



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

MAY 17 2011

1200 New Jersey Avenue, SE
Washington, D.C. 20590

Mr. Patrick Fahn, Director
Compliance and Competitive Markets
Public Service Commission
State of North Dakota
600 East Boulevard Avenue, Dept 408
Bismarck, North Dakota 58505-0480

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MAY 18 2011

PUBLIC SERVICE COMMISSION

Dear Mr. Fahn:

On April 18, 2011, the Pipeline and Hazardous Materials Safety Administration (PHMSA) received a notice dated April 7, 2011, from the State of North Dakota Public Service Commission (Commission), informing PHMSA that it granted a waiver to the Montana-Dakota Utilities (MDU) for the modification of 49 CFR 192.285(c). The Commission's waiver would allow MDU to qualify persons on plastic pipe joints once each calendar year not to exceed 15 months, rather than every 12 months as stipulated in §192.285(c).

The Commission's waiver would be conditioned on certain actions to be taken by MDU. The waiver conditions are intended to ensure that an equivalent level of pipeline safety is maintained, and will include the following:

A person must be re-qualified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint that is found to be unacceptable by testing under 49 CFR 192.513.

PHMSA recommends that MDU be required to establish and maintain a written alternative qualification procedure for the annual qualification of plastic pipe joining to qualify persons according to §192.285(c), including the alternative requalification time frame when operating in accordance with the waiver.

PHMSA requests that the Commission include the following condition to maintain consistency with similar MDU waivers approved and granted to the Montana Public Service Commission on January 14, 2011, and the State of Wyoming Public Service Commission on April 11, 2011.

1. The waiver is contingent upon circumstances that may require alternate safety measures as noted during routine inspections by Commission pipeline safety staff members.

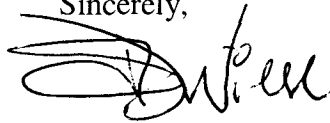
Page 2
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State of North Dakota Public Service Commission

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With the waiver conditions imposed by the Commission and inclusion of the above additional conditions, PHMSA has no objections to the waiver.

My staff would be pleased to discuss this decision or any other pipeline safety matter with you. John Gale, Director, Standards and Rulemaking Division, 202-366-4959, may be contacted on regulatory matters and Jeffery Gilliam, Director, Engineering and Research Division, 202-366-0568, may be contacted on technical matters specific to this decision.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Wiese", with a stylized flourish above the name.

Jeffrey D. Wiese
Associate Administrator for Pipeline Safety