Commissioner
Department of Public Safety

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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

AFFIDAVIT OF CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Joan Lundberg, being sworn says:

I hereby certify that the attached list is of persons and associations who have requested that their names be placed on the Department of Public Safety rulemaking mailing list, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, 14.22, or 14.30. I certify that this list is accurate, complete, and current as of the twenty-second day of January, 1992.

Joan M. Lundberg
Joan Lundberg

Subscribed and sworn
to before me this 22nd day
of January, 19 92.
David E Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

AFFIDAVIT OF MAILING DISCRETIONARY NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Pam Storms, being sworn says:

That on the twenty-second day of January, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the attached discretionary mailing list. This list is of persons and associations that have expressed, to the agency, interest in this rulemaking proceeding, and persons and associations as practical to improve the notification of all parties that might be interested in this rulemaking proceeding.

Pam Storms
Pam Storms

Subscribed and sworn to before me this 23rd day of January, 19 92.

David E. Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, sections 299F.631 and 299J.04.

All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Rose Keller, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, Minnesota 55103, (612)-296-0649.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of the rules is available upon request from Rose Keller at the address and telephone number listed above.

The rules are in response to a legislative mandate that the Office of Pipeline Safety be supported by fees from the pipeline operators who are regulated by the Office. The rules set out how these fees will be assessed against the pipeline operators.

A Statement Of Need And Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Rose Keller at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small

businesses. The adoption of the rules will affect small businesses which are engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas. The department has evaluated the effect of the proposed rules on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement Of Need And Reasonableness.

These rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under Minnesota Statutes, section 14.11, subdivision 1. The Office has identified 19 companies as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total only about $25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities committed serious safety violations or had a pipeline accident that required special inspections or investigations by the Office.

In accordance with Minnesota Statutes, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules related to the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement Of Need And Reasonableness.

In accordance with Minnesota Statutes, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the State Register.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Rose Keller at the address and telephone number listed above.

1-9-92
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Peoples Natural Gas Company
3460 Washington Drive - P.O. Box 21-
Eagan, MN 55121

Mr. Dan Schroeder, Operations Engine
Peoples Natural Gas Company
3460 Washington Drive - P.O. Box 21-
Eagan, MN 55121

Mr. Gregory H. Palmer, Director
Gas Supply & Plants
Northern States Power Co.
825 Rice Street
St. Paul, MN 55117

Mr. Richard O. Helling, Manager
Gas Plants
Northern States Power Co.
414 Nicollet Mall
Minneapolis, MN 55401

Mr. Richard O. Helling, Manager
Gas Plants
Northern States Power Co.
414 Nicollet Mall
Minneapolis, MN 55401

Mr. Gary Hendrickson, Honorable Mayor
City of Warroad
121 North Main Street, P.O. Box 50
Warroad, MN 56763-0050

Mr. Darrel Anderson, Superintendent
City of Warroad
121 North Main Street, P.O. Box 50
Warroad, MN 56763-0050

Mr. Paul Zuppke, President
Western Gas Utilities, Inc.
3900 Washington Avenue, North
Minneapolis, MN 55412-2199

Mr. Hartly Medin
Vice President
Western Gas Utilities, Inc.
3900 Washington Avenue, North
Minneapolis, MN 55412-2199

Mr. Leonard Bazey
Superintendent of Utilities
City of Stephen
Box 630
Stephen, MN 56757

Mr. Wayne Sletten, Honorable Mayor
Two Harbors Municipal Gas System
610 Second Avenue
Two Harbors, MN 55616

Mr. Roger Simonson, City Administrato
Two Harbors Municipal Gas System
610 Second Avenue
Two Harbors, MN 55616

Mr. Stuart Murray, President
Virginia Public Utilities
618 South Second Street
Virginia, MN 55792

Mr. Dan Hesteltune, General Manager
Virginia Public Utilities
618 South Second Street
Virginia, MN 55792

Mr. Roy Engh, Honorable Mayor
City of Warren
126 West Johnson
Warren, MN 56762

Mr. Marlin Anderson, Superintendent
City of Warren
126 West Johnson
Warren, MN 56762

Department of Public Safety

Office of Pipeline Safety

Proposed Permanent Rules Relating to Pipeline Safety Funding

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 299F.631 and 299J.04.

All persons have 30 days, until 4:30 p.m., February 26, 1992, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Rose Keller, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, Minnesota 55103, (612) 296-0649.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of the rules is available upon request from Rose Keller at the address and telephone number listed above.

The rules are in response to a legislative mandate that the Office of Pipeline Safety be supported by fees from the pipeline operators who are regulated by the Office. The rules set out how these fees will be assessed against the pipeline operators.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Rose Keller at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will affect small businesses which are engaged in the sale, distribution, or transmission of natural gas or of liquefied petroleum gas. The department has evaluated the effect of the proposed rules on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed further in the Statement of Need and Reasonableness.

These rules will result in additional spending by municipal utilities. Arguably, these municipal utilities could be considered local public bodies under *Minnesota Statutes*, section 14.11, subdivision 1. The Office has identified 19 companies as municipal utilities. Based on the current costs of running the Office, the current charges for inspections, and the time spent this year in inspecting these utilities, the Office estimates that charges to these municipal utilities will total only about $25,000 per year for the next two years. These charges could be increased substantially, however, if one of these utilities committed serious safety violations or had a pipeline accident that required special inspections or investigations by the Office.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 1a, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt rules related to the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

In accordance with *Minnesota Statutes*, section 16A.128, subdivision 2a, the Department has sent a copy of this notice and of the proposed rules to the Chairs of the House Appropriations Committee and the Senate Finance Committee prior to submitting this notice to the *State Register*.

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of

the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Rose Keller at the address and telephone number listed above.

Dated: 9 January 1992

Thomas H. Frost, Commissioner
Department of Public Safety

Rules as Proposed (all new material)

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.

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.

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.

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

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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.

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.

Department of Public Safety

Office of Pipeline Safety

Proposed Permanent Rules Relating to Pipeline Safety Funding

Rules as Proposed (all new material)

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.

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

Approved by Revisor Ron Ray

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Approved
by Revisor _____

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by Revisor _____

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.

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by Revisor _____

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Pipeline Safety Funding

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7530

The attached rules are approved for publication in the State Register

Ron Ray
Senior Assistant Revisor

(L)

PUBLIC UTILITIES COMMISSION
310 First North Street
New Ulm, MN 56073

OFFICE OF THE SUPERINTENDENT
Phone: (507) 359-8264
Fax: (507) 354-7318



February 3, 1992

Mr. Thomas H. Frost, Commissioner
Department of Public Safety
Office of Pipeline Safety
175 Aurora Avenue
St. Paul, MN 55103

Dear Mr. Frost:

I have your letter giving notice of intent to adopt rules without a public hearing which "will result in additional spending by municipal utilities." It is not clear to me why the additional spending is necessary. We already pay a proportion of OPS costs based on the number of natural gas meters on our system. This has been the case now for some time. What is changing?

Can your department supply me with an example comparing what we have been paying vs what we will be paying under your proposed rules?

Sincerely,

John R. Gilman
Superintendent of Utilities

(M)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety

DECLARATION OF COUNSEL

I, Jeff Lebowski, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General Billing purposes, the four-digit docket client code is

.0709.

There were problems related to the Department's Notice Of Solicitation Of Outside Information Or Opinions. These problems are discussed in the February 27, 1992, letter from Department of Public Safety Rules Coordinator Dave Orren to the Public Finance Division of the Attorney General. The Department's efforts to cure any defects in the Solicitation are outlined in the letter. I believe the Department has cured any defects in the Solicitation.

Jeff Lebowski
Special Assistant Attorney General

Dated: 2/27/92

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PIPELINE SAFETY

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Related To The Funding Of The Office Of Pipeline Safety	AFFIDAVIT OF MAILING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Dave Orren, being sworn says:

That on the twenty-second day of January, 1992, I mailed the Statement Of Need And Reasonableness for the above-captioned Rules to the Legislative Commission To Review Administrative Rules in compliance with Minnesota Statutes, sections 14.131 and 14.23. The mailing was done through the interoffice mail of the State of Minnesota.

Dave Orren
Dave Orren

Subscribed and sworn
to before me this 22 day
of January, 1992.
Laura Nehl-Trueman
Notary Public

Laura Nehl-Trueman
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-4-96

(Q)

OFFICE OF THE COMMISSIONER
211 Transportation Building
395 John Ireland Boulevard
Telephone: _____

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
SAINT PAUL 55155-1889

January 10, 1992

Senator Gene Merriam, Chair
Senate Finance Committee
122 State Capitol
St. Paul, Minnesota 55155

Representative Wayne Simoneau, Chair
House Appropriations Committee
365 State Office Building
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Adoption of Rules of the State Department of Public Safety Related to the Funding of the Office of Pipeline Safety.

Dear Senator Merriam and Representative Simoneau:

The Minnesota Department of Public Safety intends to adopt rules related to the funding of the Office of Pipeline Safety. These rules set fees. We plan to submit our Notice Of Intent To Adopt Rules to the State Register on January 13, 1992.

As required by Minnesota Statutes, section 16A.128, subdivision 2a, the Department is sending a copy of the Notice and the proposed rules to you.

If you have any questions, please contact me at 296-2631.

Yours very truly,

Dave Orren

Dave Orren
Rules Coordinator

cc Senator Lyle Mehrkens, 127 State Office Building
Representative Art Seaberg, 393 State Office Building

enclosures: Notice Of Intent To Adopt Rules
Rules

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

(R)

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

June 20, 1991

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter Of The Proposed Rules Of The State Department Of Public Safety Related To Pipeline Safety Funding.

Dear Ms. Hruby:

Minnesota Statutes, section 299F.631, effective August 1, 1989, directs the Commissioner of Public Safety to adopt rules to implement funding of the Office of Pipeline Safety through collection of fees. On reviewing the progress of the rules, Notice Of Intent To Adopt will not be published in June 1991, as anticipated and as stated in earlier correspondence to your office.

The funding rules are in the Revisor's preliminary draft form. Much work, however, remains to be done on the Statement of Need and Reasonableness before we are ready to publish. Notice Of Intent To Adopt the funding rules should be published during January 1992, if not earlier.

There are a number of reasons for the delay. Foremost is the limited staff of the Office of Pipeline Safety. The priority of the staff continues to be inspections, which then limits the amount of time that can be assigned to rulemaking. Secondly, the Office does a commendable job in getting public input and applying those comments to the rules. This takes additional time, but it does make for better rules for the Office and public alike. Thirdly, the Office has had a number of rule writing mandates which had to be prioritized. Already this year, the Department has adopted pipeline safety rules related to a model setback ordinance and to the enforcement of the one-call notification system. Because the legislation requiring the Office to fund itself through the collection of fees is so explicitly set out in Minnesota Statutes, section 299F.631, the decision was made that the rules implementing this funding could be completed after other mandated rules.

If you have any questions or wish to discuss this matter further, please call me at 296-2631.

Yours very truly,

David E. Orren
Rules Coordinator

CC: Governor Arne Carlson
Room 130 State Capitol
St. Paul, Minnesota 55155

Senator Steven Novak, Chair
Energy & Public Utilities Committee
321 State Capitol
St. Paul, Minnesota 55155

Walt Kelly, Director
Office of Pipeline Safety
175 Aurora Avenue
St. Paul, Minnesota 55103

Representative Joel Jacobs, Chair
Regulated Industries Committee
485 State Office Building
St. Paul, Minnesota 55155

February 12, 1991

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, sections 216D.08 and 299F.631, both effective August 1, 1989, direct the Commissioner of Public Safety to adopt rules to impose civil penalties within the one-call notification system and to implement fees respectively. On reviewing the progress of the rule writing within the Office of Pipeline Safety both sets of rules are near completion, but notice of intent to adopt will not be published in January and February as anticipated.

The one-call rules are in the revisor's preliminary draft form. The statement and rule draft are being revised for the final time. Notice of Intent to Adopt the one-call rules should be published during April, 1991, if not earlier.

The reasons for the delay in the promulgation of the one-call rules result from revisions being made to the rules based on the request of the revisor. The requested revisions have been made by the Office of Pipeline Safety and the revised rules are now in the process of being approved by the Attorney Generals Office and the attorney for the One-Call Board of Directors. Once approval has been received from the attorneys the rules will be forwarded on the revisors office for a final revision.

The fee rules are also in the revisor's preliminary draft form. Notice of Intent to Adopt the fee rule should be published during June, 1991, if not earlier.

The reason for the delay in the promulgation of the fee rules is that the Office of Pipeline Safety is making further revisions to the statement and the rules to properly

address the impact these rules will have on small businesses. In its statement and rules the Office of Pipeline Safety is carefully considering and addressing the needs of small business to comply with the statutory mandate.

As the previous correspondence stated the Office of Pipeline Safety is limited in staff and retains inspections as its first priority. The office also has a number of rule writing mandates and is attempting to do a thorough job on all rules. This has lead to the need to prioritize each rule project while striving for complete, functional, and legal rules overall.

If you have any questions or wish to discuss this matter further, please contact me at 296-2608 at your convenience.

Sincerely,

Laura Nehl-Trueman
Rule Writer

CC: Arne Carlson, Governor
Room 130 State Capitol
St. Paul, MN 55155

Senator Ronald Dicklich
Public Utilities & Energy
235 State Capitol
St. Paul, MN 55155

Rep. Joel Jacobs
Regulated Industries
485 State Office Building
St. Paul, MN 55155

William Barbeau, Director
Office of Pipeline Safety
175 Aurora Avenue
St. Paul, MN 55103

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

NOV 1990
Minn. Dept. of
Public Safety
Pipeline Safety

November 21, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, sections 216D.08 and 299F.631, both effective August 1, 1989, direct the Commissioner of Public Safety to adopt rules to impose civil penalties within the one-call notification system and to implement fees respectively. On reviewing the progress of the rule writing within the Office of Pipeline Safety both sets of rules are near completion, but notice of intent to adopt will not be published in November as anticipated.

The one-call rules are in the revisor's preliminary draft form. The statement and rule draft are being revised for the final time. Notice of Intent to Adopt the one-call rules should be published during January, 1991, if not earlier.

The fee rules are also in the revisor's preliminary draft form. The statement and the rule draft require a little more revision. Notice of Intent to Adopt the fee rule should be published during February, 1991, if not earlier.

The reasons for the delay in promulgation of these rules mirror the reasons stated in the June 28th letter. The Office of Pipeline Safety is limited in staff and retains inspections as its first priority. The office also has a number of rule writing mandates and is attempting to do a thorough job on all rules. This has lead to the need to prioritize each rule project while striving for complete, functional, and legal rules overall.

If you have any questions or wish to discuss this matter further, please contact me at your convenience.

Sincerely,

Katherine Burke Moore

Katherine Burke Moore
Rules Coordinator

CC: Rudy Perpich, Governor
Room 130 State Capitol
St. Paul, MN 55155

Rep. Joel Jacobs
Regulated Industries
485 State Office Building
St. Paul, MN 55155

Senator Ronald Dicklich
Public Utilities & Energy
235 State Capitol
St. Paul, MN 55155

William Barbeau, Director
Office of Pipeline Safety
175 Aurora Avenue
St. Paul, MN 55103

OFFICE OF THE COMMISSIONER
211 Transportation Building
Telephone: 297.5755

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

June 28, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, sections 216D.08 and 299F.631, both effective August 1, 1989, directs the Commissioner of Public Safety to adopt rules to impose civil penalties within the one-call notification system and to implement fees respectively. On reviewing the progress of the rule writing within the Office of Pipeline Safety early last winter, we initially anticipated meeting the February, 1990 deadline. Unfortunately, these two sets of rules have not been published, although both sets of rules have been drafted and statements of need and reasonableness are underway. I therefore request an extension of that deadline to November, 1990.

There are a number of reasons that the extensions are necessary. Foremost is the limited staff of the Office of Pipeline Safety. The priority of the staff continues to be inspections, which then limits the amount of time that can be assigned to drafting rules. Secondly, the office does a commendable job in getting public input and applying those comments to the rules. This does take additional time, but makes for better rules for the agency and public alike. Thirdly, the office has a number of rule writing mandates and had to prioritize them. Because the legislation setting fees in M.S. section 299F.631 is so explicit, the decision was made that the rules implementing those fees could be completed after other mandated rules such as the enforcement and sanction rules.

AN EQUAL OPPORTUNITY EMPLOYER

If you have any questions or wish to discuss this matter further, please contact me at your convenience.

Sincerely,

Katherine Burke Moore

Katherine Burke Moore
Rules Coordinator

CC: Rudy Perpich, Governor
Room 130 State Capitol
St. Paul, MN 55155

Senator Ronald Dicklich
235 State Capitol
St. Paul, MN 55155

Rep. Joel Jacobs
House of Representatives
485 State Office Building
St. Paul, MN 55155

William Barbeau, Director
Office of Pipeline Safety
Suite 130 Market House
St. Paul, MN 55101

TOTAL PIPELINE SAFETY PROGRAM COSTS
(INCLUDES INTRASTATE & INTERSTATE)

↓

Deduct Per Meter Assessments
(standard inspection expenses)

→ Assess against Intra Distribution Opr.

Natural Gas & LP Distribution Operators (Distributed proportionately based on # of meters; or service lines if LP is unmetered.)

↓

Deduct Direct Charges

→ Assess against each Pipeline Operator

Except for per meter assessments, each operator is assessed those charges associated with inspection/investigation of their pipeline. These charges include: annual inspections for interstate operators, complaint investigations, accident/incident investigations, follow up inspections, spot inspections, and specialized inspections.

↓

The remaining balance is support costs.

Deduct Federal Grant Reimbursement

→ The Federal grant reduces support costs for both interstate and intrastate operators. (In 1993 there will be a separate grant for the Interstate program.)

↓

Deduct Civil Penalties Collected Under 216D
(One Call Notification System)

↓

Allocate Remaining Support Costs → Assess against Inter/Intrastate Operators proportionately among six categories.

Compute percentage of inspector hours spent on each category. Apply that percentage to the remaining support costs to determine the support costs for each category.

Compute individual operator's share in each category.

- Intrastate Gas & LP Distribution
  (Distributed proportionately based on # of meters, or service lines if LP is unmetered.)

- LNG
  (Distributed equally among each LNG operator.)

- Intrastate Hazardous Liquid
  (Distributed proportionately among each operator based on # miles of pipeline.)

- Intrastate Gas Transmission
  (Distributed proportionately among each operator based on # of miles of pipeline.)

- Interstate Hazardous Liquid
  (Distributed proportionately among operators based on # of miles of pipeline.)

- Interstate Natural Gas
  (Distributed proportionately among operators based on # miles of pipeline.)

Assessment of charges within 30 days of the end of the quarter.

Late payments of over 60 days subject to 10 percent delinquency fee and 15 percent interest fee.

Assessment disagreements may be filed with office in writing within 15 days of receipt of assessment.

STATE OF MINNESOTA

Office Memorandum

Department: of Finance

Date: January 6, 1992

To: Frank Ahrens, Fiscal and Admin. Services Director
Department of Public Safety

From: Bruce J. Reddemann, Director BJR
Budget Operations

Phone: 296-5188

Subject: Approval of Pipeline Safety Inspection Fees

I have reviewed the fee review forms submitted with the Executive Budget Officer's recommendation and the proposed permanent rules related to pipeline safety funding. It appears that the main change is the inclusion of the agency and statewide indirect costs under support costs.

I hereby approve the fees as submitted in the proposed rules dated December 11, 1991, and attached a copy of the rules for reference.

cc: Dwight Pederson
Glenn Olson

PUBLIC S...
JAN 0 8 1992
FINANCE

DEPARTMENT OF FINANCE
FEE REVIEW

95050591

Department/Agency Public Safety | Budget Activity: Office of Pipeline Safety

Fee Name: Pipeline Safety Inspection Fee

Legal Citation: MS 299F.631 and MS 299J.12 | Fee Set By: ___ Law X Agency

Purpose of Fee:
The purpose of this fee is to recover the state share of all costs related to the operations of the Office of Pipeline Safety as provided in Laws of 1988, Chapter 624.

X Dedicated | Non-Dedicated | Revenue Code: 300

APID: 23020:01-20 | Accumulated Difference Thru 1988 12 | Dollars in Thousands (137,522=138)

Fiscal Year	Actual F.Y.89	Actual F.Y.90	Actual F.Y.91	Estimated F.Y.92	Estimated F.Y.93
Actual/Anticipated Receipts	359	391	524	833	933
Less Actual/ Anticipated Costs	335	415	563	900	933
Current Difference	24	(24)	(39)	(67)	(0)
Accumulated Differ	24	(1)	(40)	(107)	(108)
Number Paying Fee	30	43	45	60	60
Present Fee					
Date Fee Last Changed					

Remarks:
Prior to FY 1989, the dept. billed each natural gas pipeline owner or operator for actual hours of inspection plus a share of other related expenditures including supplies, etc., prorated on the basis of the direct labor costs. These natural gas pipeline companies were billed at a rate of $45 per inspection hour including travel time.

MS 299F.631 and 299J.12 state that pipeline operators will be bill on a per meter basis each quarter. The actual billing will vary from one quarter to the next as the total costs of operating the Office of Pipeline Safety less federal reimbursement and all direct charges are prorated among all the natural gas pipeline operators based on the number of meters in service.

The Office of Pipeline Safety is in the process of setting rules that would include the billing of indirect costs. Rules will also include provisions on allocation of "support" costs as well as the billings to liquid petroleum gas operators.

FINANCE DEPARTMENT RECOMMENDATION: Approval is Recommended.

DEPARTMENT AUTHORIZED SIGNATURE: | AGENCY CONTROLLER SIGNITURE: Dwight Radtke

DEPARTMENT OF FINANCE

FEE REVIEW Details of Costs

95050587

Department/Agency Public Safety	Budget Activity: Office of Pipeline Safety

Fiscal Year	Actual F.Y.89	Actual F.Y.90	Actual F.Y.91	Estimated F.Y.92	Estimated F.Y.93
Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-06				Dollars in Thousands (137,522 = 137.5)	
Agency direct Expe	318	391	524	833	863
Salary Increases	XXXXXXXXX	XXXXXXXXX	XXXXXXXXX		
Attorney General					
Statewide Indirect	5	8	11	18	19
Agency Indirect	12	17	29	49	51
Totals	335	415	563	900	933

Remarks: