

**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 liquefied 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 is 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

*Thomas H. Frost*  
*Deputy Commissioner for*  
Thomas H. Frost, Commissioner  
Department of Public Safety