



March 26, 2021

TO: Representative Carlos Mariani, Chair, Public Safety and Criminal Justice Reform Finance and Policy Committee and members
RE: HF 1078, Sec. 2. Minnesota Statutes 2020, Section 299A.55 RAILROAD AND PIPELINE SAFETY; OIL AND OTHER HAZARDOUS MATERIALS

Dear Chair Mariani and committee members,

These comments are submitted on behalf of the members of the American Petroleum Institute (API). API is the only national trade association representing all facets of the natural gas and oil industry, which supports 10.3 million U.S. jobs and nearly 8 percent of the U.S. economy. API's approximately 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms.

I am writing to highlight a provision of the Governor's proposed 2022-23 budget that would reinstate an annual \$2.5 million assessment on railroads and pipeline operators to fund state hazmat response capabilities and emergency response training related to these industries. This program was created by the legislature in 2015 and was envisioned by the legislature as a temporary, annual assessment of \$2.5 million on the Class I railroads and pipelines operating in the state to fund activities designed to enhance public safety along railroad and pipeline routes (Laws 2014, Chapter 312, Art. 10, sec. 9). To this end, the legislature rightfully included a sunset for the program after three years and at the end of 2017.

During the three years of the program, 2015, 2016, and 2017, pipeline operators in Minnesota fulfilled their funding commitment to support the state in the stated purpose of enhancing its response capabilities through the purchase of equipment, training, etc. In addition to this assessment, pipeline operators continued to work with first responders across Minnesota enhancing their preparedness and readiness along the pipeline ROWs. That support of state and local first responders continues today even without the state assessment and fund, and includes regular training and drills that incorporate state, local, and tribal agencies, industry, first responders, and other non-governmental entities.

More specifically, interstate pipeline operators are required by the U.S. Department of Transportation Pipelines and Hazardous Materials Safety Administration (PHMSA) to have comprehensive PHMSA approved spill response plans, and to identify and have available response equipment ready for responding to emergency situations along the pipeline right of way. Pipeline operators and refiners actively exercise those response plans throughout the region. These exercises range from tabletop exercises to full scale exercises which include participation from state and local entities such as Minnesota Pipeline Safety, Minnesota Pollution Control agency, Minnesota Department of Health, MN Department of Natural Resources, Minnesota Homeland Security and Emergency Management, local county sheriff's office, local county public health, local county emergency management, and finally local police and fire departments.

It also should be noted that, for years – prior, during and after this program - independently railroads and pipeline operators have offered free hazmat responder training; training that was seemingly duplicated by this state program.

Pipeline operators and railroads are committed to maintaining and promoting public safety and to working with state and local first responders to protect our communities. However, before there is any consideration of this latest budget proposal to again assess fees from these industries operating in Minnesota, the state should first consider how the funds collected in 2015, 2016, and 2017 were used and whether these uses were aligned with the legislature's intent.

Our understanding is that the state collected \$7.5 million from the railroads and pipelines but did not spend much of the funds during those three years. We further understand that two years after the assessment had sunset, and at the beginning of FY 2019, there was still a balance of nearly \$5.6 million in the assessment account. There is also a question of what equipment was purchased and whether this equipment is useful in situations involving pipeline or railroad incidents.

We believe it's reasonable and prudent for an accounting of how previously assessed funds were spent and whether these expenditures are in alignment with what the legislature intended back in 2015. The oil and natural gas industry continues to work tirelessly with the first responder community throughout the state and in addition to recognizing this important relationship, it also is important to understand how the prior funds have been utilized, what additional needs require funding at this time while also conducting an overall evaluation of the effectiveness of the program and the distribution of funds.

In closing, operators in Minnesota support and participate in Federal, State and local emergency management and spill response programs and exercises and they are willing to do their part to assure they remain effective, and first responders continue to operate at the highest level of readiness. However, as Minnesota and the country work to invigorate an economy impacted by the global pandemic, we need to be certain that finite monies are not being used to duplicate efforts in training and support to first responders, and that state programs are successful in achieving legislative intent.

Sincerely,

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