

PUBLIC SERVICE COMMISSION
TESTING AND SAFETY DIVISION

REVISED MEMORANDUM

TO: Commissioners Wefald, Cramer, and Clark
Darrell Nitschke, Executive Director

FROM: Alan Moch, Director
Testing and Safety Division

DATE: November 25, 2008

RE: State of North Dakota Waiver for 2009 – Revised Documents with Motion

PHMSA has requested and received additional grant funds for FY 2009, which will enable it to exceed the historic 50% maximum matching level for State gas pipeline safety programs.

According to 49 CFR 198.913(e), U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) must provide nine months notice to states before implementing a change in the allocation formula used to award grant funds. Under current PHMSA allocation procedures this means additional funds could not be allocated to states until 2010. However, Board and Grant Allocation Committee (GAC) members agreed that states should be provided the opportunity to seek funding over the 50% level sooner than 2010. Given the fact that the National Association of Pipeline Safety Representatives' (NAPSR's) original request for increased state funding was based on additional state inspection activity already underway (OQ, IMP, public awareness, etc. – all of which North Dakota is now actively conducting on an annual basis), the Board, the GAC and the PHMSA representatives agreed that adding supplemental questions that address those additional activities should be pursued, *in combination with a waiver of the nine-month requirements by states for notification of scoring changes*. This would allow states to receive funding above the 50% level, based on the scores from the additional criteria, on a temporary basis, in 2010. (The longer-term project of a complete revision of the evaluation and program guidelines remains unchanged.)

To be able to accomplish this, PHMSA has added certain questions in its certification questionnaire. This will allow PHMSA to ascertain that the candidate State is eligible for added funding above the minimum 50% matching grant, beginning in CY 2009.

Attached to this memo is a waiver letter that the Commission **must submit** to waive the right of the nine month **notice** as explained above. Since we ARE doing the extra work needed to gain extra funding, I recommend the Commission sign and send the waiver request as soon as possible. At Commissioner Cramer's request, and since there is a December 1st deadline, I am placing this item on the November 26th special meeting agenda for approval.

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c: Gloria Geiger
Legal
File

5 **GS-08-764** Filed: 11/25/2008 Pages: 1
Memo Regarding Waiver of the Nine Month Notice